

REQUEST FOR LEGAL SERVICES

Date: July 31, 2025
From: Tasha Kama, Chair
Housing and Land Use Committee

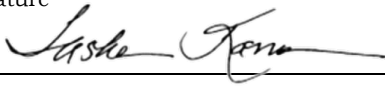
TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Nāhulu Nunokawa, Esq.

Subject: HOUSING PROJECTS UNDER CHAPTER 201H, HAWAI'I REVISED STATUTES:
KAIAHALE 'O KAHILUHILU AFFORDABLE HOUSING RENTAL PROJECT (HLU-1(1))

Background Data: Please see attached resolutions. Please note clarification will be sought from the developer on the intent of certain exemptions, especially E.6 and F.1, which remain unclear. Please submit your response to hlu.committee@mauicounty.us with a reference to HLU-1(1).

Work Requested: ☒ FOR APPROVAL AS TO FORM AND LEGALITY
☐ OTHER:

Requestor's signature  Tasha Kama, Chair	Contact Person <u>James Krueger or Carla Nakata</u> (Telephone Extension: <u>7761 or 5519, respectively</u>)
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☐ ROUTINE (WITHIN 15 WORKING DAYS) ☐ RUSH (WITHIN 5 WORKING DAYS)
☐ PRIORITY (WITHIN 10 WORKING DAYS) ☐ URGENT (WITHIN 3 WORKING DAYS)

☒ SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): August 5, 2025, 9:00 a.m.
REASON: For consideration at the HLU Committee meeting of August 5, 2025.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR: ☐ APPROVED ☐ DISAPPROVED ☐ OTHER (SEE COMMENTS BELOW)
☐ RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date _____

By _____

(Rev. 7/03)

hlu:ltr:001(1)acc01:cmn

Attachments

Resolution

No. 25-160

APPROVING THE KAIAHALE 'O KAHILUHILU AFFORDABLE HOUSING RENTAL PROJECT UNDER SECTION 201H-38, HAWAI'I REVISED STATUTES

WHEREAS, HKI Kahului Kaiahale LLC, a Hawai'i limited liability company, proposes to develop the Kaiahale 'o Kahiluhilu affordable housing rental project under Section 201H-38, Hawai'i Revised Statutes, on a 3.403-acre portion of a State-owned parcel at 153 West Ka'ahumanu Avenue, Kahului, Hawai'i, identified for Real Property Tax purposes as Tax Map Key (2) 3-7-004:003; and

WHEREAS, the Project would provide 301 multifamily affordable housing rental units and two non-revenue-generating resident-manager units, for a total of 303 housing units; and

WHEREAS, the affordable housing units would be developed, constructed, and rented to qualified individuals earning up to 60 percent of the area median income for Maui County, as determined by the U.S. Department of Housing and Urban Development, as follows:

- 17 units at 30 percent and below the AMI;
- 83 units at 50 percent and below the AMI; and
- 201 units at 60 percent and below the AMI; and

WHEREAS, on July 28, 2025, the Hawai'i Housing Finance and Development Corporation submitted the Project's preliminary plans and specifications and an application to the Council, recommending the Project's approval under HRS Chapter 201H; and

WHEREAS, the Project would be composed of two residential rental buildings, an active open area, and a multipurpose room, and

WHEREAS, the Project would provide 106 one-bedroom units, 177 two-bedroom units, and 20 three-bedroom units; and

WHEREAS, the Project includes exemptions, as authorized by HRS Section 201H-38(a), from specified statutes, Charter provisions, ordinances, and rules of government agencies relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of dwelling units on the land; and

WHEREAS, the Maui County Code authorizes exemptions from certain fees for residential developments with 100 percent residential workforce housing units, as defined under Code Section 2.96.020, and from the County's water availability policy for residential development projects with 100 percent affordable housing units in the Department of Water Supply's Central Maui water system; and

WHEREAS, the Code does not account for non-revenue-generating resident-manager units in determining whether a project may nonetheless maintain the 100 percent threshold, and exemptions from the fees and policy referenced in the preceding paragraph are therefore included in the attached list of exemptions; and

WHEREAS, HHFDC finds that the Project with the requested exemptions is consistent with the purpose and intent of HRS Chapter 201H and meets minimum health and safety requirements; and

