M I N U T E S

COMMUNITY ASSISTANCE/INTERGOVERNMENTAL RELATIONS COMMITTEE
January 24, 2007

A meeting of the Community Assistance/Intergovernmental Relations Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Councilmember Shaylene Iseri-Carvalho, Chair, at the Historic County Building, Room 201, Līhu'e, Kaua'i, on Wednesday, January 24, 2007, at 9:23 a.m., after which the following members answered the call of the roll:

Honorable Shaylene Iseri-Carvalho
Honorable Tim Bynum
Honorable Ronald Kouchi
Honorable Mel Rapozo

EXCUSED: Honorable JoAnn A. Yukimura

Minutes of the December 6, 2006 and January 3, 2007 Community Assistance/Intergovernmental Relations Committee Meetings.

Upon motion duly made by Councilmember Rapozo, seconded by Councilmember Kouchi, and unanimously carried, Minutes of the December 6, 2006 and January 3, 2007 Community Assistance/Intergovernmental Relations Committee Meetings were approved.

The Committee proceeded on its agenda items as shown in the following:

Bill No. 2202 A BILL FOR AN ORDINANCE TO ESTABLISH A NEW CHAPTER, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO THE HOUSING POLICY FOR THE COUNTY OF KAUA'I
[This item was deferred pending workshops.]

SHAYLENE ISERI-CARVALHO, COMMUNITY ASSISTANCE/INTERGOVERNMENTAL RELATIONS COMMITTEE CHAIR: At this time I will suspend the rules and have Bernard and Ken come to the mike.

There being no objections, the rules were suspended.

KEN RAINFORTH, EXECUTIVE ON HOUSING: Would you like us to proceed?

Ms. Iseri-Carvalho: Yes, if you could and if you could state your name and what is forthcoming.

Mr. Rainforth: My name is Ken Rainforth and I am the Executive on Housing and next to me is Bernard Carvalho, the Director of the Offices of Community Assistance. Today we are here in response of some questions issued to us in a memorandum dated December 8 asking several questions about the housing policy. One of those questions, question number 2, asked us to do a comparison chart of the other neighbor island counties and Davis, California and Vale, California. I was going to suggest that we postpone doing the PowerPoint presentation until after answering all the other questions, but sine it is all set up, we might as well proceed with the PowerPoint presentation. Everyone has moved, so we may as well proceed.

Ms. Iseri-Carvalho: You will be fine.

Mr. Rainforth: To me, this is the most interesting part of today's presentation by the Housing Agency because this is what I think people want to see as how does the proposed Kaua'i policy compared to policies in the rest of the State of Hawai'i as well as some... particularly Davis, California and jurisdictions outside of the State. Next slide. For Kaua'i, we have introduced a policy proposal in October and we don't know when it will be adopted and that is the process that we are going through now. Previous to having an ordinance, the County has been following some administrative guidelines and also following what the past practices that the County Council has done in zoning matters. Next slide.

County of Maui just recently adopted their first affordable housing or workforce housing policy bill in December 2006. Previous to that, they were working on administrative guidelines. The County of Hawai'i has had an ordinance for some time. They first adopted their ordinance sometime in the 1980's. I didn't get the exact date, but, recently, two (2) years ago, it was amended and actually strengthened quite a bit. It is a much better ordinance now than when first adopted. Next.

The City & County of Honolulu does not have any ordinance or legislation for affordable housing or housing ordinance, but I do understand that there has been discussions that they think they may want to adopt such a policy. What the City & County does have is something... the administrative rules for what they call their unilateral housing agreements. Beginning in 1994, they started administering or requiring developers to provide at least 30% affordable housing. However, they suspended utilizing this tool from 1999 to 2005 and only recently started to utilize it again. It is a little difficult perhaps for the City & County to administer their housing program because in 1998, Mayor Harris dissolved or eliminated their

Housing Department and now the various functions of the Department are spread out amongst three (3) different other departments in the City & County. Next slide.

Also of note would be the State of Hawaiʻi Land Use Commission. Back in 1988, under Governor Waihee, the Land Use Commission started requiring all developers having land use change to provide 60% affordable housing and this was broken down into two (2) groups (30% for households earning between 80% and 120% of median and 30% for households earning 120% to 140% of median income). After Waihee's term and Governor Cayetano became our Governor and the economy changed substantially, the Land Use Commission dropped imposing this policy and instead referred the housing responsibility should be something that the County should enforce. Now, I understand that there are discussions amongst the Land Use Commissioners that maybe they need to do something again as far as enforcing housing conditions. Next slide.

The City of Davis California is a jurisdiction in the agricultural areas of California which has very interesting affordable housing requirements. The town is a (inaudible), but they also have a university and have a great deal of people going there to live and they have growth problems very clearly. In 1992, they adopted their first affordable housing ordinance and in that they required all developers to provide 25% affordable housing. More recently, October 2004, they amended their ordinance to also include gap group housing... households whose incomes were above 120% of median income going up to 180% of median income. The percentage of this gap group requirement is really tied to the size of a development. So it starts off at 5% required for small projects of 25 units or more and a 20% requirement would be for projects which I believe were 200 units or more. At this point, I'd like to talk about some of the specifics of the Davis, California ordinance and later on in the slide show, you will see many slides which are comparing the four (4) Hawaiʻi counties together, but there wasn't enough room on these slides to include the provisions for Davis, California, so I will go through those provisions now.

First of all, in Davis, California, they imposed their housing requirements at the building permit stage. They have a threshold of any project which have five (5) or more units will be required to provide affordable housing. Next slide. In Davis, they have different standards for "for sale" housing and for rental housing. On "for sale" housing, they require what they call 25% as affordable housing and they break that down. Half of that would be for the developer to donate equivalent to 12 ½% of their land to the developer and then the city or non-profit develops that land into permanently affordable housing for 80%... for households who have earned 80% of the median and below. The other half of the affordable housing, the 12 ½% would be on site housing units which would be sold at prices affordable from 80% to 120% of the median income. Depending on the size of the project, the project would have an assessment of 5, 10 or 15 or 20% of their side for gap group housing and to satisfy households whose incomes were from 120 all the way up to 180% of the median income. Rental projects are quite different. They require 45% housing whereas the "for sale" projects are 45%.

Ms. Iseri-Carvalho: 35 Ken. I guess you said 45 for rental.

Mr. Rainforth: Excuse me. The "for sale" projects require up to 45%. The rental projects require a flat 35% and in this, they require that 10% of the sites be on...10% of the units be affordable to households earning 50% and below and that they be on site and that 25% of the units be on site and affordable to households earning 50 to 80% of the median income. Next slide.

Alternatives that the City of Davis accepts would be in lieu fees and land dedication. I think it is important to note that they do require these affordable units to be on site and to be integrated with their market units. In Davis, the city limits the number of building permits which will be issued each year and thereby creates a competition amongst developers, and the city gets to choose the best projects which they look at their affordable housing component as one of the reasons to select one project over another. Next slide.

The request from the Council asked to look at Vale, California. I haven't been able to obtain any rules or ordinances that they have had. I looked at their website extensively and found what it appears to be that they have an existing ordinance which is directed at providing housing for employees and that right now, this month, they are considering two (2) ordinances which would provide employee housing for households earning 60 to 120% of the median income.

TIM BYNUM: Colorado or California?

Mr. Rainforth: This is California.

Ms. Iseri-Carvalho: There is one in Colorado as well, but this one is in California.

Mr. Rainforth: And these would be imposed both in residential resort areas and also commercial areas. Next slide.

Now we are going to compare the four (4) Hawai'i counties. The first comparison is, what is the amount of affordable or workforce housing required and Kaua'i's proposal is 40% workforce housing. Maui is 40 or 50% workforce housing and the variance depends on the sales price of the project. If a project on Maui is going to sell more than half of its units at prices in excess of $600,000, then that developer would be assessed at 50% affordable housing requirement. On the other hand, if they're priced at... if majority are priced at less than $600,000, there will be 40% requirement. On the Big Island, the requirement is 20% affordable housing.

Previous to that, it was a 10% affordable housing requirement, so they doubled theirs. Remember that they also adopted this two (2) years ago. The City & County of Honolulu's unilateral housing agreements required 30% affordable housing. Next slide.

Okay, so you just heard what the percent requirement was. Now let's look at the target groups that these affordable housing or workforce housing is supposed to address. The Kaua'i proposal looks at addressing households from 60 to 180% of the median income. Maui is looking at 80 to 60% of the median income. County of Hawai'i looks at 80 to 140% of the median income, but here I would like to make an exception. On Maui, if a developer is going to do a rental project to satisfy its requirements, they also have to provide rentals which are affordable for households below 80%. In the City & County of Honolulu requirement is 50 and up to 120% of median income. Next slide.

When are these requirements imposed? In the proposed ordinance for Kaua'i, they would be considered at zoning and they would be applicable to zoning changes for residential, resort, commercial and industrial zoning amendments. On Maui, the requirements are imposed at subdivision approval or at building permit approval and they are only looking at residential properties. I should note here that Maui has a separate ordinance for resort properties which is basically a 25% requirement. They say for every four (4) hotel rooms, one affordable unit needs to be provided. The County of Hawai'i is similar or the same as Kaua'i where the condition is imposed at zoning and is zoned residential, resort, commercial, industrial and agriculture. The City & County of Honolulu would be imposed at zoning and only on residential amendments. Next slide.

Another important element of the housing policy is when are the affordable or workforce housing units required? Every policy that I have read including the four (4) Hawai'i counties all agree that the affordable and workforce units need to be built either before or at the same time as the market units were built and never after the market units were built. Next slide.

A threshold. When does the housing requirements come into effect? On Kaua'i, Maui and the Big Island, we all agree that the threshold would be five (5) or more residential units. On Kaua'i, we look at resort hotel units and if a... for Kauai, the threshold would be 50 new resort units or it could be 100 new employees for resort, commercial or industrial jobs. On Maui, it is only for residential and on the Big Island, a similar provision for the Kaua'i proposal where the threshold would be triggered if there is 100 or more jobs for resort, commercial and industrial projects. The City & County of Honolulu's unilateral agreement ordinance is silent on this matter. Next slide.

The print is a little smaller on this slide, but this is an important slide because this slide shows what percent needs to be satisfied for each income group. So on your left column, you have the four (4) Hawaiʻi counties, plus Davis, California and if you look at Maui and Davis, you will see that they have two (2) rows. One for sales and one for rental because they have different requirements for those types of housing. On the top of the chart, you have the income groups. The first column being housing required for below 50%, the next column for 50 to 80% and so on, so you can see on Kauaʻi's proposal that it is a 10% donation for 50 to 80% would be the required land donation that the proposal asked for. On the other six (6) columns with 5% each would be "for sale" housing for those income groups. For Maui and the total of those percentages is 40%. For Maui, I am using the 40% option or possibility and you see that they have four (4) different income groups that are satisfied where... for the Maui rental projects, you will see that there is four (4) income groups as well, but they are lower income groups. For the island of Hawaiʻi, that county does not specify which income group need to be satisfied, but they have a credit system or a menu for developers to choose from to select which income group they are going to satisfy and there will be a couple more slides after this where I will show you what that menu is.

Ms. Iseri-Carvalho: Ken, if you look at the Kauaʻi slide when... 50 to 80 is 10 and it goes five (5) after that. Are we missing some? It adds up to 35.

Mr. Rainforth: Yes, we are.

Ms. Iseri-Carvalho: And what...

Mr. Rainforth: I know where I got tripped up on making this. For all of the policies in the other counties, they require that certain ranges be satisfied. For example, 80 to 100% and I found that problematic in administering, so in our ordinance, what I did was specify that there should be 5% units provided at 80% of the median income and that 5% should be required at 100%, 5% at 120, etc. So that is how I missed a column. Thank you for pointing out my error. Okay, going on, so...

Ms. Iseri-Carvalho: It is a big point because we wanted to avoid the range issues and that is why we made it specifically to that and that was based on our past experience, so there was a definite intentional varying of that process.

Mr. Rainforth: We changed the policy instead of copying other counties because if a developer is required to satisfy a particular income range, where do they provide it? At the front end or the back end, middle, mixed, so just to end that debate, just specify one income group that needs to be satisfied. Again, back to Hawaiʻi, there is a next couple of slides that will show what their credit system is, so you can take a look at that. City & County of Honolulu, a 30% requirement, real clear that those three (3) income groups be satisfied. Davis, California has five (5) income groups which would total up to 45% that is for sale and the rentals, you will see that they total up to 35%, but only at the lower income groups. Next slide.

These next two (2) slides give you the menu or the credit system that the Big Island uses. So you get more credits when you provide housing which is affordable to lower income households which makes sense because it cost the developer more to subsidize those units. So the most credits that can be earned on the Big Island would be providing housing which is below 80% of the median where you have received two (2) credits per unit. I see another error. The first one, the 100 to 120% of the median, that should be half a credit and the next one should be one credit. There is more. Next slide.

They also have lot sales where they will get a half a credit for a lot that is affordable to someone who is earning 100% of the median income and one credit for somebody who is earning 80% of the median income and they have different credits for rental units. Next slide.

What products are required? Kaua'i is different here where we specify that we want a particular product. We want land donated and we want units for sale would be leasehold sales and fee simple sales. On Maui, Hawai'i and the City & County, it is the type of units is usually presented by the developer and then negotiated with the Housing Department until a final decision is made on which types of units would be built. The next slide.

I tried to pick out some unique provisions in the different ordinances. Certainly, this isn't the only one, but I thought that these would be of note. The first one being that we specify that the dwellings be built for both affordable and gap group households and that they be sold. The alternatives that we have were... where the current ordinance says that the County Council would need to approve any of the alternatives, whereas, in the other counties, it is a decision that would be made by the Housing Director. We are looking at that the workforce housing units need to be on site and that they need to be economically integrated. We obviously borrowed those ideas from Davis, California. Next slide.

We are trying to address the permanently affordable housing issues, so we are asking that the lower end of the "for sale" units, 15% of them would be sold as leasehold sales. Our policy has a provision where we want to create a Kaua'i community housing land trust and we have a specific exemption for small local families that would be able to do development and pass it on to their immediate family without having to provide or be exempt from the affordable housing requirements. The next slide.

We talked about this before. On Maui or the number of percent of affordable housing that is required would depend on the price of the market units. So it could either be 40% or 50%. They also include gap group and up to 160% of the median income and I also mentioned before that there is a 1992 ordinance where affordable housing is required for resort hotel units. On the Big Island and this is something that was interesting to me and says something about their island. They have the right to pass some of the authority to non-profit organizations and that is because they have a very, very strong non-profit housing development organization that they work with all the time with their housing issues. They put in their ordinance this time to be able to easily transfer some of their requirements and responsibility to this non-profit. They also have separate legislation for a land trust which is part of all of the work that they have been doing with their Waikoloa development. Next slide.

All of the ordinances talked about what eligibility and who would be eligible for the affordable or workforce units and they all pretty much agree and you can find this also in State statute that these are the requirements that come into play for any affordable workforce housing that they need to be a State resident, U.S. citizen or resident alien. The aging majority to own… to not own any other real estate suitable for residential purposes, that income is sufficient to either purchase the unit or to rent the unit, and they needed to be within the income of specific projects. Going back to some comparisons, the duration of affordability is an important issue. On Kaua'i, we are looking at having perpetual affordable with the leasehold sales and we are looking at having extended buybacks with the fee sales. For our rental units, we would be requiring a 40 year (inaudible) affordability. What is not mentioned here is that the 10% land donation that we are asking for, that that would be permanently affordable and developed by the County and be done either at rental projects or leasehold units. On Maui, they are looking at a 25 year buyback that is going to be created by rural by their Housing Department. On the Big Island, their ordinance says that their Housing Administrator would establish rules for all the restrictions. Right now, there are utilized restrictions which are similar to the State which is a 10 year buyback and shared appreciation. The City & County of Honolulu had a two (2) to eight (8) year buyback and the term of their buyback would depend on the income group being assessed and they had a 10 year requirement on rentals. Another important point is restricted marketing periods. This is supposed to provide a… what I call a safety valve. When you build affordable units and they aren't sold, what happens? One of the… this is one of the items that D.R. Horton testimony had issues with and saying that it is way too long… almost a year and a half long. What it says is that for the first 90 days, units would only be sold to eligible buyers. For the next 90 days, it will be the eligible buyers, but one income group higher and then a third 90 period would be to any eligible income buyer and fourth 90 day period to any Kaua'i resident. After that, the County would have the option to buy or not to buy. Actually, the County has the option to purchase units anytime during this time period. On Maui, they had kind of something similar. They have 90 days for eligible buyers just like Kaua'i and then they have 90 days for the next higher income group, but what they do, they go... 90 days for the next higher income group and they keep going up until there is no more income groups and then it is offered to last... the last 90 days would be offered to non-residents.

On the Big Island, it is 90 days to eligible buyers and then another 30 days to eligible buyers, but who are not first time buyers. The City & County of Honolulu was silent on this matter, but I believe that they did not have a safety valve that they required the unit to be sold to the intended target group regardless.

The next slide is incentives and bonuses. I put none for Kaua'i, but I am really wrong. The ordinance does have a provision for fast track permitting which would be an incentive. On Maui, they have a provision for a 60 day building permit review which would be an incentive and they have a potential for a density bonus that didn't go into detail about what that would be, so I really cannot elaborate. On the Big Island, they are very specific to provide a 10% density bonus and the option to decrease minimum lot size by 10%. They also have the possibility of... if a developer has excess credits... remember they have a credit system. The developer has excess credits to make them bank those for the future or they could sell or trade them to another developer. The City & County of Honolulu would provide... the only bonus that I could find in their ordinance was that they would be given more credits if they provided a 20 year affordability for the rental projects.

