

**MINUTES**

**SPECIAL COMMUNITY ASSISTANCE/  
INTERGOVERNMENTAL RELATIONS COMMITTEE WORKSHOP  
BILL NO. 2202  
RELATING TO THE HOUSING POLICY FOR THE COUNTY OF KAUAI**

**March 27, 2007**

A special meeting of the Community Assistance/Intergovernmental Relations Committee of the Council of the County of Kauai, State of Hawaii, was called to order by Councilmember Shaylene Iseri-Carvalho, Chair, at the Historic County Building, Room 201, Lihu'e, Kauai, on Tuesday, March 27, 2007, at 9:10 a.m., after which the following members answered the call of the roll:

Honorable Shaylene Iseri-Carvalho  
Honorable JoAnn A. Yukimura  
Honorable Tim Bynum  
Honorable Ron Kouchi  
Honorable Mel Rapozo  
Honorable Jay Furfaro (Ex-Officio Member)  
Honorable Bill "Kaipo" Asing (Ex-Officio Member)

The Committee proceeded on its workshop as follows:

**SHAYLENE ISERI-CARVALHO, COMMUNITY ASSISTANCE/IGR RELATIONS COMMITTEE CHAIR:** At this time, I would like to introduce our facilitator which is Diane Zachary. She will be facilitating this morning's meeting. We also have Ken Rainforth, our Executive on Housing and Marie Wooten who is helping us with the recording of... I am sorry, Ann Wooten... sorry, it has been a long holiday. She will be helping with the recording. We have speaker registration forms that have gone out. If you want to sign up to speak, by all means, please let us know. Cyndi Ayonon will be our staff person that will be assisting us with facilitating this meeting.

This is a second of a series of workshop. We anticipate at least one more workshop before sending this back for discussions in our Community Assistance Committee at the Council level. Thank you all for being here. We really appreciate and encourage the public input as well as all of those parties that will be affected by adoption of this Bill No. 2202. We have received numerous comments from members of the public as well as others... developers who will be impacted and we anticipate to get more. Our last meeting, we encouraged all of the parties that would be impacted and anyone else who felt that they would want to provide testimony to provide amendments. We have copies online of the proposal of the

affordable housing policy. If you have not received a copy or had not had time to review that, if you would let us know and we will get a copy to you, so you can follow on. It is a very complex document and it would probably require review of those as we go by articles as we proceed during the meeting especially since this is our second meeting. What we intend to do... there are some ground rules here. We have the Councilmembers that are present, we have those parties that have provided amendments and also signed up to speak. We will initially be encouraging speakers to address articles 2 and 3 which seems to be the most controversial parts of the affordable housing policy. After discussions on those, what will happen is you will have your opportunity to speak and make your comments on what you agree with. Here we have, indicate the areas of the policy you support. If you disagree with the policy as proposed, provide some suggested solutions or alternatives. This is different in the sense that there is no three (3) minute time limit, so take as much time as you need to get your point across. After you have had an opportunity to give your presentation, it will be open up for each of the Councilmembers here to ask questions to get further understanding of what kinds of proposals you are making. At that time... for purposes of this meeting, there will not be discussions regarding philosophical views about affordable housing. It will be really limited to what is contained in Articles 2 and 3 first and then the rest of the provisions. There will also not be opportunity for the Councilmembers to have any discussions and really what the intent here of the Chair and the Committee is to have discussions go back and forth with the presenters as opposed to having the presenters excluded and discussions among the Councilmembers. That will come after, at least, at the very earliest, the third workshop that we intend to give the date today. Alright, any questions? There being none, at this time I will be passing the meeting over to Diane Zachary. Again, thank you all for being here.

There being no objections, the rules were suspended.

DIANE ZACHARY, FACILITATOR: Well, thank you very much.

JOANN A. YUKIMURA: I have a question, I am sorry.

Ms. Zachary: Go ahead.

Ms. Yukimura: Okay, the last point was that there wouldn't be discussions amongst Councilmembers, but it would be mainly with the speakers here today?

Ms. Iseri-Carvalho: That is correct.

Ms. Yukimura: Okay, because I am just thinking not all the people can come back to the third meeting, so we would be able to have full discussions with those who come and speak?

Ms. Iseri-Carvalho: Yes, and that was the whole purpose of not having any time limit, so that there would be that opportunity to address whatever questions that you have. Also, we have the Executive Director of Housing here and he will also have an opportunity to ask the questions as he is really the expert for the Housing Department Administration and has been one of those mainly responsible for the drafting of the current affordable housing policy.

Ms. Yukimura: Thank you.

Ms. Iseri-Carvalho: Thank you. Diane?

Ms. Zachary: Well, it is wonderful to see all of you here. We are really happy to have an opportunity to get input on this policy because it is important that the policy reflect what is going to work, so hearing from you is going to be exceedingly important to the Councilmembers. I'd like to just ask for your indulgence because this is such a complex issue and sometimes, engenders emotions and passions; I am going to ask for your indulgence. If I cut you off, it will be because you seem to be kind of going astray from the policy, so your understanding and consideration is really requested. I say this both to our audience and to our Councilmembers, so that we really are able to get as much out of this opportunity of discussion of the policy as possible. With that, Chairperson Iseri-Carvalho, our first speaker.

Ms. Iseri-Carvalho: Yes, the first speaker that I have registered is Mr. Dave Arakawa from the Land Use Research Foundation of Hawai'i. Thank you.

DAVE ARAKAWA, LURF: Good morning Chair Iseri-Carvalho and members of the Kaua'i County Council. My name is Dave Arakawa and I am the new Executive Director of the Land Use Research Foundation. It is a statewide non-profit organization that represents people with land use and development issues. First off, we will be standing on our prior testimony submitted on January 3, 2007 and also the attachment of testimony of our consultant, Professor David Callies, so we will be standing on that testimony. Unfortunately, Mr. Callies is on the mainland at a series of conferences this week, so Mr. Callies will not be able to be here to address issues or speak about legal issues relating to Bill No. 2202. However, we do understand that the County and this Council is considering affordable rentals, the issue of affordable rentals, so we have brought with us Marvin Aways. Marvin Aways is the Executive Director of the Pacific Housing Assistance Corporation.

Ms. Zachary: Excuse me, could you speak a little bit more into the microphone.

Mr. Arakawa: Okay, we've brought with us Marvin Awaya who is the Executive Director of the Pacific Housing Assistance Corporation and he actually develops affordable housing units, so he would be able to do a presentation and assist in any questions that the Council might have regarding affordable housing and affordable rentals. With that, I believe the next person on the sign up list is Mr. Awaya.

Ms. Iseri-Carvalho: Any questions for Mr. Arakawa?

Ms. Yukimura: Yes, Mr. Arakawa, thank you for being here. I know that in the testimony submitted by LURF and by Mr. Callies... I think it was more LURF's testimony, there was a suggestion that we look at the history and look at data of, you know, of I guess our housing record practice providing of housing. I just wondered if LURF is aware of that we received a report from Mr. Rainforth, the Executive on Housing in response to several of the questions that I asked about the history on Kaua'i because it was quite revealing. For example, it showed that over the last 20 to 25 years, the island as a whole, provided like 71 units of housing per year and that the average subsidy was about \$250,000 or thereabouts per unit. The one piece that was not available which was a question which... for which there was a question posed was, how many of the afford... how many affordable units have we produced, and we meaning developers, under requirements of the County or State or the County/State governments themselves, or non-profits, how many have we produced over the last 20 to 25 years and how many of them are still affordable. That was where we... there was an information gap, but I just wanted to let you know that this was partly a response to... although the questions were asked in 2004 to LURF's point, it is an answer to LURF's point that we needed to look at the history and the facts. If you haven't gotten that report, you might want to take a look at it.

Mr. Arakawa: Okay, we will. Another thing, thank you Councilmember Yukimura. Another thing that was very important in Mr. Callies testimony and it is a legal issue that came up perhaps after 2004 after the original request is that there has to be a nexus. There has to be some tie to the development of the housing development of regular market housing and the affordable housing. So under the law, in the United States, governments cannot just throw out a number like 60% affordable, 40% affordable... they need to tie that through statistics on, you know, if you develop this new development, how many more affordable housing units, you know, would you need based on that development. Now, you know, you hear people talk about, you know, these people are already living here and are already living here in multi-family homes. So it is not going to increase the population here, it is just these people are going to get their... get to move up or get to move into new homes. It is not like you are bringing in outsiders, so that is one thing that would have to be the government or the County in this case which is imposing this type of requirement, percentage requirement would have to tie that requirement to some

data. The data is not how much we produced in the past, but how much is required because of this particular development and that is an important part of... and maybe your new Corporation counsel can take a look at that. That is an important part of the nexus for requiring a certain percentages of affordable housing. On the mainland, they struck down like a 40% requirement, etc. They reduced it to 15 or 10% because of that nexus that the County or the government has to show that kind of nexus. So, perhaps, in the report, Mr. Rainforth's report, it does include that information and if not, we will be willing to talk with him on that.

Ms. Yukimura: Well, I mean, let me ask you, are you saying that we can only require the percentage that the development itself is going to be deemed to create?

Mr. Arakawa: There is a... the courts on the mainland looked at several different things. I cannot really answer that as an attorney. I cannot really answer that yes or no. They look at a number of things and there is basically a rational relationship test of nexus test, so different States look at different things, but it is based on data Councilmember Yukimura, so the government has to come up with the data to justify it and there are various different ways you can justify it. So it has to be tied somehow to the development.

Ms. Yukimura: Well, first of all, I mean, I would think relevant data is how many people are paying more than 30% of their income for housing. I mean, there is this family self-sufficiency concept and what kind of projections there are for job creation where the jobs do not provide sufficient money to buy market or rent market housing. I mean, to me, those would be the kinds of things that show need and by that standard, Kaua'i has a great need for... and then levels of homelessness would be an indicator as well.

Mr. Arakawa: I would agree with you Councilmember Yukimura that those all factor into the nexus test.

Ms. Yukimura: Okay.

Mr. Arakawa: Okay, so those are the types of things that if that report includes all that information of the number of homeless, etc. and all of that, that would factor into that and we would be willing to, as always, work with Mr. Rainforth and new corporation counsel Mr. Pyun on any legal issues relating to that. But you are correct, those are the types of things that people look at in the overall broad scheme of the rational relationship test, so you are correct.

Ms. Yukimura: Okay, thank you very much.

Ms. Zachary: Council Chair Asing?

BILL "KAIPO" ASING, EX-OFFICIO MEMBER: Yes, David, you know, a number of years ago, the State Land Use Commission used that 60% I think you recall. It is not that long ago. Do you have any idea... that seem to have taken hold at that time and it was in the loop in the process for a number of years and I had some difficulty with that too, thinking 60% is such a huge figure, but the State, on a State level, you know, enacted that and stuck that to developers who we have here on this island (one developer that got tapped and did the 60%). So you have any feel as to, you know, you are talking about on a State level, was there a nexus?

Mr. Arakawa: Council Chair, at that time, the State argued that there was a nexus and what happened was, I was developing... I was the attorney for developers on O'ahu at that time and many of the developers just agreed to it and did their housing at that time. Only after that, whether Supreme Court challenges, the Dolan and Nolan cases, that happened in early 2000 period and the Supreme Court came down with this test requiring a nexus. So, yes, very many developers in the late 80's, early 90's, when real estate development was on the upswing did comply with the 60%. But then, after that, after that bubble so to speak, you know, affordable housing wasn't built because it didn't pencil out. That 60% didn't... just didn't pencil out. When you are at that bubble area where real estate is pumping, then it makes sense, but it didn't make sense in the long term and back in those days Council Chair, I think the developers decided just to go along with it rather than legally challenge it. But now, since then, after that time from the year 2000 and on, that has been the law of the land and United States. There has to be some kind of nexus, so some data is required.

Chair Asing: So what... is there a challenge that you can relate to that changed that from that period of time? What is that challenge that you make reference to?

Mr. Arakawa: There were a number of cases on the mainland.

Chair Asing: Was there any in Hawai'i?

Mr. Arakawa: No.

Chair Asing: Any reason why (inaudible)... I mean, it just seems like it is strange to bring in and say, you know, in the mainland it was challenged. Why wasn't it challenged here, you know, in this State?

Mr. Arakawa: You know, I think I cannot really speak for the developers. As many developers as there are in the State of Hawai'i, they all may have different reasons. Some may say, you know what, we didn't want to challenge the State, we didn't want to challenge the County, we need a lot of permits or

approvals at the State or County or they will just say, you know what, the real estate market is going down right now and maybe we'll just wait this out until they change the law, they change the policy, so there are various different reasons why there would not be legal challenges to this in Hawai'i over that period of time in the late 80's and early 90's. So that is all that I could possibly say on that. Perhaps there are some developers here who have personal experience on why they did not challenge the 60% at that time. The projects that I were working, we were really rolling, so we could address that kind of a requirement of 40%, 50% requirement in the cost of the development. So it just so happened that we could do it and we needed to move really fast. We had foreign investors and things like that, so they decide not to challenge that and just go forward. Thank you.

Chair Asing: Thank you.

Ms. Zachary: Councilmember Iseri-Carvalho?

Ms. Iseri-Carvalho: Yes, did LURF provide testimony in a discussion or workshops or meetings over on Maui as well as the Big Island?

Mr. Arakawa: I am not sure about that. I know that we are going to be providing future testimony on those workshops. I believe they did though. If you want, I can get you copies of those testimonies, I can check.

Ms. Iseri-Carvalho: I wanted to... because there are various (inaudible)... each County, I guess, are similar in a way of their proposals being drafted, but there are also some unique differences and I wanted to know if LURF had taken a position specifically with respect to specific provisions in each of the other counties ordinances in light of their recent adoptions. I believe Maui just adopted theirs in December 2006 and then Big Island in February 2005.

Mr. Arakawa: Okay, I will check on that. I am sorry, I am two (2) months on the job here, so I will check on that. Dean Uchida went onto greener pastures.

Ms. Zachary: Any further questions? Councilmember Yukimura?

Ms. Yukimura: I wonder if in the... when was it, the 80's when the 60% was imposed by the State.

Ms. Iseri-Carvalho: 1988 to 1995.

Ms. Yukimura: Yes, but I think Grove Farm's requirement was even before then, maybe, maybe not. Anyway, I wonder whether infrastruc... off site infrastructure was more available at that time and, therefore, you know, you could

do the 60% whereas now, the infrastructure limits are really being met, so developers are being asked to develop a lot of the off site infrastructure. Water systems, water source development, sewage system and so forth because there is that thought too, in terms of that part of the equation. You know, what are all the impact fees so to speak that we are requesting in its totality that affect the feasibility of development. So I just wondered if you had any thoughts about that.

Mr. Arakawa: The project that I was involved with was in the Ewa area. There were, at that time, between three (3) to five (5) major developers in the Ewa area, so they shared in the infrastructure development, that is a good point Councilmember Yukimura. The water development, the development of the walls and water wells and the water transportation. The development of DOT transportation improvements, so there are a bunch of three (3) to five (5) major developers in the Ewa area that worked together to implement or to plan for those developments and, of course, they would be responsible for some, but then the County and State was responsible for the bulk of the infrastructure improvements (inaudible), but that is a good point. At that particular time during the boom, the late 80's, early 90's, in the Ewa area at least, there are a number of developers that, you know, bound together to, you know, to see that the necessary infrastructure was implemented.

Ms. Yukimura: Okay, thank you.

Mr. Arakawa: Thank you.

Ms. Zachary: Councilmember Iseri-Carvalho?

Ms. Yukimura: In reviewing the memo that... there were several actually memos that you provided based on or your company provided based on Professor Callies testimony and I am looking at the December 6 where they described it. In your research, you found that most of the percentage of units dedicated as inclusionary housing varied between 10 and 30% and Maui currently has one that is 40% if it is below \$600,000 and I guess 50% if units that are produced are above \$400,000. How do you explain that kind of rationale and passing constitutional muster?

Mr. Arakawa: You know, with respect to that, I don't have that December 6 memo in front of me. I reviewed the January 3 one, but all I can say is that the same response...

Ms. Iseri-Carvalho: The nexus...

Mr. Arakawa: Yes, the nexus test, but the same response I gave to the Council Chair Asing is that we cannot really represent what those developers... are

you talking from the County's standpoint or the developer's standpoint in challenging that 40% requirement?

Ms. Iseri-Carvalho: Well, either, I guess, because it appears that you guys are saying that the maximum should be, if any, if there should be an imposition and you pass the nexus test, then the maximum amount should be 30% of affordable housing requirements that should be imposed. We know that Maui's policy currently as passed require 40% for certain percentage of units and then above that, 50%.

Mr. Arakawa: And I guess I cannot speak for the Maui Council and I wasn't there during their testimony, etc., but you are a developer and if your legal team says, hey, you know, to pass the rational nexus or the test, it would be 30% or 25%. Are you going to sue the County? Are you going to sue the State or whoever it is based on additional 10%? Are you just going to eat it or, you know, that is the kind of analysis a developer would take a look at or you are just not going to build. You know, that is too high, so let's wait. Some feeling might be, just wait, if they want to impose a 40%, they are not going to get any affordable built, right? After a year and a half of that, then say see, 40% was too high, how about if you guys go 25% or something like that... give some incentives to the developer and then you will see affordable housing be built. That might be some of the idea of some of the developers. I cannot speak for sure, but I know some developers feel that way. On the County level, they might think, 40% is a nice goal to have. We want to set the standard, we want to set that goal, so I really cannot speak for what the Council had in mind or what the developers had in mind, but I can take another look at the testimony and we can work with your staff and try and find out, you know, try and address that issue.

Ms. Iseri-Carvalho: And I guess I would add also that the memo that I reviewed doesn't look at the alternatives, the satisfaction alternatives and maybe if you could provide some testimony with respect to how that may address some of the concerns about the difficulty of developers of meeting the higher percentage and trying to form some alternative means of meeting their requirement. Especially, there is a variety of developers and the policy would apply, of course, to all. Some developers are land rich, cash poor. Some are cash poor, land rich and, so there had been an intent I think in the policy to provide a variety of alternatives to provide options that would work best for that developer who would be proposing a certain type of project.

Mr. Arakawa: Okay, good, very good. Okay, I will check up on that. I think the message and I am not sure if in that testimony, but our recently proposed testimony and every testimony that I have seen on affordable housing is the gist of it is, is that if the government, the State and the County approve multiple levels of housing, you know, the wide spectrum of housing allow developers to develop the

wide spectrum of housing that will enable the people that are in the affordable units now to move up opening up those units. You know, if you develop... if the counties and the States allow a wide spectrum of housing, as we all know, everybody wants to move up into a bigger lot, bigger house, if they have the means. That is what they would aspire to, so by developing the middle income, developing the higher income, developing all those levels of housing, have that inventory available, the law, supply and demand when you have a lot of supply, then the prices go down and people are able to move up and those people in the affordable units now will move up to the middle level. The middle level people will move up a little higher level closer to town or closer to where they work, etc., etc. So the concept in all of our testimony is if you allow a broad number or a wide number of units to be developed, that will make affordable housing units available for the people who need the affordable units. So that is part of the testimony. It is only, you know, Committee Chair Iseri-Carvalho, it is not only like playing with the percentages, it is the, I guess, the concept of making a wide spectrum of housing available. People are always saying, hey, you know what, where are our children going to live? You know, I have children that are working, they are a Police Officer, a nurse, a teacher, right now, those people cannot qualify. They make more than the level of affordable housing, but they cannot qualify for that middle level of housing, so we need to build housing for those types of people. Police Officers, teachers, those types of people. We need developers who develop that level of housing also.

Ms. Zachary: Councilmember Yukimura?

Ms. Yukimura: That doesn't seem to be necessarily true in Hawai'i where the world is the market for our real estate and no matter how much housing we provide, the price of housing is so high. In fact, it is those Police Officers and others who don't qualify for the market housing if we create affordable housing that is housing that the market is not providing that would enable people like Police and nurses and school teachers to afford housing, we have not been doing that well enough to really provide that needs and partly it is because they become part of the market housing that starts to raise the price very high. So what I am saying is, we are never meeting the needs because we can't keep up with the market given the lead time and the subsidies required for affordable housing. So how does LURF propose that we actually meet those needs?

Mr. Arakawa: You know, again, I cannot really speak to the situation on Kaua'i, but on O'ahu, if you build Mililani type homes or Kapolei type homes, those multimillionaires are not going to buy those. They are not going to buy those.

Ms. Yukimura: That is not true on Kaua'i.

Mr. Arakawa: Well, I don't know. I don't know if in a middle of a subdivision, you know, in the middle of a 250 unit subdivision if a millionaire is going to buy one of those (inaudible).

Ms. Yukimura: That might be in the first purchase, but by the second sale, it is not affordable anymore. I mean, you know, a single family house like Mililani and I am not familiar with O'ahu really well, but what is the price of a single family house in Mililani now?