WHEREAS, under HRS Section 201H-38, the Council must approve, approve with modification, or disapprove the Project by resolution within 45 days after HHFDC has submitted the Project's preliminary plans and specifications to the Council, or the Project will be deemed approved by the Council; and

WHEREAS, by Act 294, Session Laws of Hawai'i 2025, effective July 3, 2025, the State Legislature amended HRS Section 201H-38 so that the Council "shall not impose stricter conditions, impose stricter median income requirements, or reduce fee waivers that will increase the cost of the project beyond those approved by the corporation"; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That, based upon the transmittals by and representations of the Hawai'i Housing Finance and Development Corporation and HKI Kahului Kaiahale LLC, including the Project's preliminary plans and specifications, the Council approves

Resolution No. 25-160

the Kaiahale 'o Kahiluhilu affordable housing rental project, on the condition that HKI Kahului Kaiahale LLC complies with all statutes, ordinances, charter provisions, and rules of governmental agencies on planning, zoning, and construction standards for subdivisions, development and improvement of land, and the construction of units on the land, except for the exemptions in the attached Exhibit "A";

2. That the Council will be deemed to have approved the Project's final plans and specifications if they do not substantially deviate from the preliminary plans and specifications approved by the Council, as determined by HHFDC's Executive Director;
3. That any substantial deviation from the preliminary plans and specifications must be submitted to the Council for prior approval by resolution;
4. That the final plans and specifications are the Project's zoning, building, construction, and subdivision standards; and
5. That certified copies of this Resolution be transmitted to the Mayor, Director of Housing, Planning Director, Director of Public Works, HHFDC Executive Director, and HKI Kahului Kaiahale LLC.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

paf:cmn:25-197b

INTRODUCED BY:


TASHA KAMA

EXHIBIT "A"

EXEMPTIONS

KAIAHALE 'O KAHILUHILU AFFORDABLE HOUSING RENTAL PROJECT

A. Chapter 3.48, Maui County Code, "Real Property Tax"

1. An exemption from Code Chapter 3.48, "Real Property Tax," is granted to exempt the Project from real property taxes during the Project construction period without pursuing an application under the Section 3.48.496, "Very low income, low income, below-moderate and moderate income housing exemption."

B. Chapter 8.04, Maui County Code, "Refuse Collection and Landfills"

1. An exemption from Code Section 8.04.040, "Disposal permits—Application and suspension," is granted to exempt the Project from disposal permit fees, special handling fees, and the requirement of acquiring a disposal permit.
2. An exemption from Code Section 8.04.050, "Disposal charges," is granted to exempt the Project from special handling fees and disposal charges during construction.

C. Title 12, Maui County Code, "Streets, Sidewalks and Public Places"

1. An exemption from Code Chapter 12.08, "Driveways," is granted to exempt the Project from driveway permit and inspection fees.
2. An exemption from Code Section 12.08.100, "Standards and specifications," Standard Details for Public Works Construction, Standard Detail R-49, Driveway Layouts for Concrete Curb Streets, is granted to exempt the Project's fire access driveway on Vevau Street from the requirement that driveways be separated by a minimum distance of 45 feet. The Project's fire access driveway on Vevau Street will be approximately five feet from the Kahului Transit Center driveway.
3. An exemption from Code Chapter 12.24A, "Landscape Planting and Beautification," is granted to exempt the Project from the required number, species, and location of street trees along Ka'ahumanu Avenue, Vevau Street, and Kāne Street.

D. Title 14, Maui County Code, "Public Services"

1. An exemption from Code Chapter 14.07, "Water System Development Fees," is granted to exempt the Project from water system development fees.
2. An exemption from Code Chapter 14.12, "Water Availability," is granted to exempt the Project from the County's water availability policy.

3. An exemption from Code Chapter 14.35, "Wastewater Assessment Fees for Facility Expansion for the Wailuku/Kahului Wastewater Treatment System," is granted to exempt the Project from wastewater assessment fees.
4. An exemption from Code Chapter 14.76, "Impact Fees for Traffic and Roadway Improvements in Wailuku-Kahului, Maui, Hawai'i," is granted to exempt the Project from traffic impact fees, if traffic impact fees are established before Project completion.
5. An exemption from Code Title 14, "Public Services," is granted to the extent necessary to allow for the issuance of building permits in accordance with Code Section 18.28.030, "Subdivisions with major improvements," if the requirements of Code Section 18.20.190, "Final approval prior to completion of construction," have been met, so that buildings may be constructed concurrently with the construction and acceptance of subdivision improvements.

