

MINUTES

SPECIAL COMMUNITY ASSISTANCE/
INTERGOVERNMENTAL RELATIONS COMMITTEE WORKSHOP
BILL NO. 2202
RELATING TO THE HOUSING POLICY FOR THE COUNTY OF KAUAI
JUNE 19, 2007

A special meeting of the Community Assistance/Intergovernmental Relations Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Councilmember Shaylene Iseri-Carvalho, Chair, at the Historic County Building, Room 201, Lihu'e, Kaua'i, on Tuesday, June 19, 2007, at 9:12 a.m., after which the following members answered the call of the roll:

Honorable Shaylene Iseri-Carvalho, Chair
Honorable Bill "Kaipo" Asing
Honorable Tim Bynum
Honorable Jay Furfaro
Honorable Ronald Kouchi (excused at 11:00 a.m.)
Honorable JoAnn Yukimura

Excused: Honorable Mel Rapozo

APPROVAL OF AGENDA

There being no objections, the agenda was approved as circulated.

Mr. Nakamura: Next item is the third workshop on the Kaua'i County Council's Community Assistance/Intergovernmental Relations Committee Workshop to discuss the proposed housing policy for the County of Kaua'i as contained in Bill No. 2202.

The workshop proceeded as follows: There being no objections, the rules were suspended.

Ms. Iseri-Carvalho: Thank you. What we intend to do, I guess just setting some ground rules for this meeting. This is the third meeting regarding the affordable housing policy. We initially began with going through the different concepts that were articulated in the policy. We especially concentrated at our last meeting on Article II and III relating to fees, developers concerns as most of the parties that participated were from the development community. What we intend to do is try to concentrate on the specificity of the types of amendment that could be

proposed in the affordable housing policy, from its initial bill that was sent to council. There have been numerous discussions and input from the community as well as from our housing agency. A lot of comments from the County Council and those comments have... there has been an attempt to incorporate those kinds of comments to make it a fair and equitable policy for the island. I don't know if all of you are in receipt at time of the proposed amendments. Are there people who have the amendments? Okay, we'll be passing that out. It's quite extensive and so as soon as staff has time they would be able to make it. We just received it. They have been working diligently for the last two months on it and so as soon as we have the copies available, we'll be passing those out. What I will start with at this point is to have our housing... unless there's a person who wishes to testify before the housing director informs us of the proposed changes. Is there anyone who wishes to testify that has to leave before they hear what the proposed amendments are? If not, it is the intention of the chair at this time to have the housing director go through the affordable housing policy and the proposed amendments and then we will take public testimony and comments there from. Thank you, Ken?

There being no objections, the rules were suspended.

KEN RAINFORTH, EXECUTIVE ON HOUSING: Good morning. Thank you for this opportunity. Councilmember Iseri-Carvalho is a little wrong. We haven't been spending the last two months diligently working on these amendments. I have been on medical leave for awhile and we have been diligently working on them for about three weeks and...

Ms. Iseri-Carvalho. I guess I would be correct to say that there has been a lot of research that has gone into... not necessarily working on the language of the amendments, but I've had discussions with your staff regarding the amount of research that they put into and gathering information in order to prepare.

Mr. Rainforth: And that's correct. We have been fortunate to have (inaudible) in our staff to provide a planning person's insight into our proposed bill and she has spent a great deal of time researching housing programs on the mainland and how they work and see how those could fit into our proposed policy. What you have before you is really a working copy. After today's meeting, we may be able to formalize this for a formal submittal in proper ramseyer format. There are some things that we were not able to complete but I will mention what we want to do. What we try to incorporate in these proposed amendment are comments from developers and from councilmembers to try and assist you in coming to a decision on what the housing policy should be. So what I would like to do now is go through the major changes that we have. What we would like to propose, entertain questions on those specific items but not debate, and then move on to the next section. Is that okay?

Ms. Iseri-Carvalho: Yes. Go for it, Ken.

Mr. Rainforth: First thing you would notice on page one (1) is that, it was fairly clear from developers and the councilmembers, that the scope was too large going up to... trying to address household up to one hundred eighty per cent (180%) median income so we've taken what most of the recommendation were to scale it back to the maximum being one hundred forty percent (140%) of the median income. We've re-defined developer to be more specific and to be clear when it is used in the body of this policy. Same thing with household on the next page. On page two (2) under limited appreciation leasehold estate, that section still needs to be amended. We previously have obtained the council's approval on a leasehold program for the County. This text no longer illustrates the correct method of how that works. We have also put in the limited equity housing cooperative as a viable alternative for workforce housing developments. I'd like people to look at page four (4), where we get to Applicability. This is important changes. First of all, we included State Land Use which the county has jurisdiction of and, they do for projects which are fifteen (15) acres or less. We also included provisions that look similar to what Maui County has adopted where, we're saying that the requirements in this proposal would also be attached to subdivision of land which is Section 1.4 (d) and also 1.4 (e), the development of land or buildings so this covers the subdivision and permitting aspects that the Maui County felt very comfortable in adopting. In our research we saw that this is the more common, the most common method utilized on the mainland for imposing inclusionary zoning, housing conditions. Article number two (2), we've re-written residential development section to reflect what we understood were the council wishes. What's important to me is that the land dedication requirements remain basically the same. The leasehold sales requirements disappeared which modifies the for sale requirements that the developer would have to four (4) groups or twenty percent (20%) of the Workforce Housing required having five percent (5%) of the units affordable to household earning eighty percent (80%), five percent (5%) who earned one hundred percent (100%), five percent (5%) who earned one twenty (120) and five percent (5%) who earned one hundred forty percent (140%) of the Kaua'i median household income.

Ms. Yukimura: Can I?

Mr. Rainforth: Yes.

Ms. Yukimura: I'm not exactly sure...where are you referring?

Ms. Iseri-Carvalho: Page six (6).

Mr. Furfaro: Of twenty seven (27).

Mr. Rainforth: It would be page six (6).

Ms. Yukimura: And you're taking out Leasehold Sales entirely?

Mr. Rainforth: Maybe I should explain what we are doing. Okay, the county council approved the leasehold concept for the county which... and you bought into my idea that when the county sells a leasehold unit that the sales price should be equal to the value of the buildings on a property, and that when the county makes an investment, buying the entire fee simple title to real estate, that is when it sells its leasehold interest to a leasehold buyer that there will be a difference, and that the county would be required in almost all cases, to make an investment into the fee title of the land. With that understanding, and discussions with a couple councilmembers, you can put that concept into this policy, where instead of having the developer put his housing units in trying to sell them leasehold simply that the county would purchase those units at the fee simple price and the county would in turn, turn around and sell the leasehold interest. So this policy provides that at any time, the county can step in, as an eligible buyer of any workforce housing units being provided and then turn around and re-sell those units on a leasehold basis.

Ms. Iseri-Carvalho: Any further questions regarding the concept?

Mr. Asing: Yes, I have a question. Can you use the term sell and then you use the word leasehold? So, you don't mean what you say when you say sell?

Mr. Rainforth: Well, yes I do.

Mr. Asing: You do? Okay. You want to explain, please?

Mr. Rainforth: You've lived on O'ahu and so have I. I think the majority of homes used to be on O'ahu leasehold ownership where Campbell Estate or somebody own the title to the land and you as a buyer would usually buy in an improved subdivision lot, build a house or buy a property that already had a house on it. You'd pay an annual lease fee to the landowner and over time you could re-sell that, your house to somebody else. It was really common real estate for buying and selling on O'ahu. It seemed to work well. The only problems would come to play is when the landowner would not re-new the lease or perhaps the landowner would make significant increases in the lease fee, which the county wouldn't do. So the county's leasehold program is not intended to ever end or charge anything close to market prices for a lease rent for households who were within the affordable incomes.

Mr. Asing: I'm lost but go ahead, take Councilmember Yukimura's question.

Ms. Iseri-Carvalho: Go ahead.

Ms. Yukimura: First let me try to clarify. The buying and selling goes to what kind of interest? Are you buying or selling? And so, when you buy or sell a leasehold interest, it's a limited interest compared to a fee interest but you can still use the word buy and sell. The limitation comes in the nature of the interest that is being bought or sold. My question for Mr. Rainforth is, what about non-profits who are dedicated to a mission to provide affordable housing? Why would they not also be eligible to be a leasehold landowner, fee owner and you know administer leaseholds to people?

Mr. Rainforth: Well, I think they do already. There's some churches on the island that provide long term leasehold properties to people. I think its investment properties for them.

Ms. Yukimura: Well, but their purpose... what about EAH or KHDC or even Habitat for Humanities if it changes its approach. I'm thinking it's almost... it has some risk to only allow the county to be a lessor in this matter of affordable housing that it may be useful to allow and have non-profits to also be leaseholders as long as their mission is tied to providing affordable housing on a long term basis because then they're precluded from selling it on the market, or we need to make that a requirement. They can play that same role without government just doing it and also that you know it's... we spread out the risk and the management responsibilities for this kind of housing and I think there are, and you know sometime under certain administrations the county is more aggressive, move attentive, more conscientious and other times they are not. And so, to allow for good non-profit to do this, would seem important.

Mr. Rainforth: Well, there's nothing precluding good non-profit from doing this but I would like to expand on, would be, we have a provision in this document for creating a community housing land trust.

Ms. Iseri-Carvalho: I think Ken, before we go into those specifics of that concept, we are at the definition stage and so we will be getting into more into that at a later point. Let's go now sequentially through the amendment first and then we will have discussions at the various times as it arises. Thank you. We are now on page six (6).

Mr. Rainforth: I think we're on page five (5) and we talked about the Residential Requirements. The Residential Requirements stays the same requesting that the developer provide a ten percent (10%) contribution Workforce housing in a form of land dedication. Secondly the developer provide for sale housing in the amount of twenty percent (20%) of the project to four (4) different income specifically targeted to an affordable to, for different income groups that we have identified as those to come under the umbrella of the Workforce housing definition. In other words, from below eighty percent (80%) median income, up to a hundred forty per cent (140%) of median income. In the next section, that was resort commercial industrial, we've re-written this substantially and left the responsibility with a larger developer to demonstrate what housing needs would be at the time of their proposed development.

Mr. Kouchi: Ken, can we go back to five (5)?

Mr. Rainforth: Page five (5)?

Mr. Kouchi: Dedication of Land to County Developer shall dedicate approximately ten percent (10%) of the developer's project area. The project area would be ten percent (10%) of the building's footprint? Lot footprint, total zone area if you have a larger tract and gulch and cliff and non buildable area, would that all come to the total project area to determine the ten percent (10%), and then what is the approximately and then who decides approximately nine point five (9.5), ten (10), nine (9) eight point nine (8.9)?

Mr. Rainforth: Well, in discussions, we've looked into this and we believe we should look at all these different zoning that a potential project would have, and look what ten per cent (10%) from each of those districts would be, and then you can total up the potential density from all those different zonings and come up with a number of units that need to be provided or land sufficient for those units to be provided, and then look at where that could be provided on site. You look at the developer total density to figure out what the ten percent (10%) would be.

Mr. Kouchi: I understand that but to me... as it was written, it seemed rather (inaudible) clear as to what it would ultimately be.

Mr. Rainforth: Okay.

Mr. Kouchi: Just a comment.

Mr. Rainforth: I like comments because we want to improve the language so not only you understand it but we do too.

Mr. Kouchi: But I understand what you are saying what the goal you want to come out with but let's just say... (inaudible). I think there should be some parcels that we have, would be in the resort area... (inaudible). (Inaudible) interpretations then when you take ten percent (10%) you got to take buildable land; you are not going take gulch.

Mr. Rainforth: That's right.

Mr. Kouchi: (Inaudible) for the county.

Mr. Rainforth: But you also have to take into account that the developer has gulch area and that you wouldn't derive any housing from that. We also looked at the idea that we wouldn't want developer to automatically jump to the conclusion that he should put the affordable housing in an R-20 zone area and therefore leaving the county or non-profit only the opportunity to do dense multi-family development. We are thinking that the density of the land provided should be an average of the density of the overall project. So if a project was half R-4 and half R-10 that the amount of the land dedicated to the county should be sufficient for density of the average of those two (2) densities.

Mr. Kouchi: Even on R-20, the most with infrastructure you know, and all the other requirements that you probably (inaudible)...unless you (inaudible)...

Mr. Rainforth: Maybe.

Mr. Kouchi: So that's why in the fourteen (14) numbers you know that is logical... (Inaudible).

Mr. Rainforth: We have been discussing it and we're deleting that fourteen (14) unit maximum density out at the moment, because it will be the county's choice what density it prefers to develop that. Going back to where I was.

Mr. Furfaro: Can I just do a follow-up Ken before...Did you consider any possibility that there would be some kind of formula like you used in Grove Farm with the State, where in fact type of which units are then given a credit value. If they only build a townhouse, it's worth one point, or if they build a six thousand (6,000) feet home site, it's worth a point and a half. I mean, because they are different needs for different types, you know there is a workforce that's (inaudible) is a work for that once home ownership. You know, I think we want to encompass all of those opportunities in this policy.

Mr. Rainforth: Perhaps you're psychic. Barbara has prepared... been working on a white board on something that can be converted into an excel spread sheet to calculate what the county would get.

Mr. Furfaro: I'll turn that off for now and I'll wait for Barbara when the time comes.

Ms. Iseri-Carvalho: Thank you Councilmember Furfaro.
Councilmember Yukimura?

Ms. Yukimura: I do not understand your goal for having the density of the ten percent (10%) land reflect the density of the project. What is the underlying goal there?

Mr. Rainforth: The underlying goal is for the county to have land to develop on. If you recall from our early discussions with the advisory committee, we saw that all groups in the affordable low income categories have definite needs for housing that is affordable to them and that in the... by far those most in need are those who are of less income. So you are looking at variable income on fifty percent (50%) of income is a group of residents with a number which is greater than households who who are in the hundred percent (100%) median income who needs housing. We also look at the requirements that had to be somehow balanced and couldn't be too heavily requirement on developers for the low end, so the compromise was, instead of having developers build the very low income housing that have the developers provide the land so it could be built by government or non-profit.

Ms. Yukimura: I am not questioning the ten percent (10%). It is something that I have advocated forever. Okay, I am questioning why you feel the average density.

Mr. Rainforth: Oh, because I think we were looking at the assumption at the time. Automatically we were thinking that this ten percent (10%) donated land would automatically be multi-family at a density of fourteen (14), fifteen (15) acres and that may be not the case. We may want to utilize that land dedication and have cluster housing, have houses on our six (6) lots or have eight (8) or ten (10) units an acre in some kind of innovative and creative use of land.

Ms. Yukimura: You can always go to a lesser density from... on a higher density zoning. So you don't have to build out to maximum zoning but if those needs are the greatest at the lower end of income would always try to address as many families as possible. The optical maximum numbers of family... so it was

my understanding that in... for example like the Davies legislation. The higher ends eighty percent (80%) and above or maybe hundred percent (100%) and above would be met by the other requirements of the developer. The ten percent (10%) dedication would be to help address the lower end. So I am not sure why you want to dilute the density.

Mr. Rainforth: To provide products that the group would like to buy and own.

Ms. Yukimura: But I am saying that you would have those products in other parts of the development or you could come to some agreements about mixing them with the developer once you've got your allocated share of land, but anyway we can save this for further discussion. This aspect of average density is a new concept in this bill, right?

Mr. Rainforth: It's a new concept, yes.

Ms. Yukimura: Yes, and so I was just trying to understand it in the context of our main goal of providing affordable housing. I guess in terms of my frame work of looking at this was that the developer would still... the ten percent (10%) wouldn't be his only requirement and that he would be addressing the higher end housing and that's not that high... up to one hundred forty (140) but that the ten percent (10%) land would really be so that the county could share in the burden of providing the lower end housing which requires the highest subsidies.

Mr. Rainforth: That's correct.

Ms. Yukimura: Okay. Anyway we can...

Mr. Kouchi: I just thought the average was based so that an equitable portion of land relative to the development was what the ten percent (10%) (inaudible) is. We can't (inaudible) ten percent (10%) density to build our (inaudible) if it's a multi-family project. If they build, they won't have enough land to give you, enough to build. If you building a hundred and you know now you wanted ten... it doesn't work... the land is relative to the density. To me, that is the reason why you would do that and that if you wanted to build less than that density, self help housing, as an example, if (inaudible) Habitat for Humanity to get to the (inaudible). I thought it was a formula so that you know you have a fair proportion when you take that ten percent (10%) out.

Mr. Rainforth: That too.

Ms. Iseri-Carvalho: Let's go on Ken.

Mr. Rainforth: The Resort, Commercial and Industrial section got changed with language that...

Mr. Asing: Ken, I would suggest that you give a page number everytime you make a reference then we can follow with page numbers.

Mr. Rainforth: Good idea. Thank you. Moving to page six (6). At the top we already talked about what the changes would be to the required for sale housing. At the bottom we have the section on Resort, Commercial, and Industrial. At the time when this was first drafted we were envisioning that there would be the same kinds of housing requirements provided for these districts as well in research. We find that that's not what is happening in other jurisdictions. We would like to do something more for resort and there actually is if you look at the... go back and look at the applicability section, which includes some resort areas. What we did was we substituted the old language which was quite flawed and we put in language which really came from our 1995 internal policy that we prepared, which tries to be fair on both sides, where a large developer, of any of these zoning areas would demonstrate or require to demonstrate that there were sufficient affordable housing units already existing, and if you could not then, there would be an assessment to provide affordable housing. It's the bottom line. It's fairly short and all the old stuff got lined out (inaudible) so any questions on that so far or I'll move on.

Mr. Kouchi: That is just to say that you are going to negotiate your deal.

Mr. Rainforth: You are.

Ms Yukimura: Reflecting current circumstances which change over time.

Mr. Rainforth: Yes. This document, everyone should look at is something we should be probably looking at every five (5) years to amend it to make it fit our current economy and current desires.

Ms. Iseri-Carvalho: Councilmember Bynum?

Mr. Bynum: Is this consistent with the earlier language 'cause here it says the requirement for affordable housing will be established at the time of zoning permit application, and then earlier you had talked about it being applicable... the subdivision and when development occurred.

Mr. Rainforth: I would have to ask Barbara.

