

BFED Committee

From: Kristina Toshikiyo <Kristina.C.Toshikiyo@co.maui.hi.us>
Sent: Monday, August 12, 2024 3:03 PM
To: BFED Committee
Cc: Melody Andrion; James G. Krueger
Subject: BFED-96 Bills 112 (2024) and 113 (2024)

Aloha,

This is in response to your request for opinion related for Bills 112 (2024) and 113 (2024) relating to the special flood hazard area development permit application review fees for the August 13, 2024 County Council meeting. Our responses to the questions are below in ***bold italics***.

1. Individuals are required to obtain a special flood hazard area development permit before building on a property in the special flood hazard area. Can individuals receive exemptions from this requirement for certain properties, such as those damaged or destroyed in the August 2023 Maui Wildfires? ***The permit review process follows Federal Emergency Management Agency (FEMA) requirements in order to participate in the federal flood insurance program, so we strongly recommend against exempting properties from the special flood area development permit until a more thorough analysis on the effects of such an exemption is completed.***
2. If the individuals cannot be exempt from this requirement, is it possible to waive the permit application review fee? ***Yes, the Council has fairly broad authority on setting fees and can exempt certain types of properties, such as those damaged or destroyed in the August 2023 Maui Wildfires.***
3. If an individual is denied a special flood hazard area development permit and therefore cannot build on their property, would that be considered a taking? Would it be considered a taking for someone who lost their home in the Wildfires and cannot rebuild because they did not receive a permit? ***The Department of the Corporation Counsel is unable to opine on this question at this time given the short turnaround time. We will reach out to Councilmember Paltin, the requestor, for further discussion.***

Mahalo,

Kristina

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