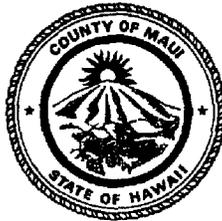


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August 1, 2017

MEMO TO: Robert Carroll, Chair
Land Use Committee

F R O M: James A. Giroux, Deputy Corporation Counsel

SUBJECT: **CONDITIONAL PERMIT FOR PROPERTY LOCATED AT 588
KULAIWI DRIVE (WAILUKU) (LU-23)**

This memo is in response to your July 20, 2017 memorandum regarding this conditional permit application. In your letter you requested our office to answer the following questions:

- 1) Even though the parcels have been consolidated, do the CC&Rs apply only to the portion that was previously the individual quarter-acre lot?
- 2) Irrespective of whether the CC&Rs apply to a portion of the consolidated lot, do the CC&Rs affect the County's ability to grant the Conditional Permit?
- 3) Are the CC&Rs a private agreement between the landowner and the HOA that are outside the County's enforcement capability?

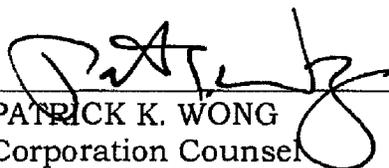
Short Answer:

Corporation Counsel cannot opine as to whether the CC&Rs of the Wailuku Subdivision II apply to the 5.25 acres outside of the subdivision. Currently this is a dispute between a private land owner and the subdivision HOA. If they did apply, the CC&Rs of the Wailuku Heights II subdivision would

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not affect the County's ability to grant the Conditional Permit. The Wailuku Heights II subdivision CC&Rs are a private agreement between the land owner and the HOA. The County's action in granting a Conditional Use Permit in this case will not interfere with or enforce the agreement.

APPROVED FOR TRANSMITTAL:


PATRICK K. WONG
Corporation Counsel

JAG:lak
2017-0095 LU-23 Advisory re CP for 588 Kulaiwi Drive