The last slide is calculation of in lieu fees. I thought this was interesting. The Kaua'i proposal says that the fee would be the difference between the median sales price for a unit in the district of where it is sold and the affordable sales price of the unit that would be required. I didn't have room here, but we did put a ceiling on that to be no more than $250,000. On Maui, their calculation would be the difference between the affordable price for some... for a house that is affordable to someone earning 140% of median and the cost of a house of someone earning 100% of the median income. On the Big Island, they calculate it as the difference between the actual market price of a unit and the affordable sales price for someone at 120% of the median and then they only take 25% of that. The City & County of Honolulu would take the difference between the estimated cost of the affordable unit and the affordable sales price and that is the end of the slide presentation. Any questions on any of those slides? Should we get into the questions from the December 8 memorandum.

Ms. Iseri-Carvalho: I think what we will do, Ken, while this is still fresh is ask if there are any questions on the comparison first before going into the other questions. Any questions of Ken or Bernard? Yes, Councilmember Bynum?

Mr. Bynum: On the slide that (inaudible-mike off).

Ms. Iseri-Carvalho: Your mike.

Mr. Bynum: On the slide that says Hawai'i County is when requirements are imposed. For Kaua'i, it says that zoning on residential resort, commercial and industrial (inaudible). On Maui, it says that subdivision approval or building permit approval and that is real different. So could you talk about the implications of that difference and...

Mr. Rainforth: I would be happy to discuss this issue. When the advisory committee was first developing the outline or the basis for the proposed policy, we were looking at the Davis, California proposal which if you recall, they impose their requirement at building permit. We looked at that possibility and thought that was a good thing because we thought that agricultural subdivision should be assessed and that many, many properties are already zoned for development and never were questioned about affordable housing when, in fact, were zoned before affordable housing was ever an issue. So we thought to try and have a leveled playing field amongst all developers that it should be imposed at subdivision approval or building permit, so that is the direction that we were going. We had some discussions with the Planning Department and direct questions with the County Attorney's Office and they clearly discouraged us from proceeding with that method implying that or reasoning that once a developer has zoning, that they have certain investments in what they can do and that to impose a condition later didn't seem right. Coming from the County Attorney's Office saying that if we would be opening ourselves up for being challenged on that, we backed off and more conservatively said that we propose to deal with the assessment at zoning. However, I don't think this is necessarily the end of the matter and I think we should discuss it some more. Maybe it wouldn't be at any subdivision or building permit level, but specifically target open and agricultural lands or something like that. Does that answer your question?

Mr. Bynum: That is a beginning of an answer, so just for my clearness on the implications of that, so the maybe the public understands better. Under our current... what we are proposing now... if you currently have zoning, this wouldn't apply. None of this would apply.

Mr. Rainforth: If you currently have zoning and have no housing requirement, you don't have to do any housing.

Mr. Bynum: So for example, under this proposal that you were seeking new zoning per say a 600 unit resort, you would have to give 40% affordable housing.

Mr. Rainforth: Correct, but if you have existing zoning for a resort, you don't have to give any affordable housing.

Mr. Bynum: And one of our issues in our community is that we have a lot of things that were zoned many years ago before we understood the need for affordable housing policies. It is a very significant difference to say, does this apply at subdivision approval or building permit or at zoning... on already existing zoning, right? That is a very huge difference in terms of the impact on the community. Is that correct?

Mr. Rainforth: Our advisory committee felt the same way and we thought it was really unfair when a developer pays and when a developer doesn't doing the same thing.

Mr. Bynum: Right.

Mr. Rainforth: Would you rely on our Planning Department for advice and certainly the County Attorney's Office for advice. I think we should still pursue some of these aspects.

Mr. Bynum: So that is on zoned land. When I look at a zoning map of Kaua'i and if you look at the whole island, you see little kinds of pockets of zoning of land that is zoned, but huge swatches of ag and open space, right? A lot of our development over the last years have been on ag and open space, right? Under this policy right now, that can continue and people could do large subdivisions on ag and open space land and not have any affordable housing requirements.

Mr. Rainforth: If they stay in agricultural, that is correct.

Mr. Bynum: Our General Plan says that we are interested in keeping Kaua'i a rural environment with open space and view plains between our unique towns with character, but there is no... so that development can occur, new ones and we know that those lots are larger... largely or high end, the kind of era has passed where those lots were affordable to workforce people. So I have a big concern about that issue and I am being very interested in finding out more about how Maui feels it is legally defensible to apply these on subdivision or building permit. I think that would better address the social concern and the social concerns of the community, so I really want to pursue that reasoning. So I am interested in finding more about that because the Planning Commission yesterday gave conditional zoning for more than 600 units on current zoned resort development. The only discussion that I heard in the meeting was for three (3) workforce housing units. I am not even sure how that got in the mix, so I know I would be interested in more communication about that.

BILL "KAIPO" ASING, NON-COMMITTEE MEMBER: I think we need some legal advice on that. Did you get some legal advice in that area?

Mr. Rainforth: As far as imposing conditions at building permit versus zoning, our County Attorney's Office was recommended that it would be zoning. I agree that we should talk to the legal counsel on Maui and how they look at the particular situation and I'd suggest that Council Services could contact and find out who is providing legal advice on this issue to the Maui County Council.

Ms. Iseri-Carvalho: And also, Ken, when you refer to at zoning, it doesn't mean that they don't have any conditions because property that has been zoned has affordable housing conditions. In fact, they come to us and we discuss what those housing conditions are. It is not that they are not required to provide any affordable housing.

Mr. Rainforth: I am not sure...

Ms. Iseri-Carvalho: I mean those ones... well, Councilmember Bynum was saying, if you have a property zoned, then they wouldn't be required to provide affordable housing. That is not accurate. I mean, we have had people that come here and that have affordable housing conditions, those conditions haven't been resolved according to this policy and they have been actually varied. It depends on each development how they... so there are conditions that are imposed, but it just hasn't been very consistent because we don't have the policy in place.

Mr. Rainforth: I believe there is maybe a half a dozen projects or maybe a dozen projects which have outstanding housing conditions that would be affected. I think there are hundreds of zoned properties that have no conditions at all because in 1971 when the CZO was created and the planners drew the lines, people got their zoning and there were no conditions.

Ms. Iseri-Carvalho: There are some and there are some not, but it is not entirely zero that nobody has any housing conditions.

Mr. Bynum: The more than 600 units that received conditional approval yesterday have no affordable housing requirements. Under the Maui law for resort, there was one in four, so 600 units would result in... (change side of tape)... not in there, so why those pieces of land that were zoned 30 years ago, suddenly, I would want to buy one of those rather than try to do developments and have to fall under... I think that illustrates the problem with making decisions 30 years ago and then having them still apply in today's current realities on the island. I would much rather see those 600 units contribute to affordable housing than not, so I would be very interested in finding out how... Maui feels like they can do that and they can make their policy applied to future developments even if the zoning existed.

Ms. Iseri-Carvalho: Thank you. Councilmember Rapozo?

MEL RAPOZO: Thank you. I agree somewhat with what Tim is saying. The question, though is, if you keep the current percentages and you open it into building permits, then you would end up with an over abundance of units. I mean, I would be curious to see what was the rationale for reaching the percentages that we have, the 40, the 30 and 15 and so forth in comparison with a need that we have, the existing need. In fact, if we go and make a change to building permits, then at building permitting, that is when you impose the condition, then you may have to lower the percentages to prevent us from having too many units.

Mr. Rainforth: I agree and that discussion went on for some time with our advisory committee. Before we set our recommendation for, at that time, 25% affordable housing, before we did that, we would... had resolved ourselves that we could not impose the policy at the building permit level. Before that, when we were discussing it, we clearly understood that the number would be different because you are dealing with two (2) different sized groups of potential developments. You got those developments that need to come in for zoning which is this big and you got all the zoned properties this big, so you wouldn't need as much, you are correct.

Mr. Rapozo: Right, and I think you would basically spread the burden over a whole bunch of more people making it more, I think, acceptable by the developer.

Mr. Rainforth: We thought of it as being more equitable.

Mr. Rapozo: Okay, well, maybe that is opportunity for us to check the legal... I cannot imagine... if Maui is doing it, I would assume that it is probably legal. Madam Chair, I have a couple of questions on the couple of the slides.

Ms. Iseri-Carvalho: Go ahead.

Mr. Rapozo: On page 7, number 3, the unique provisions. You talk about the exemption for small family developments. Can you just briefly talk about that and how that would impact the...

Ms. Iseri-Carvalho: I think we have a different slide because we have two (2) slides per page and I think you guys have... so just reference the topic matter.

Mr. Rapozo: It says, Kaua'i unique provisions. It is the second slide in the Kaua'i unique provisions.

Ms. Iseri-Carvalho: It is page 10 for us I guess.

JAY FURFARO: You have two (2) slide paper and I have a three (3).

Mr. Rapozo: On the three (3) slide, it is page 7, slide three (3).

Ms. Iseri-Carvalho: And on the two (2) slide, it is on page 10.

Mr. Rainforth: The workforce housing to be on site?

Mr. Rapozo: No, the next slide.

Mr. Furfaro: Unique provisions.

Mr. Rapozo: The third bullet, exemption for small family development. Just briefly, you have a family that wants to develop a six (6) lot subdivision for family members.

Mr. Rainforth: Can I look up the provision for you?

Mr. Rapozo: Yes, and I think that is important because I know that there are some concern that a lot of the lands up… that want to be developed for family, to impose a housing requirement might defeat the purpose and it may really make it not feasible if, in fact, they are not selling the homes and making any money.

Mr. Rainforth: The immediate family member of development provision reads: a developer is exempt from…

Chair Asing: What page is that?

Mr. Rainforth: It would be on page 12 of Bill No. 2202.

Chair Asing: Okay.

Mr. Rainforth: Page 12 of the bill reads: a developer is exempt from workforce housing requirements where the intent of the development is to transfer family held land to an immediate family members, provided, 1) the land has been continuously owned by a Kaua'i resident or an immediate family member of the owner for at least…

Chair Asing: You want to hang on. Page 12?

Mr. Rainforth: Page 12, c.

Chair Asing: "C" on the bottom then? Okay, so you are reading the bottom of the page.

Mr. Rainforth: I will start again. A developer is exempt from the workforce housing requirements where the intent of the development is to transfer family held land to an immediate family members, provided, 1) the land has been continuously owned by a Kaua'i resident or an immediate family member of the owner for at least 25 years, the project is 12 units or less, and the title to the new unit shall be transferred only to the developer's immediate family members.

Mr. Rapozo: Thank you and that clarifies it. I guess I didn't read it as well as I should have.

Mr. Rainforth: It is a long document.

Mr. Rapozo: Ken, on the qualifications for eligibility, you have a State resident, is there a minimum time of residency here in the State? I know you have it, all Hawai'i counties share this qualification, but if a person moves here and gets a State I.D. and claims residency, then they would be qualified?

Mr. Rainforth: They would be a resident and now be eligible to apply for any of these housing units. What Maui County is looking at and what I have been trying to advocate and want to impose or implement would be... you can have preferences without violating someone's constitutional rights, you can have preferences. What I want to create for Kaua'i is a homebuyer resident list and that list would be composed of Kaua'i residents who had completed home ownership education, their name would go on a list, they would be given a number, they keep that number until they bought an affordable unit or they died, and it would be handled very much like the list for the DHHL. So any affordable housing project that came along, the people with the lowest numbers get offered first. You don't have to take it if you don't want it and I think that would alleviate a lot of concerns that residents have about them not having as good a chance or they should have a better chance than someone who has recently come from the mainland and it doesn't violate the constitution as far as I know. I need to have that clarified by the County Attorney's Office, but that is what I would like to have this Council approve, so we can implement.

Mr. Rapozo: Thank you Ken. That is all.

Chair Asing: Can I ask a follow up question to the question that Councilmember Rapozo asked and that is going back to that immediate family member. Ken, in this document and I am talking about Bill No. 2202. Maybe I didn't read it well enough, but do we have a definition section?

Ms. Iseri-Carvalho: Yes, page 3.

Chair Asing: That is page 3?

Ms. Iseri-Carvalho: Well, it starts actually on page 2 and goes onto page 4.

Mr. Rainforth: It is a fairly extensive definition section.

Chair Asing: Okay. I was going to ask because of that and maybe it is in there someplace, immediate family member.

Ms. Iseri-Carvalho: It is defined on page 2.

Chair Asing: Okay, thank you.

Ms. Iseri-Carvalho: Any further questions? Thank you. Yes, Councilmember Bynum?

Mr. Bynum: I just wanted to highlight what you just said about preferences because I think this does address concerns that a lot of people with young children like me have about... that basically, let our young people know that even with affordable housing provisions, they still have to be qualified for a mortgage at that rate that they have to make good decisions about their budget planning, about how they save money, so even at the affordable rate, it is now you can just walk in and you have to qualify and make good decisions and that is the purchase of your housing workshop.

Mr. Rainforth: Homebuyer education.

Mr. Bynum: Right, as to let people know. If young people and young families are behaving economically wise and preparing themselves for home ownership at this affordable rate and they demonstrate that by attending classes, then they can get first on the list and that is what you are saying. Is that correct?

Mr. Rainforth: That is correct.

Mr. Bynum: That goes a long way as to addressing I think the concern like, will my kids be able to be homeowners where with the prices now, we have the ins and the outs. If you are an owner, you are in and if you don't own property now, you are kind of out and that fear of like can our kids stay here and I think your attempts to address that are applaudable and...

Mr. Rainforth: Part of this ordinance is to try and establish some long term affordable units and permanent inventory of units. The homebuyer resident list concept is, we don't want it to be onerous, but we think the homebuyer education component is important, so people will be prepared. I am really happy that the Administration and this Council has supported our efforts to provide moneys to have providers come and provide the homeownership education and that is something that we need to continue to do as more than we have already. It is really important.

In the past, when we used to do "for sale" affordable housing, you would need at least 10 people on an application list to sell one unit because nine (9) people had bad credit and couldn't qualify. When we began our homebuyer loan program, we didn't have homeownership component to that. We were finding that it was like 20 applicants would not qualify or you only get 1 of the 20. When we implemented homeownership, it went down to 1 out of 4 would qualify and that is a big difference.

Mr. Bynum: I just think... I want to let everybody out there know that the hopes to own a home on Kaua'i that are renting or living with family because of the difficulty of obtaining that, do you have to be ready. When the time comes when these units come on line, you have to be ready and you have to make economic decisions that allow you to be ready and that is really critical because of what you just said. How heartbreaking to have people come up, you know, at that time of their life when the units are available and miss out because they didn't have the right knowledge or they hadn't made good decisions. A couple other questions or just comments. In the unique provisions, it says, workforce housing to be on site of market development and that really is to me the social need to keep our communities integrated with different income levels as opposed to segregating out into kind of income neighborhoods is that... the purpose of that or...

Mr. Rainforth: That is the purpose of that.

Mr. Bynum: In the past sometimes, the market rate of units have been makai and close to the ocean and the affordable units have been mauka across the track so to speak, so that is also something about building the kind of community that I think we want on Kaua'i that we are integrated in the community. Thank you.

Mr. Rainforth: Thank you.

Ms. Iseri-Carvalho: Councilmember Furfaro?

Mr. Furfaro: Thank you Councilwoman. Ken, I am very pleased with your presentation here. I just want to have a better understanding on something I saw in the presentation dealing with how you would allocate credits. There is a recommendation in there that there would be a formula if we are building more units at the below affordable level.

Mr. Rainforth: That was the Big Island.

Mr. Furfaro: And what we have currently one that kind of references the type of units, square footage... is it a townhouse versus a fee simple home site. That is how our formula works currently if I remember right. For example, if you build a one bedroom... I mean, two (2) bedroom, one bath home on a 6,000 square foot, you get "x" amount of credits for that unit. You build a three (3) bedroom...

Mr. Rainforth: No.

Mr. Furfaro: We don't? Isn't that what we did with...

Mr. Rainforth: I think you are thinking of the...

Mr. Furfaro: The Grove Farm piece?

Mr. Rainforth: The Grove Farm credit system has something like that where... this proposal that is before you is not like that. What this proposal says is, first of all, I want to deal with the comparison between Big Island and us.

Mr. Furfaro: Okay.

Mr. Rainforth: Big Island provides a menu, let's the developer decide what to do and, so the County gets what the developer decides. The advisory committee, myself, the Mayor all feel that, no, we need housing units for each of these income groups because our housing study shows that these groups need housing, so let's provide them. So we are specific. The type of units that would be developed is supposed to be similar to what the market units are. So if the market units are two (2) bedroom condominium units, the workforce housing units are supposed to be two (2) bedroom condominiums. They don't necessarily have to have the same quality or size or amenities, but similar. If the developer is doing single family three (3) bedroom homes, then the workforce housing should be a three (3) bedroom single family home as well.

Mr. Furfaro: Okay, in this proposal, just so that I am... there are other opportunities in different counties that look at the incremental target of families that you are servicing that is like the Big Island. What we had for Grove Farm is kind of passé approach and then this new one is if you have a hundred unit project and he builds 20% two (2) bedroom, he builds 40% three (3) bedroom and the balance as a four (4) bedroom units, we are going to look at those percentages as being equal type units and size when he meets his allocation.

Mr. Rainforth: Yes, I think so.

Mr. Furfaro: Let me do the math real simple. If you are required to do four (4), two (2)-bedroom units and you are below affordable requires 10% of that market then we need to… let's say 40% of market, we then take the formula of the 16 units of the 40 and they are all going to be two (2) bedroom, two (2) bath type.