Mr. Arakawa: I think... I don't know what the average price is.

Ms. Yukimura: It must be about \$600,000? It is less than that, \$400,000? \$800,000, well that is not something a Policeman or a teacher is going to be able to afford, so I don't understand what you are saying. I don't think it really holds true.

Mr. Arakawa: Again, I cannot speak for individual housing projects, but, you know, that is what we believe would happen. The more housing product out there, the more housing product out there will bring the price down. Kaua'i might be a different situation, you know, who knows, but we have found that the more housing product out there will allow local people and local kids to buy those houses.

Ms. Zachary: I am going to try and bring us back to the policy. I think it has been informative to hear your perspectives and for the questions to be asked, but if we can really address the specific aspects of the policy, I think it would be exceedingly helpful.

Mr. Arakawa: Thank you.

Ms. Zachary: Council Chair Asing?

Chair Asing: I am not sure if I am going off base too, but I heard you say it and I kind of want an answer because I've heard it said more often than not about people who buy initially and move up. Is there any statistics to that? Do you have anything... I have heard that so many times, but I have not seen any statistics to show that. You know, my feeling is, you know, most local people buy a house and they move in and they stay there forever, but I hear this all the time. You know, you buy and then the succession of, you know, you open up the market and then people move. I have heard it so often and I am saying to myself, but I have never seen any statistics to show that, that it is, in fact, something that is happening.

Mr. Arakawa: Okay.

Chair Asing: I just... I'd like to see that.

Mr. Arakawa: We can take a look at that. Maybe that is an issue that is Honolulu/O'ahu centric. We own the condo, then we move to a single family in Mililani, then it is an hour and a half drive in rush hour to get into town, so we move to Halawa. Three (3) moves altogether and always moving up closer to town.

Ms. Yukimura: Are you talking about yourself personally?

Mr. Arakawa: Yes, I am talking about myself and then the people who we live with. Everybody that we are talking about that lives... that we talk to that are professionals, work in town, they are looking to move closer to town and they do. But as far as statistics, that is a good question Council Chair and we will get back to you on that. We will take a look at it.

Chair Asing: Thank you.

Ms. Zachary: So you have another speaker who is going to follow you? Sorry, Councilmember Bynum.

TIM BYNUM: I just... without a housing policy, what has the industry done to provide workforce affordable housing on Kaua'i in the last 10 years?

Mr. Arakawa: To tell you the truth Councilmember Bynum, I don't know. I don't know the answer to that question.

Mr. Bynum: And then and who is purchasing the homes in Kaua'i that cost \$500,000 to \$600,000 now? We have some statistics on that, so I don't know. I mean, without a policy, how is the industry going to provide housing? You've mentioned classic Police Officer and nurse couple, is there any housing on Kaua'i right now that is affordable for that couple?

Mr. Arakawa: If you are talking, does Kaua'i need a policy? We would say, yes, it does. Now what kind of policy that should be and that is why you folks are here having this workshop. But a policy is needed and that is definite. I have met with a number of developers on this island and they talk about infrastructure, they talk about the County approval process, they talk about a number of reasons why housing is not built. I am not specifically talking about workforce housing, I haven't gotten that deep into it in my month and a half on the job, but, you know, those are excellent questions and we do agree that every County should have an affordable and a workforce housing.

Mr. Bynum: And like Councilwoman Iseri-Carvalho, I am interested in LURF's analysis of particularly the Maui bill which is fairly new. Did they meet your nexus requirement with their bill? Is the nexus requirement something that

has to be met in each development one at a time or is it something that needs to be met in the policy?

Mr. Arakawa: Okay, we can follow up on that.

Ms. Zachary: Thank you very much. I really appreciate your comments and the questions that were asked.

Mr. Arakawa: Thank you for the opportunity.

Ms. Zachary: The next speaker Committee Chair.

Ms. Iseri-Carvalho: Marvin Awaya.

Ms. Zachary: And as you are coming up, I wanted to make one additional point. Ann Wooten, our recorder, is trying to capture the primary points that are made by each speaker and if you... she is writing very small; however, so I know it might be difficult to see what she is writing. But if you see something captured incorrectly, please let us know because we want the record to be as accurate as possible. Thank you very much.

MARVIN AWAYA: Thank you Council for asking me to come to Kaua'i. Actually, LURF did because they weren't too familiar with the aspects of rental housing programs which I am I guess. Marvin Awaya and I am the Executive Director of the Pacific Housing Assistance Corporation. I'd like to go through some of the stuff that I have already submitted in written form, but also comment on some of the, I guess, issues or questions that you might have had regarding Maui and also at the end of my written testimony which I will summarize for you. I will go through some of the aspects that I found in that bill that is under discussion today. So if you could bear with me. Pacific Housing is a non-profit corporation, a 501C3 that was formed in 1980 and developed senior housing, rental housing mostly, but I have done for sale housing for seniors and also for the families and also for the disabled. We have a statewide charter, so as a result, our board membership is drawn from every major island or every County. Our representative from this particular island is John Isobe. We are well versed in finance and development affordable rentals. We have been involved in over 50 projects that has produced about 1,350 units valued at over \$156 million. Our relationship with Kaua'i started back in the late 80's. In fact, the same year that the 60% requirement was placed into effect. In fact, that is where I heard it was at an HSAC meeting held at the Kaua'i Resort that a Big Island developer had agreed to a 60% affordable condition which kind of floored the rest of us at the HSAC affordable housing meeting. Quite frankly, come to find out later, there was no nexus. The negotiation started off at 60 and the State's negotiator was looking at a lower number, but there was no counter offer to the 60, so that is how that 60% got

and I was talking to the negotiator for the State on that who happened to be on Kaua'i. So that is an interesting thing about how this thing comes back around and I keep on telling my friends, this is the third time that this has been happening to me as far as affordable housing crisis and I am not going to go for another one since I will be dead by then. We also participated with the County after Hurricane Iniki to develop housing here. As you all know and live through, this place, Kaua'i was really devastated then and with Princeville Corporation partnered up there to develop some housing in Kilauea called Kilauea Estates. Councilmember Asing and Kouchi knows about that very well. It was a difficult and interesting project that we had put together, but we were able to put two (2) houses on a 10,000 square foot lot that was non-sewered and we had hoped that that particular model of rural areas of... especially for affordable housing of putting in more units on that minimum 10,000 square foot lot was possible to do in the future and we are still hopeful or confident that it can be replicated again. If not on this island other islands as well and the whole concept was to use a condominium spread over the entire development and we are able to do a single family detached home in that area and do it on basically an average of 5,000 square feet only because we use the condominium laws to... I don't want to say skirt around, but to address the DOH issues of having a septic system on a minimum 10,000 square foot lot and I think that is something that all developers in rural areas who do affordable housing should take a careful look at it as to how that might, again, be done because (inaudible) one house, affordable house on a 10,000 square foot lot in a non-sewered area is not cost effective, it is... it is very, very difficult to do that. Speaking of which now, I will probably go back to the Maui ordinance where that 40% came from. I am not sure either, but it started by a effort and workshops that were basically conducted by the Urban Land Institute (ULI). They are brought in to conduct it help Maui County go through an inclusion... well, their affordable housing program if you will. One of the recommendations was that inclusionary zoning be adopted by the County at that time. What the County did was only take half of that suggestion of inclusionary zoning. Inclusionary zoning include not only the requirement that affordable housing be built, but also includes a lot of incentives in order to make one point is the rational nexus, but secondly, to create a win/win situation or at least not so much of a loss to the developer, so that they will be encouraged and, in fact, volunteer to go through the process as well and not fight it.

Maui County passed the stick part of the inclusionary zoning law concept and this year, I understand they are going through the incentive carrot area of what they want the inclusionary zoning to be. In talking to at least one Councilmember early on this year, I asked why they didn't pass it at one time. Basically, it was because they didn't quite know what types of incentives they wanted, but they wanted a stick out there first not expecting anybody to bite on it or to do anything right now, but they wanted to be able to at least get that message out there and then work with the incentive. However, as I commented, not exactly the prime way

or the best way to go about enacting inclusionary zoning because you scare everybody first and then you try and make it palatable. It should be palatable from the very first beginning. LURF asked me to comment on affordable housing programs in general I guess and, also, specifically what is in the proposed bill which I will do. Not that I am an expert on it, but I've had opportunities to serve on affordable housing task force, workforce housing task force, one with the State level that was created in response to a concurrent resolution by the Legislature. And, created basically the first impetus for the State's thrust at housing several years ago. Subsequent to that, I was asked to serve on the Mayor of Honolulu's Advisory Committee that produce also a report regarding how to streamline, how to get affordable housing basically built in the County of O'ahu/Honolulu. I also want to try and just briefly go over... I am not going to hold you to tears I hope about how rental housing developments are actually formulated, so you have some background when you do consider what affects your bill or legislation may have on the actual development itself.

So I wanted to clear up and it is not here, but throughout the State and all the task forces that I have served on and talking to even private developers and the general public, there are certain misconceptions that keep on occurring that I wanted to make sure that we are not going to be held here when you consider this kind of legislation. Affordable housing is not housing for the homeless. Affordable housing is a rental unit or in this case, rental unit that has a fixed rate income or fixed rate rent on it unlike public housing for example that rents their units for 30% of the tenant's income. It is much different, so whatever your income is, 30% is the rent. In this case, affordable housing is a fixed rate rental. Affordable housing is really workforce housing. In spite of the community awareness of the need for affordable housing, we have found that affordable housing is mistaken a lot of times for public housing. And the community tends to resist development in that case. Public housing is housing of last resort and reserved as it should be for households with the lowest incomes. The term workforce housing was (inaudible) differentiate between the two (2). This state of the art term is used by HUD, Fannie Mae, Freddie Mac, Urban Land Institute and others... these workforce housing projects normally have rent rates set to address an income level above 50% of median income because below 50% is served by both Section 8 and by public housing (Federal assisted public housing).

Workforce housing operators, private guys like us, can reject applicants because of insufficient income, tenant record, credit inability to pay first months rent. In a case of public housing, those things do not apply a lot of times because there is no (inaudible) minimum income, there is no (change side of tape)... housing, so I hope that you don't ever refer to any of this kind of housing as low cost because there is no such thing as low cost housing and it has a bad connotation of shoddy workmanship, substandard industry materials, construction shortcuts, so on and so forth. While we provide no optional finishes as other for sale or even market rate

rentals may have and we also use some lower grade. We don't go under or subgrade of materials, appliances or fixtures. The same material that we buy to construct the project is the same material that you would have on basically the high end units for sale, luxury units. In fact, you know, people that have been in the business as long as I have, we tend to upgrade our hardware and appliances because we don't want to replace them unlike for sale, trapped housing developments as the case with Castle and Cooke for example or any other developer who is selling housing... there is an expectation that a homeowner will maintain their home. We don't have that expectation because we maintain the home that is why we bullet proof fixtures, hardware, so on and so forth because we don't want to replace them in a five (5) year period. We want it to last for a long time. Developers, private developers do not own and they don't ever want to own workforce housing projects because of several factors. One, there is insufficient income for a profit motivated company for the long haul.

The depreciation and losses that are generated even from these projects are insufficient as a tax shelter and with the exception of the housing tax credit projects and programs... all the workforce housing is basically owned or operated at least or sponsored by non-profit housing corporations. The government and County or State government develops and owns public housing. Private sector develops and owns the workforce housing. Construction of workforce housing is not the hardest part of the work. For guys like me, it is the easiest part because then we can just let it start running on its own. The hardest part is basically financing it or trying to figure out what financing structure is. It is occupancy and it is management. Everything else in between there, at least for guys in my situation is gravy. There is the misconception of the developer will pay. All costs paid by the consumer whether it be the buyer on the sales price or the renter because of the mortgage to pay off the development. The developer may take less profit, they may certainly not... but not to the project if there is a loss. They may take the loss... their loss is sometimes taken in less profit... what I call an opportunity loss if you will. Their resources or funds could also be used in other areas that created or generated a larger profit. They choose to do this whether it be by requirement or by volunteering to do that. They make (inaudible) land and leasehold with the hope that they may recover sometimes the contribution at a later date through a rent to own program. Therefore, the leasehold, as an owner of land at the end of the lease period, some of them have looked at this and said, well, we will take all the losses or we won't take our profits now, but at the end of 30, 50 years or whatever the case may be, they want to hope to at least sell it also at an affordable price to the tenants who are residing in that project converting the rental to a homeownership project.

Our structure on how we do rental housing projects is basic assumptions that we operate from when we enter the project itself. One is that all the cost have to be passed on either by way of income from the sale of the project if it is a homeownership project or through the rents because the rents support the

mortgage. It pays off the project. The rental housing development cost are paid by securing this mortgage and in some cases if you use tax credits, we are able to sell the tax credits and they get a tax credit in return for that investment and that is equity to the project. Quite frankly and I want to step aside a little bit. That is basically how most of the workforce housing projects are now being done or being constructed or rental projects that are being constructed or developed through the use of tax credits. Unfortunately, the tax credit is a highly competitive and limited by a national ceiling cap on population in the State. The other assumption how we look at is all the mortgages and all the operating cost are paid by the renter. Again, it goes back to the developers not pay the mortgage, the developers is not paying the operating cost, but it is income derived from the project itself.

Since rents are regulated, you have a maximum income limit, maximum rent, you kind of back into what that mortgage amount is. It is kind of predetermined. Whatever the income is, that results in that mortgage at whatever interest rate it will term, that is the mortgage amount. That is the max mortgage amount. It is not like you can increase the sales price or get more money into this because it is limited, it is regulated, so in the sense of raising sales price, for example, to cover a construction debt, we can't do that. We are locked in to that particular mortgage, so that is what is limiting and what is unique about rental housing as well. So, in essence, what we look at is a target group that we are going to go after because the lower the target group, the lower the income that is generated. The lower the mortgage, the greater the need to fill the gap between the mortgage amount and the development cost. There is a gap and that gap sometimes is in the neighborhood depending on whether you use tax credits or not, anywhere between 75% and 35%.

The more money... I am talking about land and infrastructure I guess which is the second thing. The more money we pay for land and the entitlements especially means less money for the building. Workforce housing projects cannot afford to pay market value of the land much less the cost of going through a lengthy, legal land use process. Entitlements also include the public facilities allocation of water facilities charges to a capacity reservations. The next element or factor of production I guess if you will in rental housing or any house is the financing. Upon determining what the cost of construction is, one little piece of... figuring out the final development cost is what the financing itself is going to cost. So we have to determine what kind of financing and I will go through what kinds of financing might be available in this jurisdiction or our environment today. But, you know, juggling those sources and, quite frankly, we can't use one source anymore. We have to use multiple sources of finance in which it creates its own problems which I will go through I guess a little bit later. But there are different timeframes and application and requirements and restrictions and sometimes they differ and sometimes they conflict. So putting those things together is more of an art form that it is science nowadays. The rents are set as low as possible, but what we set them at is basically determined by what kind of rental assistance we are pursuing

or chasing. There are basically two (2) ways to achieve lower rents. One is to a capital financial assistance such as a second mortgage loan, grants and so forth that is related to building the project (what we call hard costs or hard dollars if you will). So we use either below market interest rate loans, soft second mortgages, tax credit equity, foundation grants to infuse the project with this capital source. By lowering the cost of financing, the debt is reduced and the rents do not need to be set otherwise to carry the debt. The other way to achieve a low rent is to operate and assist it that is subsidizing the operations of the project, the additional operations used to offset operating income losses.

A lot of times, what happens is that the income itself on a rental basis obviously cannot afford... can only afford basically to operate expenses and the mortgage, but you need a lot more money to pay off your development loans since a lot of times, that first mortgage is about 25% of the development cost. This way of doing it means that the... it is rather tricky because there aren't many sources that will provide you operating assistance nowadays with the exception of a County/Federal program HUD called project base Section 8 vouchers and that is only as good as the length of time that you could commit the voucher to it. We found that loan underwriters do not recognize a five (5) year contract with HUD (inaudible). If you are asking for a 30 year loan, they want a 30 year guarantee that the subsidies will be coming in and we find that is very difficult if not impossible for most jurisdictions to guarantee if you will because their HUD contracts are normally in a year to year to two (2) year intervals, maximum five (5) I believe on Section 8 vouchers. (Inaudible) is desired because it is a consistent subsidy, a front end subsidy for a lot of us there.

RONALD KOUCHI: Marvin, even the Kilauea project, didn't the County put up a no interest interim construction (inaudible).

Mr. Awaya: That is correct and they also provided at the option of the buyer, long term financing using or just converting that construction loan into a long term for the individuals. I guess you might recall even at that point was a kind of tough sale for whatever reason. It is not that way anymore I understand in Kilauea Estates. In fact, that time, the market was just upside down and I believe a buyback was lowered to three (3) years or 10 years at that time. So, you know, it is resale (inaudible) value has gone up considerably and I think that is a testament to like how... not how affordable housing stays affordable, but what the value I think that we are producing in this that is not something that should be taken lightly as far as increasing values. There is a... I have had this conversation with Councilmember Yukimura regarding the length of time that it should be, in fact, kept in affordable restrictions. I thought perpetuity was too long for a for sale project and it was so in fee simple. There was no linkage I guess back to government other than the mortgage and when the mortgage is paid off, the mortgage is paid off. It was an interesting mortgage arrangement in any case

because it was a graded... the longer the debt that they wanted or needed, the higher the interest rate versus a smaller interest and for different kinds of incomes. That was to encourage greater velocity coming back to the County on the repayment and I think that that might have been hard or difficult to understand, but it made sense at that time to recover the CDBG funds that were, in fact, used because it would become part of the County's asset base in the future as far as those mortgages are concerned.

Ms. Zachary: Mr. Awaya, were you planning to go through this entire document in your presentation?

Mr. Awaya: I was just going to hit some high points from here on out.

Ms. Zachary: Because we really hope that you will focus on your specific comments related to the policy.

Mr. Awaya: I understand, but for you to understand the comments and I don't have very many comments on the policy. Some of this stuff may have to be digested and maybe not today, but at least I want to make sure that certain points were out there. Like I said, from now on, it is going to be more of a... kind of more of a summary than going through every point through this.

Ms. Zachary: And we appreciate that you have given it in writing, that is really helpful.

Mr. Awaya: Yes, I've learned. The next point that I wanted to make was that there are a lot of different kinds of financing available for rental housing and that is listed on page 6 of this testimony if you will. There are probably more that I even missed other than that. The key to all of this is to try to balance all of these financing programs in order to make a viable, financially feasible project. Again, the underline things... as the income group increases, the more able... you are able to increase the first mortgage debt and become less reliant on all the other types of financing that you will be throwing on it. The lower, again, the rule of thumb, lower income, lower mortgage, more assistance needed. I guess that is the basic thing is, therefore, it is, like I said, more of an art than a science. I won't go through the design and construction except you may have to take a look at the some designs and construction because rental housing is... and the types that we do especially. There are some design elements that are different than for sale condos whether it be a fair housing accessibility standards and (inaudible) standards or even cost effectiveness of the appliances itself whether you put, for example, washers, dryers in the unit as opposed at a central location.

The key and, again, is financing and I think the hardest part is occupancy and management because after the dedication of the project is done and everybody

goes home, the real work begins for operators of workforce housing because we not only have to fill the project up, we have to maintain its compliance or the term of regulatory agreements. Therefore, we don't tend to use bids for example which I will kind of get to also to seek property management firms because we feel that getting the best does not necessarily mean the lowest bid to keep you in compliance because getting out of compliance for these projects are very financially devastating to the owner and the operator of the project itself. As I said, the housing program requirements and that is specifically speaking to which I guess a background of which is your proposed bill is it should be linked to some incentive. Among the kinds of incentives that are out there and just kind of off the top of my head... I threw together yesterday what preferred financing from the County and second, third mortgages, grants and also assistance perhaps in public facilities charges. That being either by subsidizing it directly to the developer or waiving the fee. There must be greater use of the County revenue bond authority for use with the 4% tax credits and also maybe for public facilities as well. Maybe the developer can pay or buy the whole bond out and I am not a finance or an attorney guy, but I was always kind of question why the private developer is going to put in the money for the (inaudible)... couldn't get a bond issue by the County as a revenue bond by the bond issue up and translate or transfer their debt all of a sudden into a negotiable security like a revenue bond no.

There should be density bonuses somewhere along the line for the market rate portion of the development project as well as an allowance for density, increased density for the workforce housing elements of this project as well.

Mr. Kouchi: Marvin, on that 4% tax credit, annually, it is just lapses and it has more available and nobody available for (inaudible).

Mr. Awaya: The two (2) programs under that program...

Mr. Kouchi: But you specifically talked about the four (4). I know that the nine (9) is very competitive and it never goes wanting and everybody wants it, but my understanding is we never use all of the available 4% and if (inaudible).