E. Title 16, Maui County Code, "Buildings and Construction"

1. An exemption from Code Chapter 16.04E, "Fire Code," is granted to exempt the Project from plan review fees, permit fees, and inspection fees required for Fire Code compliance.
2. An exemption from Code Chapter 16.13, "Commercial Signs," is granted to exempt the Project from filing fees.
3. An exemption from Code Chapter 16.18B, "Electrical Code," is granted to exempt the Project from permit and inspection fees required by the Electrical Code.
4. An exemption from Code Chapter 16.20C, "Plumbing Code," is granted to exempt the Project from permit and inspection fees required by the Plumbing Code.
5. Exemptions from Code Chapter 16.25, "Building Code Administrative and Supplemental Provisions," and Code Chapter 16.26C, "Building Code," are granted to exempt the Project from plan review, permit, and inspection fees required by the Building Code.
6. An exemption from Code Section 16.25.105, "Permits," is granted to exempt the Project from the standard permitting process for County permits needed to develop the Project, including subdivision applications, civil construction plans, and other plans and permits for Project development. The Project will be permitted under this exemption to use the fast-track permit processing procedures under Code Section 2.96.100.
7. An exemption from Code Section 16.25.201, "Applicability and Scope," is granted to exempt the Project from the requirements of:
 - a. Constructing sidewalks, curbs, and gutters; and
 - b. Placing utilities underground.

F. Title 18, Maui County Code, "Subdivisions"

1. An exemption from Department of Public Works guidelines to provide bicycle and pedestrian improvements in excess of Code Title 18, "Subdivisions," is granted to exempt the Project from providing bicycle and pedestrian improvements that fully comply with the County's Complete Streets policy. Pedestrian connectivity improvements will be provided according to the Project site plan.
2. An exemption from Code Section 18.16.320, "Parks and playgrounds," is granted to exempt the Project from park dedication requirements and assessment fees. The Project includes 14,696 square feet of onsite recreation facilities, which is 61,054 square feet less than the 75,750 square feet required by Code Section 18.16.320.
3. An exemption from Code Section 18.20.040, "Existing streets," is granted to exempt the Project from the requirement of constructing curbs, gutters, and sidewalks along frontages.
4. An exemption from Code Section 18.20.070, "Sidewalks," is granted to exempt the Project from the requirement of constructing sidewalks along frontages.
5. An exemption from Code Section 18.20.080, "Curbs and gutters," is granted to exempt the Project from the requirement of constructing curbs and gutters along frontages.

G. Title 19, Maui County Code, "Zoning"

1. An exemption from Code Chapter 19.18, "B-2 Community Business District," is granted to permit the development of a 2.2 Floor Area Ratio. Under Code Section 19.18.050, the maximum FAR is 2.0. The Project site is 148,241 square feet, making the maximum allowable FAR without an exemption 296,482 square feet. The exemption allows a maximum FAR of 326,130 square feet.
2. An exemption from Code Section 19.36B.020, "Designated number of off-street parking spaces," is granted to allow 298 off-street parking spaces instead of the required 612 off-street parking spaces.
3. An exemption from Code Section 19.36B.060, "Size or dimensions of parking spaces," is granted to allow 146 compact parking spaces that will be 16 feet by 7.5 feet, which is smaller than the standard-sized spaces of 18 feet by 8.5 feet required by Code Section 19.36B.060. The remaining 152 parking spaces will meet the standard size requirements of Code Section 19.36B.060.

H. Chapter 20.08, Maui County Code, "Soil Erosion and Sedimentation Control"

1. An exemption from Code Section 20.08.090, "Grubbing and grading permit fees," is granted to exempt the Project from grubbing, grading, and excavation permit fees and inspection fees.