Mr. Rainforth: Yes.

Mr. Furfaro: They are not going to be based on any other survey for family sizes and so forth as you did with Grove Farm. It is simply going to parallel the developer's mix.

Mr. Rainforth: For your edification, that formula that we use for Grove Farm…

Mr. Furfaro: Yes.

Mr. Rainforth: That derived from the credit system developed by the Land Use Commission when they were imposing the 60%.

Mr. Furfaro: 60%, I understand that.

Mr. Rainforth: So we have taken that credit system and tweaked it a little to fit Kaua'i's environment.

Ms. Iseri-Carvalho: Councilmember Kouchi?

RONALD KOUCHI: Ken, if we were going to do that, we do have now sufficient data to feel comfortable that there is market acceptance for the variety of brand of products by the consumer or homebuyer.

Mr. Furfaro: I think that is a question that you are asking him, right?

Mr. Kouchi: Well, the reason I ask is that, you know, so that people looking back don't think the guys in the 80's or early 90's lack vision. There was a real problem with acceptability from potential buyers for townhouses and we couldn't sell them.

Mr. Rainforth: Absolutely.

Mr. Kouchi: So the strong desire was either for a single family homeownership house and lot or to build apartment rentals and, you know, obviously, market needs and everything have changed and evolved. I just want to be confident that if they are building two (2) bedroom condos and then we require to build two (2) bedroom condos for sale to be the product and that we will have qualified buyers interested in purchasing them. It appears to me that there is that interest, but I have not done any formal surveys. I have not interviewed potential homebuyers like the kind of work you routinely do at the Housing Agency. My guess is that you are confident that there is that acceptance or demand for that product.

Mr. Rainforth: I am confident and you are correct. The Kaua'i residents have changed. Not all, but for sure that is a very...

Mr. Kouchi: But enough.

Mr. Rainforth: There is a very strong preference for single family homes, but they are less and less likely to be offered at prices that are affordable to a lot of residents. So there has been much more acceptance of multi-family living and we hope to see innovative designs for the family environments. For example, the Villas at Puali is a unique way to have a fairly dense land use using multi-family duplexes in that case.

Mr. Kouchi: I was just there this weekend and the residents seem to be busy, happy and it looks very nice.

Mr. Rainforth: Specifically, we rely on the Hawai'i housing policies studies that have been on over time... we are just now completing the study and those studies have indicated a growing acceptance of multi-family units on Kaua'i.

Mr. Kouchi: Thank you and thank you for the report. I really don't have much today and, you know, and waiting for the workshop and when we have the stakeholders to get into it a little more, but clearly this is good between the last meeting and today and all of the work that you have put together with your staff is a good baseline for us to have a very interesting discussion.

Ms. Iseri-Carvalho: Councilmember Furfaro?

Mr. Furfaro: My question and Councilman Kouchi's question. So you are confident that the opportunity for housing that is multi-family or condominium type will be the kind of demand that our residents who then become the customers for this... you are confident that things have changed since the 80's and the 90's here. You know, your old plan, you gave a little incentive to someone who built a three (3) bedroom home on a 6,000... the developer got an incentive that said, okay, if I build a fee simple home on R-6 lot, I am going to get 2.5 credits of my total demand. To me, that seem to kind of fulfill the demand, but it also gave you, the

Housing Director, an opportunity to kind of determine what kind of mix you wanted for the kind of customers we have, clients.

Mr. Rainforth: In designing the whole package for the proposal, there is a lot of things that tie together.

Mr. Furfaro: I am sure there are Ken.

Mr. Rainforth: Having the option that we had before doesn't fit with the current proposal where unlike on the Big Island, it would fit very well where they have the menu already that they could simply change those credits by having different size units as well for more credits or less credits. You need to understand clearly all of the policies that we have been talking about today are not apples and apples. They are apples and oranges and grapefruits and pears and they are different. You need to take them as a whole and understand the whole principle that they are trying to promote.

Mr. Furfaro: I am rather embarrassed that you are implying maybe I don't understand that there are variables and all these analytical pieces, but I think this is a...

Mr. Rainforth: No.

Mr. Furfaro: I think this is a major change here Ken from how you incentify developers to build more than just condos, more than just town homes and that they actually had something at the end of a 30 year buyback. They might be able to own as a home with a yard. That is all that I am trying to find out here. I know that there are many variables. I know that there are many income types. I know that there are many family sizes, but I just want to find out if you are that confident that this is the right way to approach the credits and it sounds like you are.

Mr. Rainforth: I am and I am not. I also understand that the single family home is the dream. It is the American dream and we hate to abandon that trying to support that dream. Perhaps there could be provisions written into this policy that could encourage that direction.

Mr. Kouchi: Ken, I just guess though that part of it that is really different today is construction material prices and fuel cost. It is helping drive that. Material cost isn't what it is today. When you used to build, we could get something done for $75 and $90 a square feet in the range of affordability and, quite frankly, when Kaua'i Lagoons was here in 2005 and you were talking about 200 plus at the Hanamā'ulu and we were like, you got to be crazy. Unfortunately, for everybody, you turned out to be propheting that accurate price. Now, to get to the starter, a lot of times, it appears that this townhouse or condominium allows you to start building some equity to eventually be able to move to the next, but with where the construction cost prices are today, it is difficult to just have that single family as your first starter for a lot of families. It would appear to me anyway.

Mr. Rainforth: It is a very valid comment, yes.

Chair Asing: Again, I go back to the... what is the rationale or where did it come from regarding the 25 year ownership on the immediate family member developer? Where did that come from?

Mr. Rainforth: It was pulled out of the sky. It is just an arbitrary number and there is no rationale for that number. It could be...

Chair Asing: Let me give you an example. If someone... any member of the community decides, you know, there is a nice two (2) acre parcel that is for sale and a family member decides to purchase that for a development of housing units for their family members. So they take a two (2) acre site and then they have it rezoned to R-4, that means eight (8) units and they can split it up between eight (8) family members. You know, so the 25 years ownership, wow, what is the rationale? Where did it come from? You know, the intent of taking care of family members on a lower income level and this 25 year in here gives me some problem. I don't think you are going to find too many of this. This section is going to be almost meaningless, Ken, in my opinion, almost meaningless. You are not going to find too many people with a piece of property that has been in the family for 25 years to take care of them. I don't think the intent will be realized with this kind of requirement, the 25 year ownership. It is just a concern that I have.

Mr. Rainforth: The criticism is taken and it is a good one. Would you recommend that there would be any time period at all?

Chair Asing: Oh, yes, probably some time period.

Mr. Rainforth: Five (5) years?

Chair Asing: Five (5) years, yes.

Ms. Iseri-Carvalho: I guess that can be discussed at the workshop. This is a work in progress and we will be actually going through each section more intently later on, but the concerns are well taken.

Mr. Furfaro: Chairwoman, you are planning to have a workshop in the near future?

Ms. Iseri-Carvalho: I am at the end of February and then we will discuss that when we come back to discussion.

Mr. Furfaro: I will hold any... I would like to have somebody look at that length of time as well because if you are getting starter home that is a townhouse, the reality... if the buyback is long, you could never get your equity out to upgrade it. I just would like to have more clarification on that, so I look forward to your workshop.

Mr. Rapozo: Just one last question.

Ms. Iseri-Carvalho: Yes, Councilmember Rapozo?

Mr. Rapozo: Thank you. Ken, was it your intent to seek a County Attorney opinion or you want us to... regarding the conditions being implemented at building permit as opposed to zoning. I read the response and it is stamped confidential and I guess we can't talk about it, but I noticed that the County Attorney avoided the question in his response as it pertains to that aspect, the zoning conditions as opposed to building conditions. There is a presumption that the Council was not going to change the way we do it, so it was not explored. If, basically, did not do an analysis of that question and is that something you folks would do or...

Ms. Iseri-Carvalho: I think we would do that. I would be pursuing that. I know that I had attended the housing advisory task force meeting when this provision was discussed because there was, in fact, a lot of members that were there had articulated a position that we had wanted it at the subdivision stage and that is when we sought the County Attorney's opinion with respect to that issue. The opinion may not be as clear as what we had wanted, but there was clearly a discussion that was done regarding the real intent of the County Attorney and really there was a strong position taken by the County Attorney's Office here that the committee had decided just to avoid that issue at that point, but clearly realizing that at the Council stage, we would pursue that issue.

Mr. Rapozo: Okay, thank you. That is fine.

Ms. Iseri-Carvalho: Yes?

Mr. Bynum: I just have to say for me that, that is absolutely a critical issue because the impact is enormous in terms of particularly ag and open space land. I really want to follow up or have us follow up.

Ms. Iseri-Carvalho: That is what we are going to do. Like I said, there was a whole discussion regarding that because all of the member, I believe, that were there had stated that they had wanted that same very position, but it was only after the County opinion... County Attorney's opinion had been stated to us and it was then at that time, they decided that instead of holding up the whole affordable housing policy bill, let's just forward it to Council and we will pursue those other legal avenues at that time. Thank you.

Mr. Bynum: So we can seek input from Maui as well? I am sure that they had this discussion.

Ms. Iseri-Carvalho: Ken, I guess then... the question that I had was... with respect to Davis where they limit the number of building permits issued per year, can you tell us more about that and has that been successful, has that resulted in higher cost because there is not much housing available? What kind of impact did that kind of provision have?

Mr. Rainforth: Let me relay to you the comments that we heard from them. About a year and a half ago or so, Councilmember Yukimura had a teleconference with the people from Davis, California and their comments were that they really liked the provision because they get to choose the quality projects rather than the ones that aren't so good. One complaint that they did have is, just because they issue a building permit to someone, doesn't mean that the project gets built. So their complaint was that people had been holding building permits for four (4) or five (5) years waiting for the economy to be right before they build. That was one comment that they had.

Ms. Iseri-Carvalho: So it was basically a positive provision itself and it had worked in that community.

Mr. Rainforth: Yes.

Ms. Iseri-Carvalho: Okay, and the other question about the provision requiring that basically we would specify the product of housing that would be built versus the developer choosing what type of product that they wanted to develop in other counties. Is this... who decides that? The Council? Who decides the type of product? You say the County.

Mr. Rainforth: In the Kaua'i proposal?

Ms. Iseri-Carvalho: Right.

Mr. Rainforth: The ordinance is supposed to say and implies that the type of units would be similar to the market units, but they don't need to be exactly the same because the market units can have better amenities, a larger size, better materials, but as far as the type of unit like condo versus single family need to be the same. The number of bedrooms, the number of baths need to be the same.

Ms. Iseri-Carvalho: I know on Maui for rental units, the duration is for the life of the unit, right?

Mr. Rainforth: For a rental unit, the affordability period is life of the building, economic life of the building.

Ms. Iseri-Carvalho: And we set our limit at what amount now again?

Mr. Rainforth: 40 years and that would be for a project which should be privately built and operated rather than a project that the County would build on its land. It would be perpetual.

Ms. Iseri-Carvalho: And that is a good thing. The other question that I had was on the ceiling of the in lieu fee. It is at the ceiling at no more than $250,000 and where did that amount come from?

Mr. Rainforth: I did many calculations and I thought that was a reasonable place.

Ms. Iseri-Carvalho: Again, all of these things are up for consideration, but it was an excellent presentation. It was very informative and there is more to come. I think the other last question that I have was with respect to preparing our potential buyers to be qualified and I think there has been a lot of effort on the Administration and yourselves in trying to achieve that goal and in having buyers ready. So there has been, I believe you circulated... maybe this would be the time about the information that is going to be coming up about the fairs, so you have that information readily available? Just short because that was the question that was brought up and I know that you had sent over the information.

BERNARD CARVALHO, JR., DIRECTOR OF OFFICES OF COMMUNITY ASSISTANCE: I did send over a copy of the flyers that are going to be coming out very shortly. We have been meeting with the coalition, the traffic and affordable housing coalition members and we are preparing to host the coalition is these housing fairs that are going to be taking place on all the Saturdays in March and the effort here is to, of course, attract as many potential homeowners and renters who would like to come and receive information regarding homeownership and renting opportunities as well as receiving information because fairs like these has happened in the past. It happens every year, but what we are trying to do is actually design it where it is more structured. When the people come in, they can actually go through two (2) separate sessions. An example of a session would be ownership 101 or how to be a renter, example. The flyers will show you, Councilmembers, all the specifics of what is going to be happening at these fairs. Again, it is scheduled for all the Saturdays in March from 9:00 a.m. to 1:00 p.m. and it is just a combination of financial people, developers and we also have some community groups and organizations involved in this process. So that is another effort like you say Councilmember Iseri-Carvalho of trying to do the outreach part and the education part. Again, you should be having the flyers very shortly.

Ms. Iseri-Carvalho: And they are also scheduled in each area.

Mr. Carvalho: It is in five (5) districts throughout the island whether it be at the neighborhood center locations or the schools. Again, I don't have it on top of my head, but it is in that flyer.

Ms. Iseri-Carvalho: And just because I know a lot of people watch and, so that gives them a heads up that these events will be taking place across the island and, really, it is to secure... we try to assure that they will be buyer ready by the time these projects are built. I believe... I saw the e-mail come to the entire County, so we should have received that information.

Mr. Furfaro: We have.

Ms. Iseri-Carvalho: If not, what I would do is go back to the other questions that we had proposed Ken.

Mr. Rainforth: Does everybody have a copy of our memorandum to the Council answering these questions? Number 1 was a request for a copy of the 2003 Housing Study. I did provide another copy to actually Chair Iseri-Carvalho rather than give it to the County Clerk. I suspect that there are other copies in this building, a library, because we have submitted copies before especially when it was brand new. What is probably more important is that this is available online and the address would be www.hawaii.gov/dbedt/hhfdc.com and that gets you to the Department of... Anyway, when you go to that site, you can locate that file. It is a 821 page report. It is 5.7 megabytes and it took about five (5) minutes to download on my computer, so be patient. It is there in color and you can make copies of it or just read it at your will. Question number 2...

Ms. Iseri-Carvalho: Before you go on, Ken, this was one of the portions that were relied on in developing the affordable housing policy, but there was also a new study that will be coming out in March or so, right?

Mr. Rainforth: Yes, yes. The 2003 study, we looked at the housing needs and the income groups of each housing... the need for each income group and our proposal which is asking for 5% workforce housing for six (6) different income groups is based on the... pretty much what we saw in the 2003 study that the needs were fairly even across all the income groups. You are right, the 2006 housing study is complete. We are reviewing drafts now and it should be published or complete in February.

Ms. Iseri-Carvalho: So we will have the benefit of that study hopefully when we go through the workshops or before we even pass the bill to see if any changes have been made with respect to the types of housing that is needed.

Mr. Rainforth: Yes. Question number 3 is asking who participated... instead of giving a list of names, specifically who helped me draft the ordinance itself would be the Kaua'i Housing & Advisory Committee, members of the Housing Agency in the development division, various Councilmembers, Bernard Carvalho (sitting next to me), Mayor Baptiste and two (2) members with the County Attorney's Office. In addition to that, there is an endless number of people and I would like to recognize that the Housing Director from both Big Island and Maui who I have known for many, many years, we talked about this issue and got ideas from them. What is also important is as we develop housing agreements such as the Kukui'ula employee housing agreement, we worked with our representatives from A&B and D&B and in working out that provision, give us ideas that became part of this policy. The same thing in regards to working with Grove Farm representatives and working on the Līhu'e Land Company Affordable Housing Agreement that will be presented to the Council at some time, plus many, many professionals that I have talked to from the real estate profession and all different walks of life.

Question number 4: Provide the rational nexus between buyback provisions for leasehold and fee simple sales. I believe what you are requesting is to compare the repurchase formula. In the proposal, the leasehold program notes that it be a 99 year lease and that the County would buy it back at any time and that the owner/seller would receive the original price plus 1% interest for the first 10 years and 3% annual interest from years 11 to 99. The proposal also talks about restructuring or revising our buyback policy which, right now, is a 10 year period to have longer terms. What we talked before and what we want to do is believe that longer terms are necessary. We think we should stick with the 1% annual interest being that that is something that has worked well in the past and it is also what is in State statute and through the other County neighbor island counties use. As far as the leasehold estate calculation, we've taken a whole different route now. In looking at how this leasehold estate program would work, we have been relying on a legal manual that is produced by the Institute for Community Economics back on the east coast and we've looked at their sample lease and all of their supporting information. What we would like to propose now is to change the repurchase concept of our leasehold program to be that we would pay 50% of the difference between the original purchase price that the leasehold or purchase the property for and the value of the leasehold estate when it was given back to the County. What this does is, it would enable us to follow the actual real estate market rather than trying to guess what it would be many, many years in the future. It also clearly encourages the leaseholder to take care of their property, maintain it to improve it to make it worth more because they get it back when they resell. What it doesn't do and what our original proposal with the known interest rates did was it provided a clear known amount in the future. But for the (inaudible), I could not figure out a way to ever tie it back to what the actual real estate market is doing unless you simply tried to tie the interest rate to change in the Consumer Price Index.

Question number 5 asked for us to provide the details about the fast track permitting and the 201G exemption process and (change tape)... is that the people who are going to be doing the work in fast tracking and the exemption process be part of providing what those... by process would be, so I am going to ask Bernard to have an agenda item on his affordable housing task force, so we can discuss this over the next several months to get that answer and provide it to you at a later date.

Ms. Iseri-Carvalho: That is fine.

Mr. Rapozo: I have a real quick question. Ken, at the recent HSAC meeting, we found out that 201G is now 201H.

Mr. Rainforth: Yes.