Mr. Awaya: There is no cap. There is no limit to the amount of 4% tax credits you use. What the requirement is that when you use bonds, you are eligible to get the 4% tax credit or you are automatically program eligible if you will. That is why on the 9% tax credits, you cannot use any tax exempt financing source. For example, if the State which they did some years ago provided rental housing trust fund moneys from a GO bond source and that created some problems for some projects who had to back out of that amount. And say, well, we have to replace that amount or not use that as part of our base because anytime you use that kind of tax exempt rating or tax exempt source, you have to deduct it from what they call basis, same thing with grants. By and large, you know, we want to keep any kind of

assistance from the County or from the State in these 4% deals if you will or, I mean, a 9% tax credit deals have to come from general revenues. It cannot come from a bond float which is tax exempt both Federally and State tax exempt, so it can't come from that particular source. So that is the cork there between that tax credit program. It is two (2) facets, the 9% which is no tax exempt financing involved as opposed to the 4% tax credit which requires at least half of the development to be financed initially by the tax exempt bonds. What happens in those projects... maybe eliminate this is that the projects because they didn't come regulated, they all have to be 60% of median income and below cannot support 50% of a bond issue, so what happens is that we issue the 50% bond that used for construction and, therefore, the second mortgage financing comes into place to pick up the difference between what the project can and, in fact, afford or the income can afford and the gap to the total development cost. Sometimes, it's like a tail wagging the dog because you've got the first bond issue and then you got the 4% tax credits and then you have quite a large amount of second mortgage financing that is sometimes greater than the first and that is why we call it the tail wagging the dog. The first guys will always say, forget the appraisal. I know I got value in this project because I've got a \$10 million project, but I have a \$2 million bond in first position or \$2 million mortgage in first position. So they are not really concerned about loan to income... loan to value ratios or anything else like that. We never even come close to 90%, so when somebody says, oh well, you know, we have this great loan program at 95% of loan to value and, you know, we're supposed to be going, well, big deal, we never get that close anyway, you know, for these rental projects with regulated rents. In any case, that is the gist of how those things work.

Going back to the incentives which are near and dear to my heart as well. Reduce initial public facilities charges for a portion of the market rate units or/and waive charges for workforce housing. Again, it is an incentive for them that is a benefit to their market rate units. Priority and zoning subdivision and permitting, greater use of 201H... I am glad to see that that is one of the requirements of the bill itself that you want to create a fast track processing on this. How it is done, I am not sure quite frankly because I've heard the priorities before on other counties in jurisdictions, but the system or the procedure or the process itself is so cumbersome and sequential and it is very difficult to do concurrent processing a lot of times and to give priority. In Honolulu, for example, the Department of Planning and Permitting is 15 first priorities, so which one are they going to take. It is priority of the month kind of deal because some days you want the County projects, for example, to become first priority because the funds may lapse. You have to get them started. Another time, it could be hotels, it could be something else. I think that there should also be a multiple credit or housing credit awarded for doing, especially rental housing as opposed to for sale housing at a higher level. So a credit that should be greater... just for the fact that you are going to do rental housing I think should be done (inaudible) one for one. There should be increase multiples... the lower income that you go to is increased affordability. There should

be a larger multiple of a single credit. There should be another multiple and I am... how sure how you are going to figure this thing out. It is like a huge matrix, but they try to do that right now on O'ahu is to use larger units... the larger units should also get some extra credits as well. Obviously, the longer that you are going to keep it affordability, the better it is too and, therefore, they should receive some credit in that. These items here are not, not being done, they are being done or at least considered at least on O'ahu. It is kind of new as far as the multiples are concerned. There have been attempts to do that in the past, but there is some method to the madness I guess if you will to try and create a useable and viable formula to do all these things as far as increased credits are concerned.

There also is a... that is what led to the last point I guess in this testimony was that the County being a developer and an owner of rental housing. I think this Council... the County should carefully consider this activity. The State as well as all other counties have declined to become developer and owner of workforce housing because of liability issues... procurement laws, the increased staffing and payroll... for experienced development staff and management staff...

JAY FURFARO: You are reading off of page 9 of your report.

Mr. Awaya: Right. The inability and difficulty and I think one of the things that I never really thought about, but it did, was that I am not sure if government accounting and your ordinances and Charter allows you to create special accounts in the projects like that without a specific legislative authorization. I am not sure how that works, again, that would have to be checked, but I think it is very difficult because I find that most government agencies who do own it, if they do own like public housing don't have replacement reserve accounts, they don't have operating reserve accounts, they don't have debt service requirement accounts. So I think there is something involved in (inaudible) with the government accounting systems and legislative systems I guess if you will that may inhibit you from doing that. I guess last, but not least, I want to re-emphasize the procurement law if you, in fact, the owner. State procurement law which you have to follow as well is very tedious and cumbersome and does not let itself for a lot of quick, turn on the dime decisions. Non-profits, for example, are governed by an IRS ruling called A110 which prescribes our old procurement laws or procurement policies. What we have interpreted, everyone interprets, once it is approved in the budget, we are not going to try and impose any kind of direct involvement back to the decision maker or the board of directors. It is in the budget and it has to be executed. They are, however, required over a certain amount of time especially capital investment items that exceed, in my case, \$25,000 to \$50,000... \$50,000 I believe that they go out for bids on that particular deal. In the case of the counties, I think that limit is very much lower than that and that you would have to go to a sealed, written, competitive bid process that makes it very difficult to run operations from a private management standpoint. That is why I think a lot of private managers don't want to bid on

government jobs for that reason. I have also attached to this testimony something I did last year for another... for a foundation who want to understand a little bit more about the do (inaudible) about financing of these projects. Basically what this shows taking some... actual square foot cost that I have been involved with... taking an example, what the shortfall is at financing per unit, so you can multiply it by however units you want to do it. A two (2) bedroom unit... 20% of median income and another at 80% of median income and this just shows that the lower the income, the greater the subsidy or shortfall that is created primarily because of the limitation of income by the rents. So these two (2) examples range from \$58,000 or a shortfall for 120% median income to the 80% of median of income is about \$118,000... this is all no land cost understand that. There is no infrastructure cost on this particular deal because this particular deal was, quite frankly, with Castle and Cooke who wanted to do a project in Mililani Mauka that was a tax credit project, so a lot of things were already built into it. I didn't choose to put it back in. If I did, this thing would probably go up another third or more. To exten... of a \$250,000 subsidy, I would have to take a look at that because that is kind of high unless it is like over the course of 30 years or present values or what have you. But I am not sure what kinds of financing or assumptions were used there. I don't dispute it, I just don't know about it because stuff that I have seen goes up to the 80% of median income and in some cases even higher than this, but depending on the financing structure and what you are able to come out with the development cost. This is scary too because your total development cost on this one is \$320 a square foot and I think this was done last year and that was before some of this stuff started to pop late last year and earlier this year as far as cost escalations with a lot of major contractors.

In any case, going back to your specific issue, you know, I really wanted to look at this a little bit more, but I took a look at it yesterday and the way over on the plane again. My concept was... my comments were specifically on page 10 on how to set the sales limits and also the rental limits. The way that this is written and you can correct me. I hope I am wrong, but I don't think I am. Each model that is being produced is priced... whether you buy a sales price or rental on the family size. So no one knows how to price it. In the front end, because you don't know who is occupying the unit, so that doesn't... it doesn't... on the rental side, how... it is written so that the rent is going to be specific to the income group, not to the two (2) bedroom unit or three (3) bedroom unit or one bedroom unit. So, therefore, a family of three (3) goes into a two (2) bedroom unit, that rent is going to be different than a family of five (5) going into the two (2) bedroom unit which makes our estimation of income impossible because we don't know who is going to occupy the unit. In a sales size, it is probably even worse. They don't know how to sell it. They don't know what the price point... they don't know what the price is to sell it at because (inaudible) occupancy and not by the cost or not by the size unit or anything else like that. Now, the State annually comes out with a rent schedule for studios, ones, twos, threes, four... broken out by every County jurisdiction. The one I got from last

year in what they call the consolidated application has rent rates for incomes at 80, 100% and 140% of median income, but those can also be extrapolated to what it would be for 90% or 110% or 120% or... as long as you know what the 100% median income rent is, you can just keep on extrapolating going up or down, but they do come up with a published rate and there is a method to this madness. I got the formula somewhere in my office, but how they determine that based upon incomes, but these rents are, I guess, adopted at least or blessed by the Federal government or at least through the IRS because these rents are used for the tax credit programs themselves. So they extrapolate what 60% is and they get there and they use that to get all their other incomes as well that is needed for their other programs. So there is a way to do that... doing it this way... I don't know how you would price it. I don't know how you would finance it because you don't know what the income is.

I guess the... there was one that I was kind of concerned about and that is on page 16 on (inaudible) restrictions constituting a lien. The County's interest constitutes a lien on the real property and superior to any mortgage created. We were talking about this earlier. I think a lien is the wrong term. I think it is an encumbrance because that lien means that that thing can't be mortgaged. There is no way that any lender whether it be for a for sale project, individual home loan or a project mortgage (inaudible) would never want to go behind on the land lien I guess this is. So I think that the term... I think I understand what you are trying to do. You want to create a position in here. Your position is land, but not a lien, so that creates an encumbrance as opposed to a lien. I think that is one of the things that I was kind of concerned about. The other thing, if you understand how this thing is working on your community land trust, according to the first part of the bill that you want at desired density, say a 14 units per acre I guess it is for the donation of land... that means that to get 250 units and this is on page 18 that I am looking at here right now. At 14 units an acre, you are going to need 18 acres somewhere before you can even start thinking about getting away from the Administration of the initial stuff. So the County is going to be stuck with this for a long, long time.

The second thing is that, in reading this, you know, quite frankly, I used to write bills in my couple former lives ago and I remember that the Legislative Reference Bureau put out this book and it says, never use and/or on that thing because it is either and or, but what you got here that the land trust is responsible for 250 rental units and/or and I don't know what that means... 50 cooperative and leasehold sales.

Ms. Yukimura:       Where are you reading?

Ms. Zachary:        It is at the bottom of page 18.

Mr. Awaya:           It is at the bottom of page 18. 8.7(b), County board.

Ms. Yukimura:

Thank you.

Mr. Awaya: So it says, and/or 50, okay, and then it's got... I guess it meant or, but I am not sure. I am not sure what it meant. 50 cooperative and leasehold sales and that is 50 plus 50 and that is 100. The way that it is written now, I am not sure what the intent was, but that will be 100 units there. If that is the case, then that is what you want it to be, but the and/or is kind of like... if you have and, we have to determine then, is 250 units plus 50 plus 50 and I don't know what was desired as far as that is concerned. When you put this and/or, it is just doesn't... you can't figure out which one you want to use. The three (3) members or six (6) members or seven (7) members, I noticed that there are three (3) ex-officio members here that are not declared ex-officio that maybe should be. There is also not anything here regarding who is Chair of this or how they organized themselves or do they create their own bylaws or do you create the bylaws or I don't know who does the bylaws on this thing. On the conduct of the meetings, on the conduct of decision making, on the fact that this board or this age... or this board, I think, is going to have to open up separate checking accounts and have actually what we call borrowing resolutions if you will that have to be passed. So I am not sure how this thing is going to work since it is a County agency all of a sudden that if you appoint people on this, I didn't know what your Charter read about advise and consent which you may have to consider as well.

In the case of the non-profit (page 19), to get to 500 units, that is 36 acres and that is only the minimum acreage because what you did on the 14 units per acre, you didn't consider all of the roads. So 14 units per acre actually means that you are going to have to do 14 units an acre is actually more than an acre quite frankly that has to be dedicated (inaudible) or sold or provided somehow, so I just wanted to do that to understand that. I think that you also have the and/or situation here of 500 rental units and/or 100 cooperative and leasehold sales. So it is 100 cooperative and 100 leasehold sales. At least that is how I read it to be... it is unclear whether... what the thresholds are, I think in all of the situations here that I think... it can be written up or cleaned up as long as, I guess, this body comes to a decision on what is actually is needed or what you really wanted to do with this. That basically... as I said, it is a short comment on it. I am not addressing myself to the nexus of what percentage should be provided anywhere because it is a difficult... at least for me, a very difficult comment to make because I am an affordable housing or workforce housing advocate. I believe that the right kind of inclusionary zoning laws are good, but I am concerned that inclusionary zoning laws are being used too much to create an adversarial relationship as opposed to a partnership relationship and that is one of the comments that I guess I would have on ending on whether or not the County wants to get actively involved as a developer and owner in these projects itself because you might be creating... there is no... it doesn't seem to be a partnership relationship that is being created or encouraged for that matter. I know that is not the message that this Council or this

County wants to send out. I know that it is for partnerships with the private sector and I know that the best way to get affordable housing, workforce housing done is to have cooperative relationship and efforts as opposed to adversarial relationships. I think that sending out the wrong message on a inclusionary zoning law without incentives, without a reason for them to participate sends the wrong message which I know that this Council and this County does not want to send out as well.

I can't say what happened on Maui or what has happened on the Big Island is the same, but we found that the new nimby is not because my real estate is going to be... real estate values are going to be down. It is on valid concerns of population growth. Transportation, stress on public facilities whether it be water, sewer, so on and so forth, but that is becoming the new delay tactic to get all housing especially workforce... public housing built a lot of times that has been used as a break to stop, take a breath, so on and so forth. I want to say that, you know, what happened after Iniki should not happen again. This County had done... basically take its foot off the pedal on affordable housing and there is nothing in the pipeline for years and, therefore, one day I read in the paper... in fact, it was a quote from Ken. It is like... it seemed like it just rapidly... the affordable housing crisis just came upon yet. It was just being built up over this time and it just spilled over one day that the realization was that, you know, there is no affordable housing here and that is one of the reasons you did not have anything in your pipeline and you couldn't get up to speed fast enough to address the concerns. You cannot have that pipeline dry up. It has to be at least filled some portion of the way with workforce housing projects, with affordable projects, for sale rental, it has to be filled up. You cannot let that thing dry up again and I think that was one of the biggest issues that... I understand the reasons for it, for taking... not encouraging more affordable housing, but part of it was, actually, this County did not encourage affordable housing after a certain point in Iniki because it was so concerned about its economic welfare and I can understand that. It is disastrous to like lose site of another public policy that I think should have been continued on perhaps at a lower level, but still continued on. That was in her Administration.

Ms. Yukimura: That is correct. We spent \$40 million on affordable housing.

Ms. Zachary: Well, I want to thank you very much for all your comments. There is a lot to chew on and I am sure there are questions from our Councilmembers. Councilmember Furfaro?

Mr. Furfaro: Thank you. I just have two (2). First of all, in your calculations here and committing disposable income of 30% towards housing, are you including utilities as the HUD policy almost dictates here on Kaua'i?

Mr. Awaya: I think I deducted a utility allowance for that. I can't find that section anymore. I think I did. Yes, it is less utility allowance.

Mr. Furfaro: Thank you. And then the other piece here on Kaua'i, we do have a history as we get into tight labor markets where you basically indicate that, you know, when it comes to private developers staying away from owning and developing their own workforce housing project as we get into these type of unemployment situations like 1.4 is the current unemployment on Kaua'i. You will find for the purpose of retention and recruiting, some industries and I would say in the high tech area as well as in hotel resorts probably do not see themselves excluding from participating in some workforce housing. So I have a little bit different view of your comment here, but... and I think as you said, offering some type of housing credits for that may actually make it more attractive.

Mr. Awaya: I am speaking of why they don't want to own it basically. They don't mind developing it as long as they don't have to own it at least the private developers. Maui is wondered like... you know, a housing developer solves housing issues or they provide housing whether it be for workforce housing or whatever the market desires, but, yet, they are asked to solve that problem of workforce by themselves and I thought that that was always kind of unfair that how come the housing developer who is not creating a workforce need if you will is left to be the sole and the white night I guess if you will to solve the housing shortage that is occurring. You are right, certain industries are... I think those industries that are importing... actually, most industries are importing labor now and one of the stories that we keep on hearing is that they hire this middle management hotel executive to come in and he looked around and he came in for a few weeks and turned around and went back because he couldn't afford to live there. This is not somebody who is at a wage scale. This is a guy with a salary, but they don't want to lower their standard of living because of the high housing cost here as well as everything else. I mean, this is the price of paradise I guess if you will. The paradise tax, I guess is someone is going there. The realization that their participation is necessary is coming, but one of the issues that I learned at least talking to some hotel people or resort industry guys is that they are very much concerned about it becoming a negotiable item in their union contracts.

Mr. Furfaro: I am not going to go that far and I don't want to get into a philosophical piece with you here because for that particular industry as well as, you know, having a history of seeing it in the past with island holidays, Amfac hotels and so forth, it was something that was actively done in the industry. When you get to these types of indexes and I am not just talking about the visitor industry... we have a high tech need on the westside. These are skilled technical people that come in for short term assignments, four (4) to six (6) years and housing is that type of issue, so I guess what you are saying, you know, we don't want to lose site of a bill that might have a component that is rental. A component for those that

end up staying for ownership and then, of course, addressing the long term affordability inventory that we could have. So I just didn't wanted to see this as rigid as it is and when you go to page 9 on your worksheet, the same reasons you talk about government agencies or political subdivisions not wanting to be in the rental business, this probably also applies why we don't want to be in the long term lease program either because you have almost exactly the same administrative cost with common area, maintenance, collection, accounting... it is very possible that it has the same meaning.

Mr. Awaya: Councilmember, that is a philosophical issue that I think this Council will have to take up itself.

Mr. Furfaro: Thank you for sending that right back to me.

Mr. Awaya: The comment about developers not wanting only... that was related to housing developers quite frankly, not to industry company or other industry companies who may have other reasons to do what you are talking about. But because developers, if they are in the real estate game, are looking at it from an entirely different perspective. It is not affecting their employees so much, you know, as much as the people that they are trying to service by creating the housing. I think that is where they can't find the nexus to that.

Mr. Furfaro: Well, to have the skilled workforce, to have the resort workforce and so forth to make their destination successful, you want to find the type of people that are best qualified to deliver the kinds of service delivery and, therefore, it is the developer's issue especially if there is a hotel component. It is also the hotels issue if they want to put their grand flag on the island, so it is the same.

Mr. Awaya: One last comment. I forgot to say this. These kinds of inclusionary zoning laws, especially the more stringent ones, 60%, 40%, whatever the case is are good in up markets. You have to be concerned on what is going to happen on a down market on these deals as well as how you do... so whether or not you can be flexible enough to recognize when that down market is occurring and, in fact, be proactive and, you know, continue on housing development if you will, so that this doesn't create a drag on a down market.

Mr. Furfaro: I think vice versa. We don't want it so rigid that nobody responds to it.

Mr. Awaya: Well, that is the issue that is going on in Maui right now.

Mr. Furfaro: Thank you very much Diane (change tape).

Mr. Awaya: ... anybody understands or how to do a development on Maui with those requirements. They are still working through this process especially the hotel guys right now. I was with the head of the Hawai'i Hotel Association I think the day after that this particular Maui bill was passed and he had two (2) comments. One is that we don't know how to work it. You know, what this means. The second, he looked at me and he said, you have a lot of work now on Maui, I guess, with all this stuff going on, but nevertheless, it didn't take them by surprise so much is that hotel operators don't understand that part of the business. They don't understand how to do... how to comply with affordable housing requirements. They don't know what is expected of them quite frankly because that is not in their model of management if you will. You know, they are hotel operator kind of people, so their dynamics or their economics if you will are based on an entirely different set of rules than housing developers are or housing operators are. So it is very confusing to them and they don't know how to do that. Even the... you know, what happened was that, quite frankly, when those bills were passed whether it be a moratorium on the Big Island, on the westside, it created increased value for the guys who got through just before that moratorium or those exactions were put in place. Incredible value increase because in a case of the Big Island you don't (inaudible)... basically, the building or zoning moratorium for the westside... anybody who got their zoning prior to enactment or effective date of that moratorium, we are now getting phone calls from people saying, you know, they want to buy the land at this huge profit if you will and it was just driving up land cost. That is why I am concerned about how these things work sometimes because they create an artificial value by denying the market place to provide the supply if you will.

Mr. Furfaro:           It is Economics 151, University of Hawai'i.

