

Sept. 24, 2025, 9 a.m.

Council Chamber, Kalana O Maui Building

To: Maui County Council, Housing and Land Use Committee

Tasha Kama, Chair

Nohelani U'u-Hodgins, Vice Chair

From: Grassroot Institute of Hawaii

Joe Kent, Executive Vice President

RE: Bill 40 (2025) — RELATING TO RESIDENTIAL WORKFORCE HOUSING UNITS

Aloha Chair Kama, Vice Chair U'u-Hodgins and other members of the Committee,

The Grassroot Institute of Hawaii offers **comments on — and an amendment to —** [Bill 40, CD1 \(2025\)](#), which would make changes to the County's affordable housing deed-restriction rules.

Maui's deed-restriction rules, which are a feature of the county's dubious inclusionary zoning rules, mandate that anyone who buys an affordable home built as a result of the inclusionary zoning rules must sell it at an affordable price if the sale is made during the deed-restriction period.

For Maui County, that price is the amount the owner paid for the home plus 25% of the difference between the home's value when the owner bought it and when it was to be sold. Once the deed-restricted period ends, the owners are free to sell their homes for whatever prices they like.

Current Maui rules require a deed restriction of 10 years for below-moderate-income buyers, eight years for moderate-income buyers and five years for above-moderate-income buyers. Bill 40 (2025) would keep these types of rules but change them based on what kinds of affordable homes are being purchased: single-family or multifamily.

The deed restrictions for single-family dwellings would be 15 years for below-moderate income, 12 years for moderate income and 10 years for above-moderate income families.

For multifamily dwellings, they would be 12 years for below-moderate-income buyers, 10 years for moderate income and eight years for above-moderate income families.

Meanwhile, projects built on county-owned land would be subject to 99-year deed restrictions.

Grassroot understands the good intentions behind these proposed changes, but believes that any increases in the deed-restriction periods could lower the desirability of new affordable housing units. In addition, if residents are less likely to purchase deed-restricted housing, this could result in fewer homes being constructed.

The fact is, many families see housing as a way to climb the economic ladder, and placing longer restrictions on their ability to capitalize on their most valuable asset would be a big reason for them to look elsewhere for housing.

History bears this out. Project builders in Honolulu with 30-year deed restrictions have had trouble selling their units.¹ On Maui, units in the Hale Kaiola project took much longer to sell than expected because many potential buyers were not interested in the accompanying 20-year restrictions.²

For families that would like to move to a bigger home to accommodate a growing family, long deed restrictions could present a major barrier. With the sales price limited, moving might be impossible.

Likewise, using your home to take out a loan to start a business could mean jumping through a number of legal hoops.

Meanwhile, Maui requires that 25% of units in certain new developments be so-called affordable housing, meaning homebuilders essentially must sell these units at a loss. They make up the difference by shifting the cost to the buyers of the so-called market-rate homes, which increases the prices of those homes — and this situation could be aggravated if deed restrictions are lengthened.

As to the amendments, Grassroot believes the county's equity-sharing rules should be changed to include the value of any improvements homeowners might make to their homes. [Chapter 2.96.060\(B\)\(2\)\(f\)\(iii\)](#) should be amended to state:

Twenty-five percent of the difference between the two appraisals shall be added to the owner's purchase price[.]; provided that the value of any improvements made to the property during the deed-restricted period shall be appraised separately and added to the maximum resale price of the property at their full value.

¹ Andrew Gomes, "[State agency helps reduce purchase prices of hard-to-sell units](#)," Honolulu Star-Advertiser, Oct. 14, 2024.

² Misty Griffiths, [presentation to the Maui County Housing and Land Use Committee](#), Jan. 24, 2024.

Research has shown that deed restrictions can discourage “necessary and efficient improvements,”³ and this amendment would allow homeowners to realize the gains from any improvements they made to their homes during the deed-restricted period, such as a new fence or lanai.

Grassroot does appreciate that Bill 40, CD1 (2025) would expand on the situations in which owner-occupancy is not required for deed-restricted homes. Maui County’s Code already allows for rentals in the case of active military duty or short-term contracts for off-island employment.

Bill 40, CD1 (2025) would add exemptions for those with medical needs who must relocate and for those forced to relocate because of domestic violence. It would also allow deed-restricted homes to be used as long-term affordable rentals.

Grassroot suggests adding the following exemption:

5. The owner is deceased and the property has been transferred by will, intestate succession, or operation of law to a new owner; or the ownership of the property is subject to a court dispute arising from intestate succession.

Finally, Grassroot suggests that any new housing project subject to Maui County’s affordable housing mandate be given some sort of density bonus or permitting fee waiver to offset the cost of building affordable units.

So long as Maui’s inclusionary zoning requires that homebuilders provide a certain percentage of “affordable” housing in their projects, an incentive-based “carrot” approach would more likely encourage the construction of more housing units than the current mandatory “stick.”

Grassroot would welcome further discussion on how to make Maui’s housing more abundant and affordable.

Thank you for the opportunity to testify.

Joe Kent
Executive Vice President
Grassroot Institute of Hawaii

³ Jack Feiyang Chen, “[Deed Restrictions and Affordable Home Ownership](#),” John M. Olin Fellow’s Discussion Paper Series, Discussion Paper No. 95, May 23, 2023, pp. 23-24.