Resolution

No. 25-161

APPROVING WITH MODIFICATION THE KAIAHALE 'O KAHILUHILU AFFORDABLE HOUSING RENTAL PROJECT UNDER SECTION 201H-38, HAWAI'I REVISED STATUTES

WHEREAS, HKI Kahului Kaiahale LLC, a Hawai'i limited liability company, proposes to develop the Kaiahale 'o Kahiluhilu affordable housing rental project under Section 201H-38, Hawai'i Revised Statutes, on a 3.403-acre portion of a State-owned parcel at 153 West Ka'ahumanu Avenue, Kahului, Hawai'i, identified for Real Property Tax purposes as Tax Map Key (2) 3-7-004:003; and

WHEREAS, the Project would provide 301 multifamily affordable housing rental units and two non-revenue-generating resident-manager units, for a total of 303 housing units; and

WHEREAS, the affordable housing units would be developed, constructed, and rented to qualified individuals earning up to 60 percent of the area median income for Maui County, as determined by the U.S. Department of Housing and Urban Development, as follows:

- 17 units at 30 percent and below the AMI;
- 83 units at 50 percent and below the AMI; and
- 201 units at 60 percent and below the AMI; and

WHEREAS, on July 28, 2025, the Hawai'i Housing Finance and Development Corporation submitted the Project's preliminary plans and specifications and an application to the Council, recommending the Project's approval under HRS Chapter 201H; and

WHEREAS, the Project would be composed of two residential rental buildings, an active open area, and a multipurpose room, and

WHEREAS, the Project would provide 106 one-bedroom units, 177 two-bedroom units, and 20 three-bedroom units; and

WHEREAS, the Project includes exemptions, as authorized by HRS Section 201H-38(a), from specified statutes, Charter provisions, ordinances, and rules of government agencies relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of dwelling units on the land; and

WHEREAS, the Maui County Code authorizes exemptions from certain fees for residential developments with 100 percent residential workforce housing units, as defined under Code Section 2.96.020, and from the County's water availability policy for residential development projects with 100 percent affordable housing units in the Department of Water Supply's Central Maui water system; and

WHEREAS, the Code does not account for non-revenue-generating resident-manager units in determining whether a project may nonetheless maintain the 100 percent threshold, and exemptions from the fees and policy referenced in the preceding paragraph are therefore included in the attached list of exemptions; and

WHEREAS, HHFDC finds that the Project with the requested exemptions is consistent with the purpose and intent of HRS Chapter 201H and meets minimum health and safety requirements; and

WHEREAS, under HRS Section 201H-38, the Council must approve, approve with modification, or disapprove the Project by resolution within 45 days after HHFDC has submitted the Project's preliminary plans and specifications to the Council, or the Project will be deemed approved by the Council; and

WHEREAS, by Act 294, Session Laws of Hawai'i 2025, effective July 3, 2025, the State Legislature amended HRS Section 201H-38 so that the Council "shall not impose stricter conditions, impose stricter median income requirements, or reduce fee waivers that will increase the cost of the project beyond those approved by the corporation"; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That, based upon the transmittals by and representations of the Hawai'i Housing Finance and Development Corporation and HKI Kahului Kaiahale LLC, including the Project's preliminary plans and specifications, the Council approves

Resolution No. 25-161

the Kaiahale 'o Kahiluhilu affordable housing rental project with the modifications specified in the attached Exhibit "A," on the condition that HKI Kahului Kaiahale LLC complies with all statutes, ordinances, charter provisions, and rules of governmental agencies on planning, zoning, and construction standards for subdivisions, development and improvement of land, and the construction of units on the land, except for the exemptions in the attached Exhibit "B";

2. That the Council will be deemed to have approved the Project's final plans and specifications if they do not substantially deviate from the preliminary plans and specifications approved by the Council, as determined by HHFDC's Executive Director;
3. That any substantial deviation from the preliminary plans and specifications must be submitted to the Council for prior approval by resolution;
4. That the final plans and specifications are the Project's zoning, building, construction, and subdivision standards; and
5. That certified copies of this Resolution be transmitted to the Mayor, Director of Housing, Planning Director, Director of Public Works, HHFDC Executive Director, and HKI Kahului Kaiahale LLC.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

paf:cmn:25-197a

INTRODUCED BY:


TASHA KAMA

EXHIBIT "A"

MODIFICATIONS

KAIAHALE 'O KAHILUHILU AFFORDABLE HOUSING RENTAL PROJECT

EXHIBIT "B"

EXEMPTIONS

KAHIAHALE 'O KAHILUHILU AFFORDABLE HOUSING RENTAL PROJECT

A. Chapter 3.48, Maui County Code, "Real Property Tax"

1. An exemption from Code Chapter 3.48, "Real Property Tax," is granted to exempt the Project from real property taxes during the Project construction period without pursuing an application under the Section 3.48.496, "Very low income, low income, below-moderate and moderate income housing exemption."