Mr. Kouchi: It's not consistent because the section that discusses (inaudible) of subdivision as specificity as to what the requirement is, in this commercial industrial you need to make assessments and negotiate and so that agreement is reached at the time of the rezoning with the council with input from housing.

Mr. Rainforth: Perhaps.

Mr. Kouchi: And (inaudible) the specificity, you cannot... it gives you no guidance to agency what to do at the time of subdivision or to the developer.

Mr. Bynum: Why I'm saying, here it says establish at time of zoning permit application and then four... 1 4 e it says development of land or building, or redevelopment of land or buildings in any zoning district. So we could look at that later but it caught my attention.

Ms. Iseri-Carvalho: Okay Ken, you can go on to the next one.

Mr. Rainforth: Zoning permit application... zoning permit application is at a permitting... (inaudible).

Ms. Iseri-Carvalho: Hold on. Do you have a question?

Mr. Asing: Yes, I have a question on permitting. Okay, thank you.

Mr. Rainforth: (Inaudible)... not zoning amendment applications.

Mr. Asing: Okay, thank you.

Mr. Rainforth: I get confused too.

Ms. Iseri-Carvalho: Ken, Council Chair has a question.

Mr. Asing: The requirement of affordable housing will be established at the time zoning of permit application, and shall be based on an analysis of the number of jobs to be generated. The number of jobs to be generated is for the project. So everything is targeted to this project that is going to be built and number of jobs.

Mr. Rainforth: Right.

Mr. Asing: It is nothing to do with any other...

Mr. Rainforth: It's what the impact of these businesses coming to Kaua'i at the time when they come.

Mr. Furfaro: And it's full time equivalent.

Ms. Iseri-Carvalho: Do you have a question?

Mr. Furfaro: It's full time equivalent. I was just clarifying that. It's not number of jobs.

Mr. Kouchi: It also says from outside existing Kauai workforce so that I could come in and argue that I am not outside of the Kaua'i workforce, I am just going to just steal from everybody else. So people who come and work at my business already have a house because they live here.

Mr. Rainforth: Well hopefully, councilmembers at the time would say that we have full employment on Kaua'i. You cannot get employees on Kaua'i for your projects so somebody got to come by from some place.

Mr. Kouchi: I mean it's vague enough to give the council (inaudible)... give them anything they want.

Mr. Rainforth: Yes.

Mr. Kouchi: So I am not arguing about that. (Inaudible).

Ms. Iseri-Carvalho: I am not sure that that was your intent, Ken. But just have that in the back of your mind and just re-visit that. Councilmember Furfaro?

Mr. Furfaro: You know I think councilwoman had her hand up first. I'll yield the floor to her and if it's okay with you, chair.

Ms. Iseri-Carvalho: Okay, I am sorry, I just look that way and saw you. Councilmember Yukimura?

Ms. Yukimura: It is a follow-up to the discussion...would not... more objective criteria be something like two percent (2%) or anything below three percent (3%) on a employment, rather than you know requires new full time employees from outside the existing workforce and leaving that to the judgment of

whoever the decision makers are. The economist probably can tell us that when you reach a certain level on unemployment, it's likely any new development even though they take new, I mean existing workers going to generate the need for outside workers indirectly or directly. Then it won't give the council as much (inaudible) as Councilmember Kouchi is saying. But you know I mean humor to the side in terms of an objective criteria... just a suggestion.

Mr. Furfaro: In councilwoman, my suggestion was down the line...today we have a 2.4, yes councilwoman? We have 2% of unemployment in the state. Kaua'i is at 2.2 and another piece as it relates to perhaps to the recruitment process. We might have some condition tied to the cost of living indexes, you know, for things that the council could consider if they are offering wage and benefit packages higher than the increase in the cost of living index, then quite honestly they are probably offering package that would recruit some people from other jobs so that's tied in to the unemployment indexes as well. Those are the things that we could visit on.

Ms. Iseri-Carvalho: Any further suggestions regarding that section? If not, Ken.

Mr. Rainforth: I think we can move to page nine (9). This part of this section came from a different section in an earlier or in the current draft that the council had. We moved it here where we thought it was better placed and added some additional information. This is the safety valve provision which provides the council to give consideration to local families who are trying to develop housing products developments for their own family. So the first one, Immediate Family Member. There can be an exemption from a workforce housing requirement. This is for projects twelve (12) or less. Title will have to pass from the developer to an immediate family member of the developer and all the units to would be subject to a shared appreciation agreement with the county and that is to prevent abuse of the provision.

A second alternative that a local developer, who is developing units for their family could utilize, is the reserved sales provision where a developer can reserve up to eight (8) units in their project. Eight (8) of the required workforce housing units and have them sold to any income qualified immediate family member of the developer. This would satisfy the requirement as well but also be subject to the Shared Appreciation Program to prevent abuse.

Ms. Iseri-Carvalho: Councilmember Yukimura?

Ms. Yukimura: Do you have a definition somewhere of immediate family.

Ms Iseri-Carvalho: It's in the front.

Ms. Yukimura: Excuse me.

Mr. Rainforth: And the definition, we borrowed it from our HGEA contract which deals a lot with immediate family members.

Mr. Bynum: It's very broad. I like that definition...it is very broad.

Ms. Yukimura: Okay, thank you.

Ms. Iseri-Carvalho: It came from somewhere. Any other question with respect to that provision? Council Chair, any question?

Mr. Asing: No...no I don't.

Ms. Iseri-Carvalho: Okay, we'll move on then. Thank you Ken.

Mr. Rainforth: Okay, we will move on to Article 3. These are housing requirement...

Mr. Asing: Page?

Mr. Rainforth: It will start on page nine (9) but go to page ten (10). These are the alternatives to the housing requirements. It's organized a little different. The original text says that the council has to approve all these alternatives. We looked at trying to reduce the burden on yourselves and developers coming to the council but we really only found one that could be moved to the housing agency to have the authority to make the decision. And that one was that rental units could be built in lieu of for sales units and the rental units would need to be affordable to the same income groups as the required for sale units would be. For the county council the alternatives that need to be approved by them prior to using them would be (A) which I hope yours reads land donation and residential off-site.

Ms. Yukimura: No, reads dedication. It should be donation instead of dedication?

Mr. Rainforth: It should be dedication. Sorry. My notes are on one version earlier.

Ms. Iseri-Carvalho: Ken that would be for the public's benefit 3.1.

Mr. Rainforth: 3.1 new (A). Land Dedication and Residential Off-Site.

Ms. Iseri-Carvalho: Or...that's what you meant. Land Dedication or Residential Off-Site.

Mr. Rainforth: Okay, and what this does is say that the county could authorize, either the required land donation or the required for sale housing to be off-site but there's a (inaudible) where if they are off-site there is a fifty percent (50%) increase in the requirement ... fifty percent (50%) for the land and/or for the required for sale units.

(?) (INAUDIBLE)

Mr. Rainforth: Is this better. I am sorry.

Ms. Iseri-Carvalho: Page ten (10).

Mr. Rainforth: The next one would be In-Lieu Fee. We modified this a little. It used to say that it would be the median sales price on Kaua'i or within the tax district. We changed it now to be the first number in the calculation for the In-Lieu Fee to be the average sales price for a market priced units in a project. The second part of the formula stays the same and the formula simply take the average market price of used in a project, subtract the required workforce housing unit from that number and the difference would be the in-lieu fee. In number three (3) we've changed... we've deleted the... not to exceed two hundred fifty thousand dollars (\$250,000.00) figure so in some cases these fees can be very large and then in some cases it would not be large. The Land In-Lieu is not changed. Units In-Lieu of Land Donation (inaudible) (changing of the tape) changed. It used to say that if a developer built units for the county on the land, instead of providing the land donation that the units that they built would have to be affordable to household earning sixty percent (60%). It is now changed to be that half the units have to be affordable sixty (60) and half affordable at eight (80) and a new provision here (e) Modification of Requirements for Gap Group Housing. The County Council may reduce the number of workforce housing units required for developer project if the project area or, if the project targets a majority of project's non-required units for gap group Kaua'i residents earning from one hundred forty percent (140%) to one hundred eighty percent (180%) median income. This gives the county council some leeway in modifying the standard conditions for developer

who comes in and is proposing to build a housing project which is priced at prices which are affordable to Kaua'i residents with no very high prices.

Ms. Iseri-Carvalho: Try say that again, Ken. Affordable to Kaua'i residents... you mean with the one forty (140) to one eighty (180).

Mr. Rainforth: Okay. If the developer's entire project is targeted to households were no more than one hundred and eighty percent (180%) of the Kaua'i median income. There are a number of Kaua'i residents who are in the market for housing at that price. So the developer is providing housing for residents. This whole bill is trying to target that we need more housing units for residents rather than building housing units for investments, second homes and retirement.

Ms. Iseri-Carvalho: Councilmember Yukimura?

Ms. Yukimura: You said the entire project but over here it says a majority of the project.

Mr. Rainforth: Yes, bad language... needs to be worked on.

Ms. Iseri-Carvalho: So you're saying that the entire project... is that what your intent was Ken?

Mr. Rainforth: I think so.

Ms. Iseri-Carvalho: Okay. Go ahead Councilmember Yukimura.

Ms. Yukimura: What about the entire project that it targets the gap group earning from one hundred forty (140) to one hundred eighty (180).

Ms. Iseri-Carvalho: The project's non-required units for gap group. Just take out the word majority.

Ms. Yukimura: No, I am just trying to understand what you are trying to get here. If you said that majority may not be the word, you want. It may be the entire project and then if you're looking at the entire project what is it that you want the entire project to do? And from I read here, it's addressing the one forty (140) to one eighty (180) (inaudible) but that's the entire project. That is the hundred percent (100%) of the non required units.

Mr. Rainforth: Yes.

Ms. Yukimura: Well I don't understand. Are you saying okay here, you owe certain kinds of housing if you take and that's called the required units? If you take the non-required units then either a majority is written or the entire of that non-required units is targeted to hundred forty (140) to the hundred eighty (180) group then the council can reduce the housing requirement of the required units. Is that what you're saying?

Mr. Rainforth: That's what we're saying. I showed you, and I think I showed Councilmember Iseri-Carvalho, a matrix that was showing that it would be different housing requirement by different housing projects and this is trying to take into consideration that not all housing projects are equal. There are housing projects which are targeted strictly for resort high end and they are going for highest sales price that they can possibly get. There are other projects which are truly targeted to providing housing for local families, mostly because of location, so should the same housing requirements be required of both of those developers so this provision, maybe need some different language is trying to give the council the ability to recognize those differences and try to be fair.

Ms. Yukimura: Yes and I think some of the developer communities brought that up. The developments that are providing high end second and third homes have much more capacity to subsidize the required affordable housing units than those who are targeting the more middle local resident market and so this is trying to give them (inaudible).

Mr. Rainforth: Perhaps without this you're forcing all developers to go high end, at least a portion of their projects.

Ms. Yukimura: Okay, I understand. Thank you.

Ms. Iseri-Carvalho: Any other question for Ken? If not, Ken I guess the comment I would have is that you specifically referred to that group as gap. Is that a term of art?

Ms. Yukimura: Yes, that's confusion.

Ms. Iseri-Carvalho: We should take that out... for Kaua'i residents earning one hundred forty (140)...

Mr. Rainforth: I should take it out since it has different meaning for different people.

Ms. Iseri-Carvalho: And we also took it out in the purpose section... to the reference so... yes, let's leave it out, okay?

Ms. Yukimura: And use some other words to describe. Well you already have one hundred forty (140).

Ms. Iseri-Carvalho: Well I think that's clear.

Ms. Yukimura: I think that's a good suggestion.

Ms. Iseri-Carvalho: Ken, if we can continue.

Mr. Rainforth: Move to page twelve (12). We have adopted a new program. Something we've been talking for much more than a year. We introduced a similar concept with the council over a year ago and we see some very sage advice on how to proceed and we have done that, and we've now implementing this new Kaua'i residents home buyer list program. Perhaps I have too much text in here. What I did was just plop the entire approved policy that we had adopted with the Mayor. I am not sure that I really want it reduced too much, if at all because it provides enough details that it can be easily researched and filed for people who need to work with this program. What this is, is that when Kaua'i resident completes a qualified homeownership education program and registers with our office, they will be given a number and this number would be like a number for Hawai'i homelands. You will have that number, and as long as you maintain residency on Kaua'i, and as long as you don't own some or purchase some other property to be a home, you will stay on this list and be given the opportunity to purchase whatever new homes come up through development by the county or by developers required to fulfill their workforce housing requirements. We also have provisions in this section which, says we can't make this offer to everyone. We need to also go one more step and that we need to have the people on the list of developers talk to and (inaudible) to be in a position that they could purchase a unit. We call them mortgage ready. So our office through documentation provided by the resident on our list, make a determination whether or not that family has a reasonable chance of being able to purchase an affordable housing unit through this program, and the underwriting criteria that myself and Fay Rapozo used when we looked at these families finances is a not stringent at all. We understand the various mortgage programs that are available to first time buyers to low income households and we know that you can have a low income and still be able to purchase a home utilizing the interest subsidy loans that rural development has. Utilizing second mortgages that our office provides so all of these is described in this new portion.

Ms. Iseri-Carvalho: Questions regarding this? Yes, councilmember Bynum?

Mr. Bynum: The home buyer list exists today, yes?

Mr. Rainforth: We have a program that we implemented about a year ago. It's called a Home-Buyer Priority List. I know it's way too similar sounding, and all of the people who are participating in that program now, have been issued letters telling them of their eligibility. We were taking names of people who wanted to participate but hadn't done home-ownership education yet. We sent letters to them that we need their certificate to be able to continue. We also know that people who took our classes back when the housing agency was doing the education and we didn't have this program probably haven't signed up for the program even though they are eligible. And we sent letters to all these... different letters to seven (7) or eight (800) hundred people who represent the names that we have been collecting of potential buyers, informing them that we'll have a public lottery on July 18th to establish the initial home-buyer number for all the people on that list, and people who aren't ready to participate in that lottery, as soon as they complete their home-ownership education they take their certificate to our office and they are given the very number on the list.

Mr. Bynum: To attend the process of being developed. The list...the actual list.

Mr. Rainforth: It's been implemented.

Mr. Bynum: Okay, thank you.

Ms. Iseri-Carvalho: Ken, I think it's assumed that the housing agency will be the responsible party for maintaining the list.

Mr. Rainforth: Yes, for now.

Ms. Iseri-Carvalho: Okay, and then the other question that I had. Did we get your definitions, says who resides on the island of Kaua'i? Is there a time frame that they need to reside on the island of Kaua'i? Do I just get off the plane, take a home buyers course and boom I'm on the list?

Mr. Rainforth: Constitutionally, right now that's correct. You can be here for a day and you can be a resident, however creating... one of the primary reasons for creating home buyer's list is to try and alleviate our resident's dislike of that particular constitutional right that Americans have. We are not (inaudible) anybody's right. We are simply saying that if you are here, and you go on the list, you can stay on that list and when your name comes up on the top of list, you'll get to choose first. So I can see in a decade or two (2) of maintaining this list that everybody who wants to buy a house is going to be on it so they are going to be long

term residents. And the people who just got off the boat and establish their residency, and after they take a month or two to complete the course, they can go on a list too but they'll be at the end.

Ms. Iseri-Carvalho: I mean, I can see that happening but I guess where I am looking at is, how are we going to determine and I think this is a simple answer but who physically reside on the island of Kaua'i at the time they turn in their application and then they move away and they living on the mainland for two (2) or three (3) years, are their application going to be expunged?

Mr. Rainforth: If we find out about, it would be terminated.

Ms. Iseri-Carvalho: Okay and that's why...

Mr. Rainforth: There are provisions in there.

Ms. Iseri-Carvalho: We don't want people just signing up for the list and then I think there's this dormant home buyer's list on the individual to contact you if there is a change in address, so I would think that form would contain that. It's their burden because we don't

Mr. Rainforth: Yes, it's their burden to contact us. We are working with names as you need to be very careful. Our office has, from years ago when we used to build and sell housing units and we have eight hundred (800) or a thousand (1,000) applicants come and sign up for opportunity to purchase fifty (50) homes, we had to be very careful in maintaining the data on these individual names and not losing anybody because that would eliminate somebody's opportunity to purchase so, we've over the years learned how to maintain such a list. There (inaudible) take a lot of time and will probably going to need a staff person to actually maintain this thing in a year or two when we get to be well over a thousand names. So we don't have any problems with that. But what happens is in maintaining a list. Part of the list would be the Mortgage Ready List and that would be the list the developers would look at. People who are on that part of the list would be there and unless we know for sure that they are no longer a resident we leave them there. We could communicate to them and we get letters back undelivered address, check phone... phone numbers and discontinue. We don't take them off the list, but they're red tags so we can find out what happened. Where were you?

Ms. Iseri-Carvalho: What about those people that... I mean are we requiring that they reside on the island of Kaua'i the entire time, until they purchase a home, or I guess this people maybe have lived here all their lives but they cannot afford to live here anymore, so they are on the mainland but they would

love to come back if they could purchase a house. I mean what about that category of people?

Mr. Rainforth: I think it would be problematic to try to include the people who lived here and moved away because we couldn't (inaudible)... for somebody else who didn't live here would be on the list. Could we?

Ms. Yukimura: Or somebody who comes back and registers and then...

Mr. Rainforth: The person would simply come back and re-register.

Ms. Yukimura: Yes, because otherwise for those people and they could be local people returning from college or something to be trumped by somebody who is moved...?

Mr. Rainforth: If you are in college you can maintain your residency here.

Ms. Yukimura: Right.

Mr. Rainforth: Or if you are in the military you can retain your residency here.

Ms. Yukimura: And I think the responsibility to keep the addresses current should be on the applicant and not the housing.

Mr. Rainforth: It is.

Ms. Iseri-Carvalho: It's in (o).

Mr. Furfaro: It's covered on (o) on page fifteen (15).

Mr. Rainforth: But we would periodically communicate to the people on the list if we need to update their finances or something.

Ms. Iseri-Carvalho: We can move on. Oh, do you have a question? Okay, go ahead. Council Chair?

Mr. Asing: Ken, have you checked on the constitutionality of this with the County Attorney's office?

Mr. Rainforth: Yes.

Mr. Asing: And you got okay that if...

