First-Time Homebuyer Opportunity Program

Restrictive Covenant Overview

A Guide for Lenders, Brokers, Applicants

At a Glance:

The Ho'okumu Hou First-Time Homebuyer Opportunity Program (HOP) is administered by the **County of Maui's Office of Recovery**, which manages financing, compliance, and long-term affordability requirements for participating properties. Participants have the opportunity to buy a home for themselves, while helping ensure that future generations can continue to live and thrive on Maui.

By buying a home with HOP assistance, participants agree to a **Declaration of Affordability Restrictive Covenants** ("Covenants") in exchange for a reduced or subsidized purchase price. This means that:

- The purchased home will be part of the County of Maui's **Ho'okumu Hou First-Time Homebuyer Opportunity Program** (HOP).
- The home must **remain affordable for low- and moderate-income households** over time.
- The **Covenants run with the land for 99 years** from the Effective Date and bind the program participant as well as any future owners.

The County (or its designee) has rights to **monitor, enforce, and sometimes purchase** the property under certain conditions.

Key Facts About the Purchased Property

The purchased home:

- Must be the applicant's **primary residence**; they must live there as their main home.
- Is subject to a **99-year affordability restriction** recorded on the property.
- Has a **Base Price** (what the Homeowner paid) that is lower than the Initial Market Value (what it would have cost without restrictions) because of County subsidy.
- Has a **Maximum Resale Price**, set under HOP Program Guidelines and County affordable sales price tables.
  - The Maximum Resale Price* accounts for mortgage payoff and affordable pricing guidelines, and may allow the Homeowner to build some equity over time, but it does not follow typical market-rate appreciation.
- If the property generates **excess proceeds** at sale or foreclosure, a portion must be paid back to the County under the Covenants.

* For specific formula information, please request the current template restrictive covenant documents from the County of Maui Office of Recovery.

Living in the Home - Key Requirements

To stay in compliance, HOP buyers must:

- **Use the home as their primary residence** (no investment-only or vacation-home use). Use the property only for residential purposes, consistent with zoning and other recorded documents.
- **Keep the home in good condition** and comply with all recorded covenants, easements, mortgages, and applicable laws.
- **Pay all property taxes and assessments on time** (or cooperate with any required escrow).
- **Maintain continuous homeowners insurance** at full replacement cost and meet Program & lender requirements.
- **Notify the County for significant capital improvements**, and provide requested documents (permits, plans, who is doing the work, etc.).
- **Prevent and promptly resolve statutory liens** (for example, from unpaid contractors). If the Homeowner does not, the County may pay and then collect those amounts from the Homeowner or at sale.
- If there is a conflict between recorded documents, **the most restrictive rule will apply**.

HOP buyers **may not:**

- Lease, rent, or otherwise transfer interests in the property **except as allowed in the Covenants** (Articles VII & VIII):
  - Certain transfers to a spouse, children, or household members who meet eligibility requirements
  - Transfers required in a divorce or to a qualifying inter vivos trust
  - Transfers to heirs under approved circumstances
  - A sale to an Eligible Buyer following the Program's resale procedures
  - A sale to an Ineligible Buyer only after the County's Purchase Option expires and the home has been diligently marketed for the required period
  - All transfers must follow the procedures outlined in Article VIII of the Covenants.
- Add liens or other encumbrances without County permission.
  - Only certain "Permitted Mortgages" are allowed under the Covenants. Any new loan, refinance, HELOC, or other property lien must be submitted to the County for review to determine whether it meets Program requirements.
  - Approval is based on the standards in Article VII of the Covenants. Homeowners must request approval in advance, and the County evaluates each request to ensure it does not jeopardize long-term affordability or conflict with Program rules.

Financing, Refinancing, and Borrowing Against Home

The Homeowner must get **written permission from the County** before:

- Placing a new mortgage or deed of trust on the property.
- Refinancing an existing mortgage.
- Taking out a HELOC (Home Equity Line of Credit) or any other loan secured by the property.

Additional Notes:

- The original first mortgage used to buy the home **is pre-approved in the Covenants**.
- PACE (Property Assessed Clean Energy) financing is **prohibited**.
- The Covenants **remain in place even if a lender forecloses**, subject to specific rules in the Covenants.

Selling or Transferring Home:

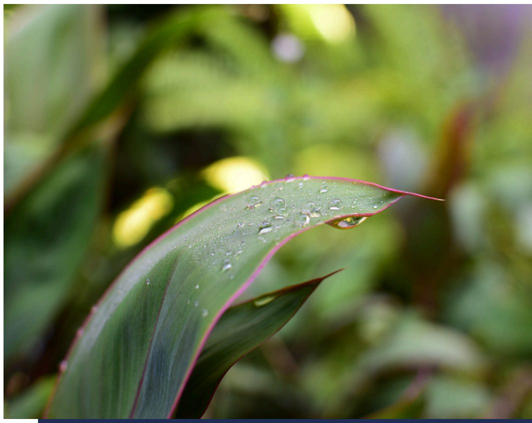
Selling or transferring the home must follow Article VIII of the Covenants, which outline how the property may be transferred.