Mr. Rapozo: And I didn't even know that and Maui and Honolulu had some dialogue about how they do their 201H processes. In fact, I am not sure if we got the resolutions that Honolulu, City & County actually... the Council dictates the conditions of the 201H which I was kind of surprised to hear. We have asked for them to forward to us some of their resolutions that they used and we will forward that over to you to consider because I was not aware that the Council could, in fact, and neither was Maui and Maui's County Attorney informed them that they were not able to amend conditions of a 201G project and Honolulu says that they can. We will forward that information over when we get...

Mr. Rainforth: The last legislature provided clear language to allow the Councils to do that. Prior to that, it was silent and it was anybody's guess. Number 6: you've asked for a written legal opinion from the County Attorney's Office regarding the testimony from LURF and from Professor Callies. You should have in your packet a copy of a memorandum from Mike Matsukawa. We've asked that if that memorandum can be made public. I haven't received a response yet. By the time we have our workshop, it needs to be because we need to have that open discussion about the County's position on these matters.

Number 7 was to respond to testimony from Tracy Nagata from D.R. Horton.

Ms. Iseri-Carvalho: I think with respect to that question, we can raise at the time of the workshop Ken. We have five (5) minutes for caption break, so...

Mr. Rainforth: You want to move on from 7 then?

Ms. Iseri-Carvalho: Yes, and I think, in fact, that is the end. That is the last question, so we will reserve those responses at the time that we have some dialogue from Tracy Nagata.

Mr. Rainforth: The last thing would be... in setting up this workshops, I put this down and I forgot to mention that the workshops should be held on a day other than a Council meeting day. The names that I put in here were only suggestions and I haven't contacted them. They would probably be upset with me if they knew that I had suggested them as possible candidates for their roles. Thank you.

Mr. Kouchi: Just good suggestions for the workshop people. I would support that if you were looking for feedback.

Chair Asing: Ken, I think I need some feel on direction that your heading in this policy regarding both leasehold and fee simple intent of the County on whether these people who get either the leasehold, fee simple or even rental. Is it the County's intent that these housing units be kept within that system forever? Is that the intent?

Mr. Rainforth: The intent of the leasehold provision would be to have permanently affordable units, yes.

Chair Asing: Yes, I think we need to kind of work on and get some idea as to what we want. The reason I am saying this that you have people in the community who are able to purchase one of these homes. As an example, affordable unit, it is put out and the individual gets the unit. Now, when it gets the unit, the feel is, am I someday going to own this outright? Or is this going to be something that the County is going to get their hands on forever? I want to be able to own this someday. This is mine outright. If I want to sell it, you know, 25 years down the road, I can sell it and, you know, get some income and move up to the next level. That is the not the intent right now as I see it, am I correct?

Mr. Rainforth: You are correct, that is not the intent.

Chair Asing: Then I would... I think we need some exchanging ideas and feel because I don't think that the community fully understands this. I can give you an example and say that at the Kukui'ula Development at one particular time, those individuals from the Kōloa Community Association were very, very upset at the fact that, you know, they were not going to be able to own this in the future. You know, in their lifetime and that is something that don't have to own, so it was a concern. All I am saying is, maybe we can talk about that at a later period, but as it is designed now, it is forever. Am I correct?

Mr. Rainforth: That is correct.

Chair Asing: And then I think we need to discuss this a little bit. Thank you.

Mr. Kouchi: I think just real quick to get under the two (2) minutes. Part of that is the educational process for potential homebuyers because, right now, the mortgage would be income tax deduction and instead of paying rent and losing all of that money, all of the principle payments that homebuyer would have put in are actually being put into an account building up that equity, so if they did sell, the intent is that they cannot own that house, but they will build equity to be able to have money to turn around and eventually upgrade to a new house and while minimal interest would be earned to keep it in that affordability range. The key is having that money building up as equity in the home and not going down the drain as rent every month and not having an ability to save for the down payment.

Chair Asing: I think that is a real good issue, Ron, and that is a good issue to debate because it is a matter of how much is that worth? There is a vast difference between that value and the value of the house when you sell it. Thank you.

Ms. Iseri-Carvalho: That is our two (2) minute caption break time. Thank you Ken and Bernard for the excellent presentation. I believe it is a work in progress as we all know and it is a 20 page document, so it will take some time for us to digest all of the particular pieces that we have in the document. So it was very well prepared and thank you for that presentation and for providing it in advance. We will at this time take a 10 minute caption break. Thank you.

There being no objections, the Committee recessed at 11:05 a.m.

The meeting was called back to order at 11:23 a.m., and proceeded as follows:

There being no objections, the rules were suspended.

Ms. Iseri-Carvalho: At this time, we have the rules suspended and we will accept public testimony. Yes, Glenn?

GLENN MICKENS: Thank you Shaylene. Just one quick comment. I want to sincerely thank Ken for his diligence and hard work at addressing the housing needs on Kaua'i. I really believe that this person is one of the hardest working people on Kaua'i for doing his job. I don't think there is anybody better. I also believe that a strong educational department is going to be needed to help the public understand this system as it is very complex. I am sure that all guys brought up a lot of interesting questions about the percentages and stuff. I don't think the average person watching this on tape is going to truly understand it, so I think you going to need some education. Thank you Shaylene.

Ms. Iseri-Carvalho: Thank you Glenn. Wow, nice positive comment. Anybody else who wants to say the same thing that Glenn said? There being no one else, the meeting is now called back to order.

The meeting was called back to order, and proceeded as follows:

Ms. Iseri-Carvalho: I would note that we did get the flyer that came in yesterday from Bernard. I guess this would be a preview to another flyer that will be coming on entitled, "Turning Hope Into Homes". It is homebuyers and renter educational fairs that will be on the southside on March 3 at Holy Cross Church. On the north on March 10 at Kīlauea Gym. East, on March 17 at Kapa'a Elementary School. The central district on March 24 and these are all Saturdays at the Convention Hall. The west will be on March 31 at Waimea Theatre. They have a schedule of set up and they also will be providing child care at these fairs to allow as much people as possible to attend. They also have a questions... if you have any questions regarding the substance of this fair, a contact number is Hawai'i Homeownership Center at 245-5860. We hope that our Kaua'i residents will take advantage of these kinds of educational fairs that are hoping to turn renters and new first time homebuyers into (inaudible)... and rental units as well. So they will, I believe, go over all of the projects that are to become available within the next two (2) or four (4) years and we will provide the finance years... I believe there were the banks that will all be present as to how to qualify and you can sign up for that as well as the developmental projects. There will be the developers there telling you their projects that are upcoming within the next several years, so I think it will be very valuable for our community and we hope that as much people as possible can participate. These fairs are going to be duplicated across the regions, so even if you might live on the southside, you still would have the opportunity and if that date is not convenient for you to attend the one on the west or in the central district. They really are putting a tremendous amount of effort into outreach to educate homebuyers and renters and the most important part is that these educational fairs are free of cost, so please take advantage of this and if you have any information... 245-5860 if you need more. We are now in the discussion stage. Any further comments with respect to what has been on the agenda?

Mr. Furfaro: Councilwoman, I just want to thank you on the upcoming workshop that you are planning. I held most of my comments today because I knew you were planning that and certainly look forward to the two (2) items again. I am most concerned and I would like to hear from the professionals that will be there that are dealing with some of the items the Chair brought up is the equity portion especially if it is the incentive is dealing with... at some point they could upgrade themselves from a townhouse and so forth, but I just want to commend you and the work you have done in the Committee and I look forward to the workshop.

Ms. Iseri-Carvalho: Thank you and I think given the extensive nature and the concepts that are proposed in the current bill that there will be more than one workshop. I mean, I think it will take that much more time, but we will begin with the first one hopefully at the end of February.

Mr. Furfaro: Thank you very much.

Mr. Bynum: I would just like to echo Councilman Furfaro's sentiments. Thanks for all of your good work and I am looking forward to the workshop and glad to hear that there might be more than one because the issues are complex, but this is a very important bill for the future. I also want to commend Ken for being responsive to, again, complex questions and obviously he is a great asset to our community to have his depth of knowledge and networking that he does with the other counties, so thank you for your good work and look forward to the workshop.

Ms. Iseri-Carvalho: Thank you Councilmember Bynum. Any other comments or questions? If not, the first workshop, I believe that there was some suggestions that were proposed by the Housing Department. What I anticipate doing on the first workshop is trying to look at it with the various stakeholders, but it will not be an invitation type of workshop. What will happen is that we will post a month in advance, so probably by next week, we will have that posted and anyone can come. We will invite the stakeholders and if they want to provide testimony or input with respect to the various provisions that affect them, they will be given that time to do so. That kind of format that I am looking at is that we would ask questions of them like a more information gathering type first to find out where they are with respect to the provisions. Hopefully, they will provide some kind of numbers... not only say, it is not a good provision, but basically say, what is a good provision then, so that would be kind of the format on the first one. We will try that first and then based upon how that goes, we may have different formats subsequent to that. Any other questions? If not, if I can get a motion to defer pending workshops and then we will put it back on the agenda. Thank you also to Ken and Bernard for the excellent work that they have done.

Upon motion duly made by Councilmember Furfaro, seconded by Councilmember Rapozo, and unanimously carried, Bill No. 2202 was deferred pending workshops.

CA/IGR 2007-2 Communication (01/10/2007) from Councilmember Mel Rapozo, requesting that the Administration be present to give an update of the house that was donated to the County for the Adolescent Residential Treatment Center.
[This item was deferred.]

Ms. Iseri-Carvalho: At this time, I will suspend the rules.

There being no objections, the rules were suspended.

Ms. Iseri-Carvalho: Is there Gary Heu or a person from the Administration? What I do is... he is not currently in the audience. If I could recess this Committee...

Mr. Rapozo: Madam Chair, I have a PowerPoint that I could...

Ms. Iseri-Carvalho: I think you would want to do with them...

Mr. Rapozo: I am sure they are watching. He is coming, okay.

Ms. Iseri-Carvalho: He is here. Okay, we can wait if he is coming up the stairs.

Mr. Furfaro: So Councilman Rapozo, are you going to do the PowerPoint first?

Mr. Rapozo: I think that would be my preference, then we can... then the Administration can respond to the PowerPoint.

Ms. Iseri-Carvalho: At this time, what I will do is turn this over to Councilmember Rapozo to do his presentation.

Mr. Rapozo: Thank you and I just want to preface the presentation by the fact that some will say that I am making a mountain out of a (inaudible). I just want to say that I have received two (2) separate calls from constituents concerned about this issue and I was quite shocked and had been in communication with the Administration regarding the status of this issue and basically have not received a response and that is why it is here. I want the public to be able to understand why we ask the questions we ask. You know, I will say it again, the newspaper rarely covers the entire meeting and I wanted to make sure that... because at the surface, it doesn't seem like such a big problem. We took a house as a donation, we had plans for it, we changed our mind and, nonetheless, now we have a house. But it is deeper than that and I wanted to share that with the public because I think it is... the potential for a cost to the taxpayers is substantial and, in fact, being that we accepted the donation, at the end of this meeting, I am going to ask that we consider giving the donation back to save us several hundred thousand dollars. With that, Madam Chair, if I may start?

Ms. Iseri-Carvalho: Yes.

Mr. Rapozo: Peter, you can go ahead. The earlier version was let's make a deal, but I don't think as many people watch that as they do deal or no deal. Peter, you can go with the next slide. This is the house that I think many of you remember back in 2005 and we had the request from the Mayor that someone wanted to donate this house. It was on the agenda on September 8, 2005 and C 2005-313 and it is part of your packet today. As of result of that meeting, we were told that the house was worth $250,000, that this house was going to be used for the Hanapēpē Drug Treatment Center, that, in fact, the house was recently renovated and it was structurally sound. That is what was presented to us on September 8, 2005. Obviously, there was no opposition by this Council and the letter really says here, I am asking for your approval to accept the gift for the adolescent... residential treatment facility. The gift is a house given to the County from Josephine Okuno which actually is inaccurate. That was not the owner of the house at the time... for the Adolescent Residential Treatment Facility. This gift will be utilized as part of the total complex of the Adolescent Residential Treatment Facility. We ask for your approval in accepting this gift. Thank you and this was signed by the Mayor. Again, obviously, this Council unanimously supported that. I think Chairwoman Iseri-Carvalho on a break went out and did some due diligence research and I am sure she will talk about it later, but to verify some of the information that was told to us. Next.

Okay, November 18 is the Community Assistance Committee Meeting and this was Bill No. 2196, $600,000 for the Hanapēpē Drug Treatment Center. I think we all remember that as well. At that point, we learned that this house was no longer in the plan and for whatever reason, this donated house was no longer going to be used for that facility and that is when I think the Councilmembers began asking the questions. Okay, so now what are we going to do with the home, this house. On October 24 following that meeting, we sent follow up questions to the Administration regarding the drug center. Part of that was a request... that a written response and presence be made at the November 1 meeting. One of the questions was quite simple was, what is the future plans of this donated building now that it is not in the plan. In fact, does the donor know that his or her house that was donated was not going to be used for the facility and so forth. That was on October 24. On the 30th, we were asked for time, more time, Doug Haigh asked for more time to answer the questions. On October 26, we received a call from a citizen regarding this donated house. The citizen stated that this house is not worth $250,000. Now, apparently, this person that called which I don't know who he is, but he lives in Kōloa and apparently watches the meeting on t.v. and was pretty shocked when he had found out that we had accepted a house valued at $250,000 when he, in fact, said that this was not a house that was worth $250,000. He asked that I look into it and at that point I contacted Gary and learned that the house is located on Weliweli Road. Next.

I drove down to Weliweli Road and found the house and I took some photographs and I have to tell you that when I first saw this home and Gary is here and he can confirm this. I called Gary and said, Gary, really, I don't think this is the house. If it is $250,000, then something is missing. Gary... I e-mailed him the photo and he got verification that, in fact, that was the house. I am not an architect, I am not an appraiser, I am not a real estate guy, but I know that that house was not worth $250,000. I informed Gary and, in fact, Roy Nishida who was the Anti-Drug Coordinator was apprised of the situation and basically responsible for all follow ups at that point.

November 10, I still hadn't heard a response neither did this Council receive a response regarding the questions that was asked of the Hanapēpē Treatment Center. The most recent request was done via e-mail requesting additional information. Really, I wanted to know the true value of this house, what the moving cost estimates would be and what were the planned use? I had heard that the plan to donate this... the plan for the donated house was to re-donate it to a religious entity which was not reached to this Council yet and there was some concern there. That is what we asked: true value and what is the value of this home and I wanted to see an appraisal because, if, in fact, we had given someone a tax break (tax write off) of $250,000, that is quite concerning because I think you will see soon that that house is nowhere near worth that amount. Next.

On January 15, a guy comes into my office (a different gentleman) and says, hey, you know, what's up with that house in Kōloa and do you know that it was on the market for sale and I had no idea. I tracked down the MLS and we actually found the MLS and that this house was on the market in 2005 for $120,000. Just the house, no lot, because it was just the home. In fact, the house could not sell and they reduced the price $60,000 and they still were not able to sell it. In May 2005, they withdrew the listing because, obviously, nobody wanted to buy this home. It was just too much of a liability in my estimation and I think you will see that soon. This is the MLS, this is the actual MLS and this is not something I fabricated, but this is basically the last MLS. It was actually listed $120,000 for a while, could not sell the house and it went down to $60,000 and the land area is not applicable because you are not buying the land. This is just a home and I don't know if you can see this, but it is 1,066 square foot home, two (2) bedroom, half a bath and that means that there is not even a shower in this home, it is only a toilet. Because in the old days and this house was built in 1921 and remember when you had to go outside and shower and that is what this is. This is a shell and it also comes with a separate garage which also is 1,058 square feet and also has a half bath. I went in and tried to find the bathroom. I couldn't find it in the garage side, it looks like a big storage area, but, anyway, that is the MLS and 148783 is the number if, in fact, you want to trace it down. Next.

This is the tracking sheet on the MLS. Every listing has this. You can find out what happens on what date and you can see that back in February 2005, they dropped the price from $120,000 to $60,000. Obviously, those guys were looking for somebody that was willing to spend money and purchase this house. The other cost to this is the moving of this house. The buyer was responsible for paying for the relocation or moving of the house off the property which unfortunately now the County is obligated to do. Next.

Structure number 1 was built in 1921, 1,066 square foot, two (2) bedroom, half a bath, no land included, buyer to move the structure and that is taken directly off the MLS. I think if you go down in Kōloa on Weliweli Road, you are not going to miss this house. It is all boarded up and it is overgrown with grass. Go ahead.

That is what it is. Totang roof, I mean, I don't think they even build those things anymore, but that is the house. That is what we basically own today, the County of Kaua'i and we are responsible now to move this thing at our expense (at the taxpayers expense). Remember, we accepted this as a Council because this was going to be a wonderful asset or an addition to the drug rehab center down there in Hanapēpē. Next.

That is just a closer view of the doorway. It is overgrown already. Next. That is the back of the house, the other side. I was kind of concerned because of the no trespassing sign, so I was trying to do this quickly. Next. Well, we own the house, the County owns the house. We just don't own the land. This is a side view of the house. This is the... Next.

Structure 2, again, built in 1921, 1,058 square feet, two (2) car garage with storage, half a bath again and no shower. I guess back in the old days, everybody bathe outside. No land included again and buyer to move structure. Go ahead.

This is the garage. This is the two (2) car garage and if you look at the little window that is all broken, that is the storage area. I understand that the Chair went down as well and took some videos, so maybe he has better videos. This is the best that I could do. Next.