Mr. Rainforth: I don't have any written document....

Mr. Asing: Then I would suggest you get a written document.

Mr. Rainforth: Well, that attorney now has left employment with the county so...

Ms. Iseri-Carvalho: It's the second or third attorney that (inaudible).

Mr. Rainforth: In your earlier communications, you didn't specify you needed a written opinion. You simply said that I needed to...

Mr. Asing: I think it's important enough that you get a written opinion because it is a... I am not an attorney but I suspect that it's going to be challenged, so get a written opinion.

Ms. Iseri-Carvalho: I think after this workshop, basically we'll have not only that section but an entire section be reviewed by the county attorney's office of the entire policy before we proceed anyway. Okay Ken, next item please. Was that your question? Oh, you know I thought you were shaking your head so I thought that was the same question.

Mr. Bynum: Just real quick, Ken?

Mr. Rainforth: Yes.

Mr. Bynum: So a family on Kaua'i... one can complete the homeownership training and get on the list...step 1. Step 2 is mortgage ready, right? So 'cause there might be a family who does the training they know they are not mortgage ready now but the training helped them get there, right? So they get on the list, then before they can actually purchase they are found mortgage ready. Is that correct?

Mr. Rainforth: That's correct.

Mr. Bynum: Okay.

Mr. Rainforth: And since they receive their homeownership education from an organization which also provides counseling, we encourage them

to take advantage of those counseling sessions as much as possible. We do not offer them ourselves.

Mr. Bynum: So we are trying to educate families on Kaua'i. Even if you are not mortgage ready now, go to the homeownership training; get on the list, so you can move to that point of being mortgage ready. Thank you.

Mr. Rainforth: Well you still get your number, so once you are ready you move right over.

Mr. Bynum: Right. Thank you.

Ms. Iseri-Carvalho: Council Chair?

Mr. Asing: One more. Ken, I support the program, there is no question on my mind but I also have some grave reservations and my reservations surrounds the area of, today as an example, you have a list containing number, hundred (100), two hundred (200)?

Mr. Rainforth: About seven or eight hundred (800).

Mr. Asing: Okay, you have a list today of seven or eight hundred. Now, this program, up to today, maybe it was done fairly well and it's okay, but how do you plan to maintain this program going forward so that in the next six months, people are continually being notified. As an example, if you do nothing, it stays seven, eight hundred period because nobody does anything else because you're not doing anything else to advertise or to communicate with the public, to let them know awareness that we have this program. You could have a period of no activity for two, three years and, then you so have this other group of people that are interested but are not on the list because there is no activity by either the department to advertise, and keep this program on-going and then you have this development that happens so all the people on the list have a big advantage over somebody else that has not been notified of the program, so that's the concern that I have.

Mr. Rainforth: Okay, I can maybe alleviate your concerns, a little bit. We certainly intend to continue to utilize the services of Hawaiian Community Assets and Hawai'i Homeownership Center or the two (2) entities that had been employed or under contract with the county to provide homeownership services here. They've promoted our home buyer priority list program and they definitely will assist us in promoting this program. For the Mayor, we had a series of home buyer's fairs. Five (5) separate fairs held throughout the island. The Mayor was very clear and adamant about homeownership education being in component for

anybody who is going to be purchasing any of the affordable homes that are coming up on... by developers or even on the state lands. So the Mayor is very good at promoting this program now that we have focused, he can utilize the provisions of this program to make it more clear, in discussing it with the public so, we know the burden for publicizing the program is on housing agency and I think we're looking at ways to do that effectively now but thank you for the reminder.

Mr. Asing: Thank you.

Ms. Iseri-Carvalho: Ken, just a follow up as far as funding. We've been actually securing... we did secure funding with the CDBG, right? That was one of the programs that we approved for the CDBG funds.

Mr. Rainforth: To finance the consultant contract or contract for services with the homeownership education entities here in the State of Hawai'i, we've first been using CDBG funds to do that but we also are just beginning to utilize county funds to provide the services as well. The CDBG funds as you know restrict the use to families who are low income... eighty percent (80%) and below but the funds that the council has provided through the Mayor's budget, allows anybody to benefit from the courses so...

Ms. Iseri-Carvalho: Okay, thank you any questions? Go on Ken, please.

Mr. Rainforth: The section 5.2. For-Sale Housing. It needed to be modified, somewhat to...

(? – from the audience) What page, please?

Mr. Rainforth: It's really fifteen (15) and sixteen (16). The provision on the sale sequence may be modified because of the home buyer list program. So that has been incorporated. Minor changes... then I'd like to go to page nineteen (19). This is the Restricted Marketing Periods. We received many comments regarding the initial version of this proposal. I would like to remind developers in the audience that my recollection whenever the council would impose a affordable housing requirement. The requirement was most often a one (1) year requirement that the condition would put last for one (1) year before the development had satisfied the requirement. So comments on a year being too long... I didn't agree with it has happened in the past. What this is designed now is, and I am not sure how people looked at it before but the developer wants to be marketing unit prior to being complete so there is buyers ready and walk in the door when the units are done. So there is no holding cost. Also incorporated in this is the home buyer's list program that this people get a first opportunity to purchase as well. What's proposed now is that (a) ten months before a project is anticipated

to be completed, the developer would contact the Mortgage Ready people in the Home-Buyer List to tell them what is being proposed, and so the people on the list could decide prior whether or not they are interested or not and then that approximately nine (9) months before construction was completed, for a period of approximately thirty (30) days, sales would be exclusive to people on the list who were income qualified. At seven (7) month prior to the completion of a project, the developer would begin marketing the units to other people who weren't on the list, through a public notice and have a language where they probably have a lottery to establish these selection order of those other applicants and that at six (6) months prior to completion of the projects, that income qualified applicants were not on the County's list would have any opportunity to buy, and then for a ninety (90) day period which is three (3) months before the completion of the units then people who were on the Home-Buyer's List and people who were on the other Lottery List, who were one income group higher than what was the units were required to sell, would have an opportunity to buy. And if all the units aren't sold at the time of completion, then there are still some restricted sales period but that opens up considerable for the thirty (30) day after completion and for ninety (90) days units can be sold to any Kaua'i residents regardless of income except not to people who already own a home, and another ninety (90) days beginning from the fourth (4th) month out would be any Kaua'i resident of any income and who already can own a home. All of the buyers of these units would be required to be owner-occupants. They would have all buy-backs attached to them. They have different buy-backs and we will get to that in a minute. And after that, six (6) months after the units are complete, the units can be sold on (inaudible) market, any price, no restriction.

Mr. Asing: That total time you gave reference to, is what?

Mr. Rainforth: Well we started ten (10) months before completion with notifying people on the list and, we ended it at six (6)... at the end of the six (6) months after the units are complete.

Mr. Asing: Ten months prior to the project?

Mr. Rainforth: Prior to the completion of the units.

Mr. Asing: Completion, okay. So that's the start there and that's ten (10) months and then you're going forward.

Mr. Rainforth: Six (6) months.

Mr. Asing: Six (6) months.

Ms. Iseri-Carvalho: Ken, I guess the question I would have is how much is the housing units? Is it all of them? When you say approximately ten (10) months before the construction of... I mean after they are sold, I guess, is it after they are completed? How much units are completed? Is it the entire project?

Mr. Rainforth: The project can be phased and therefore the marketing period would follow the phase.

Ms. Iseri-Carvalho: Depending on the phase, is that okay? And then when you talk about vertical building construction, is that a term of art or is that defined somewhere?

Mr. Rainforth: Well I don't think it's defined.

Ms. Iseri-Carvalho: Okay, look into that 'cause I know I have seen it in a lot of our housing agreements. Different terms of construction, definition of construction, some is foundation, some is not foundation so...

Mr. Rainforth: Well, it's building construction. We actually start to build the structures.

Ms. Iseri-Carvalho: But yes, clarify... define whatever terms you are using would be helpful. Thank you.

Mr. Asing: You have the thirty (30) first, and than the ten (10)?

Ms. Iseri-Carvalho: I'm sorry.

Mr. Asing: Or is the thirty (30) part of the ten (10)? The thirty (30) days, you have but no earlier than thirty (30) days before the start of the vertical construction. So you have thirty (30) days first and then comes the ten (10) and the six (6) follows.

Mr. Rainforth: Which letter you...?

Ms. Iseri-Carvalho: (a) 6.1 dash (a).

Mr. Asing: Page 19, top of the page, six point one (6.1 a) (a).

Mr. Rainforth: That provisions in there... we don't want developers to be marketing units so far in advance that buyers have no clue what they are buying, when it's going to happen... so we (inaudible) that this process...

the very beginning of the process starts with when the building are starting to be built and this is estimating that a development is built out in nine (9) months but in many cases it's twelve months or longer so there's more time for the developer to be marketing these units during construction so they are not holding empty units.

Ms. Iseri-Carvalho: Question on that section. Okay, go ahead Ken.

Mr. Rainforth: Another significant change in... I'm not quite sure where the council stands on this one but at the very end of that section, page number seven (7), excuse me, page twenty (20)... that would be under six point two (6.2), it's now j. The prior language said that the developer could sell the units on the open market, and the county would get the net profit from any change in sales price. This change says that it takes that out. When it goes market it's the developer's project, they do what they want to with the money.

Ms. Iseri-Carvalho: And that was something that they had raised. Any question of that? If not, go ahead Ken?

Mr. Rainforth: Page twenty one (21), twenty two (22) are changing the language with the buy-back. Some background information the county's current buy-back is part of the Kaua'i County Code. It's perhaps miscorrectly...

Mr. Kouchi: On that page twenty (20) we're implying that we may still continue to choose not to exercise the right to purchase.

Mr. Rainforth: The county has the right to purchase at anytime during this whole process. So the language where...

Mr. Kouchi: But it says for unsold, and when I talk... kind of... one of the premises about perusing the housing policy was to insure that we had adequate money because we found that in down markets when we had let some of the units get out of affordability, we do not exercise our buy back and everything else when the cycle turn back all of a sudden we are in a period today without affordable units and if we are perusing perpetuity, I would have thought that the developer shall (inaudible) that... see.... they would get... at the time they sold or when the county purchases and that if we going do this policy we are going to foot the money...we are going to commit to keep the units that are built in affordability, even if we have to buy them ourselves at (inaudible) below market.

Mr. Rainforth: That's correct and...

Mr. Kouchi: But this gives you the chance not to... I can see why you want to leave it in. I just wanted to make it a point that parts of the guidance what we want to try and give... I am sorry. I thought part of the guidance we are trying to give the staff is learning from our mistakes, even when it doesn't make sense to buy it you buy it because there's going to be the day that you absolutely are going to need it never let it get out of the inventory, and let us be financially committed to that policy because you cannot go back and recapture when you get into the hot market that we recently experienced.

Mr. Rainforth: Maybe we need more language; maybe we need some revised language.

Mr. Kouchi: I'm trying to protect myself.

Mr. Rainforth: What is really important with this process, this concept that I see is when a developer has units, they are ready for sale and at any time, the county can move in as a buyer.

Mr. Kouchi: But the way this was written, when you get to the end of restricted period, and it's a slower market in the past we have elected in times not to purchase and we have also said to the developer that you have made a good faith effort to hold it on the market to the affordable buyer now you can go to the open market with the unit. I am just saying that part of trying to create this policy is to say that what we can keep in affordability in perpetuity is our commitment and our mission in this policy and this should simply say that at the time that they are sold they should be given the credit to the affordable buyer or when the county purchases and we should obligate ourselves to go buy all of these to keep it into affordability.

Mr. Rainforth: When I was revising the text I was thinking very similar to what your thoughts are. To me the trigger would be, when the units are complete and you move on to the next phase where Kaua'i buyer of any income can purchase. Is it that time that we would need the housing agency would need to obtain a real status of where the project is with the developer in order for the housing agency to make a report to the County Council to say this is what's left and this is the last chance to purchase these units so there's a six (6) months period, where we could work with the housing... work with the council to decide, what units, how many, we will be willing to purchase so that is important to me, that that would be there. But what's changed in the text is... instead of sticking that process at the very end... we should be doing it concurrently when the other sales are going on.

(INAUDIBLE)

Mr. Bynum: I'll save the question for later.

Ms. Iseri-Carvalho: Councilmember Furfaro?

Mr. Furfaro: No, I think that Councilmember Kouchi brings up some good points and there are many creative ways especially with assets that are revenue producing for the county to find the appropriate money for the purchase.

Ms. Iseri-Carvalho: Question?

Ms. Yukimura: I just wanted to comment that I, yes I do think Councilmember Kouchi raises a really good point so maybe perhaps housing can look into that, see how we can clarify, an intention to purchase wherever we can especially where we give housing credit because that was meant to be in part of our housing (inaudible) and maybe it's true in those specific circumstances, we don't need that housing but we know that in the next cycle we will.

Ms. Iseri-Carvalho: Eventually, we will. You have anything you wanted to respond to Ken?

Mr. Rainforth: I agree, I just think we need to improve the language so that it's (inaudible).

Ms. Iseri-Carvalho: That was your intention. Okay. Councilmember Bynum?

Mr. Bynum: But it does address the concern developers had about a four hundred and twenty (420) day period that they had to keep housing and inventory potential, so you are trying to address some of the concerns that developers brought up during the previous workshops.

Mr. Rainforth: Before the provision or article didn't... the timing elements were all on... starting from the public sales date notice or something like that. And what to me the critical date would be, when the (inaudible) be completed because, we recognize that you want to sell the units before they are done... everybody does and so that's why I designed the revised provisions.

Ms. Iseri-Carvalho: Councilmember Yukimura?

Ms. Yukimura: Yes, I just want to commend you for utilizing the years of history and experience in this matter. They have been rough times. We remember after Iniki trying to do something that works both for the development

community and for the county's interest. You know, I am sure we need to fine tune it but I think you have laid out a basically good frame work.

Ms. Iseri-Carvalho: Council Chair.

Mr. Asing: Yeah, I think you have (inaudible) given a lot of thought and maybe you have taken care of it but my concern... I look at the ten (10) month period because we are talking about prior to construction is what you looking at when you make reference to the ten (10) months, and I just have some concerns about the developer projects this ten (10) month time period and then this ten (10) month time period though is extended and instead of staying in that ten (10) month prior to construction it goes to one (1) year, year and a half (1 ½). You know what I'm making reference to.

Mr. Rainforth: When it starts with a vertical construction or building construction, the developer already has done their site work, so by the time you get to vertical or building construction the developer should have all his (inaudible) in a row. I know there's still Murphy's Law but you are really ready to move ahead, but you are right, there are going to be delays and I use the nine (9) month time period because some smaller projects can achieve that build up period but larger projects can take a year.

Mr. Asing: Thank you.

Mr. Rainforth: And now I would like to talk about buy backs. (INAUDIBLE) (Changing of tape)... page 22. Currently the county buy-back which is a restriction on sale or transfer or use is located in the county code section 2.16 is the housing agency provision for under county organization. It may be misplaced being stuck in that section because it adds pages and pages and pages to a section where no other office or agency has more than a paragraph or two. It's my intention that once we develop a revised buy-back document that the entire text of that would be dumped into this section, so right now with this section has is the important points that we need to see in the new document or what we are going to be changing from our old one. And first thing I would like to show is that we want to include debt as also one of the restrictions. We have been getting into more and more trouble lately in administrating our buy-back because lenders have not gotten the consent of the housing agency before issuing mortgage debt on households and the total mortgage debts is way in excess of the purchase, re-purchase price that the county would do. And the only way for the county to buy back such a unit would be able to go to the circuit court, convince the judge that the county has the right not the owner and we want to avoid that and one way to avoid that, we think, is specifically say that additional mortgage debt cannot be put on title to these restricted houses unless they get the approval from the housing agency. We would

only approve something when the total debt against the property does not exceed the re-purchase price. And we do that calculation a dozen times a month for different people. We also believe that needs to be a recordable (inaudible) not an attachment to the deed. It works for years and years, but with the deregulation of the lending industry we have seen in the last few year was steady incomes and all the other strange mortgage vehicles coming from the mainland... nobody is paying attention to our restrictions and closing is happening outside this state so we need something that any title company would trip across when they wanted to put something on a property. So under 7.2 Duration of Restriction... at first we had a step number of years where a buy back would be subject. It was kinda mix feelings but the majority seems to think should be one number so page 22 we talk about what the one number would be but it actually came out to two numbers. The first number would be a 20 year buy back restrictions and this would be on units that were sold when the units were being marketed with a limit or restriction on the buyers income, and if you think back to what we just covered in the restricted marketing period this would be all of the units that were sold up to the completion of the units. We have a 20 year restriction. Units sold after that time period for another six months would be subject to a ten year limit. And after that there's no restriction.

Ms. Yukimura: Question.

Ms. Iseri-Carvalho: Yes, Councilmember Yukimura.

Ms. Yukimura: Do you feel that in twenty years the county would be able to replace that housing unit that would go into the market such as in the inventory of housing will be... affordable housing will continue to grow or are we making problems for the community in twenty years? Especially given increasing housing construction cost.

Mr. Rainforth: I am not sure if I understand your question.

Ms. Yukimura: This housing units have been built under subsidy either by the private developer or the county. There are a lot of hidden subsidy as well as the actual subsidy, so when the house buy back expires in twenty years, what would that do to the affordable housing situation in the community twenty (20) years hence?

Mr. Rainforth: What it's doing now is when the ten year buy- back expire, many people stay in their homes and other people sell. What you always have to remember is that the county had the opportunity to purchase any of these units and create them. We sell them as leasehold estates and make them perpetually affordable. The county simply needs to step up to the plate and provide

some dollars to be able to do that, so I am hoping that new projects come up and the county steps up to the plate every time to purchase some of these units.

Ms. Yukimura: But the county will have to pay market value for those units?

Mr. Rainforth: No, the county pays the same price as the affordable buyer pays.

Ms. Yukimura: If the buyer does not sell within the twenty (20) year period, when it expires, can the county then purchase even though the buyer is not selling?

Mr. Rainforth: No.

Ms. Yukimura: Okay so year twenty one (21) or twenty two (22) the buyer then sells?

Mr. Rainforth: Can. May sell.

Ms. Yukimura: And the county doesn't really have any buy-back.

Mr. Rainforth: No, once the buy back expires, it's void.

