

MINUTES

HOUSING & INTERGOVERNMENTAL RELATIONS COMMITTEE

April 3, 2024

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 Kuali'i, Chair, at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, April 3, 2024, at 8:35 a.m., after which the following Members answered the call of the roll:

Honorable Addison Bulosan
Honorable Bernard P. Carvalho, Jr.
Honorable Felicia Cowden
Honorable Bill DeCosta
Honorable KipuKai Kuali'i
Honorable Ross Kagawa, Ex-Officio Member
Honorable Mel Rapozo, Ex-Officio Member

The Committee proceeded on its agenda item as follows:

Bill No. 2914 A BILL FOR AN ORDINANCE AMENDING CHAPTER 7A, ARTICLE 9, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO GOVERNMENT ASSISTANCE FOR WORKFORCE HOUSING (**This item was Deferred to the May 1, 2024 Committee Meeting.**)

Councilmember Carvalho moved to recommend approval of Bill No. 2914 on second and final reading, seconded by Councilmember Bulosan.

Committee Chair Kuali'i: Thank you. Councilmembers, this is the first time we are working on this Bill in Committee. We have our Housing Director here so let us go to work. Are there any questions for our Housing Director? Are there any amendments? I will suspend the rules to allow any questions for the Housing Director.

There being no objections, the rules were suspended.

ADAM P. ROVERSI, Housing Director: *Aloha*, Committee Chair. Adam Roversi, Housing Director for the County of Kaua'i. In a nutshell, the proposed bill before you will authorize the Housing Agency to issue affordable housing credits to affordable housing projects on Kaua'i to develop more affordable units than otherwise required to by law. These credits will become a potential reality for a project if they voluntarily agree to build more affordable units than they would otherwise need to. We currently have a housing credit system for the Department of Hawaiian Home

Lands (DHHL) projects. We are required by State law to issue affordable housing credits to DHHL projects, and we have done that in the past for a development of the Pili Mai subdivision in Anahola, so we do have a system set up to do this already. Notably, it appears that it will pass, but obviously, it has not yet. The current State law will force us to issue housing credits to certain 201H affordable housing projects on Kaua'i.

Whether that becomes a reality remains to be seen, but 201H is a special category of affordable housing projects. That is in reference to the State's statute. The idea behind this credit system is to incentivize private developers to voluntarily build more affordable housing units and provide at least a potential additional funding stream. To describe that a little more fully, under our current housing policy and the affordable housing requirements built into it, when a market rate developer wants to build a project on Kaua'i, they are required—there are a couple of different situations, but broadly speaking, a market rate project is required, as a starting point, to do twenty percent (20%) of their units as affordable units. That number can change with some modifications in the ordinance for various incentives, but to keep the discussion simple, it is twenty percent (20%). Under our current housing policy, in order to satisfy that twenty percent (20%) unit requirement, they have several options. It is up to the developer to choose which they want to do. They can build the number of physical homes required, and they can either sell the homes at specified prices or rent the homes at specified prices for the required period of time. Alternatively, they can simply write a check, which is called the in-lieu fee, to satisfy their affordable housing requirements and that check goes to the Housing Development Fund. Over time, funds are then utilized by the Housing Agency to develop affordable housing units in the same geographic area as that project, or with Council's approval, they can donate a parcel of land. It is up to the Council to assess whether the value of that land is appropriate and approve or disapprove the offer.

If you think about the in-lieu fee model where a developer who is required to do workforce housing units can not build any units and just write a check to the County, that is useful and provides funding to the County for projects. You can think of this credit system as sort of an alternative, or a second route in the in-lieu fee process. A developer could purchase credits that have been issued to affordable housing development, therefore putting cash in the hands of a private affordable housing developer, which from our position spreads some of the development burden from the Housing Agency to other private entities. I think it is better to have more cooks in the kitchen, more financing opportunities for private developers to try to get these units constructed. A couple of quick things to note, the credits are not issued until the home is completed, someone has moved in, and their incomes have been certificated. There are no credits issued on future promises. It must be a completed home, certified. There is a deed restriction recorded on the home that goes to the Bureau of Conveyances and is tracked over time. During the first reading, I mentioned that both Maui County and Hawai'i County have similar projects. The project on Maui is the most similar to what we have set up. I had indicated that I would try to get some data from them about the success of Maui project and how many units were created. Despite my efforts, I have been unsuccessful. The Maui

Housing Agency is currently being reorganized and dealing with the repercussions of the Lahaina fires. Also, the individual who was charged with operating their credit systems had been on extended leave and the rest of the office, evidently, does not have access to his computer so, for better or worse, I do not have data to share with you about Maui. I can say that the Director anecdotally told me it was not a “godsend.” It is not something that is going to solve all our problems, but it has helped to get some additional units built. Recently, last month, I went to Maui to tour some projects, and one in particular was relevant to this credit system. I toured a new 120-unit project of three- and four-bedroom homes that were fifty percent (50%) affordable. Maui only requires twenty percent (20%) to twenty-five percent (25%) to be considered affordable, so this developer was voluntarily building fifty percent (50%) more units than he would otherwise be required to, and he was incentivized to do so. I met and toured the project with him and again, he was incentivized to do so specifically by this credit system. Those houses would not have been created for middle-income households and they were not very low-income families. There were homes for people in the one hundred twenty percent (120%) Area Median Income (AMI) range, working families. The affordable homes and expensive market rate homes were indistinguishable. They looked exactly the same. At least in that situation, I do not think he would have been creating those houses for the local residents if some sort of similar financial incentive had not existed. I am happy to answer any other questions.

Committee Chair Kualifi: You mentioned the State law. Is that similar to what we are trying to do? Is it a straight credit that is being offered to everyone as long as they build a 201H affordable housing project regardless of whether it is a private developer, nonprofit, or for-profit?

Mr. Roversi: Yes. The pending State legislation simply says that the counties shall be required to issue housing credits to 201H projects in their respective...

Committee Chair Kualifi: Can each County decide what that is?

Mr. Roversi: It does not really set up the details on how that works. It just imposes an unspecified obligation.

Committee Chair Kualifi: You said that the credit would not be issued until they moved in and it is certified. Does being certified mean that it is affordable?

Mr. Roversi: There would be two (2) different situations. There could be a rental situation and we would want to know that the particular rental unit has a certificate of occupancy, a tenant has moved in, the lease agreement has been reviewed, and can certify based on that lease agreement and documents submitted by the tenant that it has met the income requirements of affordable units.

Alternatively, it could be a for-sale house. We would want to know if a certificate of occupancy has been issued for the home and that a purchase agreement has been executed and completed, then we would analyze the details of the purchaser. The developer would be required to collect and provide this information to the Housing Agency for review to affirm that they had satisfied the affordability requirements before a credit would be issued. That credit would be issued in the form of a housing agreement that would be recorded against the property, so it is on the deed of the property and forwarded to the Bureau of Conveyances to ensure when I am gone that there is still a legal record of that requirement that effectively runs with the land.

Committee Chair Kuali'i: Lastly, for now, you gave that Maui example about the developer building fifty percent (50%) when only twenty percent (20%) or thirty percent (30%) was required, and then the difference. Those houses were the one hundred percent (100%) and one hundred twenty percent (120%) AMI, which led me to think, this does not distinguish between whether they are building eighty percent (80%) or one hundred percent (100%). It is all affordable. It meets that requirement so the gap housing at the higher one hundred percent (120%) is valued as much as the lower sixty percent (60%) to eighty percent (80%). As far as credits go, it is an equal credit.

Mr. Roversi: Yes, with one caveat. Once a credit is issued, it is good for any income level housing requirement. The one thing I would point out is, and it is in the ordinance itself, that if the excess units are all for families at one hundred twenty percent (120%) AMI, they do not get one hundred percent (100%). Let us say they build fifty (50) units at one hundred twenty percent (120%) AMI, they get credits for eighty percent (80%) of those homes. If they build fifty (50) units at eighty percent (80%) AMI, they get credits for one hundred percent (100%) of those homes. They get more credits from the start if they do relatively lower income units. They get a lesser number of credits if they do higher income units. Once the credit is issued, the credit is credit, irrespective of income level as long as it is affordable. It can be used for a very low-income unit or for middle-income.

Committee Chair Kuali'i: The credit on the backend, when it has a value and one builder sells it to another builder who needs it, but is not going to build and has the same value on the backend, are you taking care of the valuation of the different AMIs by issuing more credits at the front end?

Mr. Roversi: Correct.

Committee Chair Kuali'i: Good. I am glad that has been addressed. Members, are there any other questions? Councilmember DeCosta.

Councilmember DeCosta: I like the program, Adam. I do want you to clarify. A developer that bought credits will no longer need to meet the requirement of building affordable homes if they bought the credits and wrote a direct check to the

County that the Housing Agency can then use for another project. Am I understanding that correctly?

Mr. Roversi: To clarify, it would not be a check to the County, but a check to the developer who built the affordable housing units and received the credits. Let us say ABC affordable housing developer received ten (10) credits. It is up to the developer to find or not find a potential buyer for those credits. If they do sell them, then it is up to the developer and the purchaser to decide what the value is. Then, the developer and purchaser are required to report the sale to the Housing Agency, where the credits can be tracked over time and referenced in the housing agreement. Then, the purchaser of that credit would certainly be informing the Housing Agency because the entire purpose of purchasing the credit is to satisfy Housing Agency's requirement, so they are going to be reporting the transaction and providing that information.

Councilmember DeCosta: I am little concerned that you may have a developer who does not want to have sixty percent (60%), eighty percent (80%), or one hundred percent (100%) AMI, maybe even one hundred twenty percent (120%) AMI. The developer may only want to build high-end homes so now, the developer buys these credits, and the requirement is met because they have the credits. Now, the developer can build a gated high-end community here on Kaua'i. I have seen this firsthand with the Kukui'ula subdivision. In Kukui'ula, there are apartments that are in the sixty percent (60%) to eighty percent (80%) AMI range across the highway, far away from the million, billion-dollar homes. I am afraid that something like this could spark a few developers to tell other developers to buy credits on Kaua'i, find a piece of property or some development somewhere and create million-dollar homes without having to look out the window and see average local families next door. Is there a possibility this could happen on Kaua'i?

Mr. Roversi: Rightly or wrongly, put this whole credit system aside, a developer can do that today. Under our Housing Ordinance, Kukui'ula is not required to build affordable units within Kukui'ula. They could simply write a check to the County. In that specific case, Kukui'ula elected to donate land to the County and provide all the off-site infrastructure. That came to the Council for consideration and approval, and the Council approved that as a method of satisfying their housing requirement. Under our current system, putting these credits aside, nothing requires a developer to build affordable units within their project. We attempt to incentivize developers to do that. For example, if a developer is required to build one hundred twenty percent (120%) of a project, one hundred (100) house units, and voluntarily elects to mix those units within the market rate community, then the developer gets a reduction in the total number of units that is required to build. The Housing Agency tries to incentivize developers to do that by providing them a financial carrot, but developers are not currently forced to create a mixed community.

Councilmember DeCosta: How do we hold developers accountable when they want to do a high-end subdivision? How do we, as a governing body, hold them

accountable to have these units in place? Are you telling me that we currently have nothing in place that holds them accountable to build affordable units?

Mr. Roversi: We would have to change how the entire housing policy operates to take away the in-lieu fee requirement to force development of workforce units within a market rate development. Whether that is feasible or not, that is a different discussion.

Councilmember DeCosta: Thank you.

Committee Chair Kuali'i: I would add a bigger policy decision of the direction the Council would want to go in, because I think that we value affordable housing so much and do not want to slow down the ability to get more affordable housing by simply making a requirement that it only be when it is mixed in, right? Possibly some of the people who choose to—that is what they can afford and where they want to live. We are making nice affordable housing projects, but there could be people that do not want to live next to mansions as far as that mix goes so. It is more than housing too, it is planning and all of that, right? I think it is a bigger policy concern.

Mr. Roversi: It involves the General Plan zoning...a much bigger picture.

Committee Chair Kuali'i: I have Council Chair Rapozo next. Is there anyone else?

Council Chair Rapozo: As of right now, what is the in-lieu fee?

Mr. Roversi: There is a chart in the ordinance, and the numbers that are in the ordinance are from 2020. When we implemented the in-lieu fee, they were adjusted for inflation so you can not trust just that. On average, it is about one hundred seventy-five thousand dollars (\$175,000) per unit. For big projects, developers are required to do a certain number of units at one hundred percent (100%) AMI, a certain number of units at eighty percent (80%) AMI, and a certain number of units at one hundred twenty percent (120%) AMI. With those larger projects, there are different in-lieu fees for the different price points. The lower the AMI, the higher the annual fee, but if we averaged them all out, it is roughly one hundred seventy-five thousand dollars (\$175,000).

Council Chair Rapozo: Right. We can not build a unit for that, and neither could they.

Mr. Roversi: Correct.

Council Chair Rapozo: If I was a developer, I would just write the check. We are not getting affordable housing units with roughly one hundred

seventy-five thousand dollars (\$175,000) per unit, and we are not getting the amount that we should be getting.

Mr. Roversi: Let me provide this example to explain, not necessarily justify and say this is something that should be thought about, but I understand how the in-lieu fee came to be. The economics of how it was decided might not make sense anymore given...

Council Chair Rapozo: That is my point because times have changed, and prices have changed.

Mr. Roversi: I believe when it was created and the numbers were created...if we think about, not that long ago, D.R. Horton's Ho'oluana project, those market rate homes were being sold at high six hundred thousand dollars (\$600,000), seven hundred thousand dollars (\$700,000), and the affordable units at the time, because interest rates were relatively low, were being sold for four hundred eighty thousand dollars (\$480,000) to five hundred thousand dollars (\$500,000). D.R. Horton sells those and gets the check back. If they do an affordable unit, they still are getting the a pile of money, but not as much as they would get from the market rate unit. I think those numbers were attempted to reflect the variation between that kind of market rate unit and back then, I think those numbers probably made sense.

Council Chair Rapozo: Right.

Mr. Roversi: But when the median home price is one million four hundred thousand dollars (\$1,400,000)...

Council Chair Rapozo: That is where I am heading. We need to adjust that because I think you would agree that this County would be better off if the developer would build the units rather than the County.

Mr. Roversi: Broadly speaking, yes. Then, we will have more people building more houses and less burden on the Housing Agency.