Mr. Awaya:           Well, I took that too, but what is more interesting is to see it in action. You know, you hear about this in school and all that, but you don't quite understand what is going on until you actually see this stuff in action that really drives home the point of due consideration and care being taken in any decision that affects such a valuable resource, I think, that we all have. You know, I have been working... several years ago, I was able to say that I have been working on this for half my lifetime, you know, so I use that a lot now since I am aging out real quickly. But like I said, I've seen the cycles go that is why I was cautioning whether or not, you know, you want to be careful about the down market on this. I have been in down markets, I have been in hot markets and the only thing that was steady, quite frankly, was my business. There was always a need for workforce housing, affordable housing for seniors, you know, rental housing for seniors, for the disabled, for families of a lower income... there was always a demand there. My market never changed, only the people around me or market around me changed. Sometimes, right now, it is harder for me to acquire land because it is so valuable now especially on the Big Island since they have that moratorium, they are not

going to be looking at me to get more land that is not already zoned. The Waikoloa project with UniDev and the local County Council as well as the County operations was put into place prior to the moratorium. They have over a thousand units planned up there. Whether or not it can really affect the workforce housing, I think it will, but that is something I think that was... it was really nice that it was done before the moratorium went into place or it would have problems too.

Chair Asing: Thank you. I appreciate that.

Ms. Zachary: Councilmember Yukimura?

Ms. Yukimura: Thank you very much for this thorough report and also for, you know, drawing on the depth of your experience. You are right that you are one of the few who remember the cycles like many people today just think that we have always had an affordable housing problem and they forget that the landlords did come before the Council in 1995/1996, around there, and tell them stop competing with us, stop Kalepa, stop the development and actually that is the time to build because construction prices are much lower and you know that the hard times are right around the corner which we saw in 2003. So I think if we were to craft a really workable housing strategy, we have to take into account both. We, you know, this Council or Council Chair Asing and Councilmember Kouchi remember that we had to subsidize or put out about a million dollars to keep Pa'anau afloat because there was this exodus from County housing into all of the community... they were actually vacation rentals turned long term rental because there were no tourist around for about five (5) years after the hurricane. So, you know, it is hard and I think the vacancy reserves are one of the things that we have to look at creating affordable housing that is really esthetically nice, functional, energy efficient so that when... or maybe create cooperative housing where people have ownership and self management and they are less likely to leave in the down times are always kind of stabilizing that cycle. I think we have to really think far and deep in terms of how we craft this strategy which is why I am very interested in the way that UniDev is crafting its leaseholds and I brought in speakers on cooperative housing. You say nobody wants to manage these places, well, let the coop owners or tenants manage the places if you train them well and you give them the capacity to manage. I don't know if that is going to lessen the work for you, but I doubt it. So one of my questions is, there is a provision which requires every developer to dedicate land to the County. I really share your thoughts that it not all be owned by the County and I am willing to look at ownership of a non-profit as long as it has a perpetual mission to provide affordable housing. I like the idea of some almost competitive diversity of ownership and management and I like the thought of strong non-profit housing corporations. You know, your Pacific Housing Assistance Corporation is one of them and I think there are others. KHDC is something that we created during my Administration and have several... there is more than enough work, I believe, so my question is, what about this provision of

requiring land from each developer on site which would then be made available to either the developer if he wants to develop it and probably contracting with a non-profit like yourself, so you can receive tax credits and so forth or giving it to the County to contract with a non-profit developer or the County if they want to... themselves develop it, but you have three (3) options. The developer, the non-profit or the County, you know, developing this land within a mixed income community with infrastructure, so that there is, I hope, a win/win all around.

Mr. Awaya: Especially in planned communities, that can get a little bit ticklish because it is not finish yet. It is not fully crafted and I understand that, but a lot of developers are kind of concerned about (in a planned community) giving up any kind of land without any design controls on it. Also, too, there is a cost for the subdivision and the infrastructure hookups, at least the main line stuff because it is not going to be... unless it is a donation I guess, so all the other people are going to have to eat the cost of that infrastructure and entitlement work which would then add cost more to their own market rate housing. So you understand that there is going to be a pushing of or redistribution of the costs among it that is why I said, it is okay to not market. On a down market that it is not going to work because the margins are going to start shrinking on them.

Ms. Yukimura: I totally understand that and that is why I am talking about permanent affordability because I see the... I don't think just because it is free to the County, we don't value it. It is a huge subsidy that we are making available to the qualified families and I don't think they should get a windfall and I don't think we should curtail the return on our investment to 10 years. I mean, you know, we are requiring this of either ourselves or the development community. This is a major contribution and that is why I want it to last for a long time, so that is why I am looking at more like a 20% to 25%, you know, and 120, maybe 140 at the most because I actually think the market is shifting to actually address 40 to 180 and we shouldn't encumber those houses by (inaudible). We should let the developer sell those, but where the need is greatest and where the market is not addressing it, we require contributions and then we require everybody to contribute, including those who get those houses and they cannot make windfalls on them. They get to live in that house forever if they want to, not more than 30% of their income, they are going to have more discretionary income, they can invest in market housing or in college education or whatever, but this goes to another qualified family down the road which means that the 250 because I am looking at your subsidy. If it is \$320 a square foot without land or infrastructure cost times an 800 square foot house, that is \$256,000 subsidy not counting land and infrastructure. I mean, that is a huge subsidy of either taxpayer money or market people that have been asked to share some of the cost because they can afford it and it is an investment in a good community.

Ms. Zachary: Excuse me, Councilmember Yukimura. What is the question please?

Ms. Yukimura: Well, the question was, is not the requirement of land a sensible one and I really appreciate the fact that you brought up the question of design controls because I think that is the crucial worry for the developer and I would say that we negotiate with the developer to make abide by design controls. I mean, I understand UniDev's market houses and affordable however you define it below market anyway are identical. There is almost no distinction in how they look and, so I think we should aim for that because I think it makes for better communities all around and what about the cost of subdivision for...

Ms. Iseri-Carvalho: Point of order, Ms. Facilitator. We need to get an answer to your first question first before going on to other things.

Mr. Awaya: The first question was on the donation I think. As I said, be concerned about the design controls. Also, what it would mean to the total economics of the entire development for the private side as well. If this donation of lands, you know, would solve all of their requirements, then I think, quite frankly, the developer would seriously want to do that than trying to develop it for all these different income levels whether it be rental or for sale. They don't want to go deal with that stuff because it is a lot of moving parts according to how this thing is working right now. If there are less moving parts, then it becomes something that they would be using their particular... quite frankly, private housing developers have a lot going for them especially the big guys. They have a line of credit over there that is based upon something called libor and that libor amount is less than my construction loans quite frankly. So they bring to the table their credit... that they should get credit for too because they are using their credit. Even though you are going to get paid back, there is a credit involved in that. They are using up their line of credit. They are using up their attorney's fees a lot times because those... the bigger ones are, the attorneys, the overhead, sometimes are not job costed. They come out of the sales... the profit margins as opposed to each individual house or each individual lot or each individual project. They come out of the total corporate overhead.

Ms. Yukimura: So it comes more from the developer's profits than from the buyers.

Mr. Awaya: It does reduce their profit, but, again, they are pricing these properties to create a certain kind of margin that if they don't, they stand a chance of losing their own jobs. They stand a chance of having taxpayer... shareholder revoked for not upholding the fiduciary responsibility.

Ms. Yukimura: But every developer is required to do this and this becomes part of standard practice, part of contributing to the community great need which they also... they need policemen, they need teachers... we know that a community that doesn't have these people is not a well functioning community, so everybody contributes.

Mr. Awaya: I think they all understand that. I haven't polled each and everyone of them, but the ones that I have talked to all understand that they have a community obligation. They are concerned about how this community obligation is being imposed upon them whether it is a rational way to do this, whether it be a fair to do this and whether or not it doesn't drive them out of business and a job.

Ms. Yukimura: And that is why we have you here today because I think the goal of the Council is a fair and balanced requirement that won't stop development, but will provide the kind of housing this community needs.

Mr. Awaya: Right now, it looks like it was kind of based upon the Maui one. I don't know if there is enough incentives on it.

Ms. Yukimura: It was not.

Mr. Awaya: Then it does not... it is paneled on the same lines. I can't see the incentives whereby this developer as much as they want to do contribute to what a community benefit, doesn't quite, you know... it is not enough of an incentive to want to do that.

Ms. Yukimura: But we did discuss at our last meeting, density bonuses to offset land contribution, so that is one of the things that is on the table. The other is the community finance districting law which we have in place and whether we are going to just use it to give developers an infusion of cash or we are going to use it to actually offset some of these issues.

Mr. Awaya: I think on top of that too, whether or not you are able and willing to offer multiple credits for the different kinds of products that you want.

Ms. Yukimura: To me, that is too complicated. I mean, we want something simple to...

Mr. Awaya: This is pretty complicated itself.

Ms. Yukimura: Well, I think it is going to get more simplified given the input that we are getting, but I may be wrong.

Ms. Zachary: I am going to interrupt here for just a moment. We are at a time when we need to probably take a break and I want to ask before we do that, do other Councilmembers have questions for Mr. Awaya. So we will take, how long a break? A 10 minute break and we will be back here just before 11:15 a.m. and then we will continue with Mr. Awaya.

There being no objections, the Committee recessed at 11:03 a.m.

The meeting was called back to order at 11:19 a.m., and proceeded as follows:

There being no objections, the rules were suspended.

Ms. Iseri-Carvalho: If we could have Mr. Awaya present. Thank you. Mr. Awaya, I think the question that I had was that it appeared that there were some incentive for developers in article 9 regarding the government assistance portion which reflects the possibility of waiver of County fees and also the possibility of having expedited permits, but it appeared that that was insufficient. Is that what your position is?

Mr. Awaya: You are going to have to query all the other Kaua'i developers that have interest here, but in Honolulu that would be insufficient. The multiple credits as I said is a great incentive to target income levels that you want to. It provides a developer with an opportunity to increase their market housing in relation to the possible loss of land that they would otherwise use for other purposes, but I think it has to be balanced with the idea of what might be fair. What is fair as far as the incentive are concerned. As I said, you know, the increased density and I think that Councilmember Yukimura has mentioned that you might be considering increased densities for the private market side of the project as well. Also, I don't want to say it is compensation, but it is an opportunity for them to narrow the loss a little bit more that might come up and I think that is what everybody wants to try and achieve. How much do these incentives, I guess, create an opportunity to lower the potential loss of it. Is it something that they really need or don't need because there is also a need factor in here whether or not they want to, in fact, increase densities or not. If they don't want to increase densities then obviously increasing densities are not allowing them to increase densities because there is no value to them. So they may want to take it out in different other ways and I am not sure which. They all have different issues, different problems depending on what the land is. Some got lousy land, some are way the heck away from public facilities that have to be dragged in miles. They may need some assistance there. Whether or not this County will, in fact, go away from this cash and carry and go into the use of bonds more is something that, you know, I am not sure what the public policy issues are on that, except historically, from what I am able to understand that this County has been more cash and carry on public facilities than it has been on its utilization of bond capacity. The revenue

bond capacity issue, it doesn't really affect the County. You know, taxpayer if you will because it is basically the payoff is from users. It is like a user fee. In this case, the bond was used to pay off a public utility for a subdivision for example and the developer bought it. They would be, in fact, the assessments could be created to pay off those bonds. That is an issue that is going throughout all of the counties on how to use revenue bonds specifically in community districts and projects. It is also related to something called tax income and financing. So there are other issues out there that might be attractive if there was a public policy that said, you know, you want to offer this kind of thing or a combination thereof or however else you want to structure it. It should be a full shopping list I think of things that might be available that, you know, make some economic sense to them as well and they are going to be different from place to place. I don't know one development that is the same all the way through. They all have different needs.

Ms. Iseri-Carvalho: And I think not only the needs of the developer, but also the needs of the community and I think that raises the question and I would like to get your opinion as far as the percentages. I had discussed this with Mr. Arakawa about it... in their memo referring to a maximum of 30% and, of course, ours go higher, but it also addresses a much higher income group level which Councilmember Yukimura does not seem to support. There may be others that do support up to 180, I don't know, but the way that it is set out as described earlier by the Executive on Housing was basically based on a study that was done by SMS as to the need in the community more than as a developer's incentive.

Mr. Awaya: Well, you got two (2) areas here and that doesn't seem to differentiate with the number of credits on the for sale side. Quite frankly, I can't figure out how to do the income one, but it would seem that there is a set that goes up to 120% of the leasehold sales and up to 180% for the fee simple, something like that, fee simple sales. So there seems to be a distinction between the two (2) already regarding that. The fee simple sales, for example, are going to be more difficult to impose I would think a longer periods of affordability than obviously the leasehold sales aren't easy to do that because the leasehold is going to be according to how the bill works. I believe if it is leasehold, I guess the developer can do it both ways, but the land would also be conveyed in some way to the government agency whether it be by, I guess, through the trust mechanism. As far as, you know, opinion of income groups to really hit and what percentages, one way is to do it by what the population is and through that survey, SMS, so on and so forth, but you have to be cognizant that some programs cannot work for all these things. So you have to be ready to say, well, it is nice to have 30% at this income level, but there aren't enough housing programs or finance programs (inaudible) programs to actually achieve any of them. We might be able to achieve this 30% which equals 300 units, I don't know, whatever the case is throughout the State of Hawai'i. We can't just do it in one County, so the competition of these kinds of source of financing whether it be mostly the State side, you know, is something that had to be

recognized as well. Where are you in the scheme of the State of Hawai'i housing needs and how competitive are your projects against something that might be in Honolulu or Maui or the Big Island. So you have to look at from a broader aspect, a more total aspect when you are sticking in like what you want to do. Because what you want to do is one thing, what you can do might be... it is probably going to be another, so where do you want to be. You want to split the difference or how do you want to achieve these particular goals with the sense of like what is doable or as a sense what is needed because they said that need doesn't necessarily translate to doable. That is all market demand does not translate to sales a lot of times.

Ms. Iseri-Carvalho: And I guess my last question would be the timing of when the requirements are imposed on the developer and there is a variety and what kind of development. Some have it at subdivision approval, some have it at zoning amendment... there is also the applicability of these amendments whether they should only apply to residential or they should apply to resort, commercial and industrial. What would be your thoughts on that?

Mr. Awaya: I understand that there is some dispute legally at least when it is supposed to be imposed, front end, back end, middle end, whatever the case may be. I am not really qualified to state which one might be legal. The preference is, obviously, it be awarded, it be imposed as soon as possible, so they know what they are doing, but also, it should be awarded as soon as possible as well, so they can get out from under, the position of the requirement. The delays such as trying to figure out what you have to do is costly because none of us want to be in a situation where we are trying to guess what you are thinking, you know, because a lot of times you guess wrong. You know, we always guess wrong. We are not really good at guessing stuff, so we can't figure out what you are thinking about, so it has to be put down, it has to be set forward, but it also has to be legal and it has to be fair and I think that is one of the issues regarding when you can impose your requirements or what stage of the process that you want to do that. What stage do the studies come in, for example, to impose the housing requirement on the workforce side. I think as Mr. Arakawa said, that people move from place to place and it doesn't create a housing need, you know. Because they are working somewhere and they are going to work at a new place because they already reside here, doesn't increase the number of the housing need unless, of course, they are overpaying or are they, in fact, under housed, like it is over crowding, then you want to undouble them or untriple them and you want to get them more in line within 30% of their income, that is a housing need. But, to say, just unilaterally that the creation of five (5) jobs here or 100 jobs here increases the number of people that is coming to Kaua'i and also given to the fact some are leaving, what is the real need then by the particular economic activity, I don't know. I am not an economics or a statistical major of that.

Ms. Iseri-Carvalho: Well, I think we were informed that there is some way to determine that amount. I don't know if it is the DBED, but they do put out studies as to that. So just assuming that the provisions are legal in tact, you know, what would be your opinion, so aside from the legality that we would deal with.

Mr. Awaya: Like I have always said, I have never believed that housing developers should solve or be the only sole source of solving the housing issues or the housing problem in the State of Hawai'i or the nation or the world for that matter is that it is everybody's obligation. I think what we talked about is that there is a sense that they are... people outside of the housing development industry are willing to participate as well. What we don't have here is a clear cut way of how, other than the in-lieu fees because they are not going to be skilled in developing these kinds of projects. Like I said, it doesn't follow in their mission. They don't have the manpower to do this kind of work. They have the manpower, for example, to run hotel operations, they have the manpower to renovate, oh, they hire that out too, but renovate operations or new hotels, hotel developers is a whole different breed than housing developers (especially affordable housing developers).

Ms. Iseri-Carvalho: But you would agree that those types of development should be part of the group that contributes to providing affordable housing to the community.

Mr. Awaya: I think it should be a fair assessment. I think it should be a fair contribution. I think that if it is fair, they will volunteer to do that. If they perceive in any way, shape or form that it is either arbitrary or punitive for what they believe is economic activity, positive, then they are going to... they are not going to buy into that. You have to get them to buy in... I can't speak for them to say what is fair or whether or not that they were willing to participate and to what extent. I think they are willing to participate, but they are afraid of what extent and what its ramifications may be on their operations as well because a lot of these hotel guys. For example, the resort guys, they are not locally owned. They are reporting to somebody somewhere else way the heck out in the middle of nowhere or maybe New York City, but they don't particularly care about a community obligation you know.

Ms. Yukimura: They care about their profits though that they make in the community.

Mr. Awaya: Because they are shareholder driven. If they don't, I mean, you have read about what happens to some of these guys who don't, do not respond, to the shareholder in their companies. They are public companies, so they have to be concerned about that. That is their fiduciary responsibility and I don't begrudge them from that, but they have community obligations throughout the nation. How they address that, I am not quite sure what corporate policy would be

from company to company, but you have to make it worthwhile, then even corporate will buy in.

Ms. Iseri-Carvalho: Right, and I guess your concept of being fair doesn't necessarily mean that it is equal. In a sense, when you look at, for example, the legal term of jointly and severally liable where the County is usually the deep pocket holder even though you are 1% liable for an accident that happens because the other party can't pay, you end up paying their share plus your 1%. So there are some concept of that involved here where we all have a duty and an obligation to contribute, but it may not necessarily be the equal percentage of each of the stakeholders that will be impacted.

Mr. Awaya: Well, it is important for people in business to relate the risk and investment to the return. I mean, that is how we are built basically, you know, that there is a risk and will take that risk, mitigate somehow obviously by hard work... that is how you mitigate risk by asking all the right questions that is called due diligence, so that is how we mitigate the risk and then we decide what the investment is. That is no different from a for profit guy and non-profit guy quite frankly. We have to go through the same process because we also are caretakers and have a fiduciary responsibility to our own organizations as non-profits just as the private developer or hotel operation has one with the shareholders. It is sacred relationship I guess. Fiduciary responsibilities are sacred relationships and that they can't be taken too lightly. So, you know, we always try to strive for that and mitigate risk. Now, as long as they feel that their investment is worth the risk and that it is a return in some way, shape or form whether it be community investment, community obligation, profits, whatever the case may be, they have to justify it somewhere. It is not just the guy that comes before you that is going to be answerable to these questions. They are going to be justifying this somewhere else no matter what the local authorities may impose, they still have to explain it somewhere else. You know, they don't have the opportunity for the give and take from New York to go through all this to know what you are thinking that is why I always say, you know, don't guess what they are thinking and know about it because we guess wrong all the time.

Ms. Iseri-Carvalho: Thank you.

Ms. Zachary: Any other questions from Councilmembers?  
Councilmember Bynum?

Mr. Bynum: I would like to know a little bit more about the development when you started talking about in Kilauea. You helped develop that for a for profit corporation or...

Mr. Awaya: No, it was a... let's see how we put this. After Hurricane Iniki, the Federal government appropriated, I guess, a considerable amount of money in what they call community development block grant funds, but they were specifically dedicated as emergency rebuilding type of thing. One of the things that CDBG requires is that if you are using it for new construction, you have to use it from an eligible type recipient. Eligible recipients are non-profits. Now, the case of Kilauea, it happened that Princeville Corporation had a housing requirement that was already imposed upon them already. What we did was we partnered up with Princeville to fulfill that housing requirement. They had purchased some land in Kilauea to fulfill that, but they couldn't figure out how to do that because to get 50 units, it was impossible if you complied with the 10,000 square foot lot requirement. I don't know if you know this, but the Department of Health requires that if you have a septic system, that your leach field have to be on a lot size or a minimum of 10,000 square feet. So what we did was, we came up with this concept of a condo, became a developer of the project, borrowed the money, CDBG money from the County to construct a project and we are going to sell it. What happened was, for whatever reason, it was first offered to... there was an offering to Princeville employees because that is part of the requirement that the County had imposed upon Princeville at that time anyway. They were contributing a substantial amount of value as far as land and entitlement that it had already been done on that particular project already. We didn't value and Councilwoman Yukimura had asked what the value is. I am not quite sure what it is. It has been kind of a long time ago, so I am not even quite sure what we sold it for, but we sold it for under \$200,000. Now, all the...

Ms. Yukimura: The house and lot was under \$200,000.

Mr. Awaya: Under \$200,000 if I recall, \$170 something. See, you have a better memory than I do because he is younger, but in any case, we had some people that came in with their own financing and they bought. They are also a larger amount that we were concerned about that did not qualify for traditional loans, so what we did was created another loan program not by injecting more money in, that wasn't the case because all we wanted to do was pay back the construction loan. What we did was we created a new loan program basically with County Housing Agency, in fact, I think Peter Nakamura was at housing at that time or somewhere.