Article VIII specifies: (1) when the Homeowner must notify the County of an intent to sell; (2) the County's Purchase Option and timelines; (3) who qualifies as an Eligible Buyer; (4) the Maximum Resale Price limitations; and (5) the repair and inspection requirements that must be completed before transfer. All sales, transfers, or refinances must comply with these procedures.

If the homeowner is planning to sell or transfer the home, **contact the County** early. Because sales and transfers involve County review, plan for **additional time in the transaction process** compared to a typical real estate sale.

At resale requirements may include:

- Allowing a **licensed home inspector** to inspect the property and share the report with the County, the buyer, and any lender.
- **Completing necessary repairs** (or agree to have repair costs withheld from sale proceeds in escrow) before closing.



1. Before Marketing the Home

- HOP homeowners must send the County an **Intent-to-Sell Notice** at least **45 days** before they start marketing the property.
- This notice triggers the **County's Purchase Option** (County's right to purchase) at the Maximum Resale Price (or mortgage payoff in certain foreclosure situations).

2. County Purchase Option

- After an **Option Trigger Event** (Intent-to-Sell, foreclosure notice, certain defaults, etc.), the County has a limited time to decide whether to buy the property itself or assign its option to an Eligible Buyer.
- If the County exercises its option, it or its assignee will purchase the home following the timelines and process in the Covenants.

3. If the County does NOT want to buy the property

If the Purchase Option expires or the County does not complete the purchase within the allowed time:

- Sale to an **Eligible Buyer** (income-qualified) for no more than the **Maximum Resale Price** may be permitted**.**
- If, after **12 months of diligent effort**, the home still has not sold, sale to an **Ineligible Buyer** at the Maximum Resale Price may be permitted, but **all Covenants continue to apply**.
- In certain cases where the Homeowner is no longer living in the home, the County may act as the Homeowner's attorney-in-fact to sell the home and distribute proceeds as required.

This program is designed to preserve affordability for future buyers, which means equity gains at resale may be limited compared to market-rate homes.

4. Transfers to Family or Heirs

Some transfers are allowed without a full sale process, but still **require County review and approval**, such as:

- Transfer to **spouse**, or to spouse as co-owner.
- Transfer to **children**, if they are Eligible Buyers.
- Transfer between spouses in a **divorce**.
- Transfer into a **trust** where the Homeowner is the beneficiary.
- Certain transfers to **heirs** after the Homeowner's death (spouse, children, household members who lived in the home at least 1 year, or other Eligible Buyers).

All such transfers:

- **Require advance notice** to the County, documentation, and written confirmation that they qualify.
- Must keep the property **subject to the Covenants**.

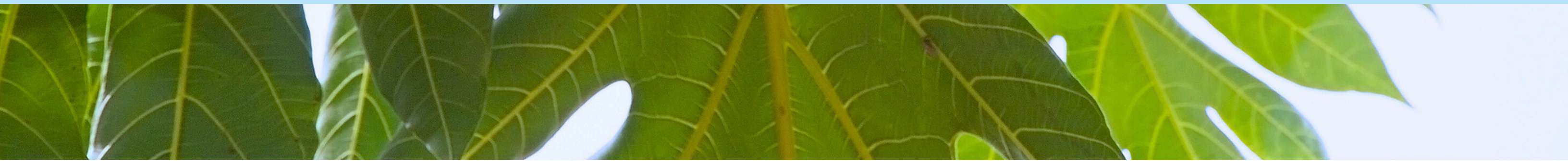
What Happens if the Covenants are Violated?

If the Homeowner does not follow the Covenants and do not cure the issue within any allowed cure period:

The County may:

- Seek **injunctive relief** and require the Homeowner to restore the property or correct the violation.
- **Exercise its Purchase Option.**
- Enforce rights under the **Program Mortgage**, including possible foreclosure.
- Require repayment of **Excess Proceeds** or other unpaid amounts.
- In some cases, **void an improper sale or transfer or require resale** to an Eligible Buyer.

The Homeowner may also be responsible for the **County's enforcement costs**, including legal fees, if they successfully enforce the Covenants. The County also has limited rights if it fails to perform its obligations, but **any concerns must be raised in writing** and are subject to cure periods.



We Are Here to Help

For questions about the HOP deed restriction or to notify the County about a planned sale, refinance, or transfer, contact:

808-865-4007

Call to schedule an appointment or ask a question

hookumuhou.mauicounty.gov

Visit our website for information or to schedule an appointment

Visit us In-Person at an Intake Center

Kākoʻo Maui Relief & Aid Services Center

153 E Kamehameha Ave Ste 101
Kahului, HI 96732
Mon-Fri 9:00 a.m. - 5:00 p.m.

Lahaina Resource Center

325 Keawe St., Unit B102 & B105A
Lahaina, HI 96761
Mon-Fri 9:00 a.m. - 5:00 p.m.

This program is funded by Community Development Block Grant Disaster Recovery (CDBG-DR) funds deployed by the County of Maui Office of Recovery.