Council Chair Rapozo: This is my concern, if the in-lieu fee is one hundred seventy-five thousand dollars (\$175,000), the credits are not going to be worth any more than that.

Mr. Roversi: Presumably, yes.

Council Chair Rapozo: It is not. A developer could just write the check to the County. If you could write the check to the County for one hundred seventy-five thousand dollars (\$175,000) and write it to the other developer for one hundred fifty thousand dollars (\$150,000)...it is what it is, right? That is something that we need to look at. What is the in-lieu fee on Maui? Do you know?

Mr. Roversi: I do not, to be honest.

Council Chair Rapozo: Is your plan to pass this out today or are we going to have more time?

Committee Chair Kualifi: We can have more time.

Council Chair Rapozo: Okay, because I want to explore the other counties, the successes they have had, and how their structure is. I apologize, I should have done that before today.

Committee Chair Kualifi: Would the raising of the in-lieu fee have to come in another bill?

Council Chair Rapozo: Oh, yes. I am concerned with this Bill. Right now, if you have a developer, and let us say it is a private developer, that private developer has received funding from the federal government, tax credits, whatever it is, that funding comes with a requirement as well. That percentage of that project, if not all, has to be affordable.

Mr. Roversi: Correct.

Council Chair Rapozo: That requirement for that project is one hundred percent (100%), so they can not build in excess of anything, because they are building out at one hundred percent (100%), or does this Bill only reference the twenty percent (20%) County requirement?

Mr. Roversi: This credit system deals with projects like those you are talking about. Any credits that a project would receive are reduced by any State or Federal subsidy that they would be receiving. As a practical matter, and this may not be a hundred percent (100%) correct, but most of the projects on Kaua'i that are receiving significant Federal or State subsidies are low-income housing tax credit projects, and they are one hundred percent (100%) affordable for low- or very low-income families. Broadly speaking, they would not be eligible for these credits because of the Federal and State subsidies.

Council Chair Rapozo: I want to be sure, because I do not see this in the Bill, and maybe it is there. It has to be clear that on projects that...there are some projects that would not be able to build in excess of a requirement, because they are at one hundred percent (100%).

Mr. Roversi: The section I am referring to is on the second page, Subsection F, that deals with how subsidized projects are treated regarding credits, but your point is correct. A one hundred percent (100%) affordable housing project subsidized especially as low-income housing tax credit project, broadly speaking, would not be participating in this credit system. I know they are going to provide testimony later, but it would be more relevant to organizations like Habitat

for Humanity, who are voluntarily building one hundred percent (100%) affordable with very little to no government subsidy.

Council Chair Rapozo: I understand that. That is why I said a private developer, not a nonprofit. I want to ensure that it is clear that we are not just sticking with the County's twenty percent (20%) requirement and if their project is one hundred percent (100%) affordable housing project and required to be one hundred percent (100%), then there are no excess units. There would be no excess units because they have to build one hundred percent (100%).

Mr. Roversi: It talks about credits being issued for units that are created that are not otherwise required by law.

Council Chair Rapozo: That is fine for now.

Committee Chair Kualii: With all that discussion about the in-lieu fee, do you have, or can you provide data on what the history has been over the last few years? How many in-lieu fees have we collected in lieu of how many units? It has not been a lot, has it?

Mr. Roversi: I can not give you specific data, but since I have been the Housing Director for four (4) years now, I believe we only received in-lieu fees on only one (1) project.

Committee Chair Kualii: How many units was that?

Mr. Roversi: That was a complicated situation.

Committee Chair Kualii: We can follow-up in writing.

Mr. Roversi: That was the Meridian Pacific Project.

Committee Chair Kualii: Obviously, the value and addressing this going forward is because, as Council Chair Rapozo was saying, it is directly relating to the credits, so then it would give more credits or value to credits and that would help our truly affordable housing developers.

Mr. Roversi: To Council Chair Rapozo's concern about developers that would always choose the in-lieu fee as opposed to building units. There is a current project that elected to do rental units instead of pay the in-lieu fee and that is the expansion of the Kōloa Landing Resort. They elected to build units, but it really depends on the developer and their situation. Some developers have lots of land, legacies, entities, like Grove Farm, A&B, Gay & Robinson. For those developers, the land is essentially free to them, and it is maybe more feasible to build units than another entity that only owns a five-acre hotel. For them to do units, they would have to go out on the open market, buy land, go through the permitting and zoning and all of that. It may be much simpler to pay the in-lieu fees. It really

depends on the circumstances of the developer and what makes the most sense for them.

Committee Chair Kualii: Members, I am thinking of taking a break from questions to Adam to take testimony. Then, we will bring Adam back up. We can take any pressing questions right now.

Councilmember Cowden: I feel like I have some relevant questions.

Committee Chair Kualii: They are all relevant. Go ahead.

Councilmember Cowden: I appreciate what you are talking about in the in-lieu fees and the credits. Could you clarify again, in an inflationary time, like between 2020 and 2024, housing has doubled, would the in-lieu fee come whenever they write the check, or whenever they purchase the credits? If they purchase credits today and their project that happens five (5) years from now...it seems like you could not even possibly build with one seventy-five thousand dollars (\$175,000). In 2020, you could not even build for one hundred seventy-five thousand dollars (\$175,000). How is it determined? Did you say that unit has to be built already before the credit is...

Mr. Roversi: Correct. We would not issue credit to a developer until the excess affordable unit that they are seeking credit for is completed.

Councilmember Cowden: Okay. Then, I tried to look at what is the case in the other two (2) islands, on Maui and Hawai'i. I was looking at a rather blistering article in Environment Hawai'i from March 20, 2023 and it goes to case after case. It talks about a four-year audit that found a couple of decades of what they consider criminal charges on how these credits are sold and manipulated. I am really disappointed to hear that, because of course, I want to say "yes" to this. It sounds like a great idea. Have you looked at what happened on Hawai'i Island?

Mr. Roversi: Yes, I think we discussed that briefly at first reading. For better and worse, and I say that too often, the Hawai'i Island credit system did not have sufficient checks and balances. They had a single employee who was in charge of issuing credits and was issuing credits for units that were never created, essentially in "kahoots" with the developer. I believe that employee is now in federal prison. He was caught and arrested, but they uncovered several million dollars of credit fraud.

Councilmember Cowden: Okay. That is consistent with what I am looking at here. I am just wondering what our internal controls are. If I look here, it does not state that. Usually, the Housing Agency would come up with their own rules and regulations on how we would have the internal controls, correct?

Mr. Roversi: We would typically develop administrative (admin) rules that set out the procedures. We have existing administrative rules related to how the credits are issued to DHHL projects. As I mentioned, we already do this for DHHL. Very cursory, the DHHL developer comes to the County, lays out the project parameters and number of units. They have to come and request units. We require that they be completed and then a housing agreement is laid out and approved by the Office of the County Attorney. It is signed by me, the County Attorney, as well as the Director of Finance, which lays out the units that were created and the number of credits that is recorded with the Bureau of Conveyance. Everything that happens within my office is...it has been so long since we have issued a DHHL credit. We do not have someone who I would say is the Program Credit Manager, but if this passed, we would ask to establish that position. Everything would be overseen by me. That would be specified in the admin rules. With the review by the County Attorney, approval from the Director of Finance, a designated staff member assigned to do the work, myself overseeing the work, and all of that being recorded in the Bureau of Conveyances on a legal document, I would hope that these steps would be the beginnings of a much better system compared to what is currently operating on the Hawai'i Island.

Councilmember Cowden: Okay. Do rules and regulations that are being determined come before the Council? We hardly ever have rules and regulations before us.

Mr. Roversi: Broadly speaking, administrative rules are developed under the guidelines set out in State law under Chapter 91. Administrative rules go through a public hearing process, are published with thirty (30) days notice in the paper, and are reviewed by the people. The agency needs to respond to the comments and incorporate them into the rules. Then, the rules are reviewed and signed by the Mayor. They are submitted for recordation with the Lieutenant Governor's Office. There is a system set up.

Councilmember Cowden: Okay. There is a process. I will not go much longer. I appreciate you and the intention. I want to make this work. In the past years, I have attended a number of public hearings on rules and regulations under the state process, often with the Office of Conservation and Coastal Lands (OCCL) and different groups like that. I must say, very few people attend these hearings. It is not well-published, so unless individuals are actively keeping track, they might not be aware. I think we need to consider what might happen when we have a different housing administrator. What will happen five (5) or ten (10) years from now? These concerns stem from my desire for us to ensure that we have good internal controls. I was alarmed to see examples of what happened for twenty (20) years on Hawai'i Island. People do not even know what they do not know. It does not have to have bad action, it can be turnover of staff, no training, and six (6) months between when someone leaves, and someone starts. That is where my concern is, and I am speaking to some sharp people in the room that I know work in the industry. I am hoping when they testify, maybe they are able to share some perspective on that, too. Do you have thoughts on what I just said?

Mr. Roversi: Well, I am very aware of the issues and problems that happened on Hawai'i Island, and it is critically important that we have internal controls to oversee how our department operates. It is our intention to do that. I would also like to make a broad comment, I can not promise the Council that this credit system is going to be a fabulous program that generates a lot of affordable housing projects, but our crisis is such that I want to try different things.

Councilmember Cowden: Right.

Mr. Roversi: If in the end, this credit system does not generate more affordable housing units, we can get rid of it in five (5) or ten (10) years, but I want to try some new things to generate more units. I view this legislative exercise often as experiments. We have to keep trying new things, not as I am absolutely positive that I can assure you this is going to give x number of affordable housing units, I can not promise those things. I think it is worth trying to be innovative and do as many new things as we can.

Committee Chair Kualii: You could also say that you can not guarantee that what happened on Hawai'i Island will not happen here. In the Department of Finance, throughout the administration, and in any entity where money is involved, there are checks and balances. As long as you put the checks and balances in place, it should not allow one (1) person to do something corrupt. You have already stated there are three (3) or four (4) different levels. As far as accounting and checks and balances goes, that is all you can do. You can not guarantee one hundred percent (100%) that someone will not figure out a way to do something corrupt, but you have to put those systems in place. Go ahead.

Councilmember Kagawa: Obviously, we have a huge problem with supply. Is this something that private developers have suggested to encourage them? The market is here. We have so little inventory, which is why I think it drives up the prices of old dilapidated houses that sell for a million.

Mr. Roversi: Admittedly, we do not have a lot of developers on Kaua'i voluntarily seeking to do affordable housing without being forced to. Aside from the Āhē Group and Mark Development, Habitat for Humanity and Permanently Affordable Living (PAL) Hawai'i are the two (2) primary entities and developers focused on the tax credit style developments. As far as Habitat and PAL go, I am aware that they are both supportive of this Bill to help them do more of what they are already doing, which is providing an additional source of potential financing for their projects, so they can build more units faster, purchase additional land...

Councilmember Kagawa: Without a doubt, I think that Habitat for Humanity has been successful, and we can count on them, but we are in a crisis. And we need way more than that. The market is obviously there. Council Chair Rapozo and I were at the Contractors' Grassroots Institute of Hawai'i. The event speaker stated the problem was that the government needs to get out of the way, and that the

government is driving up the price. We are putting up the barriers. How do we get out of the way and let the developers try to help our supply of housing?

Mr. Roversi: That is a big conversation. I think that if you spoke to people in the development community, they would say that Kaua'i is going in the right direction. When I spoke to other developers about their experiences on Maui and O'ahu, they stated that Kaua'i has the fastest permitting system, the easiest to follow rules and regulations, and is the most flexible in considering things like mixed-use developments, increasing density, Additional Rental Units (ARUs) and Additional Dwelling Units (ADUs). Compared to other counties, I think our Planning Department has made a lot of progress here on Kaua'i. That does not mean that there is not more we need to do. The last time we revisited the housing policy, in part responding to developers' concerns, "if you get rid of this housing policy and you do not require us to do affordable units, we will make lots more units. Just trust us." We have tried some experiments in that vein. We eliminated the housing policy in the Līhu'e Town Core area so, there are no longer inclusionary zoning requirements in Līhu'e Town Core area, Kōloa Special Design District, and in Kalāheo, and we will be coming back to Council to potentially suggest more areas that could be included in that. This is only regarding the housing policy. It does not address lots of other regulatory things. If it were the case that the housing policy was the only impediment to getting housing built in that area, we would expect to see lots of housing development, but we are not, so there must be some other things at work, maybe infrastructure issues. It is a much longer conversation.

Councilmember Kagawa: Whatever it is, we all need to work together to make bigger changes, because I think small changes are a thing of the past. From my perspective, I think we need to look for big changes.

Mr. Roversi: You mentioned the Grassroots Institute. We have not done this since COVID; we used to have a monthly meeting with all of the Housing Directors in the State along with key housing administrators from the Hawai'i Public Housing Authority and Hawai'i Housing Finance & Development Corporation (HHFDC) and sometimes, the Grassroots Institute participated in those meetings. They invited a developer from California to come speak to us as a group about what they found to be successful. I think the Grassroots Institute's position is largely into eliminating regulations or deregulations and barriers to housing. Their selected speaker came to the meeting and the first thing stated was the free market is not going to provide the affordable housing that we need. Then went on to state that the government needs to play a role in this. We need to figure out what the role is. As opposed to being a barrier, we need to be a good partner and need to help promote.

Councilmember Kagawa: I sort of disagree with that. I think the prices are up due to the supply and demand. I think the supply on Kaua'i is so low and that is the reason prices are not going down. Thank you. Thank you, Chair.

Committee Chair Kualii: Hence the reason we have been moving in the direction of supporting more inventory, even before Managing Director Dahilig was here. Councilmember Bulosan.

Councilmember Bulosan: Circling back to this Bill, do you feel this Bill will help with some of the issues?

Mr. Roversi: This is a small piece of a big puzzle, let us put it that way.

Committee Chair Kualii: Thank you for now, Adam. We will hold off on questioning you. While the rules are still suspended, we will have public testimony. Are there any registered speakers?

SHARI RABAINO, Council Services Assistant I: The first registered speaker is Melani Pimental, followed by Jeff Linder.