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4. An exemption from Code Section 18.20.070, “Sidewalks,” is granted to exempt the Project from the requirement of constructing sidewalks along frontages.
5. An exemption from Code Section 18.20.080, “Curbs and gutters,” is granted to exempt the Project from the requirement of constructing curbs and gutters along frontages.

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1. An exemption from Code Chapter 19.18, “B-2 Community Business District,” is granted to permit the development of a 2.2 Floor Area Ratio. Under Code Section 19.18.050, the maximum FAR is 2.0. The Project site is 148,241 square feet, making the maximum allowable FAR without an exemption 296,482 square feet. The exemption allows a maximum FAR of 326,130 square feet.
2. An exemption from Code Section 19.36B.020, “Designated number of off-street parking spaces,” is granted to allow 298 off-street parking spaces instead of the required 612 off-street parking spaces.
3. An exemption from Code Section 19.36B.060, “Size or dimensions of parking spaces,” is granted to allow 146 compact parking spaces that will be 16 feet by 7.5 feet, which is smaller than the standard-sized spaces of 18 feet by 8.5 feet required by Code Section 19.36B.060. The remaining 152 parking spaces will meet the standard size requirements of Code Section 19.36B.060.

H. Chapter 20.08, Maui County Code, “Soil Erosion and Sedimentation Control”

1. An exemption from Code Section 20.08.090, “Grubbing and grading permit fees,” is granted to exempt the Project from grubbing, grading, and excavation permit fees and inspection fees.

Resolution

No. 25-162

DISAPPROVING THE KAIAHALE 'O KAHILUHILU AFFORDABLE HOUSING RENTAL PROJECT UNDER SECTION 201H-38, HAWAI'I REVISED STATUTES

WHEREAS, HKI Kahului Kaiahale LLC, a Hawai'i limited liability company, proposes to develop the Kaiahale 'o Kahiluhilu affordable housing rental project under Section 201H-38, Hawai'i Revised Statutes, on a 3.403-acre portion of a State-owned parcel at 153 West Ka'ahumanu Avenue, Kahului, Hawai'i, identified for Real Property Tax purposes as Tax Map Key (2) 3-7-004:003; and

WHEREAS, the Project would provide 301 multifamily affordable housing rental units and two non-revenue-generating resident-manager units, for a total of 303 housing units; and

WHEREAS, the affordable housing units would be developed, constructed, and rented to qualified individuals earning up to 60 percent of the area median income for Maui County, as determined by the U.S. Department of Housing and Urban Development, as follows:

- 17 units at 30 percent and below the AMI;
- 83 units at 50 percent and below the AMI; and
- 201 units at 60 percent and below the AMI; and

WHEREAS, on July 28, 2025, the Hawai'i Housing Finance and Development Corporation submitted the Project's preliminary plans and specifications and an application to the Council, recommending the Project's approval under HRS Chapter 201H; and

WHEREAS, under HRS Section 201H-38, the Council must approve, approve with modification, or disapprove the Project by resolution within 45 days after HHFDC has submitted the Project's preliminary plans and specifications to the Council, or the Project will be deemed approved by the Council; now, therefore,

Resolution No. 25-162

BE IT RESOLVED by the Council of the County of Maui:

1. That the Council disapproves the project submitted to the Council on July 28, 2025, under Section 201H-38, Hawai'i Revised Statutes; and
2. That certified copies of this Resolution be transmitted to the Mayor, Director of Housing, Planning Director, Director of Public Works, HHFDC Executive Director, and HKI Kahului Kaiahale LLC.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

paf:cmn:25-197c

INTRODUCED BY:


TASHA KAMA

HLU Committee

From: HLU Committee
Sent: Thursday, July 31, 2025 6:41 AM
To: CorpCounselRFLS@co.maui.hi.us
Cc: HLU Committee; Tasha A. Kama; Carla M. Nakata; James G. Krueger
Subject: OCS - HLU - re: KAIAHALE 'O KAHILUHILU AFFORDABLE HOUSING RENTAL PROJECT (HLU-1(1))
Attachments: 001(1)acc01_Tk.pdf
Importance: High

Aloha Corporation Counsel,

Please see the attached Request for Legal Services from HLU Chair Kama, dated 07/31/2025, regarding the above-referenced matter.

Mahalo,
HLU Committee Staff