Sorry, the tree got in the way, but that is just the front shot of the two (2) car garage and that is what is going to cost money is that we have to move two (2) buildings, two (2) structures off that property. Next.

Structures number 1 and 2, $250,000 donation accepted. In all estimates, the cost to move these structures will be between $200,000 and $300,000 of County taxpayer money. Heaven knows how much to renovate. At $250 a square foot, that is 2,000 square feet and you are looking at about $400,000 potentially to renovate using today's prices. Again, if we were to renovate this for the use of a drug rehab center, maybe it is easier to justify, but for no planned use, you know, I just cannot see doing this, so my question really is, deal or no deal. Did we get a good deal or not. I think now looking back that we got duked and now we are stuck with two (2) structures that we have to move. You can go to the next one because that is the old plantation shot. Now you got the house and the garage that will have to be moved. Excuse me, I don't have wide angle on my camera, but maybe Kaipo's video does. We now own that. We have accepted that back in 2005 and maybe I guess it was 2006 and I don't know what next. The reason it is on the agenda is because we could not get a response. I want the public to understand because I... you know, again, we get the calls from the public. We ask the questions, we don't get the answers, you know who looks bad is the Council. How in the world could you have accepted that. Well, the acceptance was done in good faith. We accepted that because that was going to be used for our drug rehab center. We were told 1,500 square feet, solid structure, recently renovated, $250,000 value, why not accept that and pay for the cost to move it. In the end of the day, we end up with two (2) structures that are near worthless. I shouldn't say worthless, at today's prices, and obviously, we couldn't sell this for $60,000 if we wanted to. My question now is, can we... maybe the County Attorney is going to have to answer this. Can we give it back if it was such a good deal? Can we give it back to the owner and let it sit right where it is because I think it is pretty over there and I just don't think that we have the resources available to take on this burden, so I am going to ask this Council to consider returning this donation back to its rightful owner and we can move on and live happily ever after. Thank you Madam Chair.

BILL "KAIPO" ASING, NON-COMMITTEE MEMBER: Why don't we do this. Mel, you can do it. I just went down there and did the video of the house, so you can describe it if you want to. Go ahead and show the video Peter.

Mr. Rapozo: That is the County Clerk's Office. Okay, that is a much better shot. In fact, that really shows the size on this one. That is the house and this is the actual main house, two (2) bedroom. The fence was already broken Kaipo and we did not break that fence. There is the little garage, the two (2) car garage. This sits at 3430 Weliweli and you are not going to miss it if you are heading down the Kōloa right across... it is right past the Kōloa Courthouse, Kōloa Neighborhood Center and if you are heading down towards Po'ipū on the left side. Again, I am no architect or construction expert, but I just know doing little home repairs at my house that to renovate this, it is going to be quite expensive not to mention the relocation of this. I simply don't know what we would use this for. You would have to retrofit a shower in there if you wanted to... initially, I thought, not bad, we could move this over to a nearby lot and rent it out as an affordable housing, but I think the cost to renovate this is just going to be too much if you add in the moving expense. I mean, $200,000 to $300,000, when I first heard that, I couldn't believe it, but inquiring with a couple of companies right now to get this house moved, it is going to cost quite a bit. The ti-leaves do not come with the house. That you have to leave. You just have to figure out how you can get that house out without damaging the ti-leaves because that is still owned by the owner.

That is Weliweli Road looking up towards the Lappert's Ice Cream. I am not sure what that building is, but...

Chair Asing: That is Kōloa Road there. You see the stop sign...

Mr. Rapozo: Kōloa/Weliweli Junction and I think, Kaipo, the Chair, has some information on that parcel that this house sits on.

Chair Asing: The only reason for this photograph here is to show that (inaudible)... there are two (2) other houses on this lot. It is a big huge lot and it is the historic Kōloa Village Project which was recently turned down by the Commission. I believe it was turned down in December. That is it Peter, you can knock that off.

Ms. Iseri-Carvalho: I guess did you want to get further information.

Mr. Rapozo: Well, I don't know where he went, but, again, I want to make it clear, this was not intended to belittle or humiliate or embarrass, but I think the public needs to see what happens. Often times, you know, when we do things, we get the stories written in the paper and it is just... people don't get the true picture, so this is it and this is what we got and now the question is, what do we do next? What the plan is? I don't even know if the Administration even knows what the plan is for this structure. There is going to come a point where the landowner is going to demand that we move this house because it is now... it is a liability on that property. Somebody goes in there, some guy with a camera goes and takes pictures and gets hurt in that house, we get sued. So it has been there now for, I guess, pushing two (2) years. I don't know how difficult it is to answer that question. What is the plan? If there is no plan, let's give the house back because it is a liability that I am not willing to incur and I am hoping that the Council feels the same way. You know, again, we have given, I think, the Administration enough opportunity to respond and for whatever reason, they haven't. But I think if there is no plan, then I guess we need to start the proceedings or the process to give this thing back. Again, I have received calls from two (2) people and then I am sure after this meeting airs, we will get more calls, but the reality is that we are now proud owners of that and we need to know what we are going to do with it. Thank you.

Ms. Iseri-Carvalho: Alright. Gary, if you could come forward, I would appreciate it. Thank you. I hope you can answer some of those questions. Is there anything inaccurate in that presentation that you would like to address?

GARY HEU, ADMINISTRATIVE ASSISTANT: You know, quite honestly, first of all, Gary Heu for the record. Good morning Chair and Councilmembers. The communication we received recently was to come before this Committee to provide an update and a status on the donated house. I guess and I am not sure if it is a bit of miscommunication or something fell through the cracks on our side, but Councilmember Rapozo is correct that he and I were in communication via phone and e-mail. This would have been back in the November timeframe regarding some questions he had about the home. He asked about location and I think there was some confusion about the actual location of the home because apparently what we are talking about here is a fairly large property. There is one TMK, but it is a large property that I think borders a number of different roads, so there was some confusion initially about the actual location of the home. But I think in the final analysis, he did locate the proper home. We did validate that. He also sent me an e-mail on November 10 with a further question and indicated that he would be sending over a written communication to us which is the normal procedure for us to respond to. At that time, I forwarded the e-mail onto our Anti-Drug Coordinator Roy Nishida just giving him a heads up that we would be receiving a communication. Unfortunately, I have been unable to locate that communication either within the Mayor's Office log or my personal log and it may... we checked with the Anti-Drug Coordinator's Office and they could not find the communication, so certainly if there was a communication that was sent over with specific questions about the house, we would be more than happy to answer those questions.

Ms. Iseri-Carvalho: I believe it wasn't in a separate communication. The communication was within a whole list of questions regarding the Adolescent Treatment Center, so I believe... was that the 35 questions? Yes, that was the 35 questions that actually went under by heading, so Councilmember Rapozo had incorporated his questions, Councilmember Furfaro and everyone had put together questions in that 35 questions that included about OHA...

Mr. Heu: Oh, I see.

Ms. Iseri-Carvalho: So that is the communication that he is referring to because we had decided, at that time, after that inquiry that we would send over one communication with respect to the Adolescent Treatment Center.

Mr. Heu: Okay, I understand now.

Ms. Iseri-Carvalho: So that question was within that. What question number was that Cyndi? Question 13 and we haven't gotten a response to that entire communication yet.

Mr. Heu: Right, and so… I mean, I don't want to side track the discussion about the home, but relative to the list of questions from the Council as well as the communication from OHA, just to let you folks know that the final details are being worked out on that communication. It is in review and we hope to get that comprehensive response over to you folks very shortly, so that we can continue to deliberate the future of the proposed site. But, anyway, getting back to the…

Ms. Iseri-Carvalho: I think maybe I will start to ask the questions just to kind of put it in perspective. The value of the house, did the County… because that was part of the question that we had sent over. What was the appraised value of the house?

Mr. Heu: To my knowledge, we never… I don't believe that we ever got "appraised value." I think that when a figure was being placed on the donation to the County, I believe, at that point in time, the architect who was working on the overall project valued it at about $250,000 I believe. Subsequent to the acceptance of the donation, I believe that someone did a cost estimate based on replacement cost, square footage and based on that, the estimated cost came out to be about $200,000, $208,000 or so.

Ms. Iseri-Carvalho: $280,000?

Mr. Heu: Eight (8), 208, but, again, relative to an actual appraisal being done, to my knowledge, that was not done at the point in time that the donation was accepted.

Ms. Iseri-Carvalho: I guess then, Gary, the concern is, why we give a cost estimate on a replacement cost if we are not going to be replacing the house. I mean, that is the house that we are going to take, I mean, as the value. Why wouldn't we use an appraised value versus…

Mr. Heu: No, I think the thought process was if we were to take a similar structure and start from scratch and build it on the site of the proposed Adolescent Treatment Center, how much would that cost? I think that is the cost that… when I give you that $208,000, I think that is the rationale behind that number.

Ms. Iseri-Carvalho: Does the... I guess the person who gives the gift, do they get any benefit of giving such a gift to the County? Is there any benefit or financial benefit to that person in a form of a tax break?

Mr. Heu: You know, I am not a finance guy, I would only assume that there is. I would assume that he is making a donation and somehow that could be written off, but, again, that would probably be a question better posed to a financial person.

Ms. Iseri-Carvalho: And then I guess when they had decided... when the decision was made for the house to be donated to the Adolescent Treatment Center, there must have been some assessment that it could be of value to that Adolescent Treatment Center, right? I mean, somebody had to make a decision that he was going to be incorporated in the plans.

Mr. Heu: Yes.

Ms. Iseri-Carvalho: And who made that decision?

Mr. Heu: I think, again, the person who was helping with this project was the architect Mr. Agor and I think that was an assessment that was done. I guess, you know, we are reaching back into history to maybe reconstruct what took place. I came here this morning prepared to talk about what the status was and what the intent was for the use of the building. And you are... I guess it was Councilmember Rapozo is correct that when the bids came in for the project and we saw that the estimated cost were far above what we had expected to pay, we had to look at restructuring the project, so we came to this Council to ask for an additional $650,000. Now, in our effort to try to balance out trying to build a project that would be a viable one, we had to eliminate or it was felt that we should eliminate this particular structure and save the cost there. So, again, Councilmember Rapozo was correct in saying, now, the County accepted the donation, but may not be in a position to use that donated facility for the stated purchase. Now, at that point, you know, there really is a decision to be made in terms of, is there another appropriate use for that structure? Can that structure... it is now a County asset, so can that asset be used by some other agency or somewhere else in the County. We haven't completed that analysis, but, certainly if we found that there might be another appropriate use for that structure, we would certainly come before this Council for further approval because the action that this Council took was to accept the donation for a very specific purpose which was to be used down at the Adolescent Treatment Center. If we are not going to use it for that, then we feel that it is appropriate to come before this Council and propose another use if, in fact, that was appropriate. On the other side of that is, what happens if we get to the point where we say, you know what, there truly is... we can't find an appropriate use for the structure within the County operations and what we are doing now is having an analysis done of how would we, if this was the route that we choose. How would we... like Councilmember Rapozo is saying, how would we give it back to the donor and I don't have the answers to that, but that is being analyzed currently because the question would be, that is now a County asset and to dispose of a County asset, does that require Council approval. I think not in most cases, but in this case because the County did accept it for a specific purpose, you know, our gut feel that maybe that would be the appropriate action. But we are asking help from the Attorney's Office to help map out what that would look like if that was the decision that was made. In terms of status, that is kind of where we are right now with the house. We have a donated house that was supposed to be used for the Adolescent Treatment Center and the decision was made that, you know, they... (change side of tape)... reverse this and get this back in the hands of the donor.

Ms. Iseri-Carvalho: I think by now he probably would have had his tax break on that value anyway. Anyway, did the Administration provide a letter saying that this was... there has to be some justification for that donor to file and some paper work to file indicated that that was a gift and taking a benefit from that. Did your...

Mr. Heu: I don't recall... you know, I looked through the file on this particular issue and I don't recall seeing anything like that. I know that a communication went over thanking the donor for the home, but I don't recall seeing and maybe I need to go back and specifically look for that, but just off the top of my head, I don't recall seeing a specific document.

Ms. Iseri-Carvalho: Before I ask other members questions, I wanted to... the value of the renovation, do you have that information?

Mr. Heu: The value of the renovation, so in other words, for that specific structure, what would it cost to make it viable at the treatment center, I don't have that information, but I believe that was probably factored into the analysis in terms of why we wouldn't proceed with the use of that building given the...

Ms. Iseri-Carvalho: I remember seeing some documentation that was provided, I believe, from Doug Haigh that it would cost $300,000 to move when we had been discussing...

Mr. Heu: To move?

Ms. Iseri-Carvalho: To move, when we had been discussing this with the Adolescent Treatment Center plan.

Mr. Heu: The only… for this specific structure, the only number I recalled seeing was a $45,000 and that was a quote provided by Kīkīaola Land Company to move the structure. I think there was a… there might have been a line item for the total cost of relocation which would include the structures down here at the Convention Hall, but…

Ms. Iseri-Carvalho: Maybe you can check on that as far as the renovation cost. Okay, Councilmember Kouchi?

Mr. Kouchi: Well, first on the donation, I am not sure because the County has no status other than being the County, so we are not a 501C-3 or anything else, so that is why we create things like the Kaua'i Housing… the non-profit groups, so that they can get tax benefits. I think, you know, condemnation has to be at least implied before someone would get a tax break. The second question… well, not question, but the first questions… we've talked about what we may do, but was the donation made specifically for the Adolescent Treatment Center and would, in fact, the donor permit an alternative use or was that donation specific and we are in violation. So I think before anybody goes ahead, we need to be clear from the donor that an alternative use is permissible as well.

Mr. Heu: That is interesting Councilmember. We had a discussion about that a while ago and I speculated relative to what that response would be, but we have not gone back to check with the donor to see, again, if we… because we accepted for a specific purpose, but I am unsure whether it was a specific purpose that the donation was made.

Mr. Kouchi: And I don't think so, but if it had said, our first intention is this, but it may be more appropriately used somewhere else, no big deal. Because we have had when the Fire Department or the lifeguards have performed rescues, you know that family members have made specific donation, so that they wanted to be sure the Fire Department got the money or the lifeguards got the money to do training or whatever or buy equipment because they were very thankful specifically for that particular agency to have served. To me, it just would be good to have that concurrence and then I can only tell you on a limited experience at KIUC, we were trying to see if there was some sense to breaking down the boiler at Līhu'e Plantation, reassembling it at G&R and having an ability to burn bio-fuels there at G&R and make use of an asset we had in the community. On a simple back of the envelope assessment, it looked like the cost and then the changes were upgrades required to owe material without a warranty didn't justify doing it versus brand new construction and you would have the warranty of the contractor and brand new material and everything else. What is still problematic is that if we are looking at some significant upgrades, it is 75 year old structure that we are going to put band aides to versus brand new construction with warranty, etc. I guess my only final point is that I don't think you need to get back to the Council should you have permission to do something else with the structure and you decide to get it out of the County inventory because the law is clear that you need to go to public auction. Your problem is, if you decide to try to do something else besides public auction with that structure and if there is somebody else interested in it, then I think it is really problematic now. Is the County in the business of taking donations and cherry picking one community organization to get this benefit versus someone else. If there somebody else out there that could, in fact, use it and hopefully they would have a non-profit status, then I think it would be probably in the owners interest to take the asset back and then make that donation directly and then they, at least, in that case, would clearly be able to get a tax benefit out of making that contribution. Those are just my comments and one limited question.

Ms. Iseri-Carvalho: Councilmember Furfaro?

Mr. Furfaro: Yes, thank you. Gary, my comments are pretty similar to Mr. Kouchi in two (2) ways. I heard you indicate that you had not seen any kind of receipt issued for this gift. Did I hear that earlier?

Mr. Heu: That is right, I don't recall seeing that.

Mr. Furfaro: Okay, and the fact of the matter is, as we look at someone using this as an estate tax return and a credit, there had to be a receipt issued. On the flip side, I think you need to also look at as we receive this gift, we then also have to identify and I guess we might have done it in the proposal of the $250,000. We have to identify what is the fair market value and that needs to be substantiated by an appraisal. So based on the fair market value and an appraisal, I don't know how Mr. Tresler would have handled this, but somehow if we have accepted it, we need to have that asset on our books for the fair market value that we took it at. So I would say, you probably need to look at those two (2) things. I guess, you know, we at the Council maybe assumed that the $250,000 was a fair market value, that there was some kind of documentation that indicated that. That is the nature of today's cost. You have a fair market value, but if you accept a gift like that, you needed to place it on our books and then if you had some kind of a modified appreciation while it sat there is one thing, but if you really had planned to then move it as an asset to another County project, the asset would be on our books. So that is the second part of my question and I would appreciate if you look into that and I think we may have... I think as Councilman Rapozo said, this was not with any malice or anything, it is just some of those things that both Councilman Kouchi and myself have just mentioned probably needed to happen. Our question is, did they? Was a receipt issued? Was an appraisal made? Did we have something that was put on our books for fair market value? Is it up until the time that we make a donation to a non-profit and, if so, how do we get it off our books even if we end up selling it to somebody else or giving it back, but we should ask those questions. Thank you Councilwoman.

Ms. Iseri-Carvalho: Okay, thank you. Any other questions? Council Chair?