MELANI PIMENTAL, Executive Director of Kaua'i Habitat for Humanity: Good morning, I am Melani Pimental, Executive Director of Kaua'i Habitat for Humanity. This is Doug Haigh, our current Board President and Jennifer Hill, one of our Board members. We are here to represent Kaua'i Habitat for Humanity and to speak in support of Housing Director Adam Roversi and the Bill in of itself. I do appreciate the great discussion you folks have brought forth surrounding the Bill, in addition to the specifics of it. I would welcome further discussion at any time with the Council related to our work in the affordable housing industry with eighty percent (80%) AMI and below. As Adam mentioned, this Bill would provide a great opportunity for additional revenue that subsidizes our eighty percent (80%) and below programming. For example, it would give us funds to subsidize the buyers, if needed, at this time of escalating housing costs. It would give us funding for additional property purchases and funding for the excessive cost of infrastructure that we are seeing today. As Adam mentioned, we have many challenges surrounding that front. We have this wonderful privilege ahead of us, by mission as an affiliate of Habitat International to provide truly affordable low-income housing for the eighty percent (80%) AMI and below. We had great success largely through our efforts and partnership with the County. I think that all of our developments so far have included affordable housing agreements that have offered us fee reductions with various agencies. Now, I will let Doug and Jennifer speak.

DOUGLAS HAIGH, Kaua'i Habitat for Humanity: Doug Haigh, Board President for Kaua'i Habitat for Humanity. Thank you, Council Chair, Committee Chair, and Councilmembers for allowing us to be here today. I totally agree with Councilmember Kagawa regarding supply and demand. We all know that we have a housing crisis on Kaua'i, and I greatly appreciate the Administration, the Council, the State's acknowledgment, and everyone working on that problem. I really appreciate and commend the Administration and the Council working on the three (3)

bills that will help address that supply problem. This Bill particularly addresses the affordable housing problem. In the current environment, it is really a challenge for Kaua'i Habitat for Humanity to sustain our developments because there is a constant construction cost increase, less federal money available, and increased interest costs. It is a challenge. Anything that can help us will help in sustaining building affordable housing. Right now, I believe between the County of Kaua'i, Kaua'i Habitat for Humanity Organization is the only nonprofit developer providing eighty percent (80%) and below, and I am really proud of Habitat on sustaining and keeping this going. Now, the key thing about this Bill is that it is not just helping us. You folks have spoken to developers, and there are a lot of developers that say that they can not build homes because all those costs add up. A lot of developers would tell you that affordable housing costs are stopping them from building houses and therefore, they are not building supply. By law, you set a value to that. Right now, I think our affordable eighty percent (80%) low is at two hundred thousand dollars (\$200,000) per unit and that is set by law. By allowing us to sell that credit, we will now let the market decide. Clearly, we do not have enough developers out there willing to pay the two hundred thousand dollars (\$200,000), because we do not have houses. We have not had a subdivision since D.R. Horton in Hanamā'ulu. There were not very much before that, and supply is the key. Of course, infrastructure is another part of that problem, but a lot of developers will say it is affordability, and that the numbers do not work. Developers are businessmen and need to see that the numbers work. By allowing this credit, Kaua'i Habitat for Humanity will be able to go to the market. We do not expect to get the full two hundred thousand dollars (\$200,000) from the developers, but we do expect to receive offers and we will see what we can do. We are going to try sell as much as we can to support our program, but at the same time, if we are not selling it, it means that it is not working for the developers to do their projects.

Committee Chair Kuali'i: That is your first three (3) minutes, but I think you can use your next three (3) minutes since you are sitting up there.

JENNIFER HILL, Board Member of Kaua'i Habitat for Humanity:
I will keep it very short. I am Jennifer Hill, Board Member of Kaua'i Habitat for Humanity. I am in support of this Bill. It is a vital way for us to generate revenue. Right now, we are building seven (7) projects for people that need housing. I do not understand why the Council is not allowing us to keep our funding when we have other projects that we can continue to support. I am very much in support of the Bill. Please keep our funding.

Committee Chair Kuali'i: Thank you. Is there anyone else in the audience wishing to testify? I will also mention that you can have additional time if you need it. Also, please stay because we have a clarifying question.

Councilmember Cowden: I have a clarifying question for Doug. Two hundred thousand dollars (\$200,000) is set by law. If there are many people that want to buy, can you sell for more than that or is that the max?

Mr. Haigh: I apologize for going on too long. I am passionate about this. Thank you for the question.

Committee Chair Kualii: It was only three (3) minutes. You have another three (3) minutes.

Mr. Haigh: They are not going to pay us more because they can go to the Housing Director and give him two hundred thousand dollars (\$200,000).

Councilmember Cowden: Alright. Then, I have a clarifying question. You probably already answered it. Are one hundred percent (100%) of the houses that you build at eighty percent (80%)?

Ms. Pimental: One hundred percent (100%) at eighty percent (80%) and below.

Councilmember Cowden: Okay. Can you clarify, when it is one hundred percent (100%) are you required, due to Low-Income Housing Tax Credit (LIHTC) funding or anything else...why do you qualify when your whole charter is to do one hundred percent (100%), eighty percent (80%) and below? I am confused.

Ms. Pimental: In general discussion, we loosely spoke about this, but basically Habitat does not need housing credits. By our mission, we must provide eighty percent (80%) and below and because of that, at providing opportunities for eighty percent (80%) and below, we partner with other agencies, like the United States Department of Agriculture (USDA) Rural Development that also caters to the eighty percent (80%) and below. So, we would not be...

Councilmember Cowden: Okay. What requires you to do what you are doing?

Ms. Pimental: Our mission as an affiliated organization of Habitat International mandates that.

Mr. Haigh: Also, I would clarify that County ordinance requires us to provide twenty percent (20%) affordable housing.

Councilmember Cowden: Okay. That is where you get eighty percent (80%).

Council Chair Rapozo: Could I jump in? Is there another mandate that requires eighty percent (80%) and below?

Mr. Haigh: As Melani stated, the Charter for Habitat for Humanity is eighty percent (80%) and below and you can not be part of Habitat...

Council Chair Rapozo: Is that a governmental mandate?

Mr. Haigh: No, there is no other governmental...

Council Chair Rapozo: If you wanted to, could you build a market unit?

Ms. Pimental: No, we could not. We would need to form a separate entity to do so.

Committee Chair Kualii: That is not who they are and that is not their mission.

Ms. Pimental: We do participate in funding with the USDA (Rural) 502 Guaranteed Loan that can be utilized up to one hundred fifteen percent (115%) or one hundred twenty percent (120%) AMI. However, since we are catering to eighty percent (80%), the loan funds will be directed to our eighty percent (80%) and below buyers.

Councilmember Cowden: I think I know how to clarify my question. Are the affiliates on the neighboring islands like Maui and Hawai'i with this credit purchasing able to get credits? Do you know if there will be a barrier that comes up with the nuances of this Bill?

Ms. Pimental: I am not familiar with the other counties and with what the other habitat affiliates would be able to put up for sale as far as credits. I can say that the other affiliates are mandated by organizational ties to Habitat International to provide eighty percent (80%) and below housing.

Committee Chair Kualii: Councilmember Kagawa.

Councilmember Kagawa: I want to thank you folks for all that you do. One of my good friends was in the newspaper, and raved about the opportunities that you gave him.

Ms. Pimental: He is one of our newer homeowner buyers in the Waimea Huaka'i, which we partnered with the County on. Every time I tour the subdivision with potential doners and other funders...it is a wonderful subdivision. It is a great opportunity, and I am glad we were able to partner with you folks.

Councilmember Kagawa: In your selection process of deciding who will move into the homes, do you folks look at assets as well as income?

Ms. Pimental: Yes, just like any other lender. We primarily work with the Office of USDA Rural on those take out loans for the buyer. We act as what is called a loan packager. We assist in the processing and the Office of USDA Rural Development has their loan officers and underwriters that carry through the loan process. We assist with that.

Councilmember Kagawa: Alright. Thank you. Regarding the seven (7) projects your team has, approximately how many houses are there?

Ms. Pimental: That is a great question.

Councilmember Kagawa: Rough ballpark.

Mr. Haigh: At the top of my head, I would say sixty (60) or seventy (70).

Councilmember Kagawa: Perfect. Thank you. Thank you, Chair.

Committee Chair Kualii: Thank you. We were supposed to be having clarifying questions, but I gave a little bit of leeway.

Ms. Pimental: Again, we welcome any other opportunity to engage with you folks on these topics as well.

Committee Chair Kualii: You have so much going on that we may want to know more about, maybe you could come back to do a presentation for our Housing & Intergovernmental Relations Committee. Thank you so much for your testimony and your work. Of course, we are all affected. We have friends and family that benefit from what you are doing. Is there anyone else in the audience wishing to testify? Please state your name. You will have three (3) minutes and the yellow light will indicate thirty (30) seconds.

JEFF LINDNER: Hello, Councilmembers, Jeff Lindner, for the record. I agree with Adam. I think affordable housing does need to have the private sector in it. It is a challenging thing. I have brought you a packet to look at from a bigger bird's eye view and other ways to look at it. The first page is the State Boundary Amendment. The question is who is going to benefit from this and where. The first page is the State Boundary Amendments and the District Amendments by the Council. You will see from the latest dates by the State that there has not been any urban land in most of the places for close to thirty (30) years. The Council has not created any urban land for twenty (20) to twenty-five (25) years and so, these credits will go to people who have been holding urban land for twenty-five (25) to thirty (30) years that have not done anything with it. I testified earlier that real property is not taxed for the highest and best use—the people are holding urban land without being charged for it. They are not charged for it until they decide to do something with it. That is a big problem. If you are trying to make money, you are going to hold it until the market goes up and you will get the highest

best use, at least for the developers going to do it. That is the first page, and the second page is...

Committee Chair Kualii: Mr. Lindner, can I stop you for a second? You have a lot here and I am sure that you will run out of time. I think you should start by saying whether you support the Bill or not.

Mr. Lindner: Okay. Well, I support private developers getting into it, but in order to do that, you need to give them urban land. No one has created on any urban land for twenty-five (25) years...

Committee Chair Kualii: Do you support this credit system that is being proposed?

Mr. Lindner: Not in the form it is because first, ag land is not included in it.

Committee Chair Kualii: Do you not support the Bill?

Mr. Lindner: I am trying to support affordable housing. That is why I am pointing out the fact that they are the only urban land that is left. I think if you look at...Kapa'a is going to be sort of the best example of what happened...I guess I will come back. Well, you folks all have this and can see here is Kapa'a land. You can see the urban land is right here and here is the development. Do you see that? What happened is...because of the County policy and not creating any more urban, they wanted it all to be developed as ag lands. All the land was lost because it was at the...County did not create any urban. What do you do since it is all ag lands?

Committee Chair Kualii: I think we got it. Thank you. Is there anyone else in the audience wishing to testify? Come forward, please. State your name. The yellow light means that there are thirty (30) seconds left.

KANANI FU: Good morning. For the record, Kanani Fu, testifying on behalf of myself in my individual capacity. I do not know what agenda item we are on, but specifically I am testifying on Bill No. 2914. For the record, I am in opposition of the Bill as written. Councilmember Kagawa stated that we need a big change. Here is why I am against it. First, if you look at the history of the County of Kaua'i Housing Agency, the previous directors were not inclined to do this or issue the credit system. It was more about having the County control its own destiny and its own development, so the Housing Director should not have the authority to issue out money without coming to the Council. It sort of takes away the checks and balances. Secondly, this Bill would directly impact DHHL. In previous bills the County was against, and we were in support of sunseting the laws so that no government agencies could come back to this County to get credits. As you folks are all aware, the County has spent the last ten (10) years building land and infrastructure for developers. We "go to bat" for every single developer that builds

housing for us and then we are letting them come back to “double dip.” Our role is to develop and build infrastructure and if we give these credits away, we are giving away the ability for the County to develop infrastructure. Let the Housing Agency develop housing and keep the money here, so we can put it into the water systems and sewer lines because it does not matter how many credits we issue for housing, we can not build a house. Right now, we are literally out of water, out of sewer, and out of roads. The gentleman before me was correct. The only developing area right now is land in the urban area and if the County is not developing, the only other group of people that can develop land in this urban area are billionaires. The rich developers are bringing in the infrastructure for the water and the sewer as they can, but they need to sell these homes for incredible amounts of money. If they bring in one roadway, I promise that it will benefit the communities like the roundabouts in Po’ipū and the water system are benefiting the whole community because the County forgot to put the infrastructure in first. Go back to all the developers and make us put in the infrastructure first. Give all the credits to us and make us put in the infrastructure first. I am out of time. I am here for any questions. Thank you.

Committee Chair Kualii: Thank you. Is there anyone else wishing to testify for the first time? Is there anyone wishing to testify for a second time? Come forward, Mr. Lindner.

Mr. Lindner: I will try to sum it up. You folks can read the packet later. The issue is that from Kapa’a to the north, the County’s policy is to not have any urban land. With this particular thing, no one from Kapa’a to the north is going to benefit because there is no urban land left. It will be predominantly Kōloa and Līhu’e. There is some newer land out towards the Westside, but I guess...the housing crisis is a count by County design. There were three (3) plantation companies: Grove Farm, Līhu’e Plantation, and Alexander & Baldwin. Particularly, in 2000 when both Grove Farm and Līhu’e Plantation were sold...I think we all remember that there was the moratorium on agricultural subdivisions. That was taking away the density of Open zoning, the ADU was taken away. In 2014, you had real property changed to use and so, I think the bigger picture from the beginning when the State was created, is that there were two (2) classes of land. There was land that the plantations owned the development rights to and basically agricultural land and Hawaiian land that had been taken. This is not a political thing. It is a legal thing. This is forty (40) years and I have been doing agricultural subdivisions. There is a serious case to make that Hawaiian, and that is an easy case, but because agricultural land was individually owned, you could show all of the things that the County has done. It is not that they gave everything to themselves, but they actively tried to take it away from other people. That is all there. That is why I am saying you, as a Council, can create urban zoning for less than fifteen (15) acres, right? You can do that, and you can do it away from the urban land. People can come to you with a project, and they need to do that because the County is not a legitimate organization. It is a real estate company disguised as a government and the State emboldened them with the urban land...they give the urban land and they let them sit on it. They can not do anything with it.

Committee Chair Kuali'i: Thank you. Thank you, Mr. Lindner. We live in America, and all have free speech. Is there anyone else in the audience wishing to provide testimony? Try to stay on the bill and state whether you support or not support the bill and your reasoning.