Ms. Yukimura: He was working for Princeville.

Mr. Awaya: He was somewhere. Oh, he was at Princeville by that time. That is right, we negotiate on the same side. We had created a program that had different kinds of what we call bucket, so whatever the income level was of that person and whatever their need was, we have kind of a loan program for that. That was not so much different in interest rate. It was very low and I think it was 3%,

but term because the longer the term, the lower the mortgage payment is. So what we created was the guys who would qualify because their incomes were higher, we kept them down so that the term was shorter. In essence, they were paying more per month, but then there would be more repayment back to the counties pot of money of CDBG than it would otherwise over a longer period of time of I think... we had it at 10, 15, 20, 25, something like that, so we were going at five (5) year increment on that thing. But the whole idea is that it was extra money because the money we put in the first place. All we did was convert construction financing for that unit into a long term permanent document or a financing piece of paper.

Mr. Bynum: So the upshot of that was people who needed housing got in there affordable?

Mr. Awaya: Oh, yes.

Mr. Bynum: I think... I don't want to get to complex, but I want to know what the status of those housing units are today. Are they still affordable housing? If somebody walks... is there some mechanism that keeps them in the affordable inventory?

Ms. Yukimura: It is another five (5) years on the buyback. We are about five (5) years into the buyback.

Ms. Iseri-Carvalho: Eight (8) years. We only have a year and a half more.

Ms. Yukimura: So there are two (2) years left.

Mr. Awaya: My understanding on the...

**KEN RAINFORTH, EXECUTIVE ON HOUSING:** Marvin mentioned earlier that it took a while to sell the units and he is correct. The first unit sold in 1998 and the last unit sold in 2001 or 2002, so the 10 year buyback is a spread between two (2) years left... about five (5) or six (6) years left.

Mr. Bynum: But when the 10 year buyback runs out, then the owner has them and can sell them at market rate?

Mr. Rainforth: That is correct.

Mr. Bynum: And do we have a concept of what the market rate is of those units right now?

Mr. Rainforth: 500.

Mr. Bynum: So presumably, who is likely to buy those homes at 550 or 600?

Ms. Yukimura: Not qualified families.

Mr. Bynum: I mean, will it be people who currently live on Kaua'i?

Mr. Awaya: I am not sure. It is an interesting point because it is like my situation too. You sit on all this equity and stuff like that, but then you can't buy anyplace else because your income hasn't increased that fast, so whether or not there is going to be a wholesale, everybody taking equity, you know, from that higher end, I am not sure if that is going to happen for awhile because there is no place else to go that is going to be cheaper. So in that sense, it is still affordable. Like these guys have had income increases over the years and you can't stop that. In fact, you encourage people to have income increases, so I think that is good. You know, they were given an opportunity to buy a home, to own a home... a condo or they don't even see it that way because, you know, it is fairly detached, but it is an opportunity for them to grow wealth and that is how you want to... what you want to do with it, that is what I think the controversy or at least discussion is taking place right now as we speak. Where does that increase in equity or wealth go? Does it stay with the people who originally started the project. I mean, I will tell you one thing. You know, developers kick themselves too you know, that is why they don't like to like have too many... they don't like speculation too, because they actually lose money on these deals that is why they have been holding off some of these properties that they don't want to be speculative. On the mainland, for example, these guys had... because of guys flipping, their projects would just value up, but then when the market fell down, they were sitting on a huge, huge loss on paper if nothing else because the value had inflated so much. So that is why there were concerned on the mainland especially about being on the downside of a market and having your inflationary units the last time around, so that this time around, they don't have that many inflationary units in inventory. They put out what they can sell, but no more than that because they didn't want to get caught with that inventory again. Real estate guys, we always see the glass half full, but, you know, it is going to be half empty at some point in time because of cyclical market. You deal with cycles, so it is going to go that way.

Mr. Bynum: And I think many of them may say, hey, because there is nowhere else to go, so they are going to stay, but then they have children and they are wondering where their kids are going to live because these are relatively modest homes in size. Do you know, Ken, what the square footage is?

Mr. Rainforth: They are around 1,100 square feet with a two (2) car garage.

Mr. Bynum: So they may decide if their children are going to have opportunity, they need to go to another State and then they can cash in their equity and have a nest egg for living in Las Vegas right? But then who is going to buy that home?

Mr. Awaya: Well, they never... I am not sure if it is saleable quite frankly or how marketable it really is, so they never get the appreciation unless it is sold. Who would buy it, I am not sure.

Mr. Bynum: My fear is who would buy it is not a local resident and someone new moving to the island.

Ms. Zachary: I'd like to get us back to the policy and ask if any of the other Councilmembers have questions specifically related to the policy for Mr. Awaya. Councilmember Kouchi?

Mr. Kouchi: Marvin, would you have an idea of what the kind of sinking fund we would need to carry us through tougher times? I mean, it is easy to sit here today and, say, how the heck did they do the 10 year, but we had a big debate about not being able to sell those units and how do we gear it up in that market and should we rent the ones that were going unsold and essentially the end of the discussion was that the rental would devalue the property, so we have to eat the cost until we actually can sell it, so for these cycles when it is in this market, do you have any idea of...

Mr. Awaya: You would have to ask the economist on that kind of stuff or the finance people. Don't ask the accounting people, they can't figure it out. You would have to ask someone who is well versed in finance quite frankly and understands what your obligations and issues are and that is kind of hard to figure out too you know. What your hidden obligations are, your hidden liabilities are because they are always liabilities in everything we do in real estate. It is always there, but it is hard to value. We try to ensure it, but if you notice how underwriting occurs, insurance underwriting, it is a mystery. I mean, you know, not quite sure, they say that they are doing it based on this, this, this, but I kind of wonder sometimes because the premiums never come out the way that I calculate it the same way.

Mr. Kouchi: I was just curious because we had instances in the down cycle where the formula for the buyback was higher than the market price.

Mr. Awaya: Yes, that has occurred all over the State.

Mr. Kouchi: And Ken had recommended to us not to exercise the buyback. I sit here today and I could call him an idiot, but is that fair? 2010, how smart am I today, but at that time, so we now say, as a matter of policy, we need to have that kind of fund available and recognizing cycles that we have to commit to a longer vision or some of that Japanese business philosophy versus the immediate western short term.

Mr. Awaya: There is no doubt that buybacks create a need for a pot of money somewhere along the line. As far as how much, no one ever really knew. In the case of the State to exercise their buybacks, there was a large pot of money at that time. It has been raided since then. It is called the dwelling unit revolving fund that bought back the units. In the case of the City & County of Honolulu, that is why they are not exercising buybacks anymore, but they were having to go back to the Council to get that particular appropriation to buy it back which created its own set of problems as far as timing was concerned. So they tried to create funds which they found was difficult too given the accounting procedures or gap or something for government accounting for some odd reason and I couldn't figure out why, that is why I was cautioning this... check out again what... they could have changed it since then, but I think that special funds created like that have to be appropriated by the ownership of the special fund in case you guys (inaudible) you guys have to create that sucker everyday even though it is coming from rental income.

Mr. Kouchi: As I read this policy, if you move away from the buybacks still with that lease provision, we need to purchase out the value of the lease to then go ahead and resell (inaudible).

Mr. Awaya: Yes, forever because that is how those things are designed. It is a trust and being a trust, its life span has no ending as all trusts.

Mr. Kouchi: (Inaudible).

Mr. Awaya: A maintenance of a trust itself, I am not sure what the economics are or the business model is for the maintenance of a trust over what period of time. There is some trust, obviously like the Damien Estate or... that is a trust, but its real estate has a useful life because it has a beneficiary. In this case, the land trust, the beneficiary are the people of Kaua'i. That is the beneficiary. Its user... a lot of people occupy or rent or use the property and I don't think that the land trust should be automatically limited if you have a nice chunk of land to only residential use. There are some trust that include... in urban areas, for example, they expand it to commercial endeavors as well as a way to provide income to the trust itself to maintain it. It is a really integrated... (change side of tape)... trying to increase it at some point in time because you always decrease that or narrow it by the policy as opposed to law.

Ms. Zachary: We have two (2) other Councilmembers with questions and then our audience has been so very patient throughout this. Does anyone besides the two (2) Councilmembers have questions? Alright, we will have these be the two (2) final then. Councilmember Bynun then Councilmember Yukimura.

Mr. Bynum: So I have heard everybody agree that we need to have a policy if it is rational and fair and I have also heard you talk about policy for the up market and the policy for the down market. So how do we make a policy flexible in order to accommodate... to take advantage of the up market when there is financing out there and an economic reality that can create workforce housing versus the down market.

Mr. Awaya: Councilmember Bynum, that is why I am not a legislator. I am not sure how that works. You know, I have an opinion of everything, I don't have the answer. I am not sure how to craft something like that. I am not even sure how to craft a flexible housing policy without diluting it too much. What you don't want to do is dilute it. On the second hand, you want it to be workable as possible. Some of this stuff as I... when I used to work at the Legislature, that was all driven by public discussion by discussion among lawmakers and what the industry feels. I remember trying to craft something for leasehold reform and everybody had an opinion on that. We had to resort, however, to the people who most were directly related to the issue at hand... not only the leaseholders, but also, at that time, the Bishop Estate to provide that kind of input. I think that the input that LURF and the other landowners and developers on Kaua'i are providing are invaluable and they have to be taken into account. I think that just as well as taking the account of advocates like me or others or anyone who advocates a strong housing policy has to, I think, balance it as you all have to do as lawmakers, you have to balance these things out. I don't live in the world where I have to do that. I live in a world that I can just proceed along with the knowledge I gain. You are constantly getting new information, you are constantly having to ask... decide between two (2) rights. They are both correct. I can't advise you on that nor do I have the makeup to that. One, I am (inaudible) smart enough and I am not that blessed.

Mr. Bynum: Is it possible that a lack of policy in the past has meant that the County has missed opportunities?

Mr. Awaya: I am not sure if a lack of policy is the problem as much as enforcement of policy. In the case of Maui, there has always been a policy, but they lost thousands of units because of a lack of enforcement. All the islands, you know when the down market occurs, you are not quite worried about that kind of thing, so you lose site of the enforcement activities. Whatever you do legislative, you have to be willing to enforce. If you are not willing to enforce it, don't legislate it. You have

to be careful about how much that enforcement costs. Some of these issues in here or provisions in here require quite a bit of compliance that you are not currently set up to do, that is, I don't think you are. I don't think you have the audit or asset management capabilities that I think are required for this kind of stuff. You know, you want to have control of it, fine, but you don't need ownership a lot of times. You know, ownership does not necessarily mean control. You can control things which is just as good as ownership, in fact, sometimes better, but other regul... what we call regulatory agreements. You don't need the deed to control the aspect of this thing, so how much the County wants to get involved as opposed to the trust, as opposed to non-profits or outsiders has to be all put into this mix. It is kind of like a stew, you know, of stuff that I think that is going to be... it is not easy doing this kind of major... this is a major policy initiative I think that cannot be done on a time frame or a limit. I mean, there has to be an end to like all discussion, all information and then a decision to be made, but it cannot go on forever. It has to have full discussion, it has to have rapid discussion as much as possible in short period of time. People I think that you should even consult that might not even be in this State to like help you guide this. Now, as I said, Maui County brought in experts from the urban land institute. Of course, you know, they were kind of unhappy that the County took only one-half of the inclusionary zoning issue and only put the stick in there and not the carrot because they were... they had recommended inclusionary zoning, but a more encompassing kind of tool to be used to address housing policy. So, you know, while inclusionary zoning is an important part of housing policy, the other point is that, what is this Council, what is this County going to be doing with respect to its financial obligations or its financial commitment to see that this thing does actually go through. How long is this commitment going to last? Do you have the political will to see it through as well, so these questions I ask... when I go to other non-profit clients, do you have the political will to see it through. Real estate and mortgages, I mean, that is long term. I caution these guys about is that when you get involved with real estate development as another non-profit, for example, you are talking about a long term commitment and its board of directors better understand that that obligation is going to be a long time. It is not maybe why you signed in for this deal, you know, like some non-profit that does work with kids. They need housing, well, they think it is easy enough, but if you really scratch the surface, the board of directors signed up to help kids not to provide housing and that is when they call guys like to me there, but nevertheless, they are going to own the housing, so that takes a political will that they have to, in fact, accept which is same as this particular body. Are you willing to do this? How far are you willing to go? What affect will it have on the economy? Your relationship with the private... the community at large and the business and the developers here. What are you willing to risk I guess? What are you willing to give up?

Ms. Zachary: Councilmember Yukimura?

Ms. Yukimura: I have three (3) questions. I would like to know what is the subsidy of your Kilauea development per unit?

Mr. Awaya: We never really looked at that way, so I didn't have any numbers there. I think what we would have to take a look at would be if we have anything like that would be the market value of the land and the value of the land coming back in. The difference in the construction loan amount and that is about it.

Ms. Yukimura: I am not talking about getting back the money, I am talking about what... What was the subsidy that you didn't get back from the homebuyers that was required to make the development happen?

Mr. Awaya: Whatever money was used for CDBG was accounted for.

Ms. Yukimura: (Inaudible) facilities reserve charge, they didn't have to pay that, right? That was waived.

Mr. Awaya: It was waived for everybody at that point.

Ms. Yukimura: Yes, I know. It was waived for, okay, so...

Mr. Rainforth: All fees were paid, building permit fees, everything was paid just like a regular development.

Ms. Yukimura: And then how much of it did the homebuyer pay? I mean, how much did you have to subsidize between what the homebuyer paid and what the cost was?

Mr. Rainforth: The development cost equaled the sales revenue, so it was a breakeven.

Mr. Kouchi: The bottom line was, Mike or Peter is here. I forget... it was like a million and a half or \$2 million present value on the land at Princeville in conveying the land over to Pacific Housing.

Ms. Yukimura: Okay, so \$1.2 million for the land and that was it and all the other construction cost...

Mr. Kouchi: And then we had the interim construction financing.

Mr. Awaya: There is a financing interest that was a savings. There was no interest.

Ms. Yukimura: So how much was that?

Mr. Awaya: I don't know, it probably would be, what, 8%.

Mr. Kouchi: \$900,000.

Ms. Yukimura: \$900,000, okay, and that...

Mr. Awaya: But then that is an opportunity lost, not a subsidy cost.

Ms. Yukimura: Right, you would have used it for something else.

Mr. Awaya: Whatever we put into the project to pay was recovered in the sales price.

Ms. Yukimura: So basically, it was just the price of the land that was subsidized.

Mr. Awaya: Basically.

Ms. Yukimura: And the infrastructure was covered too?

Mr. Awaya: Yes, had to pay for all that.

Ms. Yukimura: Because you already had water that was....

Mr. Awaya: We had to pay for the water connections, we had to... in fact, we had to even pay for the sewage drainage.

Ms. Yukimura: So it is actually \$50,000... it is 50 into \$1.2 million.

Mr. Awaya: He is right. We also donated the site improvement plans since that was already done. I believe it was prepared by Princeville Corporation and that was provided to...

Ms. Yukimura: So that was a...

Mr. Awaya: I don't know, maybe a couple of hundred grand to that. So it is not that the consumer paid for that you know. The sales... whatever CDBG money was put into the project to build a road, to put electrical came back in a way.

Ms. Yukimura: But it still was subsidy to the owner because without it you couldn't have built the house to give to them at the 30%.

Mr. Awaya: Not at that price level.

Ms. Yukimura: That is correct.

Mr. Awaya: So Princeville put the subsidy in, so if you did a shared appreciation with that, they would get the appreciation share and not the County.

Ms. Yukimura: I am not asking about that. I just want to know... so it was the land and the CDBG moneys that basically was the subsi... was either a public or private subsidy to the homebuyers.

Mr. Awaya: It was a public subsidy from... private subsidy, no public subsidy.

Ms. Yukimura: Well, CDBG moneys.

Mr. Awaya: Yes, but it got paid back. There is a mortgage...

Mr. Rapozo: Can I... point of order please. I don't know if we are even on this policy. We are so far off the policy, we have a bunch of people here and I know that we have already spent three (3) hours and we only have until 3:00 p.m. I am just saying my point and if I am wrong, I am wrong, but we have to be out of here at 3:00 and we are straying, I think, from the policy as I am trying to find out in this policy, where does these questions relate to the policy. I think if there is an issue with... I am trying to... and I have checked it out twice because I thought maybe I missed something, but it is quite clear... if we support a part of the policy or do not, then that is what we discuss. For me, somebody that wasn't here during Kilauea, I don't have that information, I am just trying to figure out what this policy... if he has an issue with an article, section, on the policy, then that is what I am here for, this workshop. I am not here to listen to what happened in Kilauea and all the other developments and how much you spent because, really, for me, that is not what is on this policy. I am asking the facilitator here to... if I am wrong, I will be quiet for the rest of the meeting...

Ms. Zachary: I appreciate what you are saying Councilmember Rapozo.

Ms. Yukimura: And I would like a chance to respond as to why it is related to the policy and then you can make your decision.

Ms. Zachary: Alright.

Ms. Yukimura: It is related to the policy in terms of this whole concept of leasehold ownership and whether we are going to allow sales into the private market after a certain period. It is related to buyback clauses and that is why I see that it is related to our policy here.

Mr. Rapozo: Then I would ask, Ms. Facilitator, if we could just reference the article that is being questioned so I can follow and that is all.

Ms. Zachary: I do think that the questions that are being asked at this point are not specific to the policy, but more informative to the issue and I am wondering if you might get the specific information about the financing that was available for Kīlauea outside of this workshop, so that you have that information available, but we can move on and allow other people to speak.

Ms. Yukimura: I can certainly do that. Thank you. So my request is, Mr. Awaya, could you go back into your files and let us know what the subsidies in general terms and you can do that in writing. I don't need any explanation right now.

Mr. Awaya: I think Ken Rainforth has probably more accurate files because it is CDBG money. I could certainly work with him on the files.

Ms. Yukimura: I just asked because it was your non-profit that did the work. My second question is with respect to Councilmember Bynum's question about how we could make this policy flexible. Whether or not we could lower the median income that we address in terms of what the developer is required to provide housing for and when the market starts to go beyond the capabilities of those in the incomes of 140 to 180% maybe do an interest subsidy program for potential buyers and whether that might be a way to have a flexible policy.

Mr. Awaya: I think lowering the maximum income level that you are trying to address narrows your capability to address broader need. How much subsidy or I don't know if that level of income would require a subsidy in that nature for one thing.

Ms. Yukimura: You are talking about 140 to 180?

Mr. Awaya: Yes. Right now, by Federal law, the income groups below 140% of median income are recognized by the Internal Revenue Service as they have allowed mortgage back revenue bonds to be sold to finance mortgages to households with up to 140% of median income. So I would use that as the top level for the truly assisted. Whether or not workforce housing extends up to 180% which I agree too, in fact, even more than that, quite frankly, should be used as a credit even though the developer might be able to provide that with limited... very, very limited assistance is something else that I think would have to be done on a project by project basis. But, basically, I don't believe that there is much assistance at the higher income levels, but I think there is still a need for that kind of housing that should be taken into account and should be given some assistance, some incentive to

that anyway, otherwise, we are talking about income levels in excess of 200% because that is the median income needed to buy a house now.

Ms. Yukimura: Yes. Okay, so that is what I was asking. The market may soon move to the place where it addresses the 140 to 180, but right now, it is not and you are saying that there is need that is that those with those incomes are not able to afford a house where they can pay 30% of their income.

Mr. Awaya: Well, you know, as I said, it is possible too, I think redirect a broader legislative ordinance bill that it is to expand, so you can narrow it down by policy pronouncements or resolutions rather than having to go through the process of introduction in three (3) readings and having public hearings and all of that stuff to expand it. So I think if you start off with something larger, you are much more flexible... by whatever public input you might want to have to narrow down what you want to do as opposed to expand it from something that is lower. I am always for big to small rather than small to big.

Ms. Yukimura: My question was, instead of using a requirement that a developer provide that housing, would it not be easier and more flexible if the County were to develop an interest subsidy program, could we not meet the same needs?

Mr. Awaya: Wow. The interest subsidy program is something like what I talked about operating subsidy and that is what you are doing right now. You are subsidizing something like that. That is a black hole. The Feds want to get out of that idea. They want to get out of Section 8 for example. They are basically using their own credit to do their insurance policies now. What they do is they don't subsidize the income or the payment of interest. What they do is they insure the mortgage that is that if the thing goes south, they are going to start... they will stand in place for about 90% of the loss, but what they don't do is subsidize the interest because that is like cash out with no reasonable expectation that you get any repayment back at all for what purpose. You've got institutions right now that can ensure mortgages that will result in lower interest rate, so the subsidy is not necessary. Only in the past, on something called the 236 Program, FHA 236 Program were interest subsidies, in fact, I think contemplated and, in fact, used, but they wanted to get out of that real fast when they figured out that...