Chair Asing: Just a couple things. Maybe just so Councilmembers know what we are talking about. Let me just say, this is the parcel that we are talking about right now and this is Kōloa Road, this is Weliweli Road, this is the neighborhood center and as you drive down this road, the house that we are making reference is in this vicinity here. This drawing that you have on the board here is the recently... it is called the Historic Kōloa Village LLC and this project and this is the project. The project consists of neighborhood commercial in this area and some housing development in this area, so this is the parcel. This project was denied by the Planning Commission in December of last year 2006 and I have the decision and order here. Now, so this property here is actually vacant right now. There is nothing there accept... as shown on the video, there are two (2) older houses here. One in this area here and another one... they are very old and they are not any good. The house that we are referencing is located in this general area right here, so that is kind of a little bit of history on what we are talking about. So we are talking about vacant land and it is about six (6) acres and the house is located here and you had pictures of the house, so you have an idea of what the house looks like. If you went to the tax office today, you will find that there is no value to that house. It is... as of year 2000, you will find that it is $100 value exempt, so there is really no value to the house as far as Real Property Tax Division is concerned and going through the records, you will find that going back from year 2000 all the way back to 1988, you will find that the highest value on that building changed anywhere from... 1988, it is was $27,751 and then the highest value was in 1997 which is $112,400. You have $107,000, $111,000, different figures, but that would be the very highest. As of today, the value as far as the tax office is concerned is zero. They put $100 and they put exempt, so that is kind of the history to that. That is all that I have. Thank you.

Ms. Iseri-Carvalho: Any other comments? Gary, I think the concern by myself and probably other Councilmembers is that the Council really received this gift under, what it appears to be false pretenses. I mean, I remember that meeting of September 8 because when that issue had come up, I had asked for the value at that time. Roy Nishida was not available and I guess he was off-island. We took a recess for me to go and call and I spoke directly with him because I was not willing to accept a gift without having that kind of information. It is quite unfortunate that when I learned of the information, I came out and said, you know, I am ready to vote based on the representations that were provided to me by Mr. Nishida that, in fact, this was and it was even wrong. I mean a 1,500 square foot house is only 1,000 square feet, that is structurally sound which it wasn't and this was September 8, 2005 and that it had been recently renovated and that it was inspected by Mr. Agor. I think there has to be some policy when we are accepting these donations that it is based on fair market value. I don't know if the County has these kinds of policies in place, but definitely they should be because, again, the transfer has to be reflected on the County's records. So, hopefully, this kind of situation doesn't come here again. Clearly, I think... you know, it is not like we want to be scrutinizing every gift that comes through or every aspect that comes on the agenda, but time and time again, that is what kind of position we are put in because I think this was something that was simple that could have been provided. It is really concerning when it takes months before we get any kind of response that should have been so simple because had we received the appraised value, that would have cleared up any concerns that we had been raising. So, definitely, I hope our Finance Director is taking that kind of position that we will not be accepting that kind of gift because I believe that the Council is probably going to be taking that kind of situation. We don't want to be duked twice, so I think it is important to do the research before accepting these kinds of gifts and hopefully you can relay back that to the Mayor.

Mr. Heu: Councilmember, if I could just real quickly. Number 1, it is my belief that the Finance Director is watching these proceedings, so I am sure that he is taking note first hand. Additionally, what I would say, I think we are... I don't disagree that there appears to have been miscommunication and that probably has something to do with the fact that we are talking about... I think maybe there was a question as to what the value and I think maybe we all need to have a common understanding when we are talking value. Is it the current appraised value? Is it replacement cost? I think there were a number of different things, so there were different responses being given and we were talking maybe apples and oranges, so I think maybe that is one thing that we all need to be cognizant of. I know, for sure, we do when we come over and if in the future where it is (inaudible) type of gift is that value should be defined as either fair market value of that specific structure or the current appraised value of the structure which I think drives back to Councilmember Furfaro's concern about how is it that that value is recorded as an asset for the County.

Ms. Iseri-Carvalho: So I think we will have some follow up questions. I think, Councilmember Rapozo, is it your intent to have this received and then follow up with the questions or did you want to receive those questions before we...

Mr. Rapozo: I know Gary talked about... he was waiting for the communication, but, you know, Gary, what happens is that when we submit questions, our staff is so efficient that they will pick up if it was already sent over and it wouldn't make sense to send the same questions over again. Question number 13 is quite clear and this was from October 26. What is the status of the Kōloa house that was donated by a private individual since it is not included in the revised construction plans for the facility. This is all number 13. Why is the Kōloa house not being used for the center? Has the owner been notified of the change in position of the usage of this house? I think you answered that today. What is the appraised value of this house? Are there any financial obligations associated with the donation, i.e., value used to match Federal funds. I don't know if we are using this donation as a match for Federal funds for another project. I am not sure. That was one of the questions, so I just want to clarify that. The e-mail, to me, was... had my questions on the e-mail as well and there was a comment that a letter would be forthcoming or request, but it was already sent and that is what we were told by our staff and, in fact, it was. I think... I had the same question down. What is the value on our books? We are going to accept the donation, we have to make this clear because, you know, I have 1991 Toyota Camry that I would love to donate to the County and get a tax write off, but would you give me a $19,000 receipt because that is what it cost to buy a new one or the blue book value which is probably about $1,800. So as we are accepting donations here, Gary, replacement value is not... that is not what you are going to use on our books. I hope that is not what we are doing because we are over asseting ourselves.

Mr. Furfaro: Maybe I should clarify that. The law requires if you make any donation over $200, it requires a receipt, okay, and it be booked for the amount they... but if they are telling us that there is no receipt, there is...

Ms. Iseri-Carvalho: He is not saying that...

Mr. Furfaro: But as of right now, we need to know, but what we also need to know, it is not a negotiable piece. I mean, if you give a receipt for $200, it goes down as having value of $200, but it also is very important that the only way you accept it and that is based on the fact that... the fair market value and those are all skewed today based on the fact of what Councilman Kouchi said earlier about the cost of construction and so forth. Those are two (2) things, I think, we need to look into. Was a receipt actually given and, if so, how did we handle it on our books?

Ms. Iseri-Carvalho: Yes, and I believe those are good questions.

Mr. Furfaro: That was Councilmember Rapozo's...

Ms. Iseri-Carvalho: Right, that was the same questions and I think... well, I know just sitting here just as a lay person that we were always talking about fair market value, so I did not think that there would be any kind of dispute as to what value would have been provided because whether you are in a hotel industry or just for tax purposes, legal purposes, you need...

Mr. Furfaro: The tax laws are all the same.

Ms. Iseri-Carvalho: Right, across any type of person. It would be the fair market value, so I don't think there was any miscommunication. I believe that we are all on the same page that when we receive the value, the value we believe we had received was a fair market value and that should have been the only one that the County should receive as an entity.

Mr. Rapozo: And I guess Madam Chair, if you go back and I know you read the minutes, the verbatim minutes, but back when we accepted it, it was specifically one structure, 1,500 square feet. I know you talked about this, but what else were we to believe other than this must be a really nice place. The last thing that I want to do is go check everything. I mean, I don't have the time, but when the public calls and I guess they watch this on t.v. and they say, you better go check that house, it is embarrassing when we go down there and holy, molly, 1,500 square feet and doesn't work out even if you put the two (2) structures together, it is over 2,000 square feet. There is no rational explanation for the information that we got from Roy and I did have a chance to speak to Mr. Agor at a dinner the other night and he told me, basically, he just said what it would cost to build the structure today and that is what the $250,000 was. He also talked about the cost of moving the house as well, but it is well beyond $45,000 and I know the number we got was from Doug during that discussion. Remember, it is two (2) structures. It is not one structure, it is two (2). You have to move it in two (2) separate occasions and the amount that was given by Doug was the fact that it would be taken from Kōloa and taken to Hanapēpē. I did ask a trucker friend of mine and without looking at the property, he did say between $200,000 and $300,000 to move two (2) structures that distance. I think the numbers are there. Now, if we are going to accept a house for $250,000 or claim to be $250,000 and we are going to spend above that to move it, I would think in our analysis that we would just build a new structure.

Mr. Heu: I agree.

Mr. Rapozo: That we don't have to go retrofit with bathrooms and showers and new roofs and windows and so forth. So, you know, Gary, I think the frustration is that we don't have the answers for the public and we cannot get them from the Administration and that is why it is here on the agenda today. I said this before you came in, no way it should be taken as a... that I am trying to pick on you guys, but I don't know what else to do to get the responses other than get it here on the camera and force the answers on us. I appreciate your honesty and so forth. I guess the question now, Madam Chair, is what do we do from here? I guess the question still has to be answered. What is the plan? I heard you say several times that you are analyzing the situation right now, but there has to be some kind of... is the thought of you giving it back or looking for another agency to accept it and yet the County would pay for the cost? Is that what you are looking at? That we would pay for the cost for the new owner, we would move it to their property, is that what you are looking at?

Mr. Heu: When I say agency, I am talking about County agency. If it is a County asset currently and all that I can rely on is kind of like standard procedure kind of stuff. So in other words, if one agency has an asset that it no longer has use for, then usually the other agencies will be contacted to see if there is an appropriate use somewhere in the County and that is what I was saying that we were taking a look at. Now, again, there are two (2) things here. Number 1, because of the change in use, we believe that we should come back to the Council, but Councilmember Kouchi brought up a good point which I think we need to nail down first. Again, was the donation for a specific purpose? The acceptance was for a specific purpose, but my belief is that, when I take a look at what I believe drove the donor, it was just that...

Mr. Rapozo: He was in the middle of developing a shopping center and he needed someone to move his house and nobody wanted to buy it, so he offered it to the County. That is what motivated the donor. Gary, I am not speculating. I should not say that, but I did because what else? Unfortunately, the thing gets denied and now there is no rush to get the house off the property. We were ready to help a developer clear his lot and that is what we did and we are willing to use taxpayers money for that.

Mr. Furfaro: I want to make sure we understand. I understood what I did as trying to help the drug treatment center.

Mr. Rapozo: So did I.

Mr. Furfaro: What you are implying now is a lot different...

Mr. Rapozo: And I speaking for myself. I am not speaking for the rest. I am just saying, when I supported that, it was for the drug treatment center and no other purpose. In my investigation subsequent to that, I had no idea that it was on the property of the developing shopping center when I voted for that. I did not know. It came to us... I read the letter what it said. It didn't matter to me where it came from who I thought this guy was a wonderful donor or this woman as the letter stated. In retrospect, I am not an idiot. I can see what goes on and I am thinking, what better way, he tried to sell it and nobody would buy it because, Gary, I don't know if you went down there and took a look. I don't know if Public Works went down there to take a look. I don't know what Ron Agor was looking at, but I will tell you having fixed a porch once which I actually had to call professional help because I couldn't get it done. It is going to take a lot of money to convert to any use whether it is County, State, private... I mean, I think right now, the best thing to do is go get a demolition permit and demolish it. I mean, I don't know if you have been down there Gary, but the pictures, in fact, even the pictures make it look better than it is. My point is this, is we now have incurred a cost and my question is, are we going to be paying additional funds to move a structure to someplace and... if we could build it for cheaper and I think that is my biggest concern right now and who is doing the analysis of this? Is it Public Works or have we hired a construction structural engineer or are we relying on Mr. Agor?

Mr. Heu: Well, currently, if you are talking about on a going forward basis...

Mr. Rapozo: Going forward.

Mr. Heu: The analysis would need to be... again, is there an agency that could appropriately use a structure.

Mr. Rapozo: I think before that, we need to determine if this house is worth keeping before because if it is going to cost... if we can get somebody to go and say, to bring this up to an office building, we are going to need $200,000, $300,000. I think that determines if we are going to keep this house first because I am telling you, Gary, it needs some work.

Mr. Heu: Yes, and I think you hit the nail on the head. I mean, it depends on what the... and I continued to say an appropriate use, so I think the proposed use once was, then we could do the further analysis because it would be a lot different if we were going to use it for a storage shed versus a residence, versus an office space, so that is kind of the path that we need to take I think.

Mr. Rapozo: So right now you are looking at another use within the County structure?

Mr. Heu: That is the current analysis.

Mr. Rapozo: Okay, thank you.

Ms. Iseri-Carvalho: (Inaudible) question and then we will go to lunch.

Mr. Furfaro: And my question is, could you tell us how much time you need really to wrap this up and get back to us kind of thing.

Ms. Iseri-Carvalho: I am hoping that we... instead of receiving this item, my intent is to defer it because there seems to be a lot more outstanding questions, so it would come back on, hopefully, in the next two (2) weeks.

Mr. Kouchi: Well, Madam Chair, very briefly. Gary, you are a very busy guy. The other guys are busy. I don't know that there is any plan that you could bring back to me that would convince me that we should take this building, pay the money to relocate it, and then pay the money to renovate it. Because for whatever you use, then you would have to build an ADA ramp and the know the doorways being a 1921 structure to ADA compliance. Everything that we do has to be ADA compliance, so it would really help me to know if we could give it back. If we can't give it back, could we dispose of it through public auction and I thought I was kidding with Mr. Rapozo earlier this morning, but it seems to be that I was actually serious. The one use that I could see that would really benefit the County is the Fire Department looks for these kinds of structures, so that they can do burn training exercises and if we are not able to do the auction... in reality, there is a good use and I think if we work with the Fire Department, you would get my vote right away for that too, but I don't want to imply to you if you go do all of this report that you may actually get my vote. I doubt it. I think Kaipo convinced me already.

Mr. Furfaro: Make sure the asset is not our books before we burn it.

Ms. Iseri-Carvalho: Yes. There are some outstanding issues and what I will do again...

Chair Asing: Madam Chair, if I may, I just want to make sure that my comments are not misinterpreted. Maybe I feel a little different from Councilmember Rapozo. In my estimation, there is some value in that building. There is value and that building could be saved, could be used by someone in the community if it is was very close by, so that it wouldn't cost money to move. So there is value first of all, some value. The second thing that I wanted to bring up is that maybe I feel a little different from Councilmember Rapozo in that because there is value, you know, I can really commend our owner at least for trying to preserve this for somebody to use. So I will not condemn the owner for trying to pass it off because, I think, you know, it is commendable that they are doing... making an attempt to save a building that could be used. It is not of the higher quality, but my estimation is that could be used, so I want to clear that.

Ms. Iseri-Carvalho: Again, you know, there seems to be various opinions here, so my intent, really, is to defer this matter for you to do the follow up questions and then report back to us.

Mr. Heu: Councilmember, if I could. Because, obviously, you know, we can all have professional differences in terms of the value and what could be done with the structure and all that other kind of stuff. You know, I understand that you will be forwarding some additional questions which we will answer, but what I would request is that maybe allow us time to do the analysis, come up with a proposal, get a read from the Attorney's Office on if you were to return it to the donor and what that path would be, and then we send over a communication to get it back on the agenda.

Ms. Iseri-Carvalho: I don't want to do that simply because I just want to resolve the issue as quickly as possible. So if you need a month, then that is fine, but these questions did go over at least two (2) months ago (the same questions) about the update on the house. I would have hoped that back then, you guys had been discussing what to do with this house and there are communications showing back from October. So I don't want to just have the Administration because it seems like those questions have taken at least two (2) months to get back to us.

Mr. Heu: But those are imbedded in the larger communication.

Ms. Iseri-Carvalho: Right, but you said that you was almost ready to send over the answers to those questions, right? I thought that is what you said earlier, so I had anticipated that they had done the analysis already and that they would be coming over with that list of questions (the 35 plus questions). I don't anticipate that it will take much time, really. So, you know, we will request for a deferral and if you are not ready in two (2) weeks, then it will come over with that understanding that it is okay if you come back for deferral, but I really would want to keep it on the agenda, alright?

Mr. Heu: Okay, and I will just be right up front. There will probably be a request for deferral for the two (2) weeks.

Ms. Iseri-Carvalho: And that is fine, but because there have been concerns back from October, I also got a call as well... different from Councilmember Rapozo, so they would like some answers as well. I think it is only fair that because they have been raising it for so long that we continue to press to get the responses back to them. Thank you. Public testimony. Quickly. I know that we have maybe one person to do it, alright?

GLENN MICKENS: Thank you Madam Chair. I thought Ron's suggestion was brilliant. You want to do something with it, burn it down. As far as Kaipo is saying that there is value there, you know, you already brought up the point that there is so much money going to be involved in this thing. It could be termite ridden and everything else. The value went from what, $200,000 down to $60,000, has no value, so anyway, I... for the public sake, I just hope that you just write this thing off. Somebody goofed big time and it sounds like the Council in their diligence wanted to go ahead and accept the thing and I can't blame you for that without (inaudible)... Mel said, getting into the details, but somebody in the Administration goofed big time by accepting this gift without having somebody go down and look at, evaluate it, and put a value on it. Thank you.

Ms. Iseri-Carvalho: Thank you. There being no other persons to testify, the meeting is now called back to order.

The meeting was called back to order, and proceeded as follows:

Ms. Iseri-Carvalho: If I could get a motion to defer.

Upon motion duly made by Councilmember Furfaro, seconded by Councilmember Rapozo, and unanimously carried, CA/IGR 2007-2 was deferred.

There being no further business, the meeting was adjourned at 12:38 p.m.

Respectfully submitted,

Lisa Ishibashi
Council Services Assistant

APPROVED at the Committee Meeting held on February 21, 2007:

SHAYLENE ISERI-CARVALHO
Chair, Community Assistance/Intergovernmental Relations Committee

Bryan J. Baptiste
Mayor

Gary K. Heu
Administrative Assistant

Bernard P. Carvalho Jr.
Director

Kenneth N. Rainforth
Executive on Housing

OFFICES OF COMMUNITY ASSISTANCE
KAUAI COUNTY HOUSING AGENCY

\CA-IGR 2007-1 q&a

'07 JAN 23 P4:07
RECEIVED
OFFICE OF THE COUNTY CLERK

MEMORANDUM

TO: Honorable Council Chair Bill "Kaipo" Asing and County Council Members

ATTN: Community Assistance Chair ~~Shaylene~~ Iseri-Carvalho

FROM: Kenneth N. Rainforth

DATE: January 22, 2007

SUBJECT: Follow-Up Questions Relating to Housing Policy, Bill No. 2202 (CA/IGR 2007-1)

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1. *Provide a copy of the 2003 SMS Housing Study that was utilized as a resource in the development of the new proposed housing policy.*

There should be one or more copies of the "Hawai'i Housing Policy Study 2003" in the Council library. We have delivered another copy to the County Clerk incase your earlier copies have been misplaced.