Ms. Fu: Aloha, Councilmembers. I am not in support, and I gave reason one, which was one big change. The first reason I was not in support is because none of this supports development of infrastructure, which is a priority. Second is just as a matter of public as a self if we are going to pass laws about pertaining to housing, then I would implore us to start a housing advisory committee. If we did that, all the experts in the room would be guiding the Council because...it was brought here today because many people are conflicted on a good bill, but I think perhaps it lacked other experts in the industry to weigh in. In my opinion, this Bill was not vetted correctly. If we want a big change, we really need to get a housing committee of experts to work alongside the Council. Previous Administrations did this and the previous Councils did this at the direction of the Housing Committee Chair. Before we support any more housing initiatives or any other big changes, we should have a real vetted committee in support of these big change ideas. Thank you for the opportunity to testify.

Committee Chair Kuali'i: Can I ask a clarifying question? Regarding the current DHHL credits, I am not entirely sure if I understood your testimony correctly the first time you spoke. Do you support the credits that are in place for DHHL now? Why or why not?

Ms. Fu: There is an agreement in place, and I support only that agreement in place. Why do I not support DHHL's credits?

Committee Chair Kuali'i: Do you?

Ms. Fu: No, because they are their own trust with their own money. We have DHHL. We have our own ability, and it should be our own inherent right to develop. We do not need an agreement with the County. The County should be developing it alongside us. There does not have to be an agreement that the County owes us credit. It is by law...like the County should be prioritizing the development of the homes for DHHL. That is a separate conversation, but we do not need a credit system for DHHL. Previous directors were in opposition of this because we inherently understood if whenever the County wanted to cooperate, they would just lay the infrastructure for DHHL. It is political will, what you want to serve. We laid infrastructure for Lima Ola. The County can decide where we want to lay infrastructure. We prioritize if we want to lay with DHHL or not. We can do that. We have a lot of money in the trust. It is an impressive amount. It is just whether the County is going to work with DHHL to deliver that infrastructure. That is just my opinion as a human that has been in this realm for twenty-three (23) years in all realms of development, private, public, and with the trust. I am...we are all

well-versed in this conversation, and I have been with you folks for decades now versed in this discussion of housing. Moving forward, I think that we all should sit with the leaders of housing and that is DHHL. They are not even here. This benefits them. This is the biggest bill that could benefit them, and they are not here in support of it. I do not see a representative here, but I see many beneficiaries, like me that came to speak in opposition of it.

Committee Chair Kualii: Your time is up. Thank you. Are there any further questions? Members, are there any further clarifying questions? Thank you. Is there anyone in the audience wishing to testify for the second time or first second time?

SHERRI CUMMINGS: Sherri Cummings for the record, DHHL beneficiary. First, thank you Chair Rapozo and the County Council for listening to us regarding water. You folks created the opportunity for us to discuss and bring in everyone that determines our faith. I am speaking on this because...

Committee Chair Kualii: Can you clarify whether you support the Bill or not?

Ms. Cummings: Well, I can not tell you. I do not want to go in the direction of supporting or denying.

Committee Chair Kualii: I want to try and have you to start with...

Ms. Cummings: I am referencing off Kanani. I am only supporting her, in her efforts to bring you...

Committee Chair Kualii: Do you not support this Bill?

Ms. Cummings: No.

Committee Chair Kualii: Just her position.

Ms. Cummings: No.

Committee Chair Kualii: Okay. Thank you.

Ms. Cummings: I will say this. I will *kakou* with what she said because it is true. In DHHL, we have water reservation rights, we have credits. We do not need to be *ho'omalimali* with the County. It is...we have a law in place from Kamuela Cobb-Adams who was DHHL then became the Housing Director. He knew. He created a Memorandum of Understanding (MOU) and an agreement with DHHL regarding this. I am taking off my hat as a beneficiary and I will talk to you like

everyone else. We are taxpayers. Do not treat me differently because DHHL has a right, Federal and State. We do not need to be giving away credits because those are all taxpayers' dollars. The State is responsible for taking care of DHHL and Joesph Tait of the Department of Water understands that. We do not need to be taxing the County people because it is a State law. Everyone is talking about the fact that there are no transmission lines for DHHL's properties and things like that. That is the biggest thing. Water is there, you folks know that, Wai'ale'ale, we have water. We lack the money for the transmission to us. This is where we are going to fight, as *kanaka*, to ensure that we have that access so that water can come to our lands. It is not about...it is strictly about what Kanani said. It is about the infrastructure that supports, and we are missing out. We can not be championing ourselves because we do these affordable rental housings and things of that sort. We are not taking care of the gap that will keep us on Kaua'i. That is what the conversation needs to be about, and we are the gap as DHHL beneficiaries as well. We need to stop thinking that it is us against them. We need to *kakou* each other and that is where our newly nonprofit was born, Kakou Kaua'i. We are going after the infrastructure and water to support us as Hawaiians and regular Hawaiians, which is everyone here. You do not need be Hawaiian, but if you are from here, you are Hawaiian. That is all I need to say. Thank you so much.

Committee Chair Kualii: Thank you. Is there anyone else wishing to testify for a second time? Okay, that is all for our testimonies. Thank you. While the rules are still suspended, I am going to call Adam back up. We are still just asking questions. A lot of what you heard possibly spurred some new questions. Members, this is your chance to ask Adam questions that you did not get to initially. Again, to be clear, it is my intent to ask for a motion to defer, so we can work on this at least one more time during the next committee meeting, which is in a few weeks, but for now, are there any further questions for Adam? Councilmember DeCosta.

Councilmember DeCosta: Adam, thank you for all that you do. Thank you for thinking out of the box. Habitat for Humanity, thank you for all you folks do. I have worked with you folks with our construction-based students. I wish we could get more students out there. Adam, my question for you concerns infrastructure. Infrastructure is a big buzzword and I heard it mentioned by many testifiers. When addressing Habitat homes especially on the Westside, land was a big issue. Without land, we can not proceed unless we have land from a private developer. Either they offer us the land or the County purchases the land. Has the Housing Agency joined hands with Habitat? Have you ever thought about eminent domain in some State ag lands that are on the west side right next to infrastructure roads and sewer and electricity? It is possible that these folks could have a chunk to do more eighty percent (80%) AMI. Have you folks looked at the State ag land in Hanapēpē that is next to Hanapēpē Heights housing, that land has cattle on it? Yes, it does provide food sustainability, but I do not think that the cattle that they are using is in every supermarket here. We are bringing in a lot of beef from other ranches. Would that

be a possibility? Could you have a conversation with Habitat and possibly the State? It is possible that it could help lead that charge to go eminent domain one hundred (100) acres in?

(Councilmember Carvalho was noted as not present.)

Council Chair Rapozo: Hold on. Committee Chair, that is outside the scope.

Committee Chair Kualii: We need to focus on asking questions about the Bill.

Council Chair Rapozo: I am going to be looking at a discussion on housing policy but for today, we need to keep the focus on the Bill.

Councilmember DeCosta: We have no time to talk as a group, so I threw it out there now to get everyone thinking. Now, everyone is looking at me now and thinking I am brilliant. I am. Thank you.

Committee Chair Kualii: Members, are there any further questions?
Council Chair Rapozo.

Council Chair Rapozo: I do not know the tax credit or agreement we have with DHHL. I was not familiar with that until recently. Please explain how that works.

Mr. Roversi: There is a State law that requires each County to issue housing credits to DHHL whether we like to or not. To implement that State law...I believe some other counties develop a MOU about how that process would work so it functions almost like admin rules. The MOU with DHHL sets out the process to implement the State law requirement.

(Councilmember Carvalho was noted as present.)

Council Chair Rapozo: Right. What is the MOU that we currently have? What does it say? Is the verbiage similar to what this Bill is trying to say? I am trying to compare the two.

Mr. Roversi: I would be happy to provide a copy. It has been a little while since I have looked at it, but I could get a copy of it for you and the Council. I do not think it has this level of detail. It is much more of a one-for-one, DHHL builds a house and DHHL gets credit. That is my memory of it.

Council Chair Rapozo:
DHHL to build affordable housing?

Does DHHL get the credit? Do we require

Mr. Roversi:
DHHL property qualifies for a credit.

No, my understanding is that a home on

Council Chair Rapozo:
the credit?

What is the credit used for? Could they sell

Mr. Roversi:
DHHL could sell the credit to a developer who is required to do a workforce housing unit. It is an affordable housing credit that could be sold by DHHL to Kukui'ula, Coco Palms, or some other entity like that.

Council Chair Rapozo:
DHHL has not built a subdivision in a very long time, but hypothetically, let us say DHHL builds one and just a safe and easy discussion, it is one hundred (100) units. Do they get a hundred (100) credits?

Mr. Roversi:
That is my understanding.

Council Chair Rapozo:
Can they sell the one hundred (100) credits to a developer? If so, then we would not see any affordable housing built by that developer, right?

Mr. Roversi:
I believe so.

Committee Chair Kualii:
Well, you will see more affordable housing built by DHHL.

Mr. Roversi:
Ostensibly, yes. I assume the original purpose of the State law was to provide a funding source for DHHL. Therefore, when DHHL does projects such as Pili Mai in Anahola, involving road construction, water, infrastructure and lot development, it serves as a method to allow DHHL to recover some of their expenses and enables them to recycle those funds into more DHHL housing development.

Council Chair Rapozo:
I will follow up with that because I need to learn more about that.

Mr. Roversi:
As I mentioned, I think we issued thirty-six (36) or thirty-eight (38) credits for that Pili Mai project in Anahola at DHHL's request pursuant to that MOU. I do not believe DHHL has ever done anything with them. They have never been sold. They are still just...

Committee Chair Kualii:
Thank you. Councilmember Bulosan.

Councilmember Bulosan: Chair asked the same question.

Committee Chair Kualii: Okay. Next, we have Councilmember Carvalho.

Councilmember Carvalho: We have gone through so many different developments and such for the Housing Agency and the infrastructure part seems to be at the forefront. I think someone asked about that already. Could you discuss infrastructure?

Mr. Roversi: Sorry. What exactly was the question?

Councilmember Carvalho: In terms of overall development, we previously discussed credits and other related matters. Now, we are focused on securing resources for the infrastructure part of the developments. Is that something...

Mr. Roversi: Also, broadly speaking, infrastructure limitations are a key impediment to affordable housing development. The Housing Agency has focused its efforts on building infrastructure to enable the County's projects primarily, so far. We put in all the required water lines, sewer lines, roadways, etcetera to enable the Lima Ola development. It is our intention to do the same at the other two (2) County projects in Waimea and Kilauea. We do it on a smaller scale for our smaller project, like the Pua Loke Street project and the Kealahula Supportive Housing project, we put in the sewer line that enabled those projects to happen, but we do not have the financial capacity to do the infrastructure arm on for the entire County.

Committee Chair Kualii: That is the point, and I believe I can clarify by phrasing the question differently. Some of the testimony mentioned that rather than providing these credits, we should allocate the funds towards building more infrastructure. Essentially, this credit system does not cost the County a penny and would not generate any revenue, so there is not an opportunity to monetize it. Instead, allocate the credit towards infrastructure.

Mr. Roversi: I would only qualify that...a developer who is being required to develop housing units can either develop units or pay the County a fee. They could purchase one of these credits in this system. It could potentially mean an in-lieu fee that does not get paid to the County will instead be paid in via the purchase of a credit from someone like Habitat for Humanity. In a roundabout way, it could result in slightly less money going into the Housing Development Fund, but in the global scheme of things, in-lieu fees are an incredibly small portion of the funding going into the Housing Development Fund.

Committee Chair Kualifi: Yes, and regarding the amount not really being sufficient to build a unit, it could piece together to do infrastructure work, if it was any kind of significant amount, which it has not.

Mr. Roversi: Generally speaking, yes. I mentioned in response to previous questions, the last in-lieu fee agreement that the Housing Agency had with regard to an affordable housing requirement was connected to a resort requirement in Po'ipū. Their total in-lieu fee is a little over five million dollars (\$5,000,000) paid over a period of time. Once that is fully paid, the five million dollars (\$5,000,000) could be a significant chunk of an affordable housing project in the Po'ipū area to serve that community, but that is sort of the only example of in-lieu fees for a while.

Committee Chair Kualifi: Councilmember Cowden.

Councilmember Cowden: I apologize, it seems like I am hearing soft voices and so I might have missed something, or you might not be speaking loud enough for me. State government sets the in-lieu fee and Council can not do anything in the next month or two and set a higher in lieu fee. That is not up to us.

Mr. Roversi: The in-lieu fees are established by the County Council. In our County Code and just for context, we have several housing bills that we brought to the Administration. These were the first two (2) that the Administration wanted to bring over to the Council. We have a more global housekeeping bill for consideration of amendments to the housing policy. That could be an opportunity to have another discussion. It is a much larger bill than what we have presented to you today and it will probably take many committee hearings, but it could present an opportunity to discuss the in-lieu fees.

Councilmember Cowden: Okay. I think that we really need to have that determined because if we pass something like this with a low in-lieu fee and it will barely help them, right? Also, just so I understand, when we have a program like Habitat for Humanity that does amazing things at providing eighty percent (80%) AMI and below or one hundred percent (100%), can they sell eighty (80) credits of their development?

Mr. Roversi: Yes.

Councilmember Cowden: We know that they are going...there is nothing that is going to be a barrier. That is what I was trying to ask them. There is nothing that is going to be a barrier for them to sell eighty percent (80%) of their credits.

Mr. Roversi: The only barrier is whether there are willing buyers in the community. We have the system and the Housing Agency has no control over whether other private developers will desire to purchase these or not.

Councilmember Cowden: I got a little lost during the discussion on the rules. They can sell their credits, but for example, if they sell their credits for one hundred fifty thousand dollars (\$150,000), it does not do much to create housing because you can not create housing for one hundred fifty thousand dollars (\$150,000). We need to raise that minimum in-lieu fee.

Mr. Roversi: Perhaps, but you would need to discuss with Habitat for Humanity. I think one hundred fifty thousand dollars (\$150,000) goes a long way to helping Habitat complete a home, because they are selling that home for a price, a dollar-value, to the buyer who often is close to being able to afford the home and maybe needs a little help. The one hundred fifty thousand dollars (\$150,000) is providing gap financing, a second mortgage, or some critical element of Habitat's financing structure, but you are correct, that it is not paying for the entire amount.

Councilmember Cowden: It is kind of complicated, especially if it is coupled with patterns of fraud somewhere else.

Committee Chair Kuali'i: Council Chair Rapozo and then Councilmember DeCosta.