Ms. Yukimura: Right, so how does the county re-capture this unit?

Mr. Rainforth: It doesn't. It's a policy decision that...

Ms. Yukimura: That's what I'm asking. What is our record, have we done our research or historical record in terms of how many houses are sold within the buy back period and how many extend beyond the buy back period?

Mr. Rainforth: No. We were suggesting maybe we get some people from the KCC to come and volunteer their time to check our tax record to figure them out.

Ms. Yukimura: Maybe the realtors will do this for us but, what I am saying is if you look at the big picture, twenty (20) years from now will real estate houses prices be....

Mr. Rainforth: What I would do is drive in the neighborhood which have expired buy backs, like my own neighborhood, and between 1/3 and half of the people who were originally owners, are still there.

Ms. Yukimura: Okay, that is good. But what about the new crop of buyers who need affordable housing? I mean, will the county be able to build? Part of the problem we have today which translates down the line to homelessness is the fact that we are not keeping up with the production of affordable housing with the need. The production of affordable housing is not keeping up with the need so in twenty (20) years if we could still keep this house affordable what does that mean versus us having to re... actually build new housing that's affordable.

Mr. Rainforth: You are advocating for the leasehold program. That's how you keep them affordable.

Ms. Yukimura: I am saying permanent affordability of the units that we subsidize is one of the keys to actually solving the affordability housing problem in this state... on this island because without that we will never catch up and because the world is the market for Hawai'i real estate and because construction cost especially with... they are tied to the cost of oil and oil issues, the production of housing is going to be more and more expensive that we need to look at the issue long term... we are not just planning for this generation. And twenty (20) years down the line what does it mean when we give up that house to that market? That's what I am asking. What would this scenario be if we didn't give up that house to the market? If we put a buy back clause on for at least the life of the house which we know from our shoreline set-back laws, it's very well establish. Seventy (70) years for a wooden house, hundred years for a concrete house is the general life of assuming it's well maintained and so forth. So it's not a conventional idea, but if we are really looking at solving the affordable housing, and not causing future generation... I mean creating long term, a place where people of moderate income can live who society needs, to do a lot of the work that any community needs. How do we establish that?

Mr. Rainforth: I think through our community housing land trust, is how we could best do that.

Ms. Yukimura: Then maybe all of these houses should be in a community land trust from the start.

Mr. Rainforth: At least as I see then the county needs to be in a position to purchase all of these units and put them in a trust.

Ms. Yukimura: Well, what if we were to say we will purchase these units before twenty (20) years that even if people staying in the house or whenever... maybe we don't put a twenty (20) year buy back clause. We just say whenever the person is ready to sell it, they sell it to the county not for the market

price but for some price based on a CPI or some kind of index that give them some return but not a market return because we know those market return can make them pretty much unavailable to the county in terms of purchasing. We are not talking about market housing. Wherever people have bought market housing they have the ability to do whatever they want with it, but where they have had the advantage of subsidized housing... tax payers enabling them to purchase... tax payer money enabling them and the need to allow this for next generation and the next generation... there is a difference. They are going to be paying only thirty percent (30%) of their income for household cost, shelter cost. If they want to go into market housing they can save for down payment. They would have to prioritize.

Ms. Iseri-Carvalho: Ken, I think we had some of this discussion before in our ...

Mr. Rainforth: Yes we did.

Ms. Iseri-Carvalho: First and second workshop on the philosophical basis behind some of these provisions and I know you have addressed some of those, having properties in perpetuity. There are different avenues to allow for that and also allow the homeowner to move ahead, as well. So we'll get back to that... we need to go to lunch at eleven (11). I am going to take the last question. Can you wait until...

Mr. Furfaro: I'll wait until we have had previous discussion on this.

Mr. Kouchi: I have a question that I don't want an answer to, but I would like to ask the question because I thought we had sent it over. Maybe the answer is no too. I thought I had sent something asking if we would take a look at what is being discussed on Maui between the county and Hawai'i Homelands and if there would be an ability to have a private developer put some housing units on Hawai'i Homelands and as a method to receive part of their credit. Right now there is lack of available land or land at an affordable price, and Hawai'i Homelands has an inventory of land with a lack of capital to develop those lands, and I think that quite a few of the people on the list... (A) are Kaua'i residents who are trying to help, (B) lot of them are in the income category that we are trying to assist by this bill, and this may be a means to help address part of the housing situation, but obviously because of their limited people, who could qualify for the home... couldn't be the whole solution but maybe some portion credit or whatever of their overall obligation could be met on Hawai'i Homeland. And like I said, I didn't expect the answer. I sent it over... unless the answer was re-looked at it... we decided it didn't make sense, we don't want it in our policy.

Ms. Yukimura: Make sense though.

Mr. Kouchi: Well, then I would have to look around here and start convincing somebody else besides Ken.

Ms. Iseri-Carvalho: On that note we will take a lunch break. There is a service that we need to attend, and I apologize because it's earlier than usual that we take lunch. We will be back here at 12:15 and then we will continue with the remaining parts of the policy and then we will open it up for further discussion. Thank you.

The Chair recessed the meeting at 11:08 a.m.

Meeting reconvened at 12:40 p.m. (Councilmember Kouchi was excused due to a previous commitment), and proceeded as follows:

Ms. Iseri-Carvalho: The Community Assistance/Intergovernmental Relations now calls this meeting back to order. Thank you all for your patience, we really appreciate it. It was something that came up unexpectedly. What I would like to propose to do are some of you who flew in from off-island that needs to catch a plane. There is briefly... Ken I think couple more pages... if you can take five (5) or ten (10) more minutes to just finish up and if we could just hold off the questions so that we can allow the guest speaker to speak before he catches his plane. With your (inaudible). Thank you. Ken?

Mr. Rainforth: Prior to the break for lunch, we were talking about the revised buy-back provision, and I did talk about the debt being a provision that needs to be added, so we are changing the name to restriction on Sale or Transfer Debt and Use, and at the bottom of page 22 you see the Restriction on Additional Debt. The restriction would be limited that no... that the total mortgage debt on any property subject to this provision could not exceed the price that we would use, are the price that we would calculate to re-purchase the unit. The next page, page 23, this is a new section. It's incomplete. I thought it was important to list down the types of development project that the housing agency should be involved in so those types of properties are listed. In addition to these provisions, I also wanted to include a provision in here for the county's long term programs so that they are outlined in here as well, and perhaps some other activities that the housing agency participates in to promote affordable housing development. Moving on. Article no. 9. Community Housing Land Trust, on page 24. There are some revisions here which remove mention of the housing agency. Before this Article kind of mixed up the housing agency and the land trust and so this is an effort to try to separate them so, that's been done.

Under Article 10... now Article 10, Government Assistance. Something I talked about before was under the... we haven't changed this yet but under the first one... the proposed 10.1 Waiver of County Fees. We were looking at having a council mandate instructing review agencies to provide exemptions for payment fees for certain affordable projects. This is a two head sword because if you remove the fees from the review agency, you need to replace those funds in the budget process because the agency collects the fees for a purpose and that's to help finance their activities. So I don't know whether the council would like us to entertain that or not. I am looking for a cue from you.

Under the Fast Track Permitting and the 201H Exemption Process, we have clearly defined them at... those would only be utilized with a one-hundred percent (100%) affordable units that the Fast Track Permitting or exemption would only be employed for affordable units or workforce units only. Also in this section we inserted a Density Bonus where a developer who's satisfying its workforce housing on-site is entitled to a ten percent (10%) increase in its density, as well as the ability to reduce the lot size by ten percent (10%). This almost one for one benefit to the developer with the housing agency requesting ten percent (10%) of their land to develop housing. In this density bonus provision it's getting it back. Please notice that this is for workforce housing that is developed on-site, not on off-site provision. What I would also like to insert in this section is other incentives and those would be... we want to have incentives for developers to develop single family units, whether the single family attached or detached. What we are trying to do or we are trying and steer developers, is to stay away from condominium type of ownerships where the association of condominium fees would not be present. This is difficult for many residents to understand during a period of recession that we experienced, not so long ago. Many of the people who have purchased the affordable units at Hanalani Village lost their units because they failed to keep up with their association fees. They could pay the mortgage, but not the association fees. It's difficult for us to promote the condominium, CPR type of developments. What is interesting to me and I thought it was really hopeful is the Big Island, where the county (inaudible) are developing Waikoloa. There are no condominium ownership that the multi-family type projects are really single family. To me like Brownstones on the mainland where you have row housing but they are not attached, they are all individual fee simple properties but they achieve some cost savings by the density which they are able to build, so this is something we would like to encourage and to do that provide incentives. They have some debate, in my office, what those incentives would be whether they would be density bonus credits or reduction in the amount of workforce housing had to produce but some kind of incentives to help us obtain housing units that our residents would appreciate more.

Ms. Iseri-Carvalho: Councilmember Yukimura.

Ms. Yukimura: Smart Growth Principles generally prefer multi-family or at least denser versus less denser developments and so when you say single family, one normally thinks of lots and houses on them. I just heard you speak of some single family options that may not look like a single family house and lot, but may still meet the desirable qualities of not having common area fees or that kind of thing. You are proposing to promote that kind through incentives, or any kind?

Mr. Rainforth: Yes.

Ms. Yukimura: I mean, often times you can get much nicer developments if they are clustered rather than three thousand (3,000) square foot lots... just ticky tack so how do you distinguish between those kinds of developments?

Mr. Rainforth: I am not ready to answer that question.

Ms. Yukimura: Okay.

Mr. Rainforth: I am delighted that the Big Island is doing it. I have been wrecking my head for years to figure out how we could do something like that. Cluster developments is a good example... the only common element they have is the shared driveway. So if there is some way to avoid that maybe they are all kinds of opportunity, I think to provide different types of housing. Other incentives I would like to provide somehow would be something we had in our old 1995 internal policy. We provided credit for developers who would build units which would be wind, fire and termite resistance. (Inaudible) a fire... a higher wind load, a high fire code so insurance is cheaper and certainly termite resistance is important. I don't know what kind of credit that could be given for that but it is an important thing, I think, that we would want to promote and in this policy to have that in there. The other thing to me would be is thinking green. Energy efficiency sustainable community concepts, I think should be included in the document as well and I think it's an incentive.

Ms. Iseri-Carvalho: Councilmember Yukimura?

Ms. Yukimura: I really appreciate that you are thinking along those lines. What would be the down side of just requiring those in standards for affordable housing. I mean certainly requiring solar water heating is almost a no brainer because it's going to lower the overall cost of, the user cost of the house.

Mr. Rainforth: Well, I understand that building green, probably adds five (5) to ten percent (10%) to the construction cost. When we were promoting the wind, fire, termite resistance program, we understood that also added five (5) to ten percent (10%). So in requiring developers to do this, we should also be asking them to less units. So the other way to do it is to provide some kind of incentives to do it, to build less units rather than for us to do the other way around. Or, if...

Ms. Yukimura: Okay, I am just interested in your thought process. I don't know where I'm personally coming down but...

Mr. Rainforth: But my thought process is instead of trying to tell somebody, you gotta do it this way, which some of these documents say, but to try and provide alternative and different avenues, different opportunities that people be creative to try and resolve their requirements and give them a reason to be creative.

Ms. Yukimura: Okay.

Ms. Iseri-Carvalho: So does that bring you to the end?

Mr. Rainforth: It really does.

Ms. Iseri-Carvalho: I guess because of the time, we will have you back up later if need be but at this point what I'll do is entertain questions or comments by the public. Anyone who hasn't signed a registration form, we will get that to you. I have currently two (2) speakers that are registered and we will follow the same format that we followed in the past, and that is basically when you provide your comments or questions, indicate the areas of the policy that you support. If you disagree with the policy as proposed or provisions of the policy, offer solutions or alternatives and there really isn't going to be any time limit but try to take only the time you need to make your points. Alright, having those before you, at this time the chair calls Dave Arakawa.

DAVE ARAKAWA, LAND USE RESEARCH FOUNDATION: Hi good afternoon Madame Chair and members of the Kaua'i County Council. My name is Dave Arakawa. I am the Executive Director of the Land Use Research Foundation of Hawai'i and my primary testimony focuses on the questions that were posed to me by the committee chair and I apologize for the tardiness in responding but these are the responses. I had a short discussion with your corporation counsel so I expect to respect the legal issues; we'd be discussing them in the next few weeks or months as time permits. Basically it was tough because coming here and then taking a look at the revision to this bill and we believe that we would probably need more time to digest them and provide our comments. It seems aggressive; it seems

to include a lot of idea. You know, I look forward in working with the council and the staff of the planning department, to take a look at these conditions, find out where they came from, how they work, in other areas. You know and my, our suggestions respectfully would recommend. These are great ideas, new ideas, great ideas but if you know in the state of Hawai'i where affordable housing has worked. It has worked in Honolulu so you folks might want to... there are a lot of new ideas and interesting ideas in this legislation, but I don't know why I look at it like if I'm going... I guess affordable housing is such an important issue. Just like you had a heart attack, just like you dying because you have heart disease and you want to get a cure. Okay? I mean it seems like everybody is concerned that much but if you have heart disease or you need a new heart or you need a heart operation you go to Dr. Mamiya. You go to somebody who has done it, you go to somebody who's worked on it and while some of these parts look good, look interesting and we need to take a good look at it, I don't want to insult anybody but it's like taking good pieces or pieces of a lot of things and slapping them together and putting it in this policy. So I think the ideas are good, the intent is good and I know you folks are working hard and the planning department is working hard so on behalf of LURF and our members we look forward to working together with you folks and taking a look at issues, facts and information that the landowners and the developers can pursue and provide to you folks. And hopefully we can all consider more flexibility because as some of you have mentioned, sometime if you build off-site, you can build more units off-site, you know the penalty is very punitive. This legislation seems very punitive. Their incentives are not as great as the punitive parts of it, for developers. That's something I think that we can all work towards and the developers on Kaua'i know Kaua'i's market and know what the limits would be and what would work and what wouldn't work. As LURF, we are speaking generally about the law; we are speaking generally about conditions. We would really trust the input from the Kaua'i developers as to how the market is and how it works. I would leave with just one bit of I guess, information or comment that prior to instituting these exactions or these impact fees, we believe that Kaua'i county has to go through the Constitutional Analysis, has to go through a study, has to make sure not only there's a nexus, a nexus between what is being imposed and what the development is causing, as far as increase in, I guess homes. Not only that, the first part is the essential nexus, it has to be a connection and I am not sure if there is a connection, we don't see a connection with respect to resort, industrial and commercial properties. We don't see that nexus, there is not a study that justifies such a connection that we know of right now done on Kaua'i county. The second part is a proportional nexus. The constitution is not going to allow a government agency to just pick numbers out of the air... 10% for this, 20% for this, 30% for that. It has to be tied to be fair, it has to be tied to actual facts, to actual figures, to actual calculations so you cannot just pick figures out of the air because it sounds good.

Lastly there's a lot of talk about buy backs. A lot of talk about appreciation and shared appreciation and we would need to take a look at that issue because the issue of appreciation going to the county is an interesting issue. Did the county put money in to subsidize the homes that are going to get built by... the affordable housing to be built by D R Horton or Grove Farm or whatever it is? Okay, because if not, if the county did not subsidize and put money in, then the county is getting a wind fall from the appreciation. Okay, who does that money belong to, I don't know but that's an issue that happened in Honolulu. Honolulu was looking at that appreciation issue and then they realized, you know what at the beginning we were subsidizing... the county was subsidizing these affordable housing units. But after a while the county didn't put one penny in but when these people sold, the county said okay give me my money. It's not fair... it's just not fair that the appreciation shouldn't be a wind fall to the county. Last but not least I know you folks spoke about this and it is really, what do you folks intend as a philosophy. What is your philosophy on this? Is the philosophy to provide homes for young couples to keep the people who live on Kaua'i on Kaua'i, our best and our brightest to bring people back home to Kaua'i so they have some place to live. Is that the idea? Okay, to bring and keep young professionals 'cause if you bring and keep young professional they're going to be moving up the ladder. They are going to buy a house, start a house... they are going to buy another house... they are going to move up, or is the idea to have a perpetual stock of affordable housing. Now, if you have perpetual stock of affordable housing, affordable rental, a lot of that is government kuleana. Government usually have those 80% and below. That is usually government kuleana and usually they can do it if the land is donated by developer and the government can find someone who can put up affordable rentals or affordable project. The land is free because it's donated so that's one thing. If you are looking at those people who are going to live there for the rest of their lives, they are going to buy that affordable home and they are going to die there. That's the only place they are going to live for the rest of their lives. That's one thing. But if you think this person is eventually going to move out and you tell them, you know what if you move out we are going to penalize you. You have to stay there 20 years. That's another thing, so there are various methods and alternatives and we are very interested in working with the council and the planning department in looking at these various alternatives to provide affordable housing. When you look at, the city council of Honolulu... tomorrow there's going to be a resolution that's up where the council of the City and County of Honolulu is urging the administration to beef up and continue to administer their CDBG program, their home investment partnership program, their Section 8 programs. All of these programs together can help ease the burden of the affordable housing problem in Honolulu and on Kaua'i. There are many other alternatives too.

It looks like Kaua'i is looking at very innovative ways but they are trying to hit a home run with this bill. You don't have to hit a home run or grand slam with

this bill. A lot of the conditions, various owners, if you try and hit a grand slam with this bill it might be so onerous that the developers just say, you know what we cannot handle this. We cannot donate 10% of our land plus do 30% and if you want to go off-site 50% of that, is a penalty. So you know while well intentioned that while they are very innovative ways and things that might work, if you try to bank everything on this bill to be the savior of affordable housing perhaps you might kill the golden goose. Developers might say, you know what, we cannot do this and I am talking about our developers in room and land owners in the room who will testify after us but I think it's important that we are here today. You folks are willing to listen and everybody is here today and everybody seems to want to come out with a workable affordable housing ordinance so I think it's a step in the right direction. I thank you very much for the opportunity to testify.

Ms. Iseri-Carvalho: Thank you Dave. Hold on a second. Questions?
Yes, councilmember Yukimura?

Ms. Yukimura: Yes, Mr. Arakawa, you advised us to look at O'ahu as an example of a community that solved its affordable housing problem?

Mr. Arakawa: It's produced 13,000 affordable units under this affordable housing (inaudible)...