The study is also available on line at www.hawaii.gov/dbedt/hhfdc, click on "Resources & Links", then click on "Reports & Studies", scroll down to "Hawai'i Housing Policy (2003)" and click on the 821 page, 5.71MB PDF file.

2. *Provide a comparison chart of the other neighbor island county housing policies, as well as Vail and Davis County's policies.*

A copy of a PowerPoint slide presentation is enclosed to provide the requested comparison of the other housing policies.

Council Services
Kauai County Council
Communication Referral Slip

(Meeting Date)

(Transmittal Date)

Copies to Council Members

3. *Provide a list of the persons and/or group(s) who participated and/or contributed to the development of the proposed policy.*

For over twenty years I have been talking about the various elements of the proposed policy with hundreds of individuals and organizations and that interaction and information sharing has been used in the development of the policy. Specific contributors to the actual drafting of the proposed policy (in order of their contribution) are the Kaua'i Housing Advisory Committee, staff of the Development Division of the Housing Agency, Councilmembers, Director of Offices of Community Assistance, Mayor Baptiste, and the Office of the County Attorney.

4. *Provide justification on how the nexus between the buyback provisions for leasehold and fee simple sales was developed.*

The proposal describes the limited equity leasehold estate being a 99 years lease with the County being able to 'buyback' the estate for the cost plus 1% annual interest for the first 10 years and 3% thereafter. The proposal also begins to describe a new repurchase restriction with a range of terms, dependant on the intended buyer income group, to 'buyback' for the cost plus 1% annual interest. Both of these provisions are 'works in progress' and current thinking on the Housing Agency's part are as follows:

- Leasehold Estate: We would like to incorporate the methodology recommended by Institute for Community Economics (ICE) in their *Community Land Trust Legal Manual* to replace our earlier proposed leasehold repurchase method. Under ICE model, the repurchase price would be 50% of the difference between the original appraised value of the estate (same as the original sales price) and the appraised value of the estate upon its sale back to the County.

- Fee Simple Buybacks: We believe we should keep the interest rate at 1% to be the same as the State statute, but we think the terms should modified.

5. *Provide guidelines that will be used to explain both the proposed fast track permitting process for qualified projects (51% workforce housing) and the 201G exemption process (100% workforce housing) that are proposed* in Section __-9.2 Fast Track Permitting *and* Section __-9.3 Section 201G Exemption Projects.

Please defer these important questions to a later time. The reason we included these two items in the policy was our understanding that clear guidelines were needed and we believed the housing policy was the right place for them. Since exercising either of these provisions will rely on the cooperation of all of the County development review agencies, the process should be drafted by all concerned parties. That has not yet been done.

6. *Request that the County Attorney review and provide a written opinion in response to the Land Use Research Foundation of Hawai'i (LURF) testimony and the legal analysis by Professor David Callies from the University of Hawai'i, Richardson School of Law, on questions raised regarding the constitutionality of the proposed ordinance.*

Michael Matsukawa has proved the written response to this question in a memorandum dated December 19, 2006 .

7. *Provide a response and recommendation to address the testimony by Tracy Nagata of DR Horton-Schuler Homes LLC on her concerns that focus on two (2) significant sections of the proposed ordinance in reference to* Section ___-2.1 Residential Developments *and* Section __-6.1 Restricted Sales Marketing Period *on how developers could achieve their goals in providing affordable housing.*

a) Residential Developments. The DR Horton testimony seems to focus on the difficulty developers will have in donating 10% of their project site and possible inequities related to leasehold sales. First, we have received comment from various members of the development community about donating part of their project site to the County. This portion of the assessment is specifically intended to help the low and very low income households. In drafting the proposed ordinance, it was assumed that it would be better for the developer if they simply donated the land to the County that is necessary for these income groups, rather than requiring the developer to build the units to sell or rent. The size of the subsidy necessary to make these units affordable to is very large. However, we now believe that the ordinance should give the developer the option of either providing housing units for the low and very low income equal to 10% of the total project units or to donate land to the County and let the County struggle with developing the low and very low income units.

Second, we understand that the leasehold estate sales requirement has a potential problem. If the affordable sales price is higher than the appraised leasehold estate value, buyers will be unable to obtain adequate financing. T make the program work, the Housing Agency believes an affordable housing land trust needs to be established to facilitate the leasehold sales. We believe a dedicated source of funds is needed to make the program a reality.

b) Restricted Sales Marketing Period. The one year plus restricted marketing period is intended to eliminate any temptation a developer may have who hopes to get to market sales. Provided the developer does adequate market research with the required target groups, the developer should be able to gauge the product type acceptable and the market depth needed for a workforce housing project to sell-out in a short time period.

An alternative would be to give the Housing Agency the approval authority to decide what type of workforce housing should be build, as well as when it is to built and how many units.

Such authority would allow for a much shorter 'restricted sales marketing period', say 120 to 180 days.

8. Provide a response to Councilmember Yukimura's communication dated October 7, 2004.

Previously provide response dated December 19, 2006 and discussed at the January 3, 2007 CA/IGR Committee Meeting

9. Provide suggestions on the format to be used for a future workshop.

The workshop should be facilitated by someone with development-land use experience (Nadine Nakamura), and two recorders to note the specific areas of concern (Lori Hoe and Mattie Yoshioka).

Announce the workshop similar to a public hearing, but ask those think they should be stakeholders to sign-up for a seat in the 'roundtable' discussion group. Provide as many chairs and microphones as possible around the Council table. Stakeholders are to come to the table with areas of concern and their proposed solution.

Ask Councilmembers to refrain from debate, but simply to ask stakeholders questions to help draw-out solutions. The facilitator needs the power to run the workshop.

We hope this response provides you with the information you requested.

knr

COUNTY COUNCIL
Bill "Kaipo" Asing, Chair
Mel Rapozo, Vice Chair
Tim Bynum
Jay Furfaro
Shaylene Iseri-Carvalho
Ron Kouchi
JoAnn A. Yukimura

OFFICE OF THE COUNTY CLERK

Peter A. Nakamura, County Clerk
Ernesto G. Pasion, Deputy County Clerk

Telephone (808) 241-6371
Fax (808) 241-6349
Email cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Room 206
Līhu'e, Kaua'i, Hawai'i 96766-1371

6 DEC 11 P2:05

MEMORANDUM

December 8, 2006

TO: Bernard Carvalho, Jr., Director, Offices of Community Assistance

ATTN: KEN RAINFORTH, EXECUTIVE ON HOUSING

FROM: Shaylene Iseri-Carvalho, Chair SIC
Community Assistance/Intergovernmental Relations Committee

RE: FOLLOW-UP QUESTIONS RELATING TO BILL NO. 2202 ESTABLISHING A HOUSING POLICY FOR THE COUNTY OF KAUA'I

The Community Assistance/Intergovernmental Relations Committee, at its December 6, 2006 meeting, deferred Bill No. 2202, Relating to Establishing a Housing Policy for the County of Kaua'i.

Listed below are questions that the Councilmembers raised at the meeting and requested that your written response be prepared for the January 3, 2007, Community Assistance/Intergovernmental Relations Committee meeting.

1. Provide a copy of the 2003 SMS Housing Study that was utilized as a resource in the development of the new proposed housing policy.

2. Provide a comparison chart of the other neighbor island county housing policies, as well as Vail and Davis County's policies.

3. Provide a list of the persons and/or group(s) who participated and/or contributed to the development of the proposed housing policy.

4. Provide justification on how the nexus between the buyback provisions for leasehold sales and fee simple sales was developed.

5. Provide the guidelines that will be used to explain both the proposed fast track permitting process for qualified projects (51% workforce housing) and the 201G exemption process (100% workforce housing)

This is CA/IGR-2007-1

that are proposed in *Section __-9.2 Fast Track Permitting* and *Section __-9.3 Section 201G Exemption Projects.*

6. Request that the County Attorney review and provide a written opinion in response to the Land Use Research Foundation of Hawai'i (LURF) testimony and the legal analysis by Professor David Callies from the University of Hawai'i, Richardson School of Law, on questions raised regarding the constitutionality of the proposed ordinance. (Exhibit 1)

7. Provide a response and recommendation to address the testimony by Tracy Nagata of DR Horton-Schuler Homes LLC on her concerns that focus on two (2) significant sections of the proposed ordinance in reference to *Section -2.1 Residential Developments* and *Section -6.1 Restricted Sales Marketing Period* on how developers could achieve their goals in providing affordable housing. (Exhibit 2)

8. Provide a response to Councilmember Yukimura's communication dated October 7, 2004. (Exhibit 3)

9. Provide suggestions on the format to be used for a future workshop.

Thank you for your attention to this matter.

CA
Atts.
cc: January 3, 2007 CA/IGR Committee Agenda
Gary Heu, Administrative Assistant
Christiane Nakea-Tresler, First Deputy County Attorney

Comparison of Housing Policies in Hawaii

(and Davis, California)

County of Kauai

- ??? – Adopt of County of Kaua'i Housing Policy
- October 2006 – Introduction to Council, proposed by Housing Agency
- Previous: Administrative guidelines 1995

County of Maui

- December 2006 – Adopted by Council by override of Mayor's veto
- November 2006 – Mayor vetoes ordinance
- October 2006 – Council approves ordinance
- June 2005 – Introduced by Council
- Previous: Administrative guidelines

County of Hawaii

- February 2005 - Amended existing ordinance
- 1998 – Amended existing ordinance
- 1980's – Adopted first ordinance

City & County of Honolulu

- No housing policy legislation adopted; Council activity now to adopt a policy or guidelines
- Unilateral Housing Agreements
  - October 1994 - Administrative Policy & Rules
  - 1999 thru 2005 - Suspended requirements

Mayor Harris eliminated City & County Department of Housing & Community Development in 1998

State of Hawai'i
Land Use Commission

- No present policy; discussions now to adopt a policy
- Policy suspended (Gov. Cayetano) to give Counties the responsibility to impose housing requirements
- 60% Affordable Policy from 1988 to 1995 (Governor Waihee):
  - 30% to households earning 80% to 120% of median
  - 30% to households earning 120% to 140% of median

City of Davis, California

- *October 2004 – Amended ordinance to include up to 20% for middle income (gap group) over existing 25% for-sale affordable housing requirement*
- *1992 – Adopted affordable housing ordinance*
- *Requirement imposed at Building Permit*
- *5 or more units trigger housing condition*

Davis - continued

- *For-Sale Projects - 45% Housing Requirement:*
  - *12.5% Land dedication for below 80% of median*
  - *12.5% on-site dwelling sales 80-120% of median*
  - *15% on-site dwelling sales 120-180% of median*
- *Rental Projects - 35% Housing Requirement:*
  - *10% on-site units for below 50% of median*
  - *25% on-site units for 50-80% of median*

Davis - continued

- *In-lieu fee and land dedication alternatives available*
- *Require on-site units and integration of units among market units*
- *City limits number of building permit approved each year, thus creates competition*

City of Vail, California

- *January 2007 – Council to consider 2 employee housing ordinances for 60% to 120% of median income:*
  - *30% of residential & resort projects (new)*
  - *20% of commercial projects (amend existing provision)*
- *Developer to build rental, for-sale, or pay in-lieu fee*

Hawai'i Counties Amount Required

Kauai	**40%** for "Workforce" Housing
Maui	**40% or 50%** "Workforce" Housing
Hawaii	**20%** for "Affordable" Housing
C & C	**30%** for "Affordable" Housing

Hawai'i Counties Target Income Groups

Kauai	60% to 180% of median income
Maui	80% to 160% of median income
Hawaii	80% to 140% of median income
C & C	50% to 120% of median income

Hawai'i Counties
When Requirement Imposed

Kauai	At Zoning on Residential, Resort, Commercial, and Industrial Amendments
Maui	At Subdivision Approval or Building Permit Approval on Residential
Hawaii	At Zoning on Residential, Resort, Commercial, Industrial, and Agriculture
C & C	At Zoning on Residential Amendments

Hawai'i Counties
Timing of Required Units

Kauai)

Maui)

Hawaii)

C & C)

All jurisdictions require workforce (or affordable) units built before or concurrent with market units

Hawai'i Counties
Requirement Threshold

Kauai	5 or more residential units; 50 or more resort units; 100 or more resort, commercial or industrial jobs
Maui	5 or more residential units
Hawaii	5 or more residential units; 100 or more resort, commercial or industrial jobs
C & C	Silent

Hawai‘i Counties – Percent of Units Required by Income Group

	Below 50%	50% to 80%	80% to 100%	100% to 120%	120% to 140%	140% to 160%	160% to 180%
Kaua'i		10%	5%	5%	5%	5%	5%
Maui Sales			12%	12%	8%	8%	
Maui Rental	6.7%	6.7%	13.3%	13.3%			
Hawai'i	Developer decides w hat to build: more credits for low er income units; range 80% to 140%						
C & C		10%	10%	10%			
Davis Sales		12.50%	7.25%	7.25%	6.65%	6.65%	6.65%
Davis Rental	10%	25%					

Hawai‘i County Affordable Credits

- For-Sale Dwellings
  - .5 ~~1.0~~ credit 100-120% of median income
  - 1.0 ~~0.5~~ credit 120-140% of median income
  - 1.5 credit 80-100% of median income
  - 2.0 credit below 80% of median income

Hawai‘i County Affordable Credits - Continued

- For Sale Lots
  - 0.5 credit 100% of median income
  - 1.0 credit 80% of median income
- Dwelling Rentals
  - 1.0 credit 80-100% of median income
  - 1.5 credit 60-80% of median income
  - 2.0 credit below 60% of median income

State of Hawai'i
Required Products

- Kaua'i :
  - 10% Land Donation, 15% Leasehold Sales, 15% Fee-Simple Sales
- Maui)
- Hawai'i)
- C & C)
  - Developer's choice: For-sale units, rental units, lots, land, and in-lieu fees (w/Housing Director's approval)

Kaua'i – Unique Provisions

- Ordinance specifies dwellings to be built and sold at affordable and gap group prices
- Alternatives available with Council approval - Rental housing, land dedication, in-lieu fee, off-site or non-integration
- Workforce housing to be on-site of market development and units economically integrated

Kaua'i – Unique Provisions

- 15% of the required for-sale units to be sold as leasehold estates for permanent affordability
- Create a Kaua'i Community Housing Land Trust
- Exemption for small family development to provide means doe the disbursement of land to family members

Maui – Unique Provisions

- Percent workforce housing required increases to 50% if majority of market units priced at $600,000 or more
- Includes Gap Group up to 160% of median income
- Separate 1992 hotel/resort ordinance requires one affordable unit for every 4 hotel rooms

Hawai'i County Unique Provisions

- Passes authority to non-profit organizations
- Have separate legislation for a land trust – part of the Waikoloa development

All Hawai'i Counties Qualifications for Eligibility

Qualifications:

- State resident
- U.S. citizen or resident alien
- At least 18 years old
- Own no other real estate suitable for a residence
- Have income sufficient to qualify to buy or rent the workforce unit in question
- Be within the income limits for the project

Hawai'i Counties
Duration of Affordability

Kauai	Perpetual w/leasehold sales; 5-30 year buybacks w/fee sales; 40 years w/rental
Maui	25 year buyback resale & occupancy restriction; life of unit for rentals
Hawaii	Ordinance requires Housing Administrator to establish restrictions by rule
C & C	2-8 year buyback on sales, 10 years w/rental

Restricted Marketing Periods

Kauai	90 days eligible buyers; +90 days next higher income group of eligible buyers; +90 days any income eligible buyer; +90 days any resident; +60 day County option to buy
Maui	90 days eligible buyers; +90 days next higher income group; +90 days next higher income group etc, until all income groups offered; then +90 days non-resident
Hawaii	90 days eligible buyer; +30 days eligible buyer except 1st time buyer
C & C	Silent

Hawai'i Counties
Incentives & Bonuses

Kauai	None
Maui	60 day building plans permit review Potential density bonus
Hawaii	10% density bonus & 10% decrease lot size Bank and transfer extra housing credits
C & C	Increase credits for 20 year affordable rental

Hawai‘i Counties
In-Lieu Fee Calculations

Kauai	Difference between median sales price for district and affordable price for each unit
Maui	Difference between affordable price for 140% of median and 100% of median
Hawaii	25% times the difference between actual market price and affordable price at 120%
C & C	Difference between estimated cost of affordable unit and affordable sales price

FREE

Kaua`i Affordable Housing & Traffic Coalition

FREE

Turning Hope Into Homes

Homebuyers & Renters Educational Fairs

It's possible! You can OWN a home!