Council Chair Rapozo: So, I know a lot has been said about Habitat and DHHL, but this bill is not a funding Bill for DHHL or Habitat. Do not take this in the wrong way, we appreciate Habitat. They construct more housing on this island than any other organization. That is a given, but this Bill is not about that, and a lot of the focus is on the revenue that will be generated by the sale of these credits, but let us take Habitat and DHHL out of the discussion. This is available to any developer.

Mr. Roversi: That is really the hope, right? By having this potential source of funding, developers other than Habitat will step up to build affordable housing.

Council Chair Rapozo: We are trying to incentivize it, right? We are trying to make inventory and the purpose of this ordinance is to provide a new non-governmental source of funding for affordable housing projects while simultaneously providing an additional pathway to generate market rate housing. There is no restriction on the use of the funds that will be generated. "ABC" contractor or developer could sell or purchase the credits and write the check for three hundred thousand dollars (\$300,000). There is no restriction to those funds. Those funds do not have to go back into the pool to generate more housing.

Mr. Roversi: That is true. It is our hope...

Council Chair Rapozo: Hope is not a strategy.

Mr. Roversi: It is a backend compensation for affordable housing already constructed.

Council Chair Rapozo: I understand. My point is that if we are targeting the developer...most of the developers will come in into one (1) project and then they will be gone. They are not going to stay in and use those funds to build more affordable housing. They do not have to; they can build market housing. See, my brain thinks differently. First, this Bill should take several Committee Meetings because this material is new. This is not something we just pass and hope it works, because we could create some damage. Yes, Habitat will benefit and apparently, DHHL is already benefiting, but we need to consider the possible problems that could arise. This is what my head thinks. I am like the devil's advocate. We need to ensure that we close that loop before we just say aye because once we pull a trigger, you can not pull it back. Adam, my second question is, would there be an issue if we held off on passing this Bill until we raise the in-lieu fee? It does not make sense to pass it with the low in-lieu fee.

Mr. Roversi: I do not know if I entirely agree that it does not make sense because I think that the one hundred seventy-five thousand dollars (\$175,000) per unit to an affordable housing developer is still of significant value, but I am not going to cry about it if that is Council's desire.

Council Chair Rapozo: Right. I am just curious to know what your position is because you are the Housing Director. I believe that the objective of any of our housing bills should be to produce more inventory.

Mr. Roversi: This is perhaps a discussion for a different time, but earlier, Councilmember Kagawa mentioned the concerns about regulations as an impediment to housing development. I think that if we had a working group with the development community to discuss increasing in-lieu fees, every single one would say to do not do it, do not raise in-lieu fees. We can not afford to bill has...

Council Chair Rapozo: Understand though, if your definition of experts in the housing development community is only big high-powered developers, then you are right, but it entails people like Mr. Akina from Grassroots Institute and other nonprofits that focus on affordable housing development. They are the experts in the room, not just the big developers. That is where I think I disagree but anyway, thank you. Mr. Committee Chair.

Committee Chair Kualii: Next, we have Councilmember DeCosta.

Councilmember DeCosta: Chair Rapozo asked my question. I do not want you to be under the assumption that you can craft a bill for a singular entity in specific. We craft generic bills to benefit everyone, and Habitat for Humanity falls into that category, bless their souls. I heard twice from one of the testifiers and possibly you, that this Bill would directly impact Habitat for Humanity's cashflow and we do not establish bills for one entity. Am I correct? You are doing this for everybody out there who wants to...

Mr. Roversi: Of course. This Bill would be to the benefit of any developer who chooses to build affordable housing.

Councilmember DeCosta: Okay, that is the point that we need to make. The Council creates bills for everybody, not just a single entity.

Committee Chair Kualii: At the risk of oversimplifying the Bill, like we stated earlier, it is an attempt to incentivize and support more affordable housing to increase our inventory.

Mr. Roversi: Exactly.

Committee Chair Kualii: Yes, we need to look more specifically at those benefiting in addition to...we said that we need affordable housing of all types. We need all hands-on deck. You are trying to be broader, but maybe based on what Chair Rapozo is saying, the credits should not go to everyone, I am just throwing this out there, but maybe the credits should only go to targeted groups that are focused on affordable housing. When Habitat first came and testified...in the back of my mind, I was thinking about how they are like a super builder when it comes to affordable housing. That is their focus. That is their mission. All of their constructions are affordable housing. Consequently, other developers, who typically do not build such projects but are mandated to do so, are exempted from fulfilling this requirement because...they do not do it. They are not good at doing it so they either opt to the in-lieu or buy the credits from Habitat, which is a good thing. Then, Habitat can build more. Should we then say if you are this type of developer, then you engage in this credit system by either paying the in-lieu or buying the credits from others? Additionally, if a developer aligns with Habitat's mission to construct more affordable housing where all units are priced at no greater than one hundred twenty percent (120%) would they be included in that category. Now, I know when you get to the one hundred twenty percent (120%), you start getting close to market...should we tinker this to break it down instead of just giving it to everyone?

Mr. Roversi: So, whenever I am thinking about a bill and administering it, I am critically aware of trying to make it simple and easy to administer so that it is not a burden and not overly complex. That way it is easy for the public to understand. The concerns that you are speaking of are related to what

Chair Rapozo mentioned about how we do not have control over what a developer does with the money once they sell the credit. They could build more affordable housing, or they could go to Vegas. We do not know. The topic you are talking about is a little bit related to that. We are only going to give credits to people who we are fairly sure will recycle the money into more affordable housing units. I do not know exactly the right answer, but I mentioned the project I toured on Maui. I can provide the name of the developer and the project, but I do not have it with me. I could share that with you all, but he is not a Habitat style developer who does only affordable housing. He does market-rate projects. Fifty percent (50%) of his projects were built as affordable instead of the bare minimum because of the expectation that he would be able to recoup some of his expenses through this credit system. It is not the first time he has done that. He did not take the money and run. There was nothing in the Maui system or a requirement that forced him to do that. That was his choice in his development model and the way he wanted to give back to the community. I talk to developers all the time who attest to me that they really want to do what is best for the community, but it does not quite financially pencil out sometimes, so they do not do it. Those are the types of people that we are hoping this Bill will attract to do more work, so that we have a bigger pool of people not just Habitat and PAL doing more than what is the bare minimum that is required of them by law?

Committee Chair Kualii: That addresses what I am thinking of, which is the backend. Developers receive more credits if they do the lower levels, right? In essence, Habitat will be getting more credits. They do not need credits because they plan to build it, but they can not sell those credits if they are competing with the non-affordable housing developers, right? You would rather those big-end developers that are focusing higher, rather than sixty percent (60%) eighty percent (80%), or one hundred percent (100%) to purchase from them.

Mr. Roversi: I am not sure if I exactly understood the question.

Committee Chair Kualii: I meant that in one way you are distinguishing between a developer like Habitat who is focused entirely on affordable housing and taking care of the sixty percent (60%) and eighty percent (80%) AMI from other developers who do not. The only affordable housing they are building is between one hundred ten percent (110%) and one hundred twenty percent (120%). In that way, you are incentivizing more affordable housing by organizations like Habitat and if it is given to the developers not as focused on affordable housing, they receive less. In the long run, I am just saying that distinguishing it may help and also addresses Chair's concern.

Mr. Roversi: Well, this Bill tries to address the issue you are talking about. Very simplistically and in an easy-to-administrate way by providing the potential of more credits to a developer who is doing the lower-income

units and fewer credits to a developer who is doing affordable yet more expensive units. It is not trying to regulate that at the backend and how those are going to be sold or distributed, because that is just too complex for us to be involved. We are trying to propose a simple way of addressing the issue you are talking about.

Committee Chair Kuali'i: Councilmember Cowden, did you have a follow-up or a new question?

Councilmember Cowden: I have a follow-up that sort of pulls into a new question.

Committee Chair Kuali'i: As far as new questions, I have Councilmember DeCosta next.

Councilmember Cowden: Okay, let me ask the follow-up. What is the name of this Maui development? I want to look at it.

Mr. Roversi: I would be happy to email it to you.

Councilmember Cowden: And what town is it in?

Mr. Roversi: It was ten (10) minutes outside the town of Kahului, way up on the side of the mountain above Mahi Pono Citrus Orchards. I do not remember the town exactly. I was driven there by other people.

Councilmember Cowden: If you can send me a link to that, it would be helpful. After him, I can ask my new question.

Councilmember DeCosta: You clarified my question.

Committee Chair Kuali'i: Okay. Councilmember Cowden, you may ask your new question.

Councilmember Cowden: My new question is somewhat in reference to Mr. Lindner's documents. He gave us a...thank you by the way. There was a lot of work there and we appreciated it. There is a developer landowner wanting to build fifty percent (50%) market and fifty percent (50%) affordable housing, and drawings are out. I have mentioned this to you before, but they have this Land Use Commission (LUC) challenge right here because it is a large property. I wonder if you can speak about that challenge because this really blocks people from even beginning to do it. The up-front cost to fight through and have an effective development be what we say we want with integrated affordable housing and all of that, is a profound barrier. Can you speak to any of that like? How do we deal with

it? Can we do these fifteen (15) acres, smaller urban places? I believe this is an important issue.

(Councilmember DeCosta was noted as not present.)

Mr. Roversi: The question is really more about zoning and land use regulation rather than housing credits per se, but any developer wanting to do a fifty percent (50%) plus an affordable housing project can utilize the 201H approval process.

Councilmember Cowden: Okay. I am not familiar with that. Can you tell me about the 201H approval process?

Mr. Roversi: The 201H is the Hawai'i Revised Statutes section.

Councilmember Cowden: Right.

Mr. Roversi: It refers to a streamlined and expedited process for re-districting and rezoning properties that are primarily intended to be affordable housing projects. There is a PowerPoint on the Hawai'i HHFDC that lays it out simplistically and can be downloaded.

(Councilmember Kagawa was noted as not present.)

Councilmember Cowden: Could you send that to me also?

Committee Chair Kualii: Okay. Members, are there any final questions for Adam? I am going to ask for a motion to defer to the May 1, 2024 Committee Meeting instead of two (2) weeks from now. We are also working with the FY 2024-2025 Budget and with this extra time, I want us all to work on this in case you have any amendments. Of course, you can work with me as Housing & Intergovernmental Relations Committee Chair or we can work together with Councilmember Bulosan, Vice Chair. Let us all do some work outside of our Committee Meetings, so that we can be more productive. This is a good start. This is a big deal. Then, maybe Adam can start to speak about the next bill. Maybe when working on these two (2) smaller bills, we could pull out the in-lieu fee portion and do that as a single bill.

(Councilmember DeCosta was noted as present.)

Council Chair Rapozo: Could I ask a quick question? Where are we on the timeline of the big bill?

Mr. Roversi: It is probably a couple of months away from being presentable to the Council.

Council Chair Rapozo: It would make sense to have it all on the big bill.

Committee Chair Kuali'i: The last time we did a big bill, it took us about a year, right?

Mr. Roversi: The last time that we tried a comprehensive bill, it took about five (5) or six (6) Committee Meetings, so I was advised by people above my pay grade that it would be better to attack things in small pieces rather than present an omnibus bill.

Council Chair Rapozo: Okay.

Councilmember DeCosta: Yes, I have...I want to comment on your discussion point. You reminded the Council to do our homework and have a discussion prior to the next meeting. I believe that we always do that if we plan to defer an item to another meeting, but I heard the community suggest a workshop. If this Bill is that crucial and I also feel uneasy, although I believe that...let me finish please. I believe that Habitat does excellent work. Why not have a briefing and invite and listen to experts before making a decision? Is that impossible? I think that would be beneficial.

Councilmember Cowden: I have a follow-up on that.

Committee Chair Kuali'i: Okay, go ahead.

Councilmember Cowden: I support what is being suggested. For example, I would definitely like to have a briefing from Habitat, a briefing on the HHFDC Streamlined 201H Approval Process. I work really hard to look at background information and having this right on top of Budget, which is of high demand, it is hard to get...we get six (6) days ahead of time for pieces like this omnibus bill for housing. Those of us who are not on the committee only have six (6) days so if there are ways to educate us all along the way, I think it is really important. Also, I do want to say DHHL will be here on April 19 and April 20. I hope that people are going to be at that meeting. I am going to be at that meeting, because as part of learning and educating ourselves on these matters...we have a lot of complex pieces and I find that when we did our real property tax and got those incremental changes and there was a promise that to do the rest of it all together to say yes to this and that...we get the housekeeping yeses, but we do not get the big piece, so I really want to be very careful. I was a single vote against the last housing bill and I have to say, it did not help and that was definitely one of the things that I felt was the case. There

were a lot of problems with it, and I really want to be well prepared. If we can have a workshop, I would really like that. This is so important, and I really respect and honor everything. Habitat for Humanity, you folks are heroes, absolute heroes. I want to support them, but not to put ourselves in a trap.

Committee Chair Kualii: Thank you. I guess we are in final discussion. Adam, thank you. We have no further questions for you. Let us call the meeting back to order and have our final discussion for today. Once we are done with final discussion, I am going to ask for a motion to Defer to May 1, 2024 Committee Meeting to have another discussion on this Bill.

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

Councilmember DeCosta: I have said this many times on the floor. I graduated with a Bachelor's Degree in Economics. I believe Councilmember Kagawa and myself, and I hope the entire Council believe that supply and demand is the problem. It is the problem. We do not have enough people building houses and it is our fault as the County. Chair Rapozo and myself went to bat to see if it was possible to follow what Maui County and Hawai'i County are doing, which is to allow landowners to subdivide more than once. Right now, that is the problem that we have on Kaua'i. We do not allow the landowners to subdivide more than once. These landowners sit on these large chunks of land because they are afraid that if they carve out certain sections now, they are going to miss out on that lifetime opportunity to cut the property again. Kaua'i takes the initiative of living in an urban area. We do not want to go to rural areas, but that is where the land is. We need to make more supply and the only way to do so is to allow landowners to develop. I agree with the statement that Kanani made about landowners and developers. They should put the infrastructure in. We need them to put it in and we need people to stop going against development because of water issues. We need water to develop. We have areas in Lihu'e that can be developed but the idea was shut down because people protest the water. We need to stop doing that if we expect our *keiki* to live on Kaua'i. I want to comment on Habitat. I think it is the best thing that we have on our island, and I am sorry for what I said, but I believe that bills should not be crafted for a single agency alone. Bills should be crafted for everyone to enjoy and benefit. You folks are on the forefront and Doug, thank you for sitting on that board. You come with a wealth of knowledge. I also believe that eminent domain might be a possibility for us. If we do not allow them to subdivide then maybe we need to cash out a small portion of their land to start building affordable homes. I am sorry to say this but building a hundred (100) homes a year is not going to curb the statistical report that we are nine thousand (9,000) homes short. If we can not provide more inventory, our kids will continue to move away, and not only for the sixty percent (60%) to eighty percent (80%) AMI. We need one hundred percent (100%), one hundred twenty percent (120%), and one hundred fifty percent (150%). We need to build those homes

and we need the infrastructure to be put in and if not, allow others to build where the infrastructure already exists. Mr. Lindner made a good point. It exists in those ag lands that are outside of the urban areas. This will help to keep our local kids here. Thank you very much.