Ms. Yukimura: So your answer is no?

Mr. Awaya: No, for (inaudible).

Ms. Yukimura: Okay, thank you. And, lastly, following up on Councilmember Kouchi's question about needing a fund and your answer about the dwelling unit revolving fund. Would not the conveyance tax that was increased

and, you know, used partly for housing, but largely for general operations of the State? Would it not make sense to earmark something like that? I mean, the amount that is already been passed for a dwelling unit revolving fund since it relates to housing?

Mr. Awaya: The legislation, as I understand it, the conveyance tax is always directed at the rental housing trust fund. It was directed at the dwelling unit revolving fund... always the rental housing trust fund. It is (inaudible) administered by the State of Hawai'i through the Housing Finance and Development Corporation. Coincidentally, a Kaua'i native is a resident is the Chairman of that particular corporation as well if you guys didn't know that. But the dwelling unit revolving fund has been raided over time by the Legislature to balance the budget primarily because there were no projects in which they were encumbered. Once they started to encumber them, they stopped raiding them. Once the new push came into vogue or into play to do more with what we got. The Legislature is now considering rejuvenating or reinstating more money into that particular fund. So, you know, funds over the years have been used for different purposes. They are directed, however, specifically... the dwelling unit revolving fund initially started off as construction financing and for long term mortgages. We recently, however, we are able to change that to do second mortgage financing for rental projects as well as for sale projects, so it has a little bit broader reach now which is good. The rental housing trust fund primarily provides loans. In fact, this County has taken advantage of some of those proceeds.

Ms. Yukimura: My question is...

Mr. Awaya: You cannot use the rental housing trust fund for the buyback.

Ms. Yukimura: But wouldn't it from a policy standpoint be a good idea to expand the purpose of it, so that it could be available to counties to increase their affordable housing inventory.

Mr. Awaya: I am sorry, you are going to get a lot of fight on that one.

Ms. Yukimura: Okay. I just wanted your thoughts on that.

Ms. Zachary: So thank you very much... Councilmembers for questions and particularly thank you Mr. Awaya for your tremendous amount of information that you have shared with us.

Ms. Iseri-Carvalho: At this point, it is now almost 12:15 p.m. and we are supposed to take lunch by 12:30 p.m. The next speaker is Keone Kealoha. I

don't know, how long will you be? So we will proceed with Keone Kealoha, but we will be taking lunch at 12:30 p.m.

KEONE KEALOHA: Good afternoon Councilmembers. Thank you for allowing me to speak with you today about Bill No. 2202, the housing policy bill. I just wanted to say thank you for the intent of this bill which is to create affordable and workforce housing for the residents of Kaua'i. It is at the top of the list every election year. It is at the top of the agenda and I am glad you guys are really taking this on. I am going to limit the majority of my testimony today to Articles 2 and 3 simply because I wasn't aware that the entire bill was open for discussion today. I am just going to go through by the numbers starting at Article 2 and just mention a few of the items that I have submitted to you in writing (a couple that I thought were important enough to bring up). So starting in Section 2.1(a)... I just wanted to ensure that the term infrastructures was clearly defined at some point because that can be an area that a lot of cost could be incurred and without clearly defining that, I think you may run into some issues especially when it includes perhaps parking allotments for something that would support in our 14 density.

Section 2.1(b), I wanted to see if you might recommend the preference towards sustainable building practices simply because the organization that I am with is a sustainability advocacy group, Malama Kaua'i. Section 2.2, I was looking at the trigger numbers of 50 or more rooms or 100 or more new full-time jobs and just had the sense that that was a little bit too high and the reason for that was that when you got... you are definitely going to have service and staff housing needs that are generated by developments that are less than those numbers and if there is a way to maybe scale into those numbers that were appropriate, it would also help to, I think, deter developers from going right up to the threshold numbers and then stopping at those numbers.

Also, moving onto Section 3.1(a), the rental units substitution clause I felt might perhaps lead to a lack of for purchase properties or homes and I just wanted to see that because folks are supposed to come before the Council to see that, that perhaps there was some way to insure that there was some for sale housing that might be available and not just all of it would become rental since it seems that the goal of most of the residents of Kaua'i is, at some point, feel that they have the homeownership opportunity and not just the renting indefinitely.

Chair Asing: Can I ask a follow up question or shall I wait until the end?

Ms. Zachary: He is almost through, so perhaps you can wait, sorry.

Mr. Kealoha: Just getting through this quickly so that I will respect your time and the clock here. Section 3.1(c)(3), just to clarify that it talks about a

median sales price, but it doesn't make reference to market price homes and it is kind of in the details, but I just wanted to make sure that that was captured. When it comes to the in lieu portions, I wanted to just... put a request out that some of those in lieu land or fees would be earmarked for housing initiatives and not just put into a County coffer that then gets rolled into some other project that really doesn't have to do with housing. The last comment was on 3.1(d) which is just that it says that I think that the landowner or developer is allowed to choose an appraiser and then the cost that they come up with is the cost they come up with and I was just hoping that, perhaps, you might reserve the right to contest that or perhaps have the second appraiser be assigned by the County or something that was done in mutual agreement and that is it for Sections 2 and 3 and perhaps what I could do is submit in writing any additional request or amendments on the rest of the bill.

Ms. Zachary: I have to tell that I really appreciate you being so specific and giving us the reference for all of your suggestions which is extremely helpful. So we do have a few minutes for questions before the 12:30 p.m. break and Council Chair Asing?

Chair Asing: On your 3.1(a), on the rental units, do you have a feel as to your comment regarding homeownership which I agree with you totally what that should be (rental versus for sale homeownership type). Do you have any idea, percentages... as an example, 50% should be homeownership type and 50% rental? Do you have some feel on that?

Mr. Kealoha: What I might think just hearing the question would be to look at the housing inventory at the time and see what decision given your pool of inventory what might be the best breakdown and, again, the needs might change as we talked about these (inaudible) environments for housing and you may see later that making something for rent is better in the market versus for sale, but just the idea that the for sale in itself even if it is in a land trust model where the person doesn't own the property, they are still building equity by purchasing and that, I think, will help them to get a stepping stone into maybe a bigger picture or another property that might be higher up in the chain.

Chair Asing: Well, that is fine. I mean...

Mr. Kealoha: As far as percentages, I...

Chair Asing: I just wanted to have a feel from you and I got the feel and that is fine with me. I don't agree, but that is fine. Thank you.

Mr. Kealoha: If I could even clarify just a bit more, I guess I would say that this particular alternative, I wouldn't like to see all of it just become rental housing, I would like there to be some made for purchase, so there is at least a pool.

Chair Asing: And that is the reason for my asking the question.

Mr. Kealoha: So let's say 50/50 just to be generous on both sides.

Chair Asing: I was trying to get something from you, but that is fine, thank you.

Ms. Zachary: Councilmember Furfaro?

Mr. Furfaro: Yes, Keone, when you make reference of these ratios, room ratios, full-time employee ratios and so forth, are you referencing full-time equivalents?

Mr. Kealoha: Yes, as it is written in the item.

Mr. Furfaro: Right, some (inaudible) would project the total numbers of the workforce divided by a status of a 40 hour work week would be the index you are talking about.

Mr. Kealoha: I imagine whatever index was used to generate that number would be applied, but, hopefully, the intent would be that it would be broken down in ratios, so that you don't, again, have people building like they do now, 49 units to escape the need for wastewater treatment facility.

Mr. Furfaro: Okay, so full-time equivalent for employee status?

Mr. Kealoha: Correct.

Mr. Furfaro: Thank you.

Ms. Zachary: Councilmember Iseri-Carvalho?

Ms. Iseri-Carvalho: Yes, Keone, thank you. I really appreciate reading your comments and we will be having another workshop, so you will have another opportunity to address the rest of the policy as concise as you did here. The one thing that I wanted to point out in Article 3 regarding the satisfaction alternatives and you referred to several of those sections as the County should reserve the right to contest the appraiser before they are even allowed any of those alternatives, it would have to be by approval of Council, so there is an oversight process that the Council would review if those satisfaction alternatives are desired by the developer,

so we would have the opportunity to put in place and an appraiser that would be mutually agreed and we could actually clarify it further within the specific provision, but the overall language says that all of those whether it be rental units, in lieu fee, land in lieu regarding picking an appraiser or units in lieu of land donation, all of that would have to be subject to County Council approval.

Mr. Kealoha: Thank you.

Ms. Zachary: Councilmember Yukimura?

Ms. Yukimura: Thank you also Keone for your thoughtful comments. My question is and also for your suggestion about a preference for sustainability. In light of that suggestion, you will see in Article 3 that where we allow... or this bill would allow for off site developments, that there is a location requirement of within 10 miles... a 10 mile radius of the project and I just wondered if this is a sustainable in terms of your thinking of sustainability whether this is an appropriate radius or whether you would have suggestions for another.

Mr. Kealoha: I am just assuming that that was meant to allow the developer an option if the land was scarce or what not. As far as the actual determination of how 10 mile radius was arrived at, I am not sure what formula was used to figure that out. From a sustainability perspective, I think that the idea of keeping it within a certain radius is good because you are trying to create a range of housing and keep it in relation to place and not so that you have wealthy folks here and poor people over here and cluster it by income. I think you have done a great job of doing the mixed incomes throughout as well speaking specifically to the 10 mile radius, I personally don't have another recommendation, but I am just assuming that this, again, is just based on some type of formula that is some industry formula.

Ms. Yukimura: I don't know if it is, but 10 miles is from Kapa'a Town to Lihu'e is about 10 miles.

Mr. Kealoha: So the idea of keeping it perhaps closer to create more of that mixed income.

Ms. Yukimura: Well, it could be in another town, but if you want to keep it in the same town and that is part of the question that raised in my mind and I wondered if the sustainability analysis or the smart growth analysis had anything to suggest, but I don't know the answer that is why I am asking the question.

Mr. Kealoha: I am not sure either and because of the scarcity of land, especially on the northshore, you might need that distance in order to actually meet the requirement because of lack of actual land, so it is developable.

Ms. Yukimura: Okay, thank you. My other question is, let me see here. Regarding the Chair's question about a clearer percentage of for sale and rental. I think your thought was that we would look at what the need was in the community for rental and for sale, so that is presuming kind of a needs assessment document or information, is that what you had in mind when you referred to that ratio?

Mr. Kealoha: I know the needs are going to change, so in light of trying to make a policy that is flexible and can change with different market conditions that perhaps there is an element built into it. Maybe you set a standard of 50/50 with maybe 50% rental cap, but then you leave it open to further discussion or the Council's discretion on a per case type of basis. So if you know that there is an absolute need in one way versus another, then the Council would be able to move that cap.

Ms. Yukimura: Okay, thank you.

Ms. Zachary: This is probably the final question that we will have time for. Councilmember Furfaro?

Mr. Furfaro: Thank you. Keone, I am going to come back to this question because there was something you said as it relates to infrastructure. First of all, your statement is, we clearly need to define infrastructure and then as we talked early on, you made a comment about the package wastewater piece, so that we could get around the State requirement for the package wastewater, but I just want to caution us. This is also an opportunity where smaller developers may be able to find ways to look at small parcels of property under 15 acres where the zoning could happen at the Council level without going to the State process, whereas, it might actually promote the idea of a packaged wastewater system or some other option that meets the current code. I mean, that is the current code and it is not a deviation, so there is an opportunity there and I just want to ask that question. If there were small developments of under 15 acres that we are looking at coming to the Council to reach some contribution on affordability, you would accept this package wastewater as it is currently in code?

Mr. Kealoha: I am, by no means, suggesting that we should only build developments that are 50 units and greater. I definitely see the future landscape being smaller parcels being developed in creating stepping stone housing and, you know, you could have a five (5) or 10 acre development that meets higher levels of affordability going from maybe a quarter... couple of triplexes to a single family or maybe an R-6 or R-8 and then having an R-2 or R-4 at the top end and there might be a fee simple and keeping some of that in a land trust. If I might add, the idea of building in an agriculture component, perhaps 50% of that land could be left in

agriculture that is actively under production by some entity... maybe a County entity or a non-profit that is sanctioned by the County in some way.

Mr. Furfaro: Thank you for clarifying that because I believe there are many other options as you just pointed out. Thank you Diane.

Ms. Zachary: And I would like to turn this right back over to Councilmember Iseri-Carvalho and thank you so much Keone for your words today.

Ms. Iseri-Carvalho: We will be taking a lunch break and returning back at 1:30 p.m. Up will be Neil Tagawa and Mike Tresler. If there are any of you in the audience that has not filled out a speaker registration form, please do that before returning, so that we can have the flow continue. If not, we will see you at 1:30 p.m. sharp. Thank you.

There being no objections, the Committee recessed at 12:30 p.m.

The meeting was called back to order at 1:37 p.m., and proceeded as follows:

There being no objections, the rules were suspended.

Ms. Iseri-Carvalho: Councilmembers Yukimura and Rapozo will be in shortly. Just to go over the rules again to remind everyone who may not have been here in the morning. We are focusing initially on Articles 2 and 3. After that is done, there will be an opportunity to provide other comments on other articles. What we would ask is you try to stick by these rules and we would ask also Councilmembers, again, the rules are that we are not going to get into philosophical debates about what should be the right way to do the policy or the wrong way to do the policy, but basically to try to garner information from the speakers that are presenting either amendments or comments to the policy. We will be enforcing that rule strictly, so please be aware and not be offended when you are reminded to return back to the agenda. It makes it very difficult for the facilitator to control the meeting when people are not abiding by the rules. With that said, we also would like to encourage as much public comment as possible, therefore, we will not have any time limits that will be set on the speakers. Any questions from the Councilmembers as to what the rules are or any other questions? There were a lot of people here, so we want to make sure that we get the opportunity to hear from everyone who wishes to provide input. Alright, okay, with that, if we could have Mr. Tagawa and Mr. Tresler.

Ms. Iseri-Carvalho: Thank you Diane and it is back to you.

Ms. Zachary: Thank you very much. Welcome gentlemen.

NEIL TAGAWA, GROVE FARM: Thank you. Good afternoon Councilmembers. My name is Neil Tagawa and I am with Grove Farm.

MICHAEL TRESLER, GROVE FARM: Michael Tresler with Grove Farm, good afternoon.

Mr. Tagawa: I would like to begin by basically building on what we mentioned during the last workshop and we were asked to come back with some hard numbers basically on what was presented back then and how any policy would affect our projects. Let me first by starting off with... I will go back to Section 2.1, but starting off with Section 2.2 on the resort commercial and industrial developments. For industrial developments based on our projections, the payback is anytime anything between 10 and 15 years on a development and collecting rent. If affordable arrangement were subject to industrial developments, it basically would not pencil out. It pushed it back (inaudible) 25 year payback, so with any kind... it is pretty much of a lien type of operation with...

Ms. Iseri-Carvalho: I am sorry, Neil, I just wanted to ask if what data are you relying on to provide those numbers.

Mr. Tagawa: We relied on what the construction cost would take. Construction, infrastructure cost that based on our... the data provided to us by our consultants and the market rent that we think we could get. So what that would force us to do is find a loophole around it for industrial areas. You know, sell off, subdivide, sell off and have them do their own which would then make it very impractical also because each person would then be forced to do their own infrastructure improvements rather than a developer doing it all at once. Commercial would have somewhat of the same effect, but there is so much more variables associated with commercial just because very different levels. Industrial is pretty much all one flavor and as far as resort developments and (inaudible). So referring back to Section 2.1 this is where we were asked to come back with numbers and how the housing policy would affect our current projects and based on the current proposed policy, I would like to go back to saying that as a developer, any shortfalls that we would incur on any affordable housing would have to be tacked onto a market unit. So based on that, each market unit based on our projections, if the current policy were in place would raise a cost of about... each market unit will have to bear about \$110,000 premium. Prior to that, last time we proposed... what we proposed was... what the Grove Farm was a 10% at 80%... 10% for 80% of median, 5% at 100%, 5% at 120%, and 5% at 140% which comes out at 25%. Even that, after using our revised numbers of construction cost, when it initially came up, it was a while back with old information, but even looking at that now, given that number, seems hard to (inaudible) \$80 something thousand dollars that would have to be added on to each market unit. So with that in mind, if we went something with more flexibility such as a credit base system such as the Big

Island has in place where the under 80% equals two (2) credits, for 100% equals 1.5 credits, for 120% equals one credit and for 140% equals .5 credits. Based on that, gives you the flexibility to alter your mix of product. You can get the per unit premium down to, you know... utilizing say, 20% affordable housing requirements. You get a number down to under \$40,000 premium which is still high, but I think that seems a little bit more practical.

Ms. Zachary: Is that your...

Mr. Tagawa: That is the majority of it, but we have a lot more data and I am sure that we will have a lot more questions, so we can follow up with that.

Ms. Zachary: Let's turn to the questions from the Councilmembers. Councilmember Furfaro?

Mr. Furfaro: So are you... when it comes to the resort commercial areas, neighborhood commercial and so forth, are you going to show us something that supports this... what did you say, currently, it is 10 to 15 years, but by adding the housing component, it would add at least another 10 years. Are you going to give us something that substantiates that?

Mr. Tagawa: We can give out numbers, but I guess being...

Mr. Furfaro: You can or you can't?

Mr. Tagawa: I guess I would not like to give out those numbers and those are proprietary numbers as far as appraisal, land fees and everything like that.

Mr. Furfaro: And I guess, you know, we would hope that you could come to us with something like that. As you know, we are discussing this big box store ordinance right now and we have somebody that comes into the community and they look at 175 square foot store and they probably have a multiple facets of skilled labor whether it is butchers, clerical people, service personnel and to find something fair and equitable as far as associating some kind of housing requirement on a store like that. It probably has to come to some reasonable expectation that is going to be imported labor. You know, it is one of the things that we talked about earlier... a lot of operators of hotels don't necessarily own the asset, they come in and sign for the management contract and, yet, at the same time, don't necessarily relate to what is fair and equitable in the way of providing some housing for their support middle managers and so on (change tape)...

Mr. Tagawa: Extra cost... the land cost and all that added up if we were to develop and building cost. Again, design fees and, of course, margin...

required margin, you add all those together and then based on the rent that you are going to get per square foot, the range is about 10 to 15 years. So without providing actual numbers, that is how we arrived at that amount. Now, if we are able to add on any affordable portion to that, any cost, by our calculations, you know, the land cost, building cost and all that, it just doesn't pencil. It goes way out where the return investments, you wouldn't do it, put it that way.

Mr. Furfaro: Well, given your statement, it is a very important issue with the commercial areas in our community that there would be some reasonable expectation when zoning is given and that there is some component.

Mr. Tagawa: So commercial is a little bit more... more of difficult nut to attack just because there are much more variables, you go to commercial retail... of course, the price per square foot is much higher, so you can probably make something back there. There are so many more variables and it would have to depend exactly on a case by case basis.

Mr. Furfaro: Well, to get down to the bottom line, nobody built a commercial area to lose money. I am understanding that, but, you know, there are people that are charging upwards of \$7 a square foot for retail space and on top of that, they are laying the common area of maintenance on top of that to cover certain operational cost that deal with deferred maintenance and so on and I am just hearing from you that this arbitrarily takes a project like that from 12 years to 25 years if there was any housing component. I can't, in my mind, believe that it would add that much to a commercial project reflecting those kinds of rents and those kinds of recovery cost on common area maintenance and taxes, but thank you for your feedback and...

Ms. Zachary: Can I make a clarification? You said that was for industrial, is that correct?

Mr. Tagawa: Industrial.

Ms. Zachary: Not commercial.

Mr. Tagawa: Commercial is much... it really depends on what kind of commercial project it is, but industrial alone, they are pretty much all... they are kind of the same in building a warehouse, the cost are pretty similar.

Mr. Furfaro: I understood that Diane. I mean, he led the discussion towards commercial. We started out with industrial and there are various types of industrial. There is neighborhood kind of stuff, there is real general industrial like a batch plan for cement and things of that nature.

Mr. Tagawa: Yes, the typical warehouse storage thing.

Mr. Furfaro: But that is a lot of years to add to a project and I just find that difficult to believe.

Mr. Tresler: Councilmember, I mean, the square footage range that you get for industrial is significant lower and nowhere near commercial mixed use and that is why the statement was focused on the industrial side.

Mr. Furfaro: Yes.

Mr. Tresler: So it could conceivably very easily add or double up the years on the return.

Mr. Furfaro: I understand that, but, you know, if you are doing commercial space at some of the rates that I quoted, but then you are doing industrial space and I am saying industrial zoned areas here where they are charging maybe 2 ½ to 3% of the gross, they are leaving a lot of money on the table. You could be charging 6 to 8% of the gross and still evaluate the impact of that revenue on the return of the actual investment if there was a workforce housing component with it. Again, all I am saying is, it seems to arbitrarily say that it adds 10 to 12 more years seems excessive.