Ms. Yukimura: Over what period of time?

Mr. Arakawa: I didn't say... did I say it's solved... I don't think I said it's solved... solved the problem.

Ms. Yukimura: Well, you used the model of a good affordable housing program.

Mr. Arakawa: It's affordable housing that works.

Ms. Yukimura: Okay, so what are your criteria for working? I mean yesterday's headlines show that the homelessness on O'ahu had doubled or tripled... I mean that it's growing.

Mr. Arakawa: Yes, and we can pick up those homeless people, bring them in to your program and ask and find out do you have a job. No. Okay, can you qualify for a loan? No. Can you get a job and work? No. Do you have mental problems?

Ms. Yukimura: That is not true. They are homeless who are working.

Mr. Arakawa: Okay, and those people can be identified in your program... how many of them. They have 800 on the list...

Ms. Yukimura: So Mr. Arakawa, you're saying that society doesn't have any responsibility to house people who are homeless?

Mr. Arakawa: Society, depending on the policy of the government, does. And you know what government should... if it's important it is very interesting listening, and saying you know what we cannot waive fees because that's going to take away money from the county if we waive fees. How much would that be? \$5,000, \$10,000, I don't know, but if the county is really interested in providing affordable housing, and you guys say yeah but we not willing to spend waive fees of \$5,000 or \$10,000. Come on put your money where your mouth is. You know, eh? So government...

Ms. Yukimura: Okay, can I ask you a question then? What is your criteria for knowing that a community has a policy that works? An affordable housing policy that works. What are the criteria?

Mr. Arakawa: Okay, where affordable units get built. That's part of the...

Ms. Yukimura: But there's affordable housing units getting built everywhere in this state but not enough. So what is the criteria for affordable housing policy that works?

Mr. Arakawa: An affordable housing that works... you know what... it's something like what the Supreme Court said about obscenity. You know it when you see it, and when you look at this bill...

Ms. Yukimura: No, that is not satisfactory.

Mr. Arakawa: There are so many parts to it.

Ms. Yukimura: If we have to know whether we are meeting our affordable housing needs or not so what criteria because...

Mr. Arakawa: Okay, you know what; I will present you an affordable housing... I'll draft one for you folks and present it to your folks.

Ms. Yukimura: I don't want any affordable housing ordinance. Because you set up the standard of saying an affordable housing policy that works,

and I think that is a very legitimate point to bring up. If passing this bill that we are looking at or any other bill that we are considering, we would need some criteria to know whether... after 5 years of it being in effect. How do we know that it is working?

Mr. Arakawa: Very simple. All the developers in this room, all the landowner, you call them up; ask them under this policy as it is right now. Would you build units? How many would you build? How fast would you build them?

Ms. Yukimura: Okay, what about we need...

Ms. Iseri-Carvalho: What I would do here at this point is intervene and go back to what the agenda item or how the process is supposed to be instead of talking about philosophical questions which we did in the first part of the workshop. We are sticking to the areas that you support if it's your position that you support none of it, then that may be your position. I don't know because we did really get into question of the entire bill as being bad. Then if you disagree with the policy as proposed, offer solutions and alternatives. What I heard you saying is that you are prepared to draft an affordable housing ordinance that works... which is fine. We've given months already many opportunities for all of you in the public to provide not only in good or whatever amendments that you chose to do... you are welcome to do that, although Councilmember Yukimura said that she doesn't want you to do that, I do, so you can provide that to us. The more information we have to consider is all the better. At this point that's where we'll end. Councilmember Furfaro?

Mr. Furfaro: Dave, good to see you again. Thank you for being here all the way from Honolulu. I want to ask you. Have you seen the housing assessment study that the County of Kaua'i has done recently?

Mr. Arakawa: No.

Mr. Furfaro: Kaua'i County Housing assessment, the survey. Have you seen it?

Mr. Arakawa: No, I understand that there was one that was done by... they were a couple that was... one was the state; you know the one that was done by S & S. Is that the one?

Mr. Furfaro: The S & S one that said basically... I was a little flabbergasted (inaudible) we didn't have a housing problem. But then there was the one that was done by the Mayor.

Mr. Arakawa: Ward Research.

Mr. Furfaro: Yes, by Ward Research.

Mr. Arakawa: Yes, I have that.

Mr. Furfaro: You have that. I guess my question is as we reference... (INAUDIBLE – CHANGING OF THE TAPE)... in doing an assessment on what our needs are, where people are geographically located and so forth. I would like to ask you these questions, and you don't have to answer it today. How much more would that need to be expanded to determine that there is a real need in certain geographical locations for the island? If you recall it specifically says there's 24 hundred units and I am talking in round numbers of which 13 hundred are somewhere in the market range but 11 hundred units are needed in the below affordable and the forecast indicates, and I am talking in round numbers that the County of Kaua'i would have to produce about 350 additional units over a 6 year period. I would like your comments, if that study, done by a third party group would help us address each year... for 6 years. It's a 6 year plan but if you could help me understand that that would provide us with that nexus. Secondly, the County of Kaua'i has done an infrastructure financing impact assessment study. It was done in 1993 by Lacayo Planning. It was done under the Yukimura administration. I am going through this particular piece and it also references some of the other amenities that are necessary. The very unique part about this particular study is I've been reviewing it, is it makes assumptions through the year 2010. So although it was done 13 years ago the reality was done for a period through the year 2010. So it still has some creditability. I am also interested in your comment about the unfair burden if the developer were to build or create a pool of inventory somewhere outside of the circumference that we identified in the bill. I think the travel distance is 10 miles and I think that councilmember Kouchi had made mention in particular with some of the Hawaiian community on the possibility of sub-leasing some lands. Ideally, a situation where in the distance drawn, you could find the pooling of some resources to get the best economic balance. For example, say in Anahola-Moloa'a where the group in the Wailua-Kapa'a corridor could also contribute to the housing needs from the Princeville-Hanalei north shore area. I would like to hear more comments about the penalty you mentioned and I think that's what you heard. You said you shouldn't penalize the developers if they try to pool resources to get these housing credits in one location. I think that's what you said, Dave and I'd like to hear on those 3 items and Madame Chair I have no more questions at this point. Thank you for the time.

Ms. Iseri-Carvalho: Thank you, any further questions of Mr. Arakawa.
Yes?

Ms. Yukimura: Mr. Arakawa, did LURF testify on the Maui ordinance?

Mr. Arakawa: Yes.

Ms. Yukimura: Did you folks assert that it was unconstitutional?

Mr. Arakawa: I was not at LURF at that time, but I believe they did.

Ms. Yukimura: And the ordinance passed, right?

Mr. Arakawa: Correct.

Ms. Yukimura: Is LURF bringing a lawsuit to test the constitutionality of Maui's ordinance?

Mr. Arakawa: No.

Ms. Yukimura: How come?

Mr. Arakawa: Because the best way to do it, is instead of spending money on a lawsuit, the best way is to sit back and look at it and say, are you folks building affordable housing with that policy? We told you (inaudible)... Look at it, I mean people are talking about building it but let's see if it gets built and when it's not built you go, see, you know. The people that are in the business are saying it's not going to work.

Ms. Yukimura: I think that's a fair option and I respect that decision if it was the decision to just sit back and watch if that's how the law works. Because your thought is that it won't work. It won't produce housing...

Mr. Arakawa: It hasn't.

Ms. Yukimura: And how long has it been in effect.

Mr. Arakawa: I am not sure; I wasn't (inaudible)...maybe about a year. So the idea was to give a year, a year and a half and see how many units were built there, as opposed to what get built on O'ahu.

Ms. Yukimura: Well, there is lead time to any housing proposal so I guess the question is and I am sorry about I am not familiar with Maui's format but

you know, if it was a condition of zoning and permitting. How many permits have been issued that have conditions of housing requirements and when will they start construction because there will be that lag time. Is there a study that is being done to analyze what is happening in terms of affordable housing starts, based on the operation of the law?

Mr. Arakawa: On Maui?

Ms. Yukimura: Yes.

Mr. Arakawa: No, I think it's a fact that they are not building as many units as the affordable units as they did prior to the law going into effect. With respect to developers and the lag time, if there are incentives, not penalties, but they are incentives to build affordable housing. Developers are not going to sit on their hands and say lag time, lag time, lag time. They are going to be in there as soon as possible trying to develop but if there is an onerous affordable housing condition they are going to should we, shouldn't we, should we, shouldn't we, oh my gosh, we are going to have to live with that... I don't know.

Ms. Yukimura: I think that's true and so that's why we are looking at incentives as well.

Mr. Arakawa: So you know when you talk about the lag using an excuse saying... there's a lag time that's why they haven't built. No. If there were incentives and they encourage the affordable housing, developers would be right on it because time is money.

Ms. Yukimura: Isn't it true that even if they are right on top of it, it's still going to take a while before the units get actually built on the land, right?

Mr. Arakawa: Yes.

Ms. Iseri-Carvalho: Councilmember Yukimura, I just wanted to bring to your attention that the ordinance was just passed in December so... really hasn't... it's only 6 months. So we really haven't had time to play out.

Ms. Yukimura: That's correct. I agree and even less time to even do a study yet.

Ms. Iseri-Carvalho: Even... anything. Yes, at this point. I do know there have been discussions as far as speaking with other councilmembers that there may be some amendments but they are looking at it all the time.

Ms. Yukimura: Thank you.

Mr. Arakawa: That's a good thing.

Ms. Iseri-Carvalho: Thank you. Question?

Mr. Bynum: Reading over the documents that were supplied today, LURF opposed the Maui county policy that passed in December. LURF opposed the Hawai'i county policy.

Mr. Arakawa: Which they are voting on I think tomorrow... today?

Ms. Iseri-Carvalho: They voted on it. They are voting on amendments, but they passed the housing policy.

Mr. Bynum: LURF wrote opposing the housing policy. The original policy in 2005 and now they are writing opposing amendments in 2007. Is that correct?

Mr. Arakawa: Correct.

Mr. Bynum: And LURF has written us previously opposing our policy and since that time what was presented today. First it was asking for 40% affordable housing. What was presented today was 30%, right?

Mr. Arakawa: Yes.

Mr. Bynum: Before there was no incentives and the bill that is before us is proposing a density bonus, right?

Mr. Arakawa: That's a good thing.

Mr. Bynum: Are you impressed with those things at all?

Mr. Arakawa: Yes, like I said there are a lot of innovative and good things that are put into this bill.

Mr. Bynum: There was also was concerns expressed about the time units had to be on the market and now that's been addressed also through this bill, so is the Kaua'i county being responsive to these concerns that has been addressed in previous workshops?

Mr. Arakawa: I think the... well I cannot speak for... I'll just say, no. They are going in a little different direction. When I see you folks sitting here, I see the council chair, I see you folks sitting here, you folks are interested in providing affordable housing for people who live here and it's a very encouraging thing. I think there are other things going on on the Big Island and some of it involves preserving a certain type of life style and not building a more types of housing. It's a different kind of a feeling. The council has a different kind of feeling, but they are also thinking... they want to do a good job too and they are committed to their philosophy and what they want to do but this is a very interesting council and you folks really want to get this thing going and doing a good job.

Mr. Bynum: I appreciate what you said earlier and I want to agree with Councilmember Iseri-Carvalho that I would like to see your proposal because what I have seen so far is no, you can't do this, this is unconstitutional. We are opposed to this but I haven't heard anybody till today say, here's the policy we would recommend that we think would address affordable housing on Kaua'i. When would we be able to see your proposed draft bill for affordable housing?

Mr. Arakawa: What we would probably do is... if you look at the answer to the last question, I list 2, 4, 6 things that would make a good affordable housing bill that would incent developers, so we are not (inaudible). Our goal... you know where we look at it... we would like to see... we believe that more homes that are built, the more there is inventory the price will go down and more local people would be able to find homes that we might be able to bring back some of our young people to live in our island.

Mr. Bynum: I see this list, density bonus, fast track permitting, monetary subsidy, fee waivers, in lieu payment alternatives, off-site alternatives and in exchange for that then you are going to meet a certain percentage of affordable housing or you just want the incentive...

Mr. Arakawa: There is a percentage. That percentage however, is going to like I said in here. I am from Honolulu, we know what would work. I do not believe, or I have no basis to believe that the percentage in Honolulu would be exactly the same as the percentage on Kaua'i. That's why you have people like Tom Shigemoto here and the other people here who know the market, know how things are going on Kaua'i so I am not going to be presumptuous, even in the thing that I submit to Committee Chair Iseri-Carvalho and Chair Asing. I am not going to put a number in there because that is something I believe is based on the market here and your discretion and input from the developers that actually live and work here.

Mr. Bynum: From reading this testimony that you submitted today, you have talked about communities where the court overturn their policies and one where the court up-held it, where there is 10%.

Mr. Arakawa: Yes.

Mr. Bynum: So 10%... that means you have to build 9 houses at market rate to get one affordable unit, right? And so right now market rate is how many dollars?

Ms. Yukimura: You mean, to build a market rate house?

Mr. Bynum: Yes, market rate houses.

Mr. Arakawa: The developers would know better (inaudible)...

Mr. Bynum: Probably about \$500,000 at least. According to this chart I got from the Kaua'i County, you would need a household income of \$120,000 to qualify for a loan for \$500,000 so we need 10, 9 people that make a \$120,000 household income to buy us one (1) affordable housing unit and that's if we give you all of these incentives.

Mr. Arakawa: And if there is no subsidies by the county. If there are subsidies from the county, then 120 comes down, right?

Mr. Bynum: Right.

Mr. Arakawa: This is not just going to be the grand slam, homerun that wins the game. This is going to be part of the puzzle. A piece of overall affordable housing strategy. I think you folks are on the right track in looking at the right things. You are looking at density bonuses, fast track permitting, fee waivers, in lieu payment, off-site alternatives. I put in their monitor subsidies but these are the things that work on the mainland. The more creative you are, the more sources you look to. I think you folks can really do it. You folks can succeed.

Mr. Bynum: Well, we are not the mainland and we can't drive 75 more miles to desert where there is cheap land. I don't know if that works, but you mentioned if we pass this bill we might kill the gold goose and I will leave you with this question. What has the golden goose done in the last 10 years to provide affordable housing for people on Kaua'i?

Mr. Arakawa: I don't know. I haven't read that study, that you talked about that there is no affordable housing demand on Kaua'i. Maybe I should read that before I answer that because if it does say there is no affordable housing demand, then they did their job. They built as much affordable housing that was needed.

Mr. Bynum: You won't have to talk to too many people on Kaua'i. They know that there is a demand for affordable housing. The problem is that, if you have the median income on Kaua'i to buy a 2 bedroom house it would need to cost \$244,000; oh I'm sorry \$196,000 is all the loan you can qualify for. Given that reality, would you agree that we have a housing crisis?

Mr. Arakawa: I think in respect to Kaua'i...

Ms. Iseri-Carvalho: We are going to stop it right here. We are here not philosophical reasons about why this is the way it is. We discussed that at first and second workshop. Today is really a working workshop to look at the amendments and the proposal that have been put forth. We have received some amendments from other developers that also need to be incorporated into the bill or at least re-visited.

Mr. Arakawa: We come here trying to... we want to work with not necessarily... I didn't realize that it was going to be a cross examination issue on things on Kaua'i... where I am not from Kaua'i.

Ms. Iseri-Carvalho: I totally agree. That was not the intent of what the workshop was supposed to be. We have been working on this for some time now. This bill was initially introduced on October 26. We had a public hearing that came on November 21st. It was in committee December 6th and January 24th and then deferred in committee for the workshop. We also had 2 workshops already. One on February the 27 and another March 27. At all of these, we requested numerous times of anyone from the public to provide input and even addressing some of the constitutional issues as well. We received numerous testimonies but today are really one of those working time. We want to get the language down in the affordable housing policy. It's that specificity at this point, so we are going to limit the questions to what was initially scheduled which was indicate the areas that you support. If you disagree with the policy as propose, offer solutions or alternatives and try to make your point in as short amount of time as possible. We have a lot of people there. With that I will ask for the next speaker. Anne Punohu.

ANNE PUNOHU: Aloha. I wasn't here for the first 2 workshops and I'll try not being philosophical but it's kind of hard sometimes. I just want to thank Mr. Ken Rainforth because he is a very nice guy. He really care about provide

housing and I want to thank the council because you guys are really trying and I think we need a grand slam. Nothing less than not, so I have some concerns or some questions and some solutions about some of this bill which was very hard to read very fast and try to understand it all at one time, but I tried. My first concern that I had was about percentages. As far as providing low income and affordable housing I know there is a difference now. I learned that there is a difference between affordable housing and low income housing. However, my concern is that if we are going to provide housing for the employees that are going to need to work for the developers and developments and the resorts, we would need a lot of lower income housing because most of the people will fall into that category. My concern about the bill I saw a lot of percentages that were at 140 and 180% which I felt was too high. However, I notice that it was taken out of a lot of the bill but left in one portion of the bill which concerns me. The other portions that I was concern about were exemptions. You know me; I am the no exemption girl. I don't like giving any developers any kind of exemptions because I am always the one that goes to the meeting and sees everybody trying to wiggle out on a technicality or an exemption or... my favorite one is what is the definition of housing. Is the sky blue? How do you determine that? I always try to look for loopholes for people and I notice that there was one, talking about family members being able to have units. However, I spoke to Mr. Rainforth who kind of explained to me that it was about smaller developers who had their family on the land and it was important that they would be able to subdivide because some of their family members will qualify. I think that it's totally pono. I agree with that, however my concern is that you should have a mechanism in place that says a limit to where that ends and begins. That's important. Another thing that I wanted to speak about was using density as a criteria. My solution is a little different. I don't know if it makes any sense but my solution is to base your criteria on the census and go for displacement rather than density. Displacement to me means, those individuals that are displaced from the land and using this census to see exactly who was on this island, how they work, what kind of money they make and those people who need the housing, that won't have the housing that is displaced by a developer. I think that it is a much better thing to go on than just density, because I believe that developers can come forward and lower their density and that may affect how many units they would have to provide. I think that's important. I've seen some people try and get around density issues a lot. I've seen people go to planning commission meetings and drop their density by just a few units so that they don't have to comply with some rules and regulations. From listening to the gentlemen from LURF, I understand that there is a real issue here. It is important that housing be provided because there is an impact. I think that displacement is a better thing to go on rather than density. Density is good but not good enough. Displacement is a much harder and harsher an onerous thing, but I think that the situation that has been caused is onerous as well, so that's another concern. A solution that I had about that one. In general my other concern to me was about the 5% percentages as spoken out throughout the

bill. I think there are too low in some areas and too high in others. Looking out at a 140 and 120 percentile being 5% and 80% being at 5% ... I think I am making some sense here. I feel that the percentages for 80% should be much higher and that 120 and 100 should be lower. I think the majority of the housing should fall between 80 and 100% and not above. I think that would service more the people more realistically. I also heard a lot about homeownership and who would say the lottery and the first come first serve basis. When I read the bill it did state the developer, later on the bill, it says the developer would decide if it was a first come first serve basis or a lottery. When we look at the situation with the department of home lands and we see that people have died on waiting lists... that disturbs me because I can see this is being under situation. I know that the build-outs for some developments are going to be quite long... 1 to 20 years. We have to base us on (inaudible)... (inaudible) is going to be on the list at age 60. By the time the build-out is going to be ready, and these units are ready, this person is going to be 70 or 80. That person could die waiting on a list to get into affordable housing. I don't think any of us want to see that situation and therefore, I believe that the authority should rest with the county. The county housing agency knows who is on the list. They know us really good. They know we need the housing and they I understand that somebody who's elder and ill-health and getting older and harder for them to work is going to need the housing before some other people sometimes. I think a lottery situation can be unfair. I think that somebody is on the list and needed that housing could may be (inaudible) over for that is a lottery situation. Another situation that concerns me that I have not heard addressed, is issue is single parent households. I am a single parent household and I think that a lot of this in fact with this whole bill is really based on assumption that you are looking at a household of 2 incomes rather than almost 50% of this island who are single parent who don't have 2 incomes to rely on. None of us could afford 250,000, quarter of a million dollars for home, for a single parent. It's just not going to happen. I can't think of any job that I could do that would pay me enough for a quarter of a million dollars... for me to afford with my two (2) children to have housing like this.