Committee Chair Kuali'i: Thank you. Members, is there any further discussion on the Bill? We can go on about affordable housing, but let us have a final discussion on this Bill. We are going to defer. We are going to continue working on this Bill. Next, I have Councilmember Bulosan.

Councilmember Bulosan: I wanted to make the motion. I do not have any further discussion.

Council Chair Rapozo: I would like to say something.

Committee Chair Kuali'i: Okay, Council Chair Rapozo.

Council Chair Rapozo: First, thank you, Committee Chair for agreeing to defer. Whenever we start these types of bills, we need to look deep. Conceptually, it is really good, and it benefits a lot of people, but we need to ensure that when this bill finally passes, it does not come back like Residential Investor, circuit breaker...things that we have done because the intention is always good but the devil is always in the details. I am planning to check with Maui and Hawai'i Island as well as talking to other affordable housing developers that choose not to come to Kaua'i because of our regulatory process. I know two (2) major developers well on O'ahu that will not come to Kaua'i to develop because it is too expensive and takes a long time. There are so many moving parts in this, I am not sure how Habitat does it. Again, without a dispute, that organization is the top affordable housing developer on the island. It is just unfortunate that a bill like this, and again, I am not talking about Habitat, but we need to take away any possible opportunities for abuse from other developers that could come in. At the end of the day, all we are doing is making it more convenient for big developers to develop, but we are seeing no actual benefit for the local community. I think we need to be sure that this bill is sound in that way because...I guess it is my "cop" brain that I have that looks for ways on how this could be abused. My head starts to spin, and I can see how if someone has the money, then that person can do what they want. Also, understand and accept the fact that when this passes, and I believe that it will after being looked at more deeply, it will be saying goodbye to the in-lieu fee. No one will want to pay the in-lieu fee knowing that it could be bought cheaper through the credits. I do not see an opportunity where someone would choose to pay the County more over the option of buying the credits from a developer for less. I believe it is critical that the in-lieu fee be adjusted before passing this Bill. The objective of this Bill is to create inventory, not to expedite a big-time developer's development. That is not what the housing policy should be. It should never be about giving a developer the opportunity

to move a project along quicker if the money is there. It is to create the inventory and the purpose of this Bill is very clear. It is not just affordable housing but also market-rate housing, which is also a need. There is a need for all levels of housing. I think that many of us remember when there was only a need for affordable housing because the market was affordable enough and those with a profession like police officers, fire fighters, nurses, and doctors could afford a home. Now, you can not. At one million four hundred thousand dollars (\$1,400,000) median, no one other than the rich and famous can purchase. Times have changed, and the in-lieu fee needs to change along with the times. You can not have it stay at one hundred seventy-five thousand dollars (\$175,000) or two hundred thousand dollars (\$200,000). I think that this Bill would take that out of the equation. No one is going to pay more than they need to, and I would assume that a developer that has credits will sell it for a few bucks under the in-lieu. Maybe the developer is a good-hearted person, and they will pay the same amount as the in-lieu fee, because they would rather see the money go to the nonprofit than to the County. I can tell you that two hundred thousand dollars (\$200,000) with Habitat will go a lot farther than two hundred thousand (\$200,000) with the County, way further. I am talking about per unit, so the funds would be a lot more than two hundred thousand (\$200,000) with the County. Again, thank you, Committee Chair. I hope we can get the information that we requested. Again, Adam, if you could get me the DHHL information and we will do a request over for the actual agreement and what it means. Then, I will also reach out to our counterparts on Maui. Thank you.

Committee Chair Kualii: Thank you. Councilmember Carvalho.

Councilmember Carvalho: Thank you, Committee Chair. Without repeating anything else, just in general terms, I think it is very important that we defer this discussion. I appreciate that, Councilmember Kualii. We need to look at some examples from the past and bring it to the present, there are a lot of experiences that we all have gone through. *Mahalo* to Habitat and the former Housing Director, right there. I think it is important that we look at all the levels and secure opportunities for the future like Federal and State and all that. I like the idea of forming a committee, some sort of Housing Taskforce to hold discussions and get projects moving, alongside the County Council, of course. I think that it is a big part. Without duplicating what is already said, I think this is a good thing and I look forward to a healthier discussion because at the end of the day it is about the infrastructure and the amount of affordable housing that we can actually provide for the people. Thank you for that.

Committee Chair Kualii: Okay, we are overdue for our caption break so I will just say *mahalo nui loa* to Adam and everyone at our Housing Agency for all the work that they do. Also, *mahalo* to everyone that testified today. I know some of you just came up and spoke, but if you have not already done so, please follow up with your testimony in writing. That would be very helpful and now in our period of

deferral for the next month, if there is anything that you would like to share with us on how we potentially can improve this bill, please let us know in writing. The Council Services email is counciltestimony@kauai.gov. Could I have a motion to defer this item to the date specific Committee Meeting of May 1, 2024?

Councilmember Cowden moved to defer Bill No. 2914 to the May 1, 2024 Committee Meeting, seconded by Councilmember Bulosan, and carried by the following vote:

FOR DEFERRAL:	Bulosan, Carvalho, Cowden, DeCosta, Kuali'i	TOTAL – 5,
AGAINST DEFERRAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

There being no objections, the Council recessed from 10:34 a.m. to 10:50 a.m., for a caption break.

(Councilmember Kagawa was noted as not present.)

The Committee proceeded on its agenda item, as follow:

Bill No. 2915 A BILL FOR AN ORDINANCE AMENDING CHAPTER 7A, ARTICLE 5, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO HOUSING ELIGIBILITY AND SELECTION
(This item was Deferred.)

Councilmember Carvalho moved to recommend approval of Bill No. 2915 on second and final reading, seconded by Councilmember Bulosan.

Committee Chair Kuali'i: Adam, please come back up. Members, this is our second housing bill today that is being presented to us from first reading and here we are. Let us begin our work for this bill.

There being no objections, the rules were suspended.

(Council Chair Rapozo was noted as not present.)

Mr. Roversi: Aloha, Committee Chair. Adam Roversi, Housing Director for the County. This proposed amendment amends the way that our County Home-Buyer List operates. To clarify, the County has a Home-Buyer List solely for for-sale affordable homes that the County requires either a private developer or the County to build. This is the procedure for selecting buyers for homes, which we require a developer to fulfill as part of an affordable housing mandate or which the County manages itself. It does not apply to rental homes. I just wanted to clarify. For background, the Home-Buyer List is available to any Kaua'i resident over eighteen (18) years old who completes a free home-buyers education course. Once

completed, a simple one-page form must then be filled out. At the time of signing up for the Home-Buyer List, the applicant's income is irrelevant. Currently, we have roughly twelve hundred (1,200) people on the Home-Buyer List. I would need to double-check that number, but of that figure, we consider about eight hundred (800) to be active participants. The Home-Buyer List program was established back in 2008. We have encountered situations where individuals no longer respond to mail, email, or phone calls. They either purchased a home without updating their status or have relocated without maintaining their information with the Housing Division. If approved, this proposed bill would enable the selection preferences of potential buyers for available homes. There are two (2) preferences specified in Section 4A. The first preference would allow selection priority for an employee of the project mandated to construct the affordable units. The second preference is a geographical one, wherein individuals on the Home-Buyer List will receive priority if they already reside or work within the geographic area of the affordable housing project.

A simple real-world example, if this bill had been in place during the Kaua'i affordable housing project—I am sorry that is a bad example as it pertains to a rental project. At the time that the whole Ho'oluaana Project was built by the D. R. Horton, they had a certain percentage of the units that needed to be built as affordable housing, under the Affordable Housing Agreement. This would have allowed a preference for that project for those that already lived or worked in Līhu'e. This was developed largely in response to community meetings that we conducted for all our affordable housing projects at Lima Ola, outreach meetings at the Waimea 400 Master Planning Process. We have not begun meetings in Kīlauea yet, but I presume that we would hear the same things. One of the main things that we heard during the Waimea public meetings was the statewide concern of young families leaving the state. Across the state, there is concern that young individuals and families, who grew up here, are being forced out of Kaua'i due to the unaffordable cost of living. Similarly, communities share concerns about maintaining the integrity of their community and being forced out to move to a different part of the island. This was developed largely shaped by to community feedback. During discussions at one of the Waimea meetings regarding the Master Planning process for the entire four hundred (400) acres, one of the concerns raised was ensuring that housing units, at least some portion of them, would be available to those who lived in and are from the community. It is fashioned not as a requirement that will categorically exclude people from other places or other people on the Home-Buyer List, but if there were a scoring system set up for buyer selection, it would simply allow more points to be issued to those who already lived or worked in that community. On a really simplistic level, from a policy, it seems to make sense that we provide opportunities to individuals who live and work in the same place. It helps cut down on traffic. Lastly, I do want to point out that the final provision in the proposed ordinance authorizes the Housing Agency to potentially develop administrative rules to consider other possible preferences. One that we had in mind to potentially put into administrative rules would be to provide a potential preference for essential workers and that would most likely differ from project to project. This is an anecdotal example, if we were developing an affordable housing project in Līhu'e, let us say that the County were

able to purchase a piece of property by Walmart. If Wilcox Medical Center has their dramatic nursing shortage and one of the reasons that they could not provide nurses to provide medical care to our community is housing, it might be reasonable to say carve out ten (10) of the one hundred (100) unit projects and provide a preference for medical providers. Again, they would already be on the Home-Buyer List and be income qualified, so these other preferences do not do away with the requirements. It is not doing away with those. It is simply creating potential additional selection criteria.

Committee Chair Kuali'i: The last time we heard a testimony, I think she expressed concern about the preference for employees of the project. I think she stated that she did not want laborers that were flown in by developers to get the preference because they are not from the island. You state that you must already be on the Home Buyers List and be income qualified so that would eliminate that concern.

Mr. Roversi: You need to be a Kaua'i resident to get on the Home Buyers List. That is a requirement.

(Council Chair Rapozo was noted as present.)

Committee Chair Kuali'i: You can become a brand-new resident...but you have to get on the list, right?

Mr. Roversi: This is only for for-sale housing. You need to be a Kaua'i resident and be income qualified for whatever the project is to get on the list. I know that 1 Hotel Hanalei Bay in Princeville is flying in a lot of their middle management because they reportedly could not find sufficient staff here on Kaua'i. Presumably, all those people would be beyond the income qualifications for this. They could not fall into this ballpark. They would have had to be a resident on the Home-Buyer List anyway, which you can not be just off the plane. Admittedly, you can become a resident quickly after moving to Kaua'i and sign up to be on the Home-Buyer List, but then you will be number one thousand two hundred fifty (1,250) instead of number ten (10).

Committee Chair Kuali'i: Councilmember DeCosta.

Councilmember DeCosta: I appreciate all that you do. It seems like this is a situation of unintended consequences and I am going to present you with a scenario. I want you to answer me. Kilauea has something in the works for affordable housing and so does Waimea 400, but Waimea 400 is way behind our Kilauea project.

Mr. Roversi: That is not the case. As far as planning and predevelopment work, Waimea 400 is ahead of the Kilauea project.

Councilmember DeCosta: Okay, let us flip it. Let us say that an individual from Kilauea on the Home-Buyer List currently works at the Pacific

Missile Range Facility (PMRF) Base. This person has been on the Home-Buyer List for some time and wants to have a home in Waimea, but this person does not live in the Waimea area. They would not be able to get a home in Waimea. However, an individual who is currently living in Waimea would get the preference. I do not want to see us create preferences for groups of people. Kaua'i is Kaua'i and we should be able to live where we want to live. A person who has been on the Home-Buyer List for ten (10) or twenty (20) years should be able to apply to the subdivision that they want to live in. I am just hoping that we are not just crafting this to satisfy certain groups of people who live in certain areas. Are we?

Mr. Roversi: It is crafted to satisfy community concerns about maintaining the integrity of their communities irrespective of any specific community.

Councilmember DeCosta: Okay. Kilauea has many old plantation families with children who no longer reside there. I have a colleague who currently lives in Līhu'e, but she is originally from Kilauea. Although she is on the Home-Buyer List, she does not reside in Kilauea. Could another individual, who may not be a local resident but lives in Kilauea, completed the home-buyer education program, and applied to be on the Home-Buyer List, be placed ahead of my friend? Again, my colleague lives and works in Līhu'e but is originally from Kilauea.

Mr. Roversi: You lost me a little bit with all the hypotheticals.

Councilmember DeCosta: The hypothetical scenarios need to be considered because these things can happen. Consider an individual originally from Kilauea, currently listed as a Home Buyer, residing and working in Līhu'e, with a dream to return to Kilauea, because that is where she was born and raised. Additionally, imagine a new transplant who has resided on Kaua'i for two (2) years, employed at the new 1 Hotel Hanalei Bay in Princeville. Would the newcomer potentially receive a higher score than my colleague?

Mr. Roversi: We attempted to partially address this concern, along with others that we heard, which relates to children leaving for college and wishing to return home to live with their families. This preference is extended to individuals with immediate family residing in the area. In your hypothetical situation, if an individual's family still resides in the area where that individual grew up, that individual would ostensibly have preference.

Councilmember DeCosta: How? Would they use their parents' address? How could they join the Home-Buyer List without a physical address? Perhaps they could provide a dual address, including both their current physical address and their parents' address, especially if it is the subdivision they grew up in and where they intend to buy a home.

Mr. Roversi: Individuals would provide information about where their immediate family lives.

Councilmember DeCosta: Who makes that final decision? Is it you?

Mr. Roversi: No, we usually have a team of people who are involved in the selection. I do not directly participate in the selection.