The primary goal of these fairs is to help *close the homeownership gap* on Kaua`i and also introduce and educate renters and first-time homebuyers on the *many programs available* to help them achieve the dream of homeownership or rental. Many affordable homes (including single family homes, condos, and townhomes to public housing) will become *available starting in the next 2 to 4 years* – find out how you can *secure the right one for you and your family.*

We guarantee you'll leave the Fair with:

- **Inspiring testimonials from Kaua`i residents who thought homeownership was out of their reach**
- **Tips from the experts on how to buy or rent the home of your dreams**
- **Unique access to layouts, locations and prices of the upcoming incredible homes across Kaua`i**
- **Valuable information on the training programs, financing options and other resources you'll need to get on the path to a home of your own!**

Schedule:

9:00-9:30am	Opening Remarks by Mayor Baptiste & Presentation by Hawai`i Homeownership Center
9:30-9:50am	Testimonials from Kaua`i Homeowners
10:00-10:55am	Informational Sessions ▪ *Renting vs. Owning: What's Right For You?* *Eligibility Requirements for Owning or Renting* ▪ *How Much Can You Afford?* *Budgeting & Credit Counseling* ▪ *Mortgage 101* *How to Shop for a Loan*
11:00-11:55am	Informational Sessions repeated
9:00am-1:00pm	Browse exhibit area

***Keiki Corner* childcare available at every region for kids 4+ yrs old!**
Light beverages & snacks will also be provided.

Regional Fair Locations: *Each at 9am-1pm*

District:	Date:	Location:
South	March 3, 2007	Holy Cross Church
North	March 10, 2007	Kilauea Gym
East	March 17, 2007	Kapa'a Elementary School
Central	March 24, 2007	Convention Hall
West	March 31, 2007	Waimea Theatre

If you miss the event in your neighborhood, don't worry! The same informational sessions and exhibitors will be presented in each region, so if you can't attend the one in your region, please join us at another location.

If you have any questions, please contact the Hawai`i Homeownership Center at (808) 245-5860.

You can't afford to miss this. We hope to see you there!

LAND USE RESEARCH
FOUNDATION OF HAWAII
700 Bishop Street, Ste. 1928
Honolulu, Hawaii 96813
Phone 521-4717
Fax 536-0132

January 24, 2007

The Honorable Shaylene Iseri-Carvalho, Chair, and Members
Community Assistance Committee
Kauai County Council
4396 Rice Street
Lihue, Kauai, Hawaii 96766

Fax (808) 241-6349

Dear Chair Iseri-Carvalho and Committee Members:

Subject: Administration's Draft Housing Policy for the County of Kauai—A BILL FOR AN ORDINANCE TO AMEND THE KAUAI COUNTY CODE 1987, AS AMENDED, TO ADOPT A HOUSING POLICY ORDINANCE

My name is Dean Uchida, Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers, and a utility company. One of LURF's missions is to advocate for reasonable and rational land use planning, legislation, and regulation affecting common problems in Hawaii.

At previous Council and Committee meetings, Professor David Callies from the University of Hawaii, Richardson School of Law, submitted his legal analysis of the County's proposed housing policy. We note that in his analysis, Professor Callies raises questions regarding the constitutionality of the proposed ordinance. We strongly urge the Council to consider these issues, as well as those raised in our testimony, in formulating a workable housing policy for the County of Kauai.

At the December 6, 2006, Kauai Council public hearing, we understand that Council had requested the Administration to respond to questions submitted by Councilmembers, as well as to testimony submitted by LURF, Professor David Callies, and D.R. Horton Schuler Homes. At today's hearing, it is anticipated that the Administration is prepared to respond to this testimony. While we have previously noted that Professor Callies would be available today to respond to any questions the Committee Chair or members have about the proposed housing policy, his teaching schedule prevents him from being here today, Wednesday, as well as on Mondays and Tuesdays.

We have been informed that workshops on the proposed housing policy will be conducted subsequent to this meeting, and that the schedule for the workshops will be discussed today. While the schedule will ultimately be decided by the Chair and her Committee members, we would appreciate the opportunity to have Professor Callies address the Committee at these workshops~~. This~~ issue is of such significant importance that having as much information as possible will only help the Committee make the best decisions possible.

We appreciate the opportunity to express our views on this matter, and look forward to further discussions with the Council regarding the proposed Kauai County Housing Policy.

Please do not hesitate to contact me at (808) 521-4717 with any questions.

KOLOA HOUSE

Deal or No Deal??

Chronology of Events

- August 15, 2005
  - Request for acceptance of free house
    - On agenda September 8, 2005
    - C2005-313
    - Worth $250,000
    - To be used for the Hanapepe Drug Treatment Center
    - Structurally sound
    - Recently renovated

rc: CA|IGR 2007-2

Bryan J. Baptiste
Mayor

Gary K. Heu

OFFICE OF THE MAYOR

August 15, 2005

I am asking for your approval to accept a gift for the Adolescent Residential Treatment Facility.

The gift is a house given to the County from Josephine Okuno for the Adolescent Residential Treatment Facility.

This gift will be utilized as part of the total complex of the Adolescent Residential Treatment Facility.

We ask for your approval in accepting this gift.

Thank you.

C2005-313

9/8/2005

Chronology of Events

- October 18, 2006
  - Community Assistance Committee meeting
  - Bill No. 2196 re: $600,000 for Hanapepe Drug Treatment Center
  - Learned that donated house is no longer in the plan

Chronology of Events

- October 24, 2006
  - Follow-up questions sent to admin re: Hanapepe Drug Center
  - Request written response and presence at the November 1st meeting
  - October 30, 2006 – Doug Haig asks for additional time

Chronology of Events

- October 26, 2006
  - Received call from citizen regarding the donated house
  - Citizen stated that the house is not worth $250,000
  - Asked that I look into the matter
  - Contacted Gary Heu and learned that the house is located on Weliweli Rd., Koloa

Chronology of Events

- October 26, 2006
  - House located and photos taken
  - House appears to be worth significantly less that $250,000
  - Gary Heu is notified of my concerns and he will inform Roy Nishida

Chronology of Events

- November 10, 2006
  - Last request to admin requesting additional information regarding the donated house
    - True value
    - Moving cost estimates
    - Planned use

Chronology of Events

- January 15, 2007
  - MLS located on house
    - House on the market in 2005 for $120,000
    - House price reduced to $60,000
    - Unable to sell
    - Withdrawn from MLS on May 13, 2005

MLS DATA: R

Property Type: Residenti
Address: 3430 We-weli R
Sub/Neigh: Koloa Town
Block:
Utilities: None
Waste Disposal:
Schools:
Bedrooms: 2
Baths: 1.00
Exterior:
Inclusions: *See Remarks
Design: 1Story, Double W
Car Storage: 2Car, Garag
Remarks: REDUCED! RED

MLS # 148783

Price: $60,000

Tenure: Fee simple

Land Area: 5.38 ac

Easement:

Remarks: REDUCED! REDUCED! BRING ALL OFFERS! PLANTATION STYLE HOME/ NO LAND INCLUDED. HOME MUST BE REMOVED FROM PROPERTY BY BUYER. This 2 BR, .5 BA, 1,066 sq ft home includes a separate studio/2 car garage, 1,058 sq ft. with .5 BA, and storage. This is the best bargain on the island for an authentic plantation era house.
Private: Call listing agent for specific details regarding relocation of home. No land is included in the sale. 5% commission paid to Cooperating Broker at closing. Call Teresa Daher, at 635-1618 to show. Mahalo.

LEASEHOLD DETAILS	
Lessor:	
LH Rent:	LH Exp. Date:
Reneg:	Fee Avail:

OTHER PARTICULARS		
Assoc. Dues/mon.: $0	Common Area: No	CC&R's: No

LISTING AGENT INFO		
CSB: 5%	Subagency offered: No	Restrictions: Exclusive Agency

LISTING AGENT & OFFICE					
Listor: Stephanie L Bauman	Realtor Type: DR	Listor Phone: 808-639-9183	Listor Fax: 808-332-7272	Email Address: stephanie@hisemail.net	Listor ID: 17218
Office: Island Pacific Properties		Office Phone: 808-742-9508	Office Fax: 808-742-1481		Office ID: 6156
Office Address: P.O. Box 1255 Koloa, HI 96756					

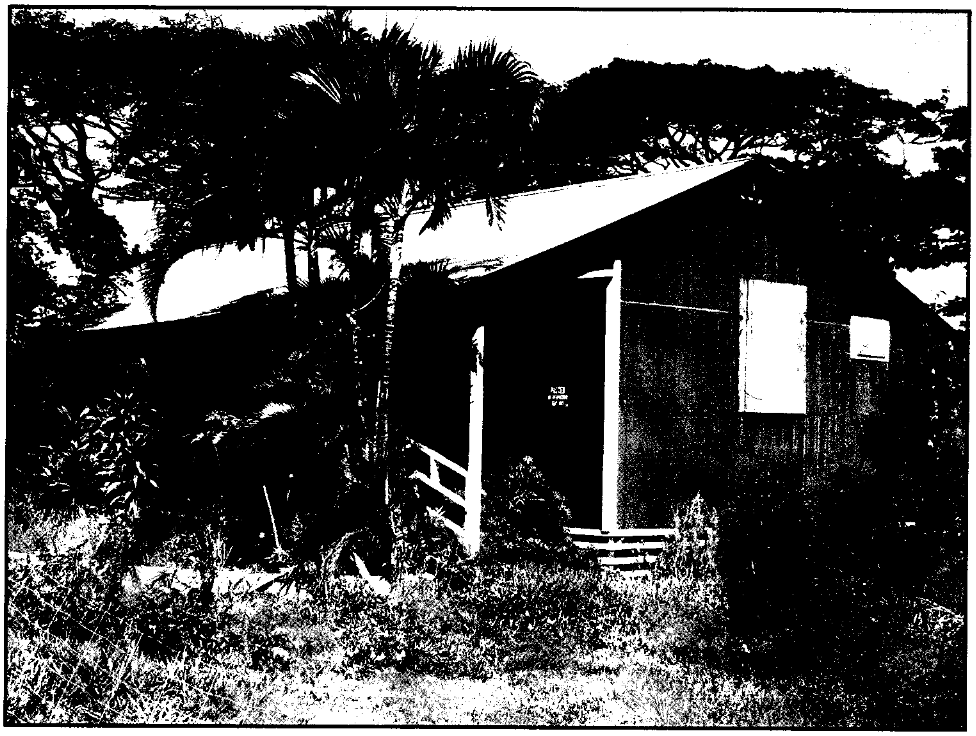
History of changes to MLS# 148783

Field	From	To	Date
Released			1/18/2005 4:03:56 PM
remarks	PLANTATION STYLE HOME/ NO LAND INCLUDED. HOME MUST BE REMOVED FROM PROPERTY BY BUYER. This 2 BR, .5 BA, 1,066 sq ft home includes a separate 1,058 sq ft studio with .5 BA, & attached 2 car garage with storage. This well maintained home is in excellent con	PLANTATION STYLE HOME/ NO LAND INCLUDED. HOME MUST BE REMOVED FROM PROPERTY BY BUYER. This 2 BR, .5 BA, 1,066 sq ft home includes a separate studio/2 car garge with .5 BA, and storage. This well maintained home is in excellent condition, and shows pride o	1/19/2005 9:46:12 AM
inclusions	FT, SR	SR	1/26/2005 11:59:43 AM
remarks	PLANTATION STYLE HOME/ NO LAND INCLUDED. HOME MUST BE REMOVED FROM PROPERTY BY BUYER. This 2 BR, .5 BA, 1,066 sq ft home includes a separate studio/2 car garge with .5 BA, and storage. This well maintained home is in excellent condition, and shows pride	REDUCED! REDUCED! BRING ALL OFFERS! PLANTATION STYLE HOME/ NO LAND INCLUDED. HOME MUST BE REMOVED FROM PROPERTY BY BUYER. This 2 BR, .5 BA, 1,066 sq ft home includes a separate studio/2 car garge, 1,058 sq ft. with .5 BA, and storage. This is the best bar	2/15/2005 5:09:50 PM
price	120000	60000	2/15/2005 5:09:50 PM
	regarding relocation of home. No land is included in the sale. 5% commission paid to Cooperating Broker at closing. Call Maria Hacker RA, at 651-7783 to show. Mahalo.	regarding relocation of home. No land is included in the sale. 5% commission paid to Cooperating Broker at closing. Call Tereca Daher. at 635-1618 to show. Mahalo.	
listor name	Maria Hacker	Stephanie L Bauman	3/31/2005 9:47:52 AM
listor id	61333	17218	3/31/2005 9:47:52 AM
listor phone	808-651-7783	808-639-9183	3/31/2005 9:47:52 AM
land area		234352.8	3/31/2005 9:47:52 AM
age	8	84	3/31/2005 9:47:52 AM
land area	234352	234352.8	5/13/2005 6:44:07 PM
listing status	A	W	5/13/2005 6:44:50 PM

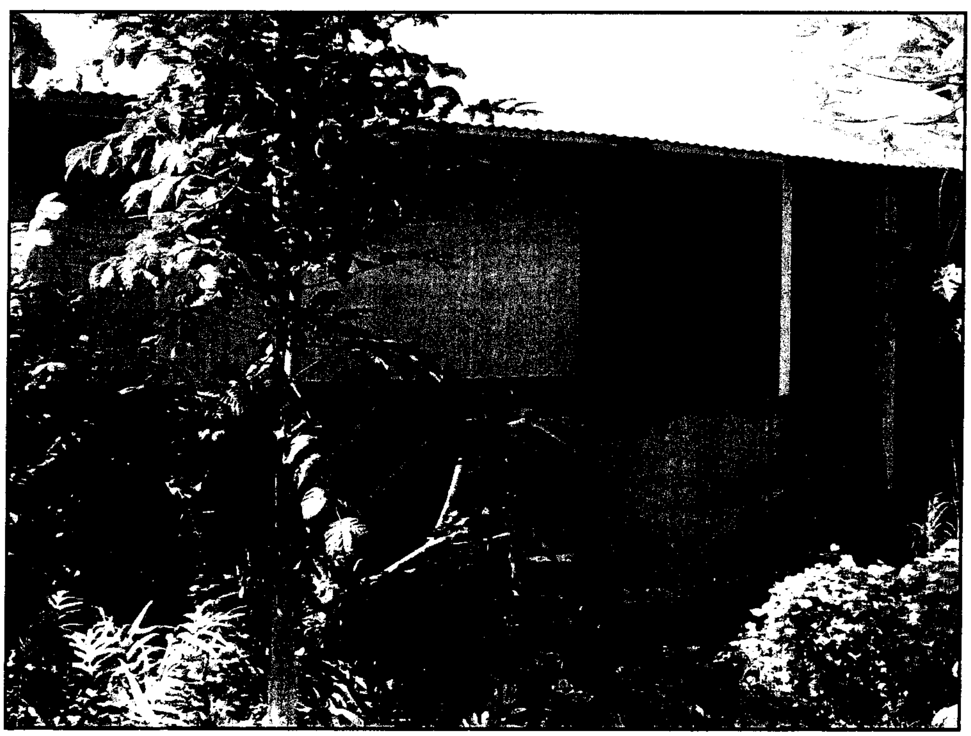
This information has been supplied by third parties and has not been independently verified by Hawaii Information Service and is, therefore, not guaranteed.

STRUCTURE #1

- Built in 1921
- 1066 sq ft
- 2 bedrooms
- .5 bath (no shower)
- No land included
- Buyer to move structure

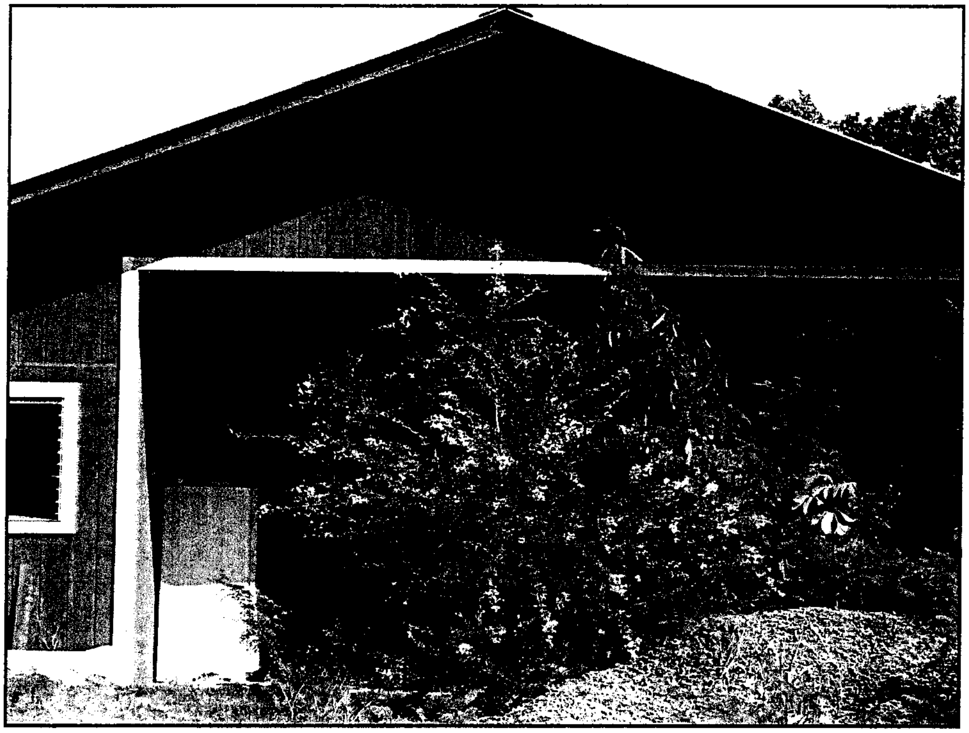



POSTED
NO TRESPASSING
KEEP OUT



STRUCTURE #2

- Built in 1921
- 1058 sq ft
- 2 car garage w/ storage
- .5 bath (no shower)
- No land included
- Buyer to move structure



STRUCTURES 1&2

- $250,000 donation accepted
- $200,000 to $300,000 to relocate
- $??? to renovate

- DEAL OR NO DEAL???