Another thing that concerns me is comparatively speaking managerial employees versus regular employees. Some parts of the bill made me believe that you were going to look at individuals who were off-island coming in. When I think about it employees, I know that you are going to need low level employees because there is not enough low level employees to fill the many positions that will be opening when fifty four (54) development projects are built on Kaua'i... I said fifty four (54) in the next twenty (20) years and it's true. That's the number. So when you think about... I think the number is eighteen thousand (18,000) units coming up including everything though. You take out... it's looking at about I think it was fifteen thousand (15,000) units just for resort and development... housing developments and about three thousand (3,000) affordable housing (inaudible) and the other kind of housing. I think we have to look into seriously about who you

looking at. I don't want the housing to go to outside management... coming to Kaua'i (inaudible) as a good housing. So this is just some concerns about what I had, some things that I wanted to bring up to you guys and this is really quite complicating for me. I am certainly not a real estate agent and I am certainly not a developer, however I'm one the... kind of representative I think of some of the bottom, lower end kuiana with the back of this land. Without the back bone, the people like me and people like... make up this island, the island will fall because we are your back bone but housing needs to be our legs that we can stand on and the rest of you are our arms and our head, we work together. All together we make one body, and one people. But I think it's very important. If you don't take care of the spine, your back will go "a whee" and you would be crawling on the ground before you know it and that's where I am speaking today and thank you very much for allowing me some time. Mahalo.

Ms. Iseri-Carvalho: Thank you. The next registered speaker, we have Tracy Suhavone? I don't know if I pronounced that correctly. Sorry.

MS. TRACY SCHAVONE: Aloha. I did read this sort of quickly and I'm as kind of long winded for people like me. They are just laid people. I guess my main concern is where in this bill that really specify how much affordable housing is going to be built. It says purpose is to establish that a portion of residential developments and large resort, commercial... bla, bla, bla... shall provide workforce housing... bla, bla, bla. I mean it is just a portion, it doesn't always say how much so I am just curious if there is anywhere in this bill that says, how much we are really talking about for affordable housing because, I mean it's clear that we need affordable housing and I notice on page 10, Councilmember Furfaro had said that the housing should be within the 10 miles radius, but I notice 10 miles radius had been crossed out, and then it says the same real property tax district of the project. I am not sure how big property tax districts are. You guys probably are?

Mr. Furfaro: I think that's referencing your tax key number, as a district. As you know Kaua'i is divided into five (5) districts. They are not the original name as we know.

Ms. Schovone: Right. So in the Kawaihau district which can be all the way from Wailua to Anahola... Moloa'a is more than ten (10) miles, right?

Mr. Furfaro: Yes.

Ms. Schovone: Also I notice the \$250,000.00 per unit has been crossed out with no... on page 10. There hasn't been put here so I am wondering does this mean that it's going to be less than \$250,000.00? Does it mean it's going to be more? Is it going to be indeterminate? It's not stated here. Councilmember

Furfaro, I think you even mentioned the median income. I took a little walk to the labor department during the break and asked the people over there what is the median income, if this a household of four (4), which I think was a good point that the single mother made and I know who do not have that and that is \$45,000.00. That is two (2) people working. That's the medium but the actual per capita is only \$27,000.00.

Ms. Iseri-Carvalho: We are just referencing because it changes annually.

Ms. Schovone: This was actually couple years ago but everything goes up.

Ms. Iseri-Carvalho: It's \$60,900.00.

Mr. Furfaro: \$60,900.00, that number comes to us from the housing and urban development group. It's a federal number that fits Kaua'i.

Ms. Schovone: Right.

Ms. Iseri-Carvalho: For each county. O'ahu has their own, (inaudible).

Ms. Schovone: When we are talking about affordable housing, I guess that's my concern, how many units are we talking, when they are ever going to be built. Everyone in this group knows that Princeville Corporation is still not built... what was it... twenty (20) years ago... it was part of their thing. We are still waiting twenty (20) years later, so it's like we're in here, is there anything that says okay... within one year or you would have to build these... why are you building the development. To me there's... I have not known about the bill... I am not seeing enough to make me believe that this is going to create affordable housing for people on Kaua'i. I don't see in here so that's kind of my grief about that is that I just... I feel really sad for people because it's just hard to make it here and I just want to see a little more detail about true affordable housing and what it looks like. Does that make sense?

Ms. Iseri-Carvalho: Yes. Councilmember Furfaro:

Mr. Furfaro: I just want to clarify a few things for Tracy. Thanks for being here. First of all, the housing number we use on Kaua'i is the HUD number because many of our grants come from federal housing and so we have to be kind of be in compliance with them. The other part is the bill doesn't specifically say how many units are being built because what the bill really says is when you do approve new resort zoning these conditions will be applied. At present

time, the County of Kaua'i has a moratorium in place for any new zoning. That's a piece that... yes, resort zoning... that a piece that really kind of says well if you are not going approve new resort zoning, how many influence does this bill have? It set the ground work that when people do come in to apply eventually, that's what triggers it. In certain studies that were done, I do want to say that there are projects that are in place that and I think that Anne that asked the question about the percentage of people. For example, Habitat for the Humanity is a housing process. It does address single parents. It does address zero (0) interest rates. It does address ownership; you get five percent (5%) income... credit toward your house over a twenty (20) year period and then you own it. It is usually less than three percent (3%) down so there are all of those factors Tracy, that comes in to Habitat for Humanity, self house projects, and as we talked about earlier, if we pursue something with Hawaiian Homes, where we sub-lease some land from that... that perpetuate housing because that's the mission of Hawaiian Homes, the fact of the matter is they look at lease money to fund their programs. They are not real tangible and I agree with you. Just as the Princeville piece that came up. The old owners, they had an ordinance that says when they expand the shopping center, they have to address a hundred units and they could assign so many units to each of these projects that they develop. But the ordinance said when they expand.

Ms. Schavone: That's bad ordinance.

Mr. Furfaro: We got caught in our own web, there. It's things like that that is very difficult to forecast. Thank you for giving me the time.

Ms. Schavone: Even just to clarify the point as... in that ordinance, when you choose your expands, in the mean time twenty (20) years later there's an incredible housing shortage on the north shore for people who work on the north shore. Those little things are left out and those ordinances...

Mr. Furfaro: I absolutely agree with you and that was something that needs to trigger with the expansion but in the mean time we have to look at other solutions through this bill. One of them might be pooling resources so there's a place where people can call on credits for a central place but we have to discuss that further. I don't want this to get into philosophical (inaudible).

Ms. Schavone: It's just my concern. I just don't really see anything in black and white that tells me that affordable is going to be created.

Ms. Iseri-Carvalho: Tracy, I understand your frustration but basically these conditions that we are seeking to add to these developments, they can choose not to build, and that's what the representative from LURF had indicated, Mr. Arakawa is that if this conditions are too stringent that there is a possibility that it

will and in fact be a moratorium on housing. The county has invested, for example, like Kalepa where the county has invested, put up money up front, etc., now we are starting to build that. But other than the county taking that kind of initiative, basically the county has relied on other developments to provide affordable housing and if they choose not to do all those developments then there won't be... it won't trigger this ordinance at all. Maybe the county has to be in the business of trying to build more affordable housing. There was some discussion about having a housing trust fund. We also have money to purchase land that the county has put in several million dollars. There's all kind of things working all at the same time but this bill would only trigger if people were seeking zoning amendments or subdivisions approvals in that one section we had talked about. We can say there won't be any. That could be a possibility or we can say they'll be thousands of them, if they choose to develop. It just depends if they choose based on this bill. Thank you so much for your comments. We really appreciate it. Hold on. There is a question for you, Tracy.

Ms. Yukimura: Just a response on your point and also Ms. Punohu's point. The criteria sheet that the housing office uses does take into account a single parent family. They are judged by different median incomes and so forth. That's one thing. Just to elaborate on... developers are wanting to build now and by having this proposal, it will insure as houses being built, affordable houses are being built also. If it turns out that the market is not promoting building of houses that means that, like after the hurricane, it's likely that the market is turning down and there may be houses naturally available for people as there was after the hurricane. It's kind of the juggling of both.

Ms. Iseri-Carvalho: I think just to expand on Councilmember Yukimura who's lived through a lot of this. There was a period of time where there were housing that weren't being filled. We actually had to subsidize. The county paid a million dollars.

Ms. Schavone: I remember.

Ms. Iseri-Carvalho: So there are some peaks and valleys situation that goes on in trying to maintain some sort of balance throughout the entire period is what we are trying to achieve.

Ms. Schavone: Well, let's face it, when I first moved here, I was paying \$135.00 a month rent for a house and you cannot even rent a closet for \$700.00 a month anymore. I don't really see valleys in the future. I just don't see that happening where there is going to be these houses building up and there is going to (inaudible)... then nobody won't come here any more.

Ms. Yukimura: If there is not the valleys, then people will want to develop on Kaua'i.

Ms. Schavone: I agree, I think unfortunately, Kaua'i have been discovered. Anyway, thank you for your time.

Ms. Iseri-Carvalho: Wasn't that the slogan... a new discovery. I remember seeing the Kaua'i the discovery. Thank you, Tracy. At this point, I don't have any registered guest speakers. Is there anyone else who wishes...? Come on down, Keone.

KEONE KEALOHA: Good afternoon Council. My name is Keone Keaoha. I came today to offer a short list of bullet points in reference to the amendments that were asked for Bill No. 2202.

Ms. Yukimura: Excuse me, Mr. Kealoha, do you have that for us?

Mr. Kealoha: I do have a copy that I can submit.

Ms. Yukimura: Do you have an extra.

Mr. Kealoha: I do have one (1) extra. I think that although there are lots of different ways to solve this issue and lots of different ways to bring people to the table. Ultimately, I think we all want to see the residents of Kaua'i have affordable housing. You want to keep our people here and we want to be able to support the people that really make up what we love about Kaua'i. In that, I did a little bit of research. I'd been in open discussions with Maui Councilmember Danny Mateo and his analyst on the bill that they passed, Gail Revels. I talked with him several times. I know the gentlemen earlier spoke about that and we have touched on it several times. I just to clarify a couple of things that came directly from the councilmember and his analyst. Maui County passed their housing policy about six (6) months ago and it calls for forty (40) to fifty (50%) percent inclusionary zoning of affordable housing on all residential developments, and that developers continually threatened lawsuits claiming that there was takings by implementing such a policy but in fact none to date have been filed, at all. There is a land mark case and that the county that went to the State of California Supreme Court and sided in favor of the inclusionary zoning that was required by Napa's Housing Policy.

Ms. Iseri-Carvalho: I am sorry, what was that?

Mr. Kealoha: Napa County. So it did go to the State Supreme Court. It was upheld, the housing policy was supported as having inclusionary

zoning in it and it was not deemed to be takings. Maui County ties the requirements of the inclusionary zoning not just to the initial zoning of land but also can be triggered by the subdivision approval and I found out earlier that were included in a revision of this bill and I appreciate that. It is a big addition to that. I also support that addition and amendment. What I also would like to touch on something that hasn't been mentioned yet and that is that the requirement at Maui County actually has not stopped developers from not moving ahead. In fact I was informed earlier today about the Waialea 670 project, which includes 1,400 homes. The developer on the project stated before the Council that 50% of those homes will be made affordable houses, 700 homes, as the result of the housing policy. These are both mixed as expressed in the market rate as well as having some areas that were set aside probably at the multi-family, multi apartment type, condominium type. Councilmember Mateo said that he would make himself and/or his analyst. Gail Revels available should the council have any questions at all about the formulation or implementation of their policy, not to say anything other than, they would like to offer their resources and answer any questions that come up as the result of going through this process here on Kaua'i. Again, just going back to the strategies in the methods of getting people to come out and speak on this issue. We don't always agree on how we get people to come out and participate in the process. Some people are unaware that this meeting is even taking place where this is instead having 300 people showing at a planning commission meeting, you can have those people show up here and make impact across the board. Again, while sometimes our methods may be questionable, getting people on the table, I think the intention is honorable in that we really want to see affordable housing happen here. To that end one item I would like to make mention before I wrap up and it's just that, it seems on this issue that sometimes the landowners and the developers are one side and you've got residents in maybe even government on the other side and ultimately we have to come together and realize that we can still develop and make money, but we can do it responsibly and that might mean taking a little bit of hit in the pocketbook in the profit margin, but in the long run it's really going to be the benefit of everybody and hopefully even those developers and landowners that might be outside of the constraints of this bill should and when it passes, hopefully they will step up and voluntarily say, you know what, I agree with the intent of this bill. I will be willing to put a little more affordable housing into my developments even though it might not be required. Thank you for your time

Ms. Iseri-Carvalho: Yes, Councilmember Yukimura?

Ms. Yukimura: Thank you for your testimony. On the point about the Waialea development in Maui, do you know how affordable these homes will be? What definition are they using about affordability? What range of affordability they'll be in?

Mr. Kealoha: It's in line with what's in their housing policy. I can give you a copy of what I have if you want to look at it but their levels are similar in nature to the ones that are called out where they do percentages based on income levels of residents. I couldn't say specifically what the exact levels are that would be holding the scope what they have passed as the ordinance.

Ms. Yukimura: Thank you.

Ms. Iseri-Carvalho: Councilmember Furfaro?

Mr. Furfaro: Yes, Keone thank you very much for talking in terms of getting everybody to having an opportunity to get some clear vision to the policy we are working on, but just for the councilmember, this is Waialea 640...

Mr. Kealoha: 670.

Mr. Furfaro: Just for our recent visit to Maui for the National Conference, most of the lands as you get up to the Piilani Highway end before you turn down into the Makana area. It's the mauka lands right there and I think the number is assigned 670 because it is a parcel of 670 acres. Is that where they get their terminology from?

Mr. Keaoha: I am not exactly certain of that. I just know the name of the project.

Mr. Furfaro: 670 acres mauka land but, I think the opportunity there is one and the reason I bring that up is where other developers might be able to pull in and contribute to some of the affordability practice there. I just wanted to share that councilwoman. Thank you for giving me a moment.

Mr. Asing: I just want to share on that particular project. We all attended the conference on Maui and I did have the opportunity to look at... not only look at the area but get some information and I can tell you that there are a lot of so called local people who are not happy at this project. Not happy at all and on top of that there are some major problems in terms of water availability, where it is going to come from, the effect on the existing homes. There are all kinds of problems that are not yet identified fully, so it's not a clean cut project.

Mr. Kealoha: And I agree, it's a massive development, it's a lot of (inaudible) (changing of tape)... thirteen hundred units. Any other developments are going to have its pluses, its minus. It's going to have its people that supported it and those who don't but I guess the point that I was making with that is that there are developers at a large scale who are willing to come in and put their money down

and say, we see that this housing policy is in place. We are planning it was going through before it even did and we are at the table saying we will build within those 50% affordable housing zoning requirements.

Ms. Iseri-Carvalho: Councilmember Yukimura:

Ms. Yukimura: We really have to see if they will carry it through because we've had other developers kind of make all these promises and not carry it through. My other question is how long will these houses be affordable? I mean, in that area, if there are no restrictions, it will only be a blink of an eye.

Mr. Kealoha: I think that the housing policy may speak to that. I don't know that portion of it. I know as Ken Rainforth has put in the revisions that they do talk to the buy-back in the things that... in the experience that comes from the housing department here on Kaua'i and so hopefully those questions would be answered by the policy that you have put together. Again I am just putting out that there are people, developers out there are really to come to the table and be responsible about the social obligation, say again, you have been that golden goose that been out there for 20 years, what have you done? Maybe government needs to come in and say we do have a responsibility to the residents that are here. In fact in Mr. Arakawa analogy of the heart... it's like we are hemorrhaging right now. We are hemorrhaging residents off of this island so we need to do something and I very much commend you and thank you for doing something to stop that and putting this policy on this table, so thank you.