Committee Chair Kuali'i: Council Chair Rapozo.

Council Chair Rapozo: I wanted to chime in on the hypothetical because I did not think of what he just said. I will use Waimea 400 as an example. Let us say that we have two (2) applicants on the list and one (1)...by the way, how long does it take to get on the list?

Mr. Roversi: Sorry, how long does it take to get on the list?

Council Chair Rapozo: How long does it take to get on the list? You need to go through a class and all...

Mr. Roversi: The only thing that takes any time is going through the course. It is held every other week. It could take you thirty (30) days to complete the class.

Council Chair Rapozo: So, you could move here today and, in a month, be on the list?

Mr. Roversi: Yes.

Council Chair Rapozo: For example, if there are two (2) local families, both employed at PMRF Base and both couples are fairly young, with one currently renting a house on the Westside and the other renting a house in Kapa'a or Anahola, the individual living in Kapa'a or Anahola, would have a higher priority on the list. Would the person who is closest to Waimea 400 be bumped?

Mr. Roversi: The way this Bill is crafted is, a point is given to those who live or work in the area. It does not imply that one is better; hence, both residing and working in the area would give them a point.

Council Chair Rapozo: That is what I thought. I thought it was where they work, but if you read this "given preference to qualified residents that live in that specified geographic area." That tells me that you need to be living there before you get the preference.

Mr. Roversi: Then, the next sentence reads "or that are employed within the geographic area."

Council Chair Rapozo: Okay, so both would...I would rather see the preference given to the person who lives further away with the reason being traffic.

Mr. Roversi: Again, I try to think about the details about how we administer any of these things. I try to keep it as simple as possible. I would say that my reading of this would be that person "A" and person "B" would both get one point because both individuals work there, regardless of if one person lives there and the other person lives somewhere else. They both get a point because they satisfy a preference criterion.

Council Chair Rapozo: Okay. Thank you.

Committee Chair Kualii: Councilmember Cowden.

Councilmember Cowden: No, I am alright. I think I understand it.

Committee Chair Kualii: Members, are there any other questions?

Councilmember DeCosta: I have a question.

Committee Chair Kualii: Okay, Councilmember DeCosta.

Councilmember DeCosta: Are both the Waimea 400 and Kilauea projects considered affordable homes?

Mr. Roversi: Yes. The pricepoint of an affordable home is the same regardless of what community it is.

Councilmember DeCosta: What happens with assessed values in the future? Would the affordable housing in Kilauea appreciate at a higher value because it is in an area where the normal homes usually sell for higher than the homes in Waimea. Would the affordable housing in Kilauea appreciate at a higher level than the affordable homes in Waimea?

Mr. Roversi: To be honest with you, I am not...since the price of the home is restricted by the either a deed restriction or the limited appreciate lease hold document and the sale price and value of the home is predetermined, I would have to confer with Real Property about whether they consider that...

Councilmember DeCosta: Do we have restrictions on reselling? They can not simply resell the home and if they do, they have restrictions on that, right?

Mr. Roversi: Correct. I mentioned in the beginning, as we require a private developer to create and sell affordable housing units, it has a 50-year deed restriction imposed on the property. If the County builds an affordable home, we typically sell the County built homes as 99-year lease holds, and that leasehold provides an even longer time period restriction on flipping the house at

market rate. I am not exactly sure how the tax assessment would go up, but either case, but the potential sale price of that home during the period of the lease would stay exactly the same.

Committee Chair Kuali'i: Okay. Members, are there any other questions for Adam? As far as questions go, that is all Adam. We are going to take testimony while the rules are still suspended. Are there any registered speakers?

Ms. Rabaino: The only registered speaker is Kanani Fu.

Committee Chair Kuali'i: We will let you go first.

Ms. Cummings: Sherri Cummings, for the record. I am against this as a *kama'āina*. My family was here for generations, and I can not see us now discussing geographics. Sometimes, you folks do not understand. I was born and raised in Kalepa, two (2) years old in Anahola. Owning a homestead is my life. My mother comes from Waimea and her father comes Nu'alolo whose mother comes from Ni'ihau. They have lived all over. Do not fit us into criteria. This Waimea 400. Think of DHHL beneficiaries who are at Pu'uakai, our wait-listers. We are the Westsiders too. No one is talking about that. We need to stop splitting up. We are only one *mokupuni*. Why are you folks talking about geographics? If I want to go somewhere to live...on March 28, 2024 there was a *kanaka* who turned around and told the Department of Water and DHHL that he did not want to live in Anahola. His whole life he lived on the Westside. You folks need to be careful when talking about a list. I will use the Kalima settlement as an example. Two thousand seven hundred (2,700) people out of the four thousand (4,000) were awarded over three hundred twenty-eight million dollars (\$328,000,000) and then you have the people who did not join this list. It was not the government's responsibility to help the Hawaiian people. Now, there are people who qualified from 1987 that did not know about the class action lawsuit called the Kalima settlement that gave people money to get a head start. Do not make that list. Everyone that lives on this island should be eligible because we inadvertently...people do not pay attention to who we are trying to serve to qualify on this list and we all know that when we talk about affordable housing, we are not in the game.

Committee Chair Kuali'i: Thank you. That is your first three (3) minutes. Is there anyone else who would like to testify? Mr. Haigh, followed by Mr. Lindner.

Mr. Haigh: Good morning, Doug Haigh. I am up here on my own, not representing Kaua'i Habitat for Humanity. I strongly support this Bill and particularly the employment portion of it. Supply and demand have been mentioned earlier and several times in the meeting. We want to do everything that we can to increase the supply and there are a lot of employers that are on Kaua'i that can not get employees. There are a lot of restaurants in Kapa'a that are going out of business because they can not get employees. If there was an opportunity for someone to develop housing for their employees, I think we should strongly support it. For

example, let us say that 1 Hotel Hanalei Bay builds ten (10) homes for their middle managers and some of them come from off island. Well, they would have come anyway, and they would have rented houses or bought houses and that would have impacted the supply, but if a developer builds housing for them, they move. Of course, these are very time restricted so once they buy a home, they are at least committed to thirty (30) or fifty (50) years. I am not very *akamai* on it, but we are increasing the supply, so I strongly support this Bill on that. I am not that informed on the geographical aspect of the Bill so I will not discuss that part, but for the employment issue, I think that is a key part of this Bill that could help our supply. It would be another potential tool to increase housing on Kaua'i.

Committee Chair Kualii: Thank you. Mr. Lindner, followed by Ms. Fu.

Mr. Lindner: Mr. Lindner, for the record. I guess you would have to look at how many...everyone needs employees, right? There is a wide range of employees. I guess it should be Līhu'e that gets the most employees because they have the most. In fact, it should be the County government. They should fund their own. The idea is that there should not be major employers sucking up all the employee housing. Resorts and commercials pay a quarter of the property tax. Now, you are subsidizing and that to me seems too low and they are making all the money. No one else is making money. Now you are subsidizing them because affordable housing is a subsidy, right? That is a little out of balance. Then, you have the non-owner-occupant who is paying the most. At the least, they need yard workers. They need people there. They are not making any money. I am saying that the balance of who gets the housing needs to be looked at in the end. It should not all be going out to the big employers. The other thing that I want to say about the application and the loan, because I have heard other people speak about applying for the mortgage and for some, it is a lease. Some of those are a lease, you do not necessarily own it. They came back and said that they did not qualify, but they had the money and a big down payment. I guess since the mortgage company is a third-party person and the County owns it, the criteria should not be as strict because you are going to get the land back. It is easier than someone else owning it and having to take it back, but if the County owns it, it should not be so severe terms as a typical mortgage. It did not seem like that was the case. At some point, they were applying the same criteria to someone who is...

Committee Chair Kualii: Thank you. Ms. Fu. Is there anyone else in the public wishing to testify for the first time? None? Okay.

Ms. Fu: Hi, good afternoon. Kanani Fu, for the record and I am in opposition of Bill No. 2915 as it currently reads for all the reasons stated before in my other testimony. It seems as though it could really benefit for more a robust decision by those that this Bill is intended for. Perhaps this reading could impact many. Sometimes, I think the intent of what holds the County Housing Agency sometimes is the Federal Fair Housing Law and if you utilize federal moneys, you can not discriminate or preference. I can always recall Councilmember Kagawa always wanting housing for the locals and our response is that Federal money

prohibits discrimination, but this is a way that we can inadvertently discriminate. It is along the lines of saying that if you do not live or work here, you can not get this funding. Workforce housing requirements should only be applied to developers who have a workforce housing requirement met and therefore that jurisdiction of tax preference is applied under law. This year, you can not restrict preference and give preference by where you live if you are using federal money on a project. There are only two (2) preferences that you can give when you use federal funds for housing and those are disability and elderly, and native Hawaiians, but that is not a preference. So, if we do give preferences out on prioritized applicants and who can live and give housing...for example, if all the Kapa'a people do not apply on time, are you are saying that Līhu'e people can apply? Those federal funds are for everyone. So, I am okay only if it is just the County funds that are being allocated for developer impact in developer community. Specifically law states, Meridian's money was in Kōloa *ahupua'a* so that money can only go to Kōloa *ahupua'a* by County law. Same with Zuckerberg money. All the money gained from annual fees on specified land should stay within that specified district. That is the only way we can isolate the money, but if you take the federal project money for any federal project, you remove that jurisdiction off the County. This is just to keep in mind. If you want to do preferences, that is fine, but when you touch federal funds, you can not do preferences. Preferences should only be for elderly housing and disability. That is why I have an issue with the wording right now. That is all. Thank you.

Committee Chair Kualī'i: Thank you. I think that is everyone for the first time. Is there anyone looking to go for a second time?

Ms. Cummings: Sherri Cummings, for the record. I just want to restate that my opposition is not about creating the inventory because the gentleman before me was correct. We need affordable housing, but my whole point is, and the woman before me said it very eloquently because I just go crazy over here, is the list. I referenced the list. Look at that list and look at that criteria to have access to that inventory on that affordable Waimea 400. That is my whole concern. I ask that you folks understand that we are not supposed to be segregating. We are not "Westside pride" or "we are only Eastside people." We need to stop that, and that is what is going on through mainstream media as we speak. In Hawaiian, that is *pilau* because that is separating us at as *kānaka*. Shame on those that are doing that and want us to look at them as superior people on that side of the island for doing things specifically for the Westside. Those people are driving the wedge and we need to knock it off and if I need to say that my *kūpuna* is from the Westside, I will go to the west. This is all I have to say. Stop the segregation. We are too small. We, as a garden island, should all be together. Do not make developments and let developers that have a so-called power separate us. That is *pilau*.

Councilmember Cowden: Can I ask a clarifying question?

Committee Chair Kualī'i: Yes, if she is done. Are you done?

Ms. Cummings: I am.

Committee Chair Kualii: Members, are there any clarifying questions?

Councilmember Cowden: When you are talking about *kānaka*, do you mean any ethnic group?

Ms. Cummings: Absolutely.

Councilmember Cowden: Do you also mean if they came from baggage claim yesterday?

Ms. Cummings: I am talking about those that are here on this *mokupuni* because my Queen said that she included all the ethnicities around here—Japanese, Hawaiian, Filipino.

Councilmember Cowden: Do you mean everyone, even those getting off the plane?

Ms. Cummings: I am talking about residents. No, let us not do this because I am talking about everyone that lives here that has a problem. However, you folks craft it out. You folks are the smart ones. You folks are the ones who should protect the residents that are here and are trying to stay have something to stay here. I am not an expert in this. I am just saying that the way that you folks are doing this is *heva*.

Committee Chair Kualii: Thank you. Is there anyone from the audience wishing to give testimony for the second time? Members, do we have any other further questions for our Housing Agency Director? Are we all ready to vote today?

Councilmember DeCosta: I have a law question.

Committee Chair Kualii: Do you mean a legal question?

Councilmember DeCosta: Yes.

Committee Chair Kualii: Okay, we will call upon our County Attorney then. You may ask your question.

Councilmember DeCosta: Thank you. Matt, my question relates to a testimony. She stated that it might be unlawful or prejudiced to accept Federal money to do a project like this. First, if this project is tied to Federal funds, are we violating some sort of discriminatory law when we state that if you work in the specified area that you receive preference over those not living or working in that specified area? Right now, is there any form of discrimination if we vote on this?

MATTHEW M. BRACKEN, County Attorney: Matt Bracken, County Attorney. That is addressed in your Bill. If you look at Subsection (c)(4), it states

that a project that is assisted with government financing may disregard any priority or preference as it violates the federal fair housing law. If these preferences do violate a condition of Federal money, then it would be disregarded so it is addressed in the Bill here.

Council Chair Rapozo: They do not.

Mr. Bracken: If it does, then it would be disregarded. It is going to be dependent on the conditions of the Federal money, so if these preferences violate those conditions, then it would be disregarded.

Councilmember DeCosta: Here is my scenario question, framed into a law question. There is a person who has been on the Home-Buyer List since 2008. Currently, he and his family live in Līhu'e and there is a secondary person that got onto the Home-Buyer List in 2021 and that second person lives in Waimea because they work at the Kaua'i Veterans Memorial Hospital (KVMH). Does that secondary person that lives in Waimea have preference over the first person that lives in Līhu'e and was on the list since 2008? Would that secondary person get higher points and be awarded that place? If so, could that family file a discriminatory case against the County? Could they say that the County bypassed them since they have been on the list for that x number of years? That is what I thought.

Mr. Bracken: I can not completely answer your question, but this is what I will say. Mostly because I would have to look at the other people on the list. You are asking a question that goes beyond this one bill, so I would have to look at other ordinance sections to completely answer it. To address the discrimination question, not all discrimination is illegal. We attach that word to a lot of illegal conduct, but discrimination itself is not illegal, right? Certain kinds of discrimination are legal. You can not discriminate based on race, gender, or those sorts of things. Those are federally protected classes, but discrimination in itself is not illegal. Setting up preferences is a form of discrimination, but it is not an unlawful form of discrimination. Would this be a basis for a lawsuit? No. Anyone could sue for anything these days. Would this be a basis for a winning lawsuit? No, I do not think so, mostly because you are not discriminating based on a protective class and those are the things that give you a cause to file a lawsuit.

Councilmember DeCosta: Thank you, Matt.

Committee Chair Kualii: Councilmember Cowden, is it a question for the County Attorney?