Mr. Tagawa: That is based on current rates (inaudible) able to get today.

Ms. Zachary: Councilmember Yukimura?

Ms. Yukimura: So in making this analysis, you assume the 10% land dedication and a 30% on top of that total units, right?

Mr. Tagawa: Yes.

Ms. Yukimura: So like a 40% requirement. So my question is, what can you live with if you can't live with this percentage?

Mr. Tagawa: Again, a 20 to 25% if it is credit based is doable.

Ms. Yukimura: What do you mean by credit based?

Mr. Tagawa: So, again, if 80% would be worth two (2) credits much like the Big Island's policy. 100% is worth 1.5 credits, 120 is worth one credit, 140% is worth .5 credits.

Ms. Yukimura: So you are saying that if you do an 80% unit that will... 80% of median income, if you do a unit for an 80% of median income, that would give you a credit for doing two (2) units?

Mr. Tagawa: Yes.

Ms. Yukimura: At a rate of 20 to 25% of the total units in the development. Okay, so there is a recognition that commercial industrial does generate some housing need and you are willing to...

Mr. Tagawa: I am not saying that.

Ms. Yukimura: You aren't?

Mr. Tagawa: You can say that, but I didn't say that.

Ms. Yukimura: Okay. Well, I am just saying that you are willing to... you are saying that you can live with a requirement that makes requirement of industrial and commercial zoning is what I am hearing you as long as it is on this level of 20 to 25% and credit based 80... like the Big Island system, am I hearing you wrong?

Mr. Tagawa: The credit based system was strictly only on the residential housing.

Mr. Furfaro: What he is saying is, zero on industrial.

Mr. Tagawa: Yes. That is the way that I calculated it out.

Mr. Furfaro: But you are not going to share those calculations with us.

Mr. Kouchi: I was just going to say, so that we can clarify. I just wanted to share, I heard exactly what JoAnn heard. You know, I thought that Big Island whatever was what would work for industrial, so if it is not what you said, then I am just telling you there is more than one person sitting here who heard it that way, so you better be clear about what could work, not work, or whatever, but I just wanted to share what I heard you say.

Ms. Yukimura: Because my whole question started with industrial and commercial, so I am not talking residential yet, I am talking industrial commercial and I am hearing you say, you can live with a 20 to 25% if credit based according to Big Island system. I am not trying to put words in your mouth, I am just trying to understand what you are saying.

Mr. Tagawa: Okay, that is not what I intended to say.

Mr. Furfaro: I think we should start by saying that we are talking about industrial and commercial.

Mr. Tagawa: (Inaudible) you can look at that aspect individually. For industrial development, if we were to put on affordable housing component onto that...

Mr. Kouchi: Of any type.

Mr. Tagawa: Of any type... I guess that is unfair to say of any type. You can say like 1% and it would be fine probably.

Ms. Yukimura: That is where I was leading to.

Ms. Zachary: Can we take this in two (2) different parts. First part is the 10% land dedication for commercial and industrial. Is that something that you could support?

Mr. Tagawa: I would have to see. I can say for... I did an analysis on the residential if we were to... the 10% land dedication, but basically add on \$15,000 per market units sold.

Ms. Yukimura: If you keep your profits the same level?

Mr. Tagawa: That is set with a margin in there.

Ms. Zachary: The second part... just to make sure that we have all heard this correctly then is for commercial industrial, the percentages, the 10%, 5%, etc. that you were talking about before and the credits that you were talking about before would not apply to commercial industrial, but the 10% land dedication, you might live with, is that correct?

Mr. Tresler: If I can help. Commercial industrial, zero, just zero, nothing peri... take it out.

Ms. Yukimura: And what is your justification for that?

Mr. Tresler: You know, again, the calculations makes it... we wouldn't do any industrial and even commercial would be questionable and it is too difficult with all these new (inaudible) and different uses of commercial is just... we can't figure it out, we did industrial and it doesn't pencil out, so we are just saying that we have no answer for that except zero in that area.

Ms. Yukimura: What we are hearing is, we don't want it, but I don't hear the reasons for it. I am really trying to understand the reasons for it and there may be very legitimate reasons for it. I am just asking for the answer. I hear you don't want it, you know, but why? What is the reason? What makes it different from residential? You are still going to get a profit off of these lands.

Mr. Tagawa: Under the assumption if we are to be the developer and rent it out, the payback is much longer.

Ms. Yukimura: If you were to be the developer, yes, well, I was suggesting last time that you might not want to be developer of the land requirement.

Mr. Tagawa: If we just sold everything off... say, we are talking about industrial and subdivide it and sold off individual parcels, we would be fine, but then, again, each one of the individual parcels if it is separate (inaudible) would not be subject to any housing regulations anyway, right?

Mr. Kouchi: Unless it is triggered at the time of subdivision.

Ms. Yukimura: Or zoning.

Mr. Tresler: I think the question floating in your mind is a zoning... it is a planning issue. I mean, that is how we kind of see it because it is hard to say that this lot is going to generate a need for 10 homes. I mean, it is difficult, so we just looked at as industrial and commercial. Industrial clearly, we can run numbers. Commercial gets a little more difficult and, I mean, if we had to deal with that component, it would make it pretty much not feasible. Again, we are looking at a development and the best clearest one is the industrial to say because I have good market data and we have done that stuff. Commercial, we normally have sold off lots and then they do whatever they want to do with the lots as far as the use.

Ms. Yukimura: But Grove Farm, as a residential developer could satisfy the requirements and then pass it onto the people who buy it by the commercial or industrial and what you are saying, maybe, is that the pass on of that additional cost due to the housing requirement would make the laws not marketable, that nobody would buy it at that cost, is that what you are saying?

Mr. Tresler: That is very possible and the fact of what you just said about tying all of these things in makes it kind of difficult for any developer to want to even do it. I mean, because... it gets more complicated, so we are struggling with the residential side as it is and when we get there, we can explain that and maybe you can draw your conclusions with the residential side.

Ms. Zachary: I think for the purpose of where we are, you have made it clear that the commercial industrial side, you think zero requirements should be in place in the policy, therefore, perhaps, the focus can be on residential if anyone else has questions for Grove Farm related to the residential portions of the policy.

Mr. Kouchi: In the morning, Mr. Awaya said that we should accept the generalization that housing development shouldn't solve all housing problems. It was kind of a general nodding of agreement around the whole room, so if we accept that, but then we say, it is not on industrial and it is not on commercial, so where is it?

Mr. Furfaro: But those parcels make workforce on the island and this is about workforce housing.

Mr. Kouchi: Because you are basically telling the Council, don't improve industrial and commercial zoning because it will create a need for workforce housing, but it won't contribute, so why exacerbate a problem that already exist. If you circle logic, I mean, yes, it is coming to an absurd conclusion, but zero seems to me to be such an absurd absolute conclusion as well and it leaves me to come to no other conclusion on zoning.

Mr. Tresler: That is fair, but we don't have the answer is what we are saying, but we are being pushed to provide the answer and we don't have the answer to that right now.

Mr. Kouchi: Leave it up to ourselves then?

Mr. Tresler: I mean, we can go back and research it, but that is where we can from. Is it a zoning and planning issue at that time. Can you set a policy that would address it? We don't have the answers to that one.

Ms. Zachary: Councilmember Rapozo?

Mr. Rapozo: I am just trying to figure out... the trigger is a 100 full-time new jobs, right, that would trigger this policy to kick in on an industrial or commercial and I am just trying to think how many companies or businesses we have out there that have a 100 full-time jobs?

Mr. Tresler: Is it per...

Mr. Furfaro: I think the intent is the whole complex when it generates 100 full-time equivalents, then it triggers something and that is where it is at. It is the whole complex.

Mr. Rapozo: I am... I mean, because you talked about if you subdivide the land and sell it out, I just don't know of too many companies today that have 100 full-time employees on Kaua'i, not that many. So it is a high trigger. A hundred full-time jobs. That is quite a big operation, I mean, in industrial and commercial and not resort, but in industrial and even in resort. I mean, I don't know how many full-time jobs... I don't know even like a Wal-Mart may hire or a K-Mart may employ, but even then, I doubt if they would have a hundred full-timers. Full-time meaning 40 hours a week.

Mr. Tresler: Right, then everyone becomes part-time and is that a way around it and we have a workforce of...

Ms. Zachary: I think the clarification was made earlier.

(INAUDIBLE, EVERYONE TALKING AT THE SAME TIME).

Mr. Furfaro: We said 100 full-time equivalents, so if you have 200 part-timers working 20 hours, you then have 100 equivalent full-time, so it prevents circumventing the policy.

Mr. Tresler: We have a different... I mean, working with these ag projects that we are looking at, we realize the need for housing and we fortunately have some housing that we can provide for workforce and then we are planning... we have to do ag workforce housing, so it is not that we don't realize that... I don't want you guys to get that idea, in fact, we have to deal with that issue because there is no way we can operate a business or support a sustainable business without that kind of housing... satisfying that housing need, so I think people inherently take it upon themselves when they are doing those kinds of projects to address those needs and large scale projects, so I don't want you to get that idea that we just wouldn't address it because you have to address it, but when you ask about the calculation for industrial, it didn't pencil out, that is what happens. Commercial is a little different. I mean, I don't know why we are diving into all these details, but basically that is our position. If we can't support, we can't support it at this time.

Mr. Rapozo: That is fine.

Mr. Tresler: We had some numbers and we did calculations. If someone would pay us \$7 a square foot, come on down, you know, build something for (inaudible) obviously, but that is what we calculate it out to (inaudible). We are very clear on the industrial side, so, again, we admit that the commercial side is a lot different, but we don't have the answers.

Ms. Zachary: Councilmember Bynum?

Mr. Bynum: So now we can ask questions about residential? So what I heard you say was that each market unit under this current bill would cost \$110,000 market unit...

Mr. Tagawa: Premium until market unit.

Mr. Bynum: And under the proposal, you showed us Grove Farm is currently working under with the 614 units is \$80,000.

Mr. Tagawa: When we originally did that, that proposal for 25, we were working off old numbers and the biggest number is construction cost really and those have escalated and that really still (inaudible) is pretty difficult also.

Mr. Bynum: So since you came here, this isn't the intent of Grove Farm to move forward with this project?

Mr. Tagawa: It is up in the air right now realistically.

Mr. Bynum: But the preference was the 20% credit system which you...

Mr. Tagawa: Even at 25% on the credit system, at least... it is different for every development. Our development that we are looking at, you know, there is no high end housing in there. Basically, it would top off at about the 200%, so the margins are not too much to play with, so that works for us because we are able to scatter the different credits for every separate area.

Mr. Bynum: I understand that. You gave last time a project example of Waikoloa on the Big Island and it said that under the old requirement, the developer would tack on \$720,000, so it wasn't feasible, but under the current requirement of 20% credits, developer tacks on \$166,000, so how is that? Why is that 166 so different than...

Mr. Tagawa: If you were able to do higher end units... (Inaudible) higher in units, it might actually be practical because you can hide that net cost in there and ours is not.

Ms. Yukimura: Waikoloa doesn't have higher end units. I think they are almost all affordable aren't they?

Mr. Tagawa: At a \$120,000 premium?

Ms. Yukimura: Yes, and I think they are doing it by their special financing with City Bank. The County is putting in... how much Ken?

Mr. Rainforth: \$40 million.

Ms. Yukimura: \$40 million and what was the other subsidy? Yes, that is how they are doing it.

Mr. Tresler: And maybe that is what we would need to do, the way it is penciling out to be.

Ms. Yukimura: There is a 100% affordable. They are doing it at 100% affordable, but no denying. Like I said earlier this morning, it is a subsidy that is why I don't think we should let go of it into the market so fast, but, you know, that is another matter.

Mr. Bynum: Because when you were here the last time, I looked at the 25% affordable and I walked away saying, well, if the policy said that, Grove Farm would be happy with it because that is what they are doing.

Mr. Tagawa: So you can convert that to a credit basis and it actually would work.

Mr. Bynum: But that changes it all. It changes the bottom line of \$40,000 is what you just told me.

Mr. Tresler: Well, again, that is where maybe the incentives to build the lower units is and that is all that we are saying is that there is flexibility because if we don't, then we have a higher cost that we need to deal with. The market is not going to continue skyrocketing and you have that force pushing against you which we all have to look at because we pencil this out and, I mean, it gets very challenging. Again, we are not targeting sales to the mainland and stuff, so it is hard to imagine people paying that much, but I guess that is the reality of our construction cost in this day and age.

Mr. Bynum: I was wondering last time where you were going to find 1,400 people to take 200% of median income.

Mr. Furfaro: Well, the housing survey that Grove Farm financed, actually, you could look at it in a different way if I can. It actually turns out to be a market plan as well. There are 2,300 units that are needed over the next six (6) years of which 1,100 are below affordable. That means that the other 12 are in the market, so that is where they got that from.

Ms. Zachary: Any other questions? Councilmember Bynum?

Mr. Bynum: Not right now.

Ms. Zachary: Councilmember Yukimura?

Ms. Yukimura: It occurred to me that the requirements of this bill and, you know, I don't really agree with the 30%... I would bring that down a little bit and bring down the median incomes that we would have to address, but with the 10% and some percentage, 10% land requirement and some percentage of 80 to 120, plus a density bonus might be the same thing as this credit system because you would be able to build more market units.

Mr. Tagawa: In a normal situation, if you are starting from scratch, it would probably be okay. We are in a unique situation in our development where zoning is all done and this is just another and affordable housing is one of the conditions which we need to satisfy. We are a little bit further down... we are at density bonus and we actually... not be feasible because we would have to...

Ms. Yukimura: Reconfigure your design.

Mr. Tagawa: And infrastructure would not...

Ms. Yukimura: Well, okay, I mean there is even a question as to whether... one of the things we are going to have to determine in this bill and I don't even know if it does, but is where we draw the line as to when we start applying these requirements. You already have your zoning and your zoning permits. Do you have your zoning permits or subdivision permits?

Mr. Tagawa: We are going through final subdivision now, but it is one of the Land Use Commission conditions is that we have to have an affordable housing agreement in place. This one or... this policy or one that we draft up on our own.

Ms. Yukimura: Right, okay, so that addresses your unique position in terms of this particular development that you are looking at and where we draw the line as to your project is going to be a decision we have to make. We are talking about a policy that will apply to any... maybe applies to this one that you are... what is it called? What do you call this one that is coming up in...

Mr. Tagawa: Wailani.

Ms. Yukimura: Wailani, the one that will run from the hospital up to Kāpule Highway?

Mr. Tagawa: Yes.

Ms. Yukimura: Okay, Wailani... whether that will be covered by this policy is a question and we are looking far beyond this project to future projects, so your input on... and Grove Farm is definitely going to have future housing projects I imagine. So your input, we are trying to get your input regarding that general prospect besides just your specific development and your input on that idea of a forward looking policy.

Mr. Tagawa: I think any incentives such as density bonuses would help out.

Ms. Yukimura: Thank you.

Ms. Zachary: Are there any further questions? Councilmember Furfaro?

Mr. Furfaro: I would just ask if you could reconsider my opening question about some kind of proforma that you might reconsider that you could share with us that kind of demonstrates your position of zero on industrial and commercial. Anything that you might be able to share with us to enlighten us on your position I think would... if you could just go back and rethink that, so thank you.

Mr. Tresler: And we will most certainly do that and I would just like to emphasize that we... Neil here spent an incredible amount of time and really trying to provide some realistic feedback and numbers. I know Councilmembers Iseri-Carvalho and Rapozo were adamant about numbers, numbers and it is proforma numbers, but it has, I guess, the source of it is very reliable. Anyway, we just really... I don't know if other (inaudible) think we are crazy even trying, but we are honestly trying to provide really good feedback.

Mr. Furfaro: I am not referencing your state of mind. I am referencing if you can enlighten us, so if you have anything that can help us understand that better, so thank you.

Chair Asing: Can I just comment on that? And, I think, Mike, I understand and I believe what you are doing. You are doing your homework and that is what you come out with and you don't have any alternative, but what makes it even more difficult for me as it is for Councilmember Furfaro is that, you know, the bill that we have before us that we are working on is generally... I am going to use the word generally, taken off of the County of Hawai'i and the County of Maui, so, you know, it is in the ballpark, so with that kind of answer that we got from you, we have some difficulty in, wow, I mean, you know, here is two (2) other islands that have their housing policy that has similar type language, so if you are having a hard time, what is happening over then? And that is why it is even harder for me

knowing that. We have in existence today, two (2) other counties that have, in general, similar language. Thank you.

Mr. Tresler: Again, I understand and maybe we will go back and do more research with those other counties and actual enforcement of it. Again, don't get me... I hear what you are saying and that is just a position we... because we don't have the answers, so like I said, if we are embarking on some ag projects and we are planning for housing because we don't have housing and it is an important variable in the success of those projects. So, you know, we are not ignorant to the fact and we don't want to come up as being that way. It is just that we didn't have that data, we ran what we could and the industrial was just clear to us, the commercial got really complicated and we say, yes, maybe in that area, but I am just... for us, we didn't have the data and that is reason why for the commercial side.

Ms. Zachary: Councilmember Yukimura?

Ms. Yukimura: Perhaps Mr. Rainforth or Councilmember Iseri-Carvalho can enlighten me in terms of the other counties. Do they make requirements of industrial and commercial properties? I think Mr. Rainforth knows? Do you?

Mr. Rainforth: The Big Island's ordinance includes commercial and they are going to include industrial. The Maui County, I think it only includes residential.

Ms. Yukimura: Okay, thank you. So my question is, just like agriculture which is like an industry. Industrial and commercial generate jobs which are held by people who require homes, resorts are the same. I remember the General Plan of 1970, there was a graphic that we calculated our population based on resort units because that was going to be the main source of growth, economic growth for the island and it was so many hotel rooms equals so many jobs equals so many population on the island. I was looking at this very old, but Davis Development Department... residential needs report and, you know, because we need an instrument of assessing our needs, so that we can keep that nexus as you say and we don't make our requirements more than what we need or less than what we need, but they base it primarily on employment. Their analysis of residential housing needs, so there is a link. So my question is, would it be workable if there was an in lieu fee requirement?

Mr. Tagawa: I didn't analyze at what percentage it would be acceptable and what fee would be acceptable.

Ms. Yukimura: I know, this is a new question.

Mr. Tagawa: I guess we could figure that. I am sure that something could be worked (inaudible) some (inaudible)... I think we could probably figure that out.

Ms. Yukimura: I think Maui... correct me if I am wrong Mr. Rainforth, but Maui has a resort in lieu fee requirement, right? And maybe that changed... did it change to actual housing units. It is just an in lieu fee.

Mr. Rainforth: Maui has an ordinance which requires one affordable unit bill for every four (4) hotel rooms, but they have accepted the in lieu fee. They recently increased the fee to more reasonable level.

Ms. Yukimura: Was it 250? It used to be 25 and do you know what it is at?

Mr. Rainforth: I don't know what the figures are now.

Ms. Yukimura: Okay, and it makes a huge difference, 25 or 250... when it was 25, all the developers did was calculate what it was, pay it, and they were over with it and that has its beauty in terms of the development community.

Mr. Tresler: Absolutely.

Ms. Yukimura: Right, you know, and so I am just asking because I want to know what, you know, what all the alternatives are in terms of...

Mr. Tagawa: Land in lieu might be an option for us too.

Ms. Yukimura: Land in lieu would work better than building. I mean, actually building to completion.

Mr. Tagawa: Possibly.

Ms. Yukimura: Okay, I appreciate the input.

Ms. Zachary: Alright, thank you so much gentlemen for your information. Excuse me, Councilmember Iseri-Carvalho?

Ms. Iseri-Carvalho: And I think, Neil, we had discussed this the last time and also this morning about developers having different abilities to provide different things. Grove Farm may be a land rich, maybe cash poor company versus someone else who may be cash rich and land poor, so I think the Council is trying to provide a variety of options that would fit various developers. I know on Maui, you

know, one of the things that we provide is expedited review of your permit. How valuable is that to your company as an incentive to...

Mr. Tagawa: It is an incentive, but it is a tough to put a dollar value on that, but it is definitely an incentive.

Ms. Iseri-Carvalho: I mean, because time is money. I mean, the longer the projects hang on without knowing the certainty, of course, the (inaudible) conditions change, etc., so it definitely would be an incentive?

Mr. Tagawa: Yes.

Ms. Iseri-Carvalho: And we discussed the density bonuses. On believe on the Big Island, they have a 10% density bonus and a 10% increase lot size and there is also a transfer of extra housing credits and I don't know if you are familiar with their system. I don't know, you know, you said 20 to 25% potentially and we are talking about residential as being doable under that same kind of system that the Big Island uses which would be, it appears, 10% or 15% higher than what the Big Island offers. Is that right?