Ms. Iseri-Carvalho: Any questions of Keone? I guess I have a comment. Developers come in many shapes and sizes. That was one of the problems that we were trying to address before this housing policy was put forth was that each developer that came up had different conditions so I don't know what kinds of conditions the Waialea Development had but Grove Farm initially started with 60% and they built their affordable housing up front. We have some others that have faltered when we tried to put some conditions as far as assuring that it was going to be affordable unit and you had to hold that unit for a specified period of time for an affordable applicant and then they were what we learned tactics used to assure or prevent these affordable, potential owners from closing the house on a specific day so that it would go out to market. We have been burned on those units. Even though they claim that it was affordable units. We have so many different experiences, we have Kukui'ula coming up with their employee housing, 99 year leases similar to DHHL kinds of leases. Some have only 10 year buy-back, some have less. It's just been all over the board. One of the things we want to do is to bring forth some comprehensive nature of affordable housing but some clarity and some consistency so that everyone would know the developers especially up front... this would be what my requirement are. I got to do my pro forma numbers and see

if it matches. If it's okay, we'll do it, if not they won't do it so everybody, I think had a lot of opportunity to come forward. Now I have mentioned that this is the 6th time that we are actually discussing this policy. It began back on October 26. It actually began probably 10 years ago with the draft that was in 1995. The actual bill itself began here on October 26, 2006 and hopefully it was the intent for the chair to try and do it within 6 months. It's a very complex issue. We have invited everyone to provide input. We have received input from you. The housing agency has been very perceptive to all of the comments and amendments that have come in especially like you say. You have mentioned that it take effect, subdivision approval. That was something that was not an initial bill. There were some legal questions that have been raised. We talked with the Maui representative, Maui corp. counsel. We also spoke with the housing chair there. I think all of us had spent a lot of time in trying to develop partnership with the government community and ask for their input. If we are doing something wrong and we are going to stifle the development then let us know. Some of them have come forward and had put a lot of effort in trying to provide the kind of information. Nobody is going to agree with everything, neither will we or the developers but something we can agree as fair for everyone. Thank you so much for all you have done. You have followed this process through. We have received testimonies from you, even if either in person or at least of a written testimony on this issue and we appreciate it.

Mr. Kealoha: I am absolutely no expert in this, I am learning what I can but I come from a place... I make a decent wage for a living but I still cannot afford and own a home here. I love Kaua'i. I want to stay here and I am not against development. I am not against developer, by any means. I have sat down many times with developers and many meeting. All I am saying is let's get a little more responsible about the residents that are here, instead of just selling all away to make the money. There is a little more that can go into that. You can make your money, maybe a little bit less but you can take care of the people and the culture and the history of this place and really the message you are trying to sell is the message that you are, you know, you could be destroying.

Mr. Iseri-Carvalho: Anybody else. Ken Taylor?

KEN TAYLOR: Chair, members of the council. My name is Ken Taylor. Thank you for this opportunity. First couple comments and then I'll take a few items directly out of the documents but earlier it was stated that somehow you could build your way out of the this problem and I don't believe that's reality. A few years ago, there was a study that came out of the greater Los Angeles area that indicated that they had something like a need for affordable housing which is in the area of tremendous amount of development and yet they have affordable housing problem. They have identified their housing problem at about 250,000 units. The study went on to indicate that if they built 18,000 units for the next 20 years at a

population static of today, of the time of the study, that they would only maintain their 250,000 need. That's 18,000 units a year for 20 years and they haven't made any headway into the problem that they identified. That gives you an idea about being able to develop and build your way out of this kind of a problem. The other issue that I seem to have is that there should be some rentals and for sale units. I don't know quite how this document identifies how that would be adjusted, and what percentage would be and where affordable rental versus for sale units, that's a question.

A couple other things that has come up in my experience in the past with affordable units, and again I think that needs to be clarified in the document is that when you buy one of those units it should be some kind of a clause in the paperwork that doesn't allow you to go out and refinance the property. This has happened and you don't want it to happen. There should be in the deed some requirements that any refinancing has to come back to the county. There should be a strong penalty for any subletting of a purchase property. Those are two (2) issues that I have run across in past experiences here. I would now like to come to page four (4) of your line document for today, under Applicability Workforce Housing Requirements. I am little disturbed when I read what you have here and read what Maui has come up with and there starts out with, any development including subdivision and of land or of the construction of... and I think under the circumstances, you are going to have to go more with the Maui process. I would dislike to ask you to think about all of the activities that are going on out in the Po'ipū area. Most of that was already on property that had been zoned sometime ago. All of that development under this scenario would not have generated any affordable housing because it was already subdivided. So the only way that it would be generated affordable housing would do also include building permits as part of that.

Turning next to page 21 under Restriction of Sales. I don't know if this should be in this area or another part of the document. First of all, it talked about wind falls earlier to the county and any money made should go to an affordable housing trust fund so that you can perpetuate the affordable process.

The other thing I am very concerned about these 20 year, 10 year, so on activities because 10 years from now, 20 years from now, we are going to have a bigger need for affordable units than we have today. So my suggestion (1) would be to look at something like 35 years and then rolled over... rolling over every 35 year duration thereafter. That way you would perpetuate the affordable housing. Affordable housing isn't supposed to be a situation that houses an individual forever. The idea as I understand is to give them an opportunity to build a nest egg so that they can move on into affordable or into market rate units and by giving them a opportunity to buy into affordable units and hopefully they will take and save some money during a period of time and then be able to move on, but if they

say they owe their life and so be it. The other option that's out there that could be considered is something on the order of the Williamson Act in California which is more of a... it's to lower that taxes for agricultural properties, if you qualify. The way it works is that it's a 10 year period but every year it rolls over in the 10 years and if an ag property wants to get out of that, when they notify that they want out then they can get out in 10 years. By then, those next 10 years, they are paying market rate taxes. Something in that order may be a little different but the idea, the concept could be used to allow people to get out of a unit after... say you go back to the 20 year period then maybe another period of time that they pay the regular taxes and so on. It's just something to look at; anyway I thought I would throw out there.

On page 25 under Waivers of County Fees. This is a little disturbing and I understand why it's being suggested but in doing this, you have to remember that you're putting the burden back on the existing taxpayer. Now there is a lot of taxpayer out there that happened to be homeowners that... if they didn't have their homes today, they could qualify probably for one of these units so you are loading a group of people with a potential burden of upgrading facilities or what have you. So, that has to be considered very carefully and that's all I have to say. Thank you.

Ms. Iseri-Carvalho: Thank you Ken. Any questions for Ken? That's it, thank you. Anyone else in the audience that wishes to testify. Mr. Shigemoto? Ken I just had 2 comments. One was that the restriction on that is page 22 and so there is a provision that you had earlier wanted to put in and the subletting, that is illegal, so it has to be an owner occupant unit for the affordable housing and then if you are not in compliance with those terms, they can revoke that.

Mr. Taylor: I have run across situations where it had... this has been said but people still go out and sublet them and if there is a penalty clause that sometime would stop that.

TOM SHIGEMOTO, A & B PROPERTIES, INC. Good afternoon.
For the record, Tom Shigemoto representing A & B Properties. First of all I would like to welcome Ken Rainforth from his condition. It seems that he was working real hard during that period.

I have some questions first and I don't know if it's appropriate to ask them but you know, we just got the revisions to the bill and so do I assume this is the new policy. It has been worked out... so it has been discussed and worked out with the County Housing Agency.

Ms. Iseri-Carvalho: Yes, well this came from the county housing agency. We received it same time as you, this morning. The proposals were done as

the result of the comments that were made from the affordable housing policy workshop I & II. So there were incorporated suggestions by the public as well as by councilmembers and the housing and their research as well.

Mr. Shigemoto: Okay, so the comments, for example we made regarding some of the percentages, density bonus, the incentives, the flexibility, doctrines.

Ms. Iseri-Carvalho: (Inaudible)... those kinds of concepts were incorporated. The housing agency tried to incorporate those comments into the most recent proposed bill and there may be more. They were really pressed for time and we anticipate at least another workshop, in light of the comments that were made today.

Mr. Shigemoto: Okay, that's what I was leading to because it is really hard for us to look at for the first time with all of the gazillion changes that have been made for us to comment effectively. I would have asked for at least one more.

Ms. Iseri-Carvalho: Yes, and that's where the chair is expecting to go with this. Question, Councilmember Bynum?

Mr. Bynum: Yes, I just wanted to point out, Tom that some of the things you suggested are in these revisions. You said that we didn't think that we should be in the business of... well you didn't say about 100%, I think but you know they dropped the 160 and 180 and put some density bonuses in. I am waiting to hear from the development community if they recognize that there are some movements in that directions that... to address some of the concerns you guys brought up.

Mr. Shigemoto: And you know, I was going to say but you said it already. Yes, that was part of what I like because it did knock out the 140 and above which is good, but I don't think much more was heard so that's why I am here. Not much more but some. In fact, I think it became a little bit more punitive if you ask me. From the stand point that now you are adding building subdivisions and development permits. These are lands already zoned that have zoning and when they come in for their permits, then they going to get hit for housing. That works a hardship... again it may be good from the quality stand point now you are hitting a lot of smaller developers as well as the larger developers but it is still an onerous condition from the perspective that you know that you have a developer that is ready to do a subdivision or does a subdivision and his financing is going to be based on a subdivision and then he has to go and address affordable housing conditions. It may throw something out of whack, maybe it would be good to hear

something from lending institutions, to get a little more insight on how that might get impact development. If that's your real... I can't say. You are going to have to look at that and decide at some point whether you want to go forth with that or not. That's all we have been saying that we would provide you with the input and the end you 7 councilmembers would decide on the faith of the county. The revised proposals and even the original one basis a lot from Maui's and the Big Island's legislation. You have had some discussions already about both. They are too new to evaluate the impacts. My comment to that would be just to be aware the impacts might be devastating in the long run. That 670 project on Maui... I don't think the developer has much choice. It's in an ordinance... a zoning ordinance that he has to provide all of the 50% and so it's not going to be because the housing policy that he is going to move forward. I believe the rates are already set in the ordinance so he doesn't have much choice there. The question is, will he move forward or sell the project to somebody who is willing to do it. They might be somebody. The verdict is still out on those things and that's all I want to say about that, to caution you that if you are looking long term, be aware of that because... go ahead.

Mr. Bynum: Tom, I have been reading about a lot about that Maui 670. The proposal has been around for almost 10 years and when it first came up, it was all high end, all gated community. You wouldn't have any affordable housing at all and you are right, we have to wait and see if it comes to flourishing but now we are talking about a community that going to have mixed income levels. It still going to have a golf course, still going to have high end. It's not going to be gated, as I understand it and it's going to have a mix of income levels, all living together in the same area which is... one of this LURF thing says that this is also a social experiment and that's a big part of this bill saying we shouldn't have all of the wealthy people live in Makai and all the workforce live in mauka. We all should live together. That is part of the hope from this that we live in neighborhoods that are mixed income and mixed levels. You are right, that Wialea 670 has a Hawaiian name now, I have forgotten. As they are starting to market it, it looks like there developers on Maui and that is not the only one, this is the big one who are saying yes, we are going to make an attempt to accommodate this 40 or 50% affordable housing so we should all watch that pretty close.

Mr. Shigemoto: It would be interesting to see what happens there, but I am not saying it won't work, I am just saying if you start following Maui's leads and the Big Island's leads as wonderful as the ordinance may seem, it may have a more devastating impact than you realize. That's all I'm saying... so think long term. I mentioned in previous testimony about including commercial and industrial zoning but again if that's your will, we really don't have any control over that.

Mr. Bynum:

Thanks Tom.

Mr. Shigemoto: You are welcome.

Ms. Iseri-Carvalho: Tom, I just wanted to clarify... the first thing you said we need to hear from lending institution. Is that what you said?

Mr. Shigemoto: Yes, financial institution to see if there might be impacts in requiring housing when applicants are ready to subdivide or actually there is a provision in here when they build, right Ken? Housing development? Yes see, talking about that I did mention in previous testimony that the 10%, if you are going to require that for all of the zoning amendment and now development permit stages, you are going to have a whole lot of small little pieces all over the place. How that integrates into the development community is again suspect but if that's again what you want to see then fine. Relative to that is does the county have the means to develop these 100 of these small plots all over the place for affordable housing. Again related to the 10%, if the county's going to be building or requiring the 10% exaction and building up to the 80% or 80% and below then as what I was saying before, make us give the land and remove the 80% and below from the private developers requirements, or even increase the size of the land dedication requirements, but let the county develop the 80% or even 100% and below. That's really too much of a subsidy for the private developers to cover. That's my continued testimony on that. More important than that really, and this ties into some of the constitutionality question that Dave Arakawa raised. How are these percentages derived? Is it based on housing plan?

Ms. Iseri-Carvalho: I believe the testimony previously was based on the SMS study of the need and that was the study that was done in 2003 as far as the percentages. The one third here, one third there and one third. We have yet to receive, yes Ken, the 2007. Did we receive that study? We were going to review that once the new study came in. It's done. Okay, I haven't had time to review that but it was based upon that study. The SMS study.

Mr. Shigemoto: So we know right now how many units we need?

Ms. Iseri-Carvalho: That was the study done in 2003. We are waiting for the 2007 which Ken has just said that it has arrived but I haven't had time to review.

Mr. Shigemoto: So the percentages may change?

Ms. Iseri-Carvalho: Yes, but that was the information we had available at the time. Yes, Councilmember Yukimura.

Ms. Yukimura: They may be worse than they were in 2003, we don't know. We do know the 2003; the need was really on the lower end. It was clustered at the lower end of 100% of median income and below where most of the bulk need (inaudible).

Mr. Shigemoto: Okay, does it describe by area, where the needs are or is it just island wide?

Ms. Yukimura: It's island wide and the area... how do you assess that except by employment centers? We are not going to go where people want to live. We are going to where we can build them quickly, efficiently and well. That would be our criteria, I would think, because people will go where they have to live and they will appreciate it if they don't have to drive far to work.

Mr. Shigemoto: From the stand point, that you don't want traffic necessarily coming in to Līhu'e and building the homes here.

Ms. Yukimura: There needs to be a really good interface and I am glad that the planning deputy was here in terms of where our growth area should be in the general planning process.

Mr. Shigemoto: Again, because we just received the proposed bill or revisions, I did not see how the flexibility issue was addressed. How this policy is being flexible to the changing times. Maybe it has, I haven't seen it and I think the incentives, Tim you talk a little about the 10%. I don't think that's enough. I think in the line of 30 to 50% would be more appropriate. Density increase 30 to 50 but even that it's not based on any kind of scientific data, is what I'm thinking so maybe more formal study can provide that.

Ms Yukimura: What makes you say 30 to 50% though?

Mr. Shigemoto: Because of the units we were asked to subsidize. Up to 60% and 80% of the median. How much would that take to offset those cost?

Ms. Yukimura: You are being asked to do 5% of new development for 80% less... 80% and below, right? According to (inaudible).

Mr. Shigemoto: 5%, yes, right.

Ms. Yukimura: And a total of 20% of your development right now. It's gone down in fact I think it was 30% and now it's at 20% so we have gone down in terms of the number of in-kind units you have to provide and then we are saying 10% of the land which is what allows us to build but also help you build because you

only have to give us land with infrastructure. We are going to do the building or non-profits will do the building of the low end so that's a huge concession and the 10% density bonus on top of it, in my mind is more off-set the 10% land requirements not to off-set the 20% in-kind requirements.

Ms. Iseri-Carvalho: I think Councilmember Yukimura is trying to address the comments that you make but I think we are hearing your comments.

Mr. Shigemoto: Okay, thank you. I had another question about this County's Mortgage Ready Homebuyers List. Who provides the training for these applicants?

Ms. Iseri-Carvalho: They are provided by Kaua'i Community Assets and the Hawaii Homeownership Center.

Mr. Shigemoto: So just two?

Ms. Iseri-Carvalho: And then whatever one... currently those are the ones we have on contract.

Ms. Yukimura: That's a 200% increase from 5 years ago. And they are good.

Ms. Iseri-Carvalho: There are may be others that are available, but so far these are the 2 that has been used by the County and by DDHL, actually.

Ms. Yukimura: If you check out their classes, they are such excellent classes. They are teaching families basically, how to save, how to prioritize their own family goals. They are going to build better citizens in additions to making mortgage ready families for specifically for housing... to address our affordable housing needs.

Mr. Shigemoto: Don't get me wrong, I have spoken to the executive director of Hawai'i Homeownership and I am a firm believer on that. I was just asking because I was wondering how many of these companies or consultants are available for the general public and what their fees are because there are a lot of folks that may not even have the fees to attend this classes. If it were something that the housing agency could provide free to get this folks ready that would be a tremendous boost to the folks that really have a hard time making ends meet.

Ms. Yukimura: Or A & B Foundation.

Mr. Shigemoto: Whatever.

Ms. Yukimura: I mean it's such a good program. It really builds community but I don't mean to be flipping about it.

Mr. Shigemoto: Yes, we have done our share of providing housing fairs and education and we will keep on doing that.

Ms. Yukimura: You have. You've been great.

Ms. Iseri-Carvalho: You have done a great job, Tom. We have been, there have been CDBG monies, and the county has also put in monies. There is a program that used to be where you pass the class and you purchase a home and they would refund your money back. Hawaiian Homes offers for any person 50% Hawaiian or not even 50%. It's free you can just go. I've attended the Hawaiian Community Asset. It's an excellent program. It's an 8 hour course and there were people of all educational background there. There were people who didn't graduate from high school. People like me, attorneys and it was a well worth course for all of us in the same room. It was amazing how they developed a great program. The Community Asset, anyway. That was the only one that I attended. We did run into problems when they weren't taking anymore reservations and that was a problem when we had the homebuyers fair and people wanted to sign up and they were overwhelmed, that they weren't able to accommodate certain people at one of the fairs and then they re-grouped and hopefully we addressed and we will continue to address that. It is a problem because we generated so much interest that these homebuyers fairs, that they weren't prepared for the masses for people who wanted to sign up.

Mr. Shigemoto: Yes, that is kind of my point. You have some that may be left out. Number 1 because, it cost a \$100, \$200.

Ms. Iseri-Carvalho: \$100.

Mr. Shigemoto: Okay, we are even at a \$100. They might not be able to afford. These are the real needy and to get on the list are, I know USDS to qualify you have to be on that ready list.

Ms. Iseri-Carvalho: So, we will look at but I think we should be offering to those who really want to get it especially when the housing aren't going to come for 2 to 3 years, probably... potentially offering these kinds of scholarships to those people. Housing has the best as far as trying to... with those HUD program and all that they know all of the income qualification and guideline, etc. I would hope to be able to come up that they could address... for those in need.