Councilmember Cowden: Can we look one more time at the bottom of page 3, Item Number 4, which is what you just spoke about. A project that is assisted with government financing may disregard any priority or preference provided by this chapter that violates Federal Fair Housing Law. Will that apply to almost every project?

Mr. Bracken: I am not sure. You would have to ask the Housing Director about that. I do not know many projects receive Federal funding.

Councilmember Cowden: Okay, I want to talk to the Housing Director.

Committee Chair Kualifi: Okay. Members, are there any other legal questions? If not, then we will have the Housing Director come back up.

Councilmember Cowden: Thank you, Director Roversi. Would this then...our County properties all have some sort of federal funding, right? For example, Lima Ola, if we applied these preferences, would the County be in violation of Federal Fair Housing laws?

Mr. Roversi: I do not believe so. Federal Fair Housing Law is not mentioned. It covers specific protective classes...

Councilmember Cowden: ...like ethnic?

Mr. Roversi: ...like race, religion, your sexual orientation, and HUD broadly, they are not thrilled with it, but they recognize and have accepted geographic preferences. You can not make it an absolute requirement. You can not say, "that you must," for a federal program. You can not say that you must be a resident of Kaua'i, but you can provide a preference for someone as long as everyone has a chance, and the scoring system adds a little more weight...

Councilmember Cowden: Thank you.

Mr. Roversi: I will also offer that most for-sale homes as opposed to affordable rental projects that are involved in the tax credit program or are receiving federal grant money, do not have federal funding involved. Some do. Lima Ola had the infrastructure money involved to develop the project, but most for sale homes do not intertwine with federal funds and regulations.

Councilmember Cowden: If we take a project like, is it called Ho'okua Place or Pua Loke? Do you have an estimate of the number of units that went to people who are on the island versus those who are off island when they moved in?

Mr. Roversi: For that specific project, I do not know. That is a rental project and has nothing to do with this Home-Buyer List, but we did seek data specifically about the Waimea Huaka'i rental project, because we received complaints. Of the thirty-six (36) units...the County does not own or operate that project, but we were told that thirty-four (34) of the thirty-six (36) units were to people who already lived on Kaua'i. The remainder came from all over Hawai'i.

Councilmember Cowden: Okay, thank you.

Committee Chair Kualifi: Members, are there any further questions?

Councilmember DeCosta: I have a question about scoring.

Committee Chair Kualifi: Go ahead.

Councilmember DeCosta: Adam, you mentioned scoring. I have worked for a union company for many years and seniority means everything. It seems that those on the Home-Buyer Lists have seniority preference. When you do the scoring, could you give a set number of points to those that have been on the list the longest? Then, for those who live and work in that specified area, could those residents get an additional point? That way we can keep those with seniority at a higher level. In addition, let us say, someone could ten (10) points for being on the list within twenty (20) to twenty-five (25) years. Then, from fifteen (15) to twenty (20) years, you get four (4) points and go down the line. That way, like Mr. Haigh mentioned and supported, living and working in Kilauea...there is an individual who has been on the list for twenty (20) years and has dreamed of living in Kilauea, but they no longer live or work in Kilauea. If this individual has been on the list the longest, can we still give this individual a preference with your point system?

Mr. Roversi: This ordinance contemplates that administration rules will be set up during a public hearing to come up with the exact procedure, but today, without these preferences, we send out a letter to individuals who are on the Home-Buyer List, and they respond to us with a statement of interest that they want to be considered for the house that is for-sale. Let us say we will receive twenty (20) letters back. Then, we rank individuals by the number given from the list. Individuals are assigned a home-buyer number on the list and keep that number forever. If you are number ten (10) and everyone is below you. I would contemplate that employment and geographic preference would give the individual some sort of numerical boost. I am making this up. We would want to have that discussion during the public hearing process when creating the administrative rules, but for the sake of discussion, let us say that the individual has twenty-five percent (25%) boost. If you were number eight and the person who was employed or lived there was number five hundred (500), there was twenty-five percent (25%) boost would not put that individual above the other individual who was on the list since 2008. We would want to have that discussion in the administrative rules process. What is the proper number and get community feedback from anyone who wants to comment? Is it twenty-five percent (25%) or is it fifty percent (50%)? I do not know the exact answer to that, but that process would have to be laid out and established. I would agree with you that there is value and importance in seniority and the amount of time that people have been waiting on the list. Those need to be taken into consideration and not ignored.

Councilmember DeCosta: Thank you.

Council Chair Rapozo: Thank you. There are a couple things that I want to go over in Section (4)(B). One, there is a graphical error. If you were moving this out today, I would suggest someone makes an amendment. The geographic preference of one or more...geographical preferences, it should be plural. That can

be fixed. The second thing is that because you are identifying the preferences, I am not comfortable with Section (C), which states other preferences to be established by rule. I think the preferences that you are considering should be in the statute. As Councilmember Cowden stated earlier, administrative rules can change at public hearings. No one shows up to those, no one knows about those. This is not for the term of Adam Roversi, this will be here long after you leave. I do not like the fact that a person with seniority could be bypassed because someone lives or works closer to that area. I know a few individuals that have been on that list. They are just waiting, and I can not imagine being told that someone who has only been here for three (3) months and just happens to be working in that area will get the house first. I have an overall problem and I need to think about this before we do a final vote. I do not get to vote today because I am not on the Committee, but if someone on the Committee would introduce an amendment to remove Section © and if there are any other preferences that you folks are contemplating, I would suggest putting that into the bill itself, so we can have the discussion. This Council will be approving preferences that we have no control over. Once the Bill passes, the Council has relinquished all authority and control over what preferences will be given. If that section is removed then the Council could discuss a preference and if needed, the Council could have the full public hearing committee meeting, first hearing, and all the opportunities for the public to make comment on. Those are just my comments and again, I do not vote today. If I had to vote...

Committee Chair Kualii: Let us take those comments, put them into questions, and hear from Director Roversi. Obviously, the typo with the "s" is not an issue, but the other comment about having other preferences to be established by rule, what is your response to the importance of that being there or possibly taking that out in Committee? I know that you gave an example of Walmart and the hospital. Was that intended, with the essential workers, was that an example of this?

Mr. Roversi: The only additional preference that was contemplated was for essential workers and the reason that it was left to the administrative rules process as opposed to being spelled out is that it seemed complicated when that should and should not be applied. For example, perhaps you would not provide a preference for medical workers as a class of essential workers that is nowhere near a medical facility. If you were doing a project near a medical facility for that specific project, you would want to contemplate potentially making a preference for that category. Similarly, to the way that essential workers were treated during Covid, fire, police, first responders...all that was contemplated. It could be spelled out in the code, but I thought that there needed to be some flexibility to require a lengthier administrative rule as to when and how those sorts of essential worker preferences should be applied. That was the reason for not including that.

Council Chair Rapozo: Could I further respond? I just want to respond because I saw that your hand went up quickly. Administrative rules are for establishing the process of how the statute will be implemented. That is what the rule is. The substance of the law is what is in the Bill. This is what sets out the parameters of the statute and the rules are promulgated to determine how the

administration is going to implement the rule or law. I do not think the rule is going to add what should be in the Bill. No. This is why we have this legislative process. That concerns me more than they did contemplate that they may put in a rule when it should have be in the Bill. Again, that is just my two cents.

Committee Chair Kualii: As Adam is sitting there, let us ask him questions about what we feel before we vote, defer, or make amendments. Let us save the discussion part for that.

Council Chair Rapozo: Sorry.

Committee Chair Kualii: No, you were fair because I made a question out of what you said, and you were following up on it. Are there any further questions for Adam? If not, we can still address everything during our discussion.

Councilmember DeCosta: I have a question.

Committee Chair Kualii: Question for Adam.

Councilmember DeCosta: Adam, you used the hospital and essential workers as your example, and you even mentioned Līhu'e. During the essential workers process that we took in, especially during COVID, where did all those essential medical workers come from? Which state or states? Did they come from Kaua'i? Yes or no?

Mr. Roversi: I have no idea.

Councilmember DeCosta: Correct. Did they come from the State of Hawai'i?

Mr. Roversi: I have no idea.

Councilmember DeCosta: Correct. Did they come from the mainland?

Mr. Roversi: Part of the concerns that you are raising are raised by the fact that you need to be on the Home-Buyer List.

Councilmember DeCosta: But they can be on the Home-Buyer List within a simple sign-up and after completing a thirty-day course. Individuals could come in on a 90-day or three-month essential worker contract and could extend their contracts as essential workers. They could easily get on the Home-Buyer List. I want to move to defer.

Committee Chair Kualii: Hold on. We need to let the other members have a discussion. Once you defer, there is no further discussion. We have not had our discussions yet.

Council Chair Rapozo: We are not even back in order. The rules are still suspended.

Committee Chair Kualii: Are there any other questions for Adam? If not, thank you.

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

Committee Chair Kualii: Now, we have discussion before any motion to defer. Members, is there any further discussion?

Councilmember Cowden: I am going to support the choice to defer even though in my opinion, it seems that on its face that this Bill is simple. Over the years, I have seen funding go towards building housing to solve the crises such as keeping children at the same school...children are part of the whole that are being displaced...and retaining employees. I see the importance of regional consideration, so I do not want to throw that out, but I also really want to better understand when people feel a deep pain. Personally, I do not feel that I am being biased about buying a house in Waimea while I currently live on the North Shore, but perhaps that is because I feel very attached to my home zone. Maybe if I was working there, but that is what this Bill is trying to do. At surface, I do not see where this is so bad, but it seems that we need to be able to learn and understand more thoroughly. I do not view it as an ethnic thing. I view it as a functional matter, particularly concerning our roads and everything else. My observation of the rental units is that initially they have a tight criteria. It seems that only a quarter of the people that move in end up fitting those criteria. Then, the criteria broadens and then, it works well. When I meet someone who receives something that we tried for yet they do not hit any of the criteria, I can still love them as a human being, but I cringe a little knowing what it takes to create housing and there are a lot of people that I have met in the past decade or two (2) that literally go from baggage claim into new housing...where is a new country that can apply for housing...we end up giving too much away. While I appreciate the attention and effort to try and ensure that we are housing our existing housing first, I am going to support a deferral because I want to make sure we have a thorough understanding. On the surface, it does not cause me a lot of friction. I do respect what Council Chair Rapozo said and the part regarding essential workers. I do understand why there is a desire to allow a place for critical positions.

Committee Chair Kualii: Are there any other members wishing to have a final discussion? Do you have a final discussion?

Council Chair Rapozo: In my opinion, this Bill does not affect the supply. This is post supply. This is not going to change the supply or inventory. It is rational to think that we want the people living in that area to get the first choice, but I also feel for those who are not in that preference group and will lose their shot. Originally, those individuals would have had a shot at but because of this Bill, they

are going to lose it. That kid might be the one on the next flight to Seattle, Oregon, or Texas. That is my concern.

Committee Chair Kualii: Councilmember Bulosan.

Councilmember Bulosan: I hear all the concerns from my fellow Councilmembers, and I really appreciate the discussion because it allows me to see other perspectives that I initially did not see. I also do appreciate all the testimonies. I am in support of this Bill. I think it is trying to address the problem, specifically with residents who are trying to stay home. I think it will help the local person who was born and raised here, still living at their grandmother's place because there is nowhere else to go. That person did all the things right and even got on the Home-Buyer List and qualified for that, but because of the challenges on that list, I think this Bill will help that person. I think it was designed for that, but as with all legislative processes, this allows us to see different perspectives. If we do not have the vote for today, I do support the idea of deferring to allow further discussion to make this a better bill.

Councilmember DeCosta: I have one last discussion point.

Committee Chair Kualii: Go ahead. Finish.

Councilmember DeCosta: My last discussion point is exactly what you said, Councilmember Bulosan. Let us say an individual is on the list, lives at home with parents, can not buy a home and the only two (2) projects on island are Waimea 400 and Kīlauea. There is nothing in Līhu'e. If this Bill passes, you will not be on a preference list, you will not be here. Here is my point, this is a tool that large developers can use to recruit workers. The locals from Kīlauea, Hanalei and Hā'ena that are working at the 1 Hotel Hanalei Bay in Princeville have a strong union. What if hotels want to use this as a recruitment tool? Employers could offer positions with the incentive of workforce housing. I know this is happening because Kaua'i Veterans Memorial Hospital (KVMH) hired Covid workers. After a time, those employees left Kaua'i because they did not have a house to buy. They were not local nurses from the State of Hawai'i. They were from other states. I do not have any other discussion points. I strongly would like to defer the Bill.

Committee Chair Kualii: We each get eight (8) minutes to speak during final discussion.

Councilmember Carvalho: I support deferring this. There is a lot more that needs to be discussed. There are a lot of different preferences. Let us make a motion to defer, do more work, and move forward. That is my opinion.

Committee Chair Kualii: Councilmember Bulosan.

Councilmember Bulosan: I appreciate the thoughts. I guess in that example, I understand your perspective. If it were my scenario, I would be in favor

of more opportunities to happen in my geographic location because I want to remain in Lihū'e. There are others willing to do that because they want to live, work, and play in the place that they are in. I acknowledge that hypotheticals may sometimes mirror real-life scenarios, it is equally important to consider other professionals who are from the island and hope to return home. This could be one of the ways that they could return home. I can see both sides.

Committee Chair Kualī'i: To close out on this discussion, I support this Bill as is, making the Bill better, and the idea of this Bill becoming a bill that we all can support, especially after it gets back to full Council. After deferring, I think that it is important that we immediately work on overcoming the objects that we have. If there is something in this Bill that you absolutely do not support, let us make an amendment that the rest of us will vote on and discuss that specifically. I will support the deferral. Councilmember DeCosta, you may make the motion.

Councilmember DeCosta moved to defer Bill No. 2915, seconded by Councilmember Bulosan, and carried by the following vote:

FOR DEFERRAL:	Bulosan, Carvalho, Cowden, DeCosta, Kualī'i	TOTAL – 5,
AGAINST DEFERRAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Committee Chair Kualī'i: The motion carries. We deferred to two (2) weeks from now, the automatic deferral. I believe that was the last item for the Housing & Intergovernmental Relations Committee.

There being no further business, the meeting was adjourned at 11:51 a.m.

Respectfully submitted,



Shari L. Rabaino
Council Services Assistant I

APPROVED at the Committee Meeting held on May 1, 2024:


KIPURAI KUALI'I
Chair, HIR Committee