Mr. Tagawa: Big Island...

Ms. Iseri-Carvalho: Offers a 10% density bonus? You are not... and they also have a... there are a variety of things, I think, that they use like the 10% (inaudible). Maui also has a potential for a density bonus. The City & County of O'ahu have increased credits dependent upon the term of the affordable rentals, so there are different kinds of tools that people are utilizing. Out of all of those tools, if you had to rank those, what kinds would be beneficial if you rank the top three (3) that would provide the highest amount of incentive for Grove Farm to develop affordable units here on Kaua'i.

Mr. Tagawa: Density bonus would be an easy one.

Ms. Iseri-Carvalho: Okay, and... in lieu... what you mentioned about maybe potentially in lieu land versus...

Mr. Tagawa: It is more of an (inaudible)... as things are going right now (inaudible).

Ms. Iseri-Carvalho: Anything else you can think of that hadn't come up in other counties that could be of benefit to Grove Farm given its unique situation?

Mr. Tagawa: I probably get back to you on that.

Ms. Iseri-Carvalho: So if you can do that and provide us an update, that would be great. Thank you.

Ms. Zachary: Thank you very much. We appreciate you coming back today with some additional information and thank you Councilmembers for your questions.

Ms. Iseri-Carvalho: The next speaker is Tom Shigemoto of A&B Properties. Is there anyone else who filled out speaker forms and haven't turned that in at this point? Alright, thank you.

Ms. Zachary: Last, but not least.

**TOM SHIGEMOTO, A&B PROPERTIES:** Tom Shigemoto, A&B Properties. I don't have anything more to add. I will stand by my testimony from the last workshop, but since we are talking about Articles 2 and 3, there was something else I wanted to just mention. You know, after reading it more carefully, I noticed that there are several places... not only in Article 2 and 3, but there are provisions requiring County Council approvals for certain things. If you recall, the first thing I mentioned was that, you know, we are in favor of a housing policy that is fair, reasonable because it provides reliability and predictability. When you require us to come back to the Council, that is when the unreliability part comes in. As much as I love coming back to see you folks, that is the unreliable part. For us, it is (inaudible). I don't mind coming back, but things change and people change and, you know, the Council may be a different mindset, so if you can remove that requirement because this is a housing policy. You are delegating a lot of things to the Housing Agency, so if you can see fit to have the Housing Agency handle these things, that is what I am asking.

Ms. Iseri-Carvalho: I guess, Tom, the comment would be... we have been fortunate enough to have Ken Rainforth who has been here uku million years, like 30 some years, so we have been fortunate because he has gone through the peaks and the valleys and this discussion with grants and with the State programs and just a whole variety of things, but it could also be the same way that if Ken decides to retire one day, that we have somebody new or that position may, as proposed, turn into an appointed type of position or one that is responsive to the Mayor and that would be a single person having that kind of decision that may not be provided with all of the tools that are necessary to provide an agreement fair to the County as well as fair to the developer. It kind of goes both ways.

Mr. Shigemoto: Point well taken. I will be retired with Ken, so I am not... seriously, you know, that is a good point and I guess if you ask me, I would rather have a policy that relies on an agency versus coming back to the Council because you have different... you know, when you have seven (7) different people thinking

about some of these things, the process takes a lot longer. If you are talking about providing affordable housing, maybe if you want to shorten that process is all that I am saying, so just think about it. If you want the specific sections, in Article 3.1, it is the introductory line on page 8 and also on page 9 as the last part of... the last sentence under 3.1(a) and it also appears... is it okay to go out of Articles 2 and 3?

Ms. Zachary: Absolutely.

Mr. Shigemoto: Okay. Also, it appears in Article 5, page 12, Section 5.1(b)(3) and then, again, page 14, Section 5.2(b)(2) and that is all that I could find. Now, getting to Articles 1 and other articles... on page 3, Section 1.3, the definition of qualified residents, I believe that is (c). Again, this relates to the definition of qualified residents and I will read it. It is a full-time resident of Kaua'i County and earlier this morning, I heard discussions regarding providing housing for our children if people move out and move on. Who are we really providing housing for? Is it the resident of Kaua'i and I know that there are constitutionality questions and issues, but who are we providing housing for. To me, when you say full-time resident and I know it is a hard definition... hard work to define, but if somebody comes to Kaua'i, how long is it before he becomes a resident and could that person... you know, a lot of folks coming over to Kaua'i for the first time may establish residency and then buy these homes that we are providing for supposedly our Kaua'i resident and the local family. You know, again, I raise that as a food for thought. I don't know how you really address that particular question, but that has been bothering me and, again, we are more than willing to provide for the folks that live here that need it. After that, well, somebody has to decide who else it is for and what are we providing the housing for. On Section 1.4(c), applicability, this is on page 5. I'd like to ask Ken what the rationale for that was first before I respond or comment. This is regarding, you know, applicability... this bill applies to previous zoning district boundary amendments which contain affordable housing conditions that have not been satisfied as the... of the effective date of this ordinance or that the County has not yet agreed on to execute an agreement of the specific means of satisfying the housing conditions.

Mr. Rainforth: We borrowed this provision from the Big Island who wanted to make their policy retroactive to zonings which did have an affordable housing condition, but that condition had not yet been satisfied or that that condition... or that the specifics of that condition had not been rendered into writing and agreed to. So a property which had zoning with an affordable housing condition with an unknown solution of how they were going to satisfy that requirement.

Mr. Shigemoto: Okay, thank you. Kaua'i County is the best County in the State as far as housing goes and I say that sincerely, but the reason I raised that question is because knowing what we went through and I will cite two (2) examples (Kukui'ula employee housing condition and also the 28 acres we got zoned at

'Ele'ele). You know, I think all bases were covered and it does take a long time for us to comply with these conditions. I think it is... basically, it is unfair to go... have to go back because we would fall into that category if this provision was left in there. I just think, you know, to go through what we went through and have to come back because we have not yet complied with the condition is just very onerous. I might say that if this is adopted and we haven't done our... implemented our housing condition and then (change side of tape)... working on trying to comply with it is very onerous. Let me... we have been working on, for example, the 28 acre rezoning that we had at 'Ele'ele. We have this affordable housing condition and it is to the tune of 16%, but we are trying to work with Habitat, we are trying to work with the County because we have a request by the Mayor for some land. That process has been taking a while. It is not like we have been sitting back twiddling our thumbs not doing anything.

Our Kukui'ula housing development, we have been working on different concepts and trying to refine it to the point where it will be something that the whole island will be proud of. The whole thing, though is, it takes time. It really does take time to comply and as I said, we may get caught into this trap here and if we do, it is going to be harsh and that is all that I have to say today.

Ms. Zachary: Thank you so much Tom. Councilmember Yukimura?

Ms. Yukimura: I agree with you with respect to Kukui'ula. I think we have hashed the housing requirements. Hashed and rehashed and in my mind, they are settled, so I don't see going back to them through this ordinance. I don't remember what we did with 'Ele'ele, what exactly the requirement was and maybe you can refresh my mind because if it was left more open, then this might have some relevance. I mean, with Kukui'ula, I think we had really defined requirements and, in my mind, that was it and I don't actually want to see it again come before the Council. I must say that with respect to your first point about certainty, it seems like there is certainty unless you go to deviations from the standard formula.

Mr. Shigemoto: Uh huh.

Ms. Yukimura: And I can see your point. I can also kind of see the other side that if you do go to a more negotiated arrangement, maybe Council is important, but that is aside to my real question about 'Ele'ele. What did we do with the housing requirement there? Does anybody...

Mr. Shigemoto: At 'Ele'ele, we do have a 60% requirement. It doesn't preclude from...

Ms. Yukimura: 60?

Mr. Shigemoto: 60.

Ms. Yukimura: And that was the land use commission.

Mr. Shigemoto: Us and Grove Farm, so, you know, it doesn't preclude us from working with Habitat which is an option we are considering. It doesn't preclude us from building all 60% on our... in our development and the State Land Use Commission conditions were specific. It is 30% in the 100 to 120 and 30% in the 120 to 140, so we have to provide that and we have to first develop a housing masterplan before we can proceed with applying for permits for the rest of the developments. Again, we are working on the masterplan, but my point was that it does take time and we didn't want to get caught with this.

Ms. Yukimura: I mean, if you have a 60%, you are more than meeting this requirement I would guess.

Mr. Shigemoto: I think so.

Ms. Yukimura: Okay, thank you for the information.

Ms. Zachary: Councilmember Iseri-Carvalho?

Ms. Iseri-Carvalho: And I guess, Tom, I guess that was... you had talked about this earlier about that policy being, in fact, from 1988 to 1995, so after that policy expired, I guess it left it up to the County basically to develop their own policy. So you guys never sought amendment to that requirement?

Mr. Shigemoto: You are talking about the State Land Use Commission, 60%?

Ms. Iseri-Carvalho: Yes.

Mr. Shigemoto: No, we didn't because it is just as excruciating to go back to the State Land Use Commission. They are not as nice as you folks.

Ms. Iseri-Carvalho: Oh, thank you.

Mr. Shigemoto: We decided that we would comply.

Ms. Iseri-Carvalho: Thank you Tom and we know that you guys have done a lot and those agreements and that was, really, it is ironic because the situation that you guys had gone through within the last two (2) years was part of the reason for the urgency of trying to get an affordable housing policy passed

because there were three (3) goals I think that I would have wanted to achieve by the passage of an affordable housing policy (clarify, consistency and having it be comprehensive), so that the bulk wouldn't be just on residential developments and try to incorporate industrial or other people that also have as much impact on the community. Because like the gentlemen said this morning, I mean, it should not be just the developers who pay for it, but they are definitely not going to pay for necessarily an equal percentage of the small guy that develops five (5) lots or something.

Mr. Shigemoto: Yes.

Ms. Iseri-Carvalho: I think that is what we are trying to achieve is real complex because, again, we have a variety of type of developers. Some on the high end, some on the low end, some a little of both. We have old time companies, kama'aina companies like yourselves and Grove Farm who, unfortunately, had gotten that 60% requirement and still working on trying to comply. I think Grove Farm has complied with theirs and they built theirs all up front, so it is really difficult, but we know, for example, one of your projects, you got the 99 year lease. You know, Kaua'i Lagoons, I think got 10 year and I mean it just varied across the board and sometimes maybe for no equitable reason for doing it except that one developer was nicer than the other and said, yes, because it is better to just resolve you guys and move on versus others that say, well, no, this is just not feasible and our company is going to lose money, etc. So I think sometimes, it appeared that the Council had preyed on those that were likely to succumb to the needs or the desires of what it wanted and that is why I thought that, you know, an affordable housing policy was in the best interest of the developers as well as the community and I just feel that way. It is just a matter of getting to that middle ground, so thanks for your suggestion because we will definitely try to incorporate those in the policy.

Mr. Shigemoto: Thank you and that is what I mean when we say that we do need a consistent, reliable policy.

Ms. Zachary: Any other questions? Councilmember Bynum?

Mr. Bynum: I appreciate you pointing out the areas where you appealed the Council and I am going to look at it again closer because my perception on the first (inaudible)... on what Councilmember Yukimura said, well, you meet the policy, but if you are going to deviate, you have this appeal to Council kind of thing and I thought you might come up here and say, we need more of that. What if it is a down market and we can't meet the requirements of this bill, maybe there should be... maybe that flexibility gets provided by saying that you can appeal and say, you know, in the current market, no way we can meet this, but here is what we can do.

Mr. Shigemoto: Uh huh.

Mr. Bynum: I asked earlier what... everybody is saying that it needs to be flexible to deal with market conditions, so what mechanism do we provide clarity, consistency, fairness and also be flexible. How do we do that? Do you have any ideas?

Mr. Shigemoto: That is why you got elected. You guys are the smart ones. I am sorry, I don't want your job. It is just something very difficult to handle and I am sure that the seven (7) of you will come up with a policy that is fair, consistent and reliable.

Ms. Yukimura: And provides affordable housing.

Mr. Shigemoto: Right.

Mr. Bynum: Because the other question I asked this morning if someone was... do you think having a lack of policy that the County has missed opportunities with some developments. Maybe not yours, but others because there was no policy, we missed an opportunity to provide workforce housing.

Mr. Kouchi: Yes, because people have changed and the level of experience of Councilmembers are simply what it is at the time a project is (inaudible).

Mr. Shigemoto: You may have. At the same time with the Council of the past, they were concerned about housing and if you look around... this morning we submitted in writing early on listed a number of projects that... well, at least my company and I know Grove Farm has done a lot too on projects that we did, really, without the housing policy, but these are things that were worked out with the County, with the Mayor... different Mayors and different times, so, you know, things have been done, but if you want consistency, you should adopt a policy.

Mr. Furfaro: Tom, would you think that this policy should have an automatic trigger that the ordinance is reviewed every five (5) years as the cycles change? You know, times get difficult, times get good. Should there be a trigger to review the policy every five (5) years?

Mr. Shigemoto: That wouldn't be a bad idea, however, I have seen triggers like the... and I don't mean... no disrespect to the Planning Department, every 10 years, you have to update your General Plan and those things happen every 20 years, but if there is a need to amend the policy or relook at the policy, then that is something that perhaps you can take a look at. That might work. That might help.

Mr. Furfaro: Thank you.

Ms. Zachary: Any further questions?

Ms. Iseri-Carvalho: And I think the policy, we can review at anytime, so I don't know if just setting a deadline would make a shudder at waiting until the five (5) years versus trying to address the problem earlier, so I am not sure on that effect. But we do have the Big Island that had a policy back in the 80's and they didn't look at it... I guess they amended it in 1998 and then they reviewed it again in February 2005 and amended, so it seems like the policy has worked for the County. If you recall, we have the draft policy that people refer to... the portions that were in there that is part of their position because it wasn't actually law, so whatever was beneficial to them, they cut and paste whatever parts that they wanted and said, this is what you guys have in your policy, whereas, others who did not like what was there, again, cut the other portions that they liked, so it was real difficult to implement. Because then you had Council saying, no, this is what the policy said and we only took what we wanted and then the developer saying, well, no, this is really what your policy meant and this was the purpose of it. So having that kind of background, I know I still believe that we do need to have some document in place, but, again, allow for the flexibility that would address all of the different abilities of the developers to provide. I truly believe that the developers do want to assist. I mean, they know that they are having an impact on the community and they want to be a positive impact for their employees and for the rest of the surrounding neighbors, etc. and that is why you guys gave up a lot. So this kind of helping you.

Mr. Shigemoto: No, as I said, we do support... we wholeheartedly support a housing policy.

Ms. Iseri-Carvalho: Thank you.

Ms. Zachary: Councilmember Furfaro?

Mr. Furfaro: This is directed to the Chair of the Committee. Councilwoman, I had mentioned to you that I had a previous engagement, so I will be leaving now.

Ms. Iseri-Carvalho: Thank you.

Ms. Zachary: And I think with no further questions, I want to thank Tom for his information that he has shared with us once again in a very concise manner.

Ms. Iseri-Carvalho: Thank you. That concludes the registered speakers here. Are there anyone else in the gallery that wishes to speak at this time? I guess we did pass out an extensive 20 page document of amendments that was provided by D.R. Horton and I guess I would have preferred in light of the amount of amendments that were provided that they would have been able to be here to offer some...

Ms. Yukimura: She was here, but she had to leave.

Ms. Iseri-Carvalho: Well, she didn't sign up as a speaker or we should have registered her earlier, so we were not informed... so we were not told that they weren't going to be here or if there was some time that we could accommodate them on, but just for the public's information, they did provide extensive work of amendments a lot of which actually I have many questions on, so I hope, again, to have them here or a representative here. But in light of them not being here, members, I guess if you want to communicate with Horton directly, you are free to do so on your own. Our next meeting will be scheduled... Cyndi, do you have the available dates for our next meeting? No, because of the unique circumstances that exist that will be upcoming, we were not able to provide, in advance, a date. I was hoping by today that we could get a date that everyone would have before hand to provide some amendments. If you could leave your name or card because you took the time to be here and we will try to... in addition to the public messages that we send on the next which I hope will be the last and final workshop that we have before returning this for discussion back to the Committee. I would be happy... our staff to let you know when those upcoming dates are and also the deadline for providing the amendments... any other amendments and providing the information... if the information that had been requested by the Councilmembers... if you have those, if you could provide them at least within the next two (2) weeks, we would appreciate that. If you are unable to, if you could let us know. The next meeting in all likelihood be scheduled in the... around the third week of May because I know the second week, people will be gone and we will not be able to make it for April in light of other people's schedules. Before I adjourn, Councilmember Kouchi?

Mr. Kouchi: Thank you. I didn't want to offer this comment earlier because it wasn't a question or related to 2 or 3, but since we have seven (7) minutes, I just wanted to comment when Councilmember Yukimura asked Mr. Awaya about the conveyance tax and the possibility of working with the State. I would be remiss if I didn't comment that I... I forget, 1927, 1933, the Hawai'i Housing Authority was created because the territory and then the State of Hawai'i had the land and the financial means by which to attack and address the issue of affordable housing. In the 1970's, housing agencies were created because and by ordinance not by Charter because we needed to create boards and have agencies to accept Section 8 and other Federal money that was passed through by the State of

Hawai'i to the counties and that is the history of our Housing Agency. When Governor Waihee was serving in office, he and the State Legislature during a time similar to this when housing was, you know, really in a shortage, turned around and passed Act 15 which is this 60% deal that we are talking about under the auspices that the counties had failed in their mission to their residents to provide affordable housing. It was never our job and never our mission and, most recently, although amended, Councilmember Yukimura had gotten wind of another bill that was circulating at the Legislature this session and the amendment finally said for counties greater than a population of half a million. Again, the preamble is saying that because the counties have failed in delivery of affordable housing to their residents of their counties and this attitude from the State and the pointing the finger and those whole nine (9) yards. I mean, I just am not optimistic about our ability to work with the State on this. I am very, very distressed that at the time of great need when the community turns to them and they have the resources and the land with which to actually tackle this on a greater scale that they turn around and point the finger back at the County who is limited in our ability to get this job done. But to the credit of Ken Rainforth who was probably there at the inception of the Housing Agencies and subsequent Mayors and Councils trying to do the best we can with what we've got. You know, again, I don't think so with the State is what I wanted to say. Thank you for letting me vent.

Ms. Iseri-Carvalho: Thank you. Anytime? This is the table to do it. Any other comments before we close? Councilmember Yukimura?

Ms. Yukimura: I appreciate Councilmember Kouchi's history lesson because it is really important to know the history. I have a sense that Honolulu has not been... Honolulu County, City & County, as attentive or aggressive in addressing the housing issues as have the neighbor island counties. I have to say that we haven't been perfect because we still have major housing problems, but I don't think it has been for a lack of effort. But City & County and the homelessness there is really a signal of what has not been aggressive, so there has been some cause because the biggest County has not been attentive to the problem. But I am really thankful that we recently our former colleague, Councilmember Tokioka, actually gathered all the counties from the neighbor islands and sat them down with the House leadership I guess and tried to educate them about what we are doing. It is really clear that there has been a real lack of communication and that we could do so much if we could work together such as creating that conveyance or making sure that the integrity of the conveyance moneys is used for addressing housing, you know, because it is part of the cause of the increase in housing cost. Anyway, there is lots that we could do together, but we don't really have a good track record, but maybe we can create a new... thank you.

Ms. Iseri-Carvalho: Thank you. Any other closing comments? If not, thank you again for all of your input was invaluable. As you all have seen, it is a

very complex document and for us Councilmembers who are not as updated as far as what is financing and how the impact it is to your developers, this is definitely a learning process, so we continually appreciate all that you have done to provide, especially those flying from off-island and taking the time to really educate a lot of us. We appreciate any other comments. Please feel free to submit them hopefully within the two (2) weeks, so that you can get a response. Again, Cyndi, our staff member, will be out here collecting your cards, so that as soon as we know when the dates are, we will be assured to send you those dates and any other dates that would be set as deadlines for any other amendments. The next meeting, we will discuss the entire ordinance, so please take the time to go through the 20 pages or so including the definitions, the purpose, I mean, every aspect of that document. It is hoped that will be the last workshop unless there is something unique that appears. Of course, you are also welcome to attend the meetings that we do have, the Committee meetings where we will be doing the work in the Committee. We will also be taking public testimony at that point and every time that it is on the agenda, so by all means, the last workshop will not be the only opportunity to provide comments. If not, thank you very much, thank you Diane and Ken and Ann for being here and our staff for all the hard work that they put in. Have a great day and we will let you know when the next meeting is.

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

There being no further business, the meeting was adjourned at 3:00 p.m.

Respectfully submitted,



Lisa Ishibashi  
Council Services Assistant

APPROVED at the Committee Meeting held on July 18, 2007:



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