Mr. Shigemoto: That's really all I had to say and we provide more detailed comments after we review (inaudible).

Ms. Iseri-Carvalho: Just one more question on that. Are you supportive of that type of list or would there be a list with mortgage ready people? That should cut down the time in trying to get these units for people who needs them.

Mr. Shigemoto: Yes, and no. On the one hand, yes because if that is the requirement for say like rural development over the (inaudible) grants which they subsidize the mortgage payments is what I understand. Then from that stand point, yes. The other side is the ones really needing the homes might be left out because they haven't had the opportunity to sign up and take these training classes so unless there is enough of these companies that do it, it may be a deter, not deter but maybe...

Ms. Yukimura: It would exclude some folks.

Mr. Shigemoto: Yes, it would exclude some folks.

Ms. Iseri-Carvalho: Which is not the intention?

Mr. Asing: Thank you, Tom. That was my concern, which I raised earlier.

Ms. Yukimura: If there are people who wanted to take it but not taking it because they lack the money, that is true but they wouldn't be otherwise qualified because they won't be mortgage ready. I mean, it's you have to go through (inaudible).

Mr. Shigemoto: Correct, right, that's the other side of the coin too.

Ms. Yukimura: They have to go through the class because otherwise they won't be mortgage ready.

Ms. Iseri-Carvalho: Councilmember Yukimura, why not? I mean, you can be educated and be mortgage ready without going through the class? You could be debt free.

Ms. Yukimura: That's true.

Ms. Iseri-Carvalho: And not go through the class.

Ms. Yukimura: It's likely... that is true.

Ms. Iseri-Carvalho: That's why the Chair's point are that there may be people who are trying and don't want to go to the class for whatever reason because they are mortgage ready.

Ms. Yukimura: If they look at their income though, it's probably... Okay, we should test that theory that they are in these income levels and they are mortgage ready without taking the course.

Mr. Shigemoto: Right, there are some.

Ms. Yukimura: And if so, we should just create a test that shows that they are mortgage ready or something but getting the mortgage is already being mortgage ready.

Mr. Shigemoto: So that is something you can think about.

Ms. Yukimura: Why couldn't they be on the list? They should be able to be on the list. If they are mortgage ready and they are income qualified, they can get on the list, can they not, Ken?

Ms. Iseri-Carvalho: Not right now.

Mr. Rainforth: INAUDIBLE.

Ms. Yukimura: We should look at that. That's a good point.

Ms. Iseri-Carvalho: Thank you. It was raised and we hear you.

Mr. Shigemoto: That's all I have to say for now. Thank you so much.

Ms. Iseri-Carvalho: Thank you, Tom. Anyone else that wishes to testify or give comments at this time. If there is nobody else for the first time, Ken Taylor?

Mr. Taylor: Thank you chair, I am sorry trying to be so efficient, I skipped over a couple of items. First of all, the Maui issue, it's my understanding that there's at least 4 projects in different phases of approval under the current plan so it can be done. On page 6 of your document, the last sentence, the requirement for affordable housing would be established at the time of zoning permit application and should be based on analysis of number of jobs to be generated and it goes on and talk about other things but I think it should stop right there because what I have seen in the past, is that in a case of a hotel, they say well,

we are going to create 87 jobs but 19 of the individual are going to come from somebody else, and so we don't have to put affordable housing for them. Well, wherever those 19 came from, those folks have now to address, so it should be based strictly on the number of affordable low paid jobs that are being created not some pie in the sky configuration and then on page 10, under the new (a) section down, under Land Dedication or Residential Off-Site, the last sentence of that paragraph. It says the location of off-site workforce housing shall be within the same real property district. I don't have a problem with that but I am wondering if the affordability should also be based on that district. In other words, there are some areas in the community that have higher standard of low income versus so on. Maybe we need to look at the island and divide up in maybe 3 sections and say this is what establishes affordable and this area and this area but... then down under (c) under Land In Lieu, the last sentence talks about a state appraiser licensed in the State of Hawai'i and retained by the developer and I should say that it should be retained by the County and paid for by the developer. There are a couple of places in this document that talks about the developer hiring the consultant to do the work. I don't think that's right. I don't think we want the fox guarding the hen house and I think it's the responsibility of the county to hire that consultant and then let the developer pay those fees. That's the way it's done in most other areas.

Ms. Yukimura: What is your last reference? What page?

Ms. Iseri-Carvalho: The first one was page 10.

Mr. Taylor: Page 10.

Ms. Yukimura: Regarding consultant?

Mr. Taylor: Page 10, under (c) about the middle of the page, right below the middle of the page, the last sentence of (c)... says the value of land shall be determined by an appraisal by a real estate appraiser licensed in the State of Hawai'i and retained by the developer.

Ms. Yukimura: That's an excellent point. Thank you.

Ms. Iseri-Carvalho: Thank you, Ken. Yes, Anne? Come on up.

Ms. Punohu: Mahalo, I just had a 2 more comments and 2 more questions. My major question is the question that I always ask you folks 'cause in this circumstance, it's really detrimental if you don't make it retroactive. So I want to know what the policy is going to be. Who is going to come under this, when it gets enacted? How is the retro activity on this bill? When you look at the list I gave you guys a couple of weeks ago, there are 28 projects that have had their map

approval, at least. So that mean, are there 28 projects going to get out of this one? Great, that's what we needed. No, it's not you guys.

Ms. Yukimura: You can't apply a law retroactively. That's a Supreme Court... they would throw you out.

Ms. Punohu: Oh, okay I didn't know it was a Supreme Court. So that means we can at least catch half of them, right?

Ms. Iseri-Carvalho: Anne, on page 26, Effect On Existing Requirements and Effect on Unsatisfied Housing Conditions, it says any affordable housing condition or portion thereof in any ordinance for a prior zoning district boundary amendment, or for a State Land Use District Boundary Amendment involving lands fifteen acres or less in size, which has not been fully satisfied as of the effective date of this ordinance shall be reassessed pursuant to this ordinance, unless there was a previously agreed means of satisfying the requirements. So basically once it is enacted, it should apply unless there are already housing conditions that are already part of the bill.

Ms. Punohu: Okay, that's why Kuku'i'ula did come forth with their employee housing which I am in favor which I thought was terrific. They came forward to do theirs.

Ms. Iseri-Carvalho: I don't know Kuku'i'ula, I just actually learned in the paper.

Ms. Yukimura: It's Kuku'i'ula or Kikiola.

Ms. Iseri-Carvalho: Kikiola is the one on the Westside.

Ms. Yukimura: It's the one in Po'ipū?

Ms. Punohu: Yes.

Ms. Yukimura: Yes, that was a condition of any ordinance.

Ms. Punohu: That's very good that, that one was caught because it's a huge development and that's a good thing you guys. It's very good so I was just hoping that we can continue to do it that way.

Ms. Iseri-Carvalho: I just want to respond, there are these conditions, like the one in Wailea, the one we were talking about that specifically... they were being addressed, the housing conditions, it's just that it was being addressed at the

time they did the zoning, in that particular ordinance so it varied from zoning amendment to zoning amendment. Kuku'iula had different requirements, different buy backs. We had Kaua'i Lagoons that had different terms.

Ms. Punohu: They had their employees housing too?

Ms. Iseri-Carvalho: Yes, housing was being addressed. It just was, I think not necessarily applied consistently because there was a policy in effect and so you had these varying terms of 99 years versus 10 years versus 7 years versus the project at Pualei which was another variance so they were shared appreciation terms... a whole different kinds of concepts. Some had to be built on the property, some off-site of the property. It just varied.

Ms. Punohu: So my next question is then, can a developer step up and voluntarily offer housing alternatives and solutions for the community that they would be building its housing and development even if they are not going to be subject to this bill and still get the same benefits or incentives or whatever that a developer would have if they had to comply. I am saying that is that if somebody steps voluntarily, out of these developments that were not caught under this bill. They can step forward and say, I want to do this under these guidelines and get the same incentives that they would if they have to do it?

Ms. Iseri-Carvalho: That's what they do... (inaudible) (Changing of tape).

Ms. Punohu: So these guys have no reason not to step forward and voluntarily give the housing, right?

Ms. Yukimura: Only if the incentives are big enough, is what they are saying. Incentives by definition are something that makes somebody do something that they wouldn't do otherwise.

Ms. Punohu: And that's my whole point. I am trying to throw some fish back there's makule, catch the net, okay?

Ms. Iseri-Carvalho: You got a question, Tim?

Mr. Bynum: A really quick comment. You asked about going retro active and the answer, at some point a deal is a deal, right? Your point brings out the urgency for the need for this bill and other bills that council is looking at that were behind the curve here. Maybe on vacation rentals and impact fees and other things, and ag lands.

Ms. Punohu: Another nightmare.

Mr. Bynum: Well, we got work.

Ms. Punohu: I just wanted to make sure that was an option for them, so that they can sit back and say yeah, we got out of it. In the end it's going to hurt them because they are not going to get employees. They are not going to have people to... I also want to say that I agree with whole integration thing. I think it's great. These guys are going to have to live next door to maybe somebody like me. Oh, poor thing... but maybe not. It's just that the separation of class here is coming more and more obvious on our island and I think that it's becoming very disturbing to a lot of us to say, okay now we are going be delegated into these portion of the island that are poor people and over here is these rich guys and I really think it's very important to integrate everybody together so we can learn how to like each other because that's how you stop crime. If you live next door to a family who is not as rich as you but you guys are neighbors, I can tell you that I don't think that kid going to go next door and rob your house but if you are stuck between Moloa'a and the rich guy over here and the rich guy over here and you are in the middle of Anahola and all these guys stuck in Anahola, 2 rich guys on either sides, I am telling you there is problems.

Ms. Yukimura: There have been studies that show that this kind of integration really has a positive socializing effect on people. That's why this idea of having them done on site is really important. Not out in the boondocks, where there is more difficult to get infrastructure and so forth. You already have the infrastructure there for the other portion of the development. It makes eminent sense and then to have the 10% land dedication and to share that responsibility between the developer and a non profit or the county is also another win win, in my opinion, but it has to be done across the board and we will see a real positive community.

Ms. Punohu: Another thing that is really good too is Mr. Kouchi was talking about and you were talking about as well as integrating in more non profits into this whole thing. I think that is really important. You have Habitat, (inaudible), HCCH, you have got KEO. These guys are on line with trying to do housing too and also to Lihu'e Court which is a non profit, private group who has provided housing and they have done it real successfully. They took in homeless people, put them in housing until they could transition into housing and I think that is really important not just the county can do this but I think other non profit can do it too. So what I trying to say is, this can be win win for everybody but I just want to tell the developers that if you are going to fight me and tell me that you don't want to give me housing, I am going to be at every meeting and I am going to

bug you guys and make your life really hard because if you show that you can cooperate and you understand that your development comes here, it affects my life and my children's life and my quality of life. For you to provide a better quality of life for people that don't live here, I am going to get mad at you, but if you show me as a developer that you are going to step forward and be a part of this community and take care of us, we will take care of you. That's what I always wanted to say at a meeting. No more cameras, I don't care. I am glad I said it today. Aloha.

Ms. Iseri-Carvalho: Thank you, anyone else who wants who wishes to provide testimony. If not, what the chair intends to do at this time is to set the next housing policy workshop, which would be the final one. After checking people calendars, the date that works best is August 7, which is the Tuesday. It would be same time, at 9 o'clock. You not there?

Ms. Yukimura: Nobody told me.

Ms. Iseri-Carvalho: I asked them to check.

Ms. Yukimura: They did?

Ms. Iseri-Carvalho: August 14? Is August 14 available for housing?

Mr. Rainforth: INAUDIBLE.

Mr. Bynum: You didn't like the 7?

Ms. Iseri-Carvalho: I would have preferred the 7 but JoAnn is not going to be here.

Ms. Yukimura: Can we do the 6?

Ms. Iseri-Carvalho: No, we already got something scheduled.

Ms. Yukimura: What's happening in the chambers?

Ms. Iseri-Carvalho: Fire Commission meeting.

Ms. Yukimura: What commission?

Ms. Iseri-Carvalho: Fire commission.

Ms. Yukimura: Can we just give them another meeting place?

Ms. Iseri-Carvalho: I know I am not going to be available on the 6.

Mr. Bynum: 9?

Ms. Iseri-Carvalho: The meeting is on the 14. We have checked with people, it's either the 7 or the 14, because it's not only the people here, it's everybody else who is not here too.

Ms. Yukimura: But is the 9th available?

Ms. Iseri-Carvalho: I am not meeting on the 9th. It's either on the 7th or the 14th. We are not going to be checking every single date. These are the dates where staff checked and provided to me and so the 14?

Ms. Yukimura: Well, they didn't check with us.

Ms. Iseri-Carvalho: It will be held on August 14 at 9 o'clock. This would be the last meeting. We will again be requesting all of the people providing testimony. If you wanted us to give you a reminder on dates, provide your business cards to the staff and they would send you out letters as others have done in the past. We would want the amendments to be provided by August 7 and if there is any other a person who wishes to provide any testimony, if you could do it by August 7. That would be great. We expect the format to be similar in that we would go through the amendments; the language incorporates some of the comments that were done today. Stick with what you support or don't support, offer solutions, and then we would send this back to committee. We are going to be requesting that the departments, the administrative departments, public works, engineering, building, planning to provide inputs so we are providing their most recent... and we have all along asked for input. We haven't received any but we will be sending as I had promise the most recent amendments and requesting for input from all of the various administrative agencies.

Ms. Yukimura: Madame Chair. Can we add to the list then maybe some of them are already on the list but the non profits that are involved in building... Habitat for Humanity, Kaua'i Housing Development Corporation. I know that we had somebody from the non profit in Honolulu and then EAH because they are going to be partners in this... on a lot of it. If we could just send them and ask them to submit anything.

Ms. Iseri-Carvalho: We would note that... I don't have any problem with that. Also we've contacted the Garden Island; we've contacted the radio stations. The staff had sent out numerous letters of reminders to provide input...

stacks of letters, so that being the last housing workshop meeting we hope we get much input as we have been having all along but maybe more. Thank you all.

Mr. Asing: Madame Chair. Can I say something? Let me say something. I would like to read this. This is from one of the developers. We are generally in support of the policy that seeks to balance the county needs with a feasible, viable and consistent guideline for developers. The bill as drafted appears to put the full burden of the County's affordable units needs on a private sector. After careful review of the proposed bill, issues of constitutionality, inclusionary zoning, excessive land dedication and annual fees, lack of specific studies, analysis and a clear and rational bases for the proposed affordable workforce housing requirements are problematic. This bill could curtail any development including affordable housing. Building cost continue to escalate on Kaua'i. In the last 8 years, upwards of 100%. It is almost impossible to build affordable housing within guidelines of this bill requires and cover cost. In addition, the county's infrastructure is (inaudible) to capacity adding additional financial burden on the developer for off-site improvement of water, wastewater, and roads. Furthermore, developers will be unable to absorb the land dedication cost this bill sets forth. I am not going to read the rest but I want to preface something and I think it's important. I want to tell you, as an example that the person that is talking now has developed an 8 lot subdivision. That is me. I can tell you that if I was to have built the subdivision that I did build, and for your information, it was for my family. I have today, 4 houses, 3 houses there, one (1) that my children are living in, and one (1) house that are being built. I can tell you that if I was to have gone with the approval of the planning commission with the condition for this subdivision, it would be something I could not do. It would not be something I could do. To make a point of that, the subdivision as I presented to the commission... this 8 lot subdivision was prompted by myself, with my children, 5 children, 3 of my children are in the below 50% affordability, and they were conditions put on this proposal that would have mandated me to give some units for affordable units. Impossible! What happened was it came before the council and the council did the recommendation and changed the conditions so that it could be possible to do it... which I finally ended up doing. It's an underground subdivision. I move 10,000 cubic yards of dirt. Brought in, filled a major... the reason I tell you this and I remind councilmembers is that if we make it so difficult, the developers cannot and may not provide affordable housing and I am not for the developers... don't get me wrong, but I am for something that is workable that can move forward. To pass something simply for passing it and it looks nice and it sounds good, if it doesn't work, we are not going to get anything so I just want to remind the council. Last week I gave the presentation of history. History which included the legal side, Supreme Court decision. If I gave you a history of this subdivision which is land use policies as related to legal issues and housing affordability, you could receive an eye opener on what transpired, what happened and what it is today. I will tell you

that Ken is familiar with this and he has made some proposals in here to address some of the problems that I relate to but I want to just emphasize the points that were brought up by Mr. Arakawa. I am not saying that he is all right. That is not the point. I am saying that we need to work together to come up with a good package. So with that, thank you.


Ms. Iseri-Carvalho: Thank you council chair. Any further comments before we close? If not, thank you all for taking the time (inaudible).

Mr. Asing: Excuse me, I have 1 more which I think is important and I was going to ask the Fast..., Ken, the Fast track process under definitions. My question is what is this process? Is it an administrative rule? Is it a policy? Did it go through the process? What kind of document do we have to say, this is law? You have to follow this. So it is important that we get all of this information because I don't have anything in my hands what this Fast track policy entails. So that's what I want clarified and you don't have to clarify it now if you don't have all of the information, but I think it is something we need to have in order to use if it is going to be in fact policy... it's going to be followed. It must have some relationship to an ordinance when administrative rule. It needs to go to public hearing. It needs to go past either by administrative rule or an ordinance. Either or, so with that, thank you.

Ms. Iseri-Carvalho: (INAUDIBLE)... members of the public and developers for providing so much input and the councilmembers and the staff and housing of course. They worked extremely hard in limited conditions that they had so we look forward to your valuable input again and hopefully we would be able to come up with something that would be a compromise for all of us on August, let me illiterate that date, on August 14 at 9. Hopefully all of you can be back here. Thank you.

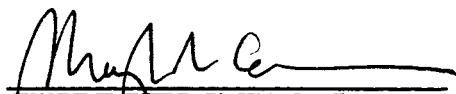
There being no further business, the meeting was adjourned at 3:04 p.m.

Respectfully submitted,



Nancy P. Fontanilla
Office Manager

APPROVED at the August 1, 2007 Committee Meeting:



SHAYLENE ISERI-CARVALHO, Chair
Community Assistance/IGR Committee

