

# REQUEST FOR LEGAL SERVICES

**Date:** March 10, 2025  
**From:** Tamara Paltin, Chair  
Disaster Recovery, International Affairs, and Planning Committee.

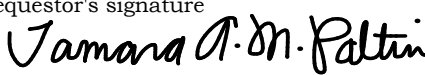
**TRANSMITTAL**

**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Michael J. Hopper, Esq.

**Subject:** BILL 103 (2024), AMENDING CHAPTER 19.08, MAUI COUNTY CODE, RELATING TO DENSITY WITHIN RESIDENTIAL DISTRICTS; BILL 104 (2024), AMENDING CHAPTERS 19.04, 19.08, AND 19.29, MAUI COUNTY CODE, RELATING TO KITCHENS, KITCHENETTES, AND WET BARS; AND SECTION 19.36B.020, MAUI COUNTY CODE, TO ADD PARKING REQUIREMENTS FOR DWELLING UNITS WITH KITCHENETTES (DRIP-2; DRIP-3)

**Background Data:** Please opine on the attached additional questions on Bills 103 and 104. Please submit your response to drip.committee@mauicounty.us with a reference to DRIP-2 and DRIP-3.

**Work Requested:** ☐ FOR APPROVAL AS TO FORM AND LEGALITY  
☒ OTHER: Legal opinion.

<p>Requestor's signature  _____ Tamara Paltin, Chair</p>	<p>Contact Person  <u>Jarret Pascual or Carla Nakata</u> (Telephone Extension: <u>7141 or 5519, respectively</u>)</p>
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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): March 17, 2025  
REASON: For consideration at the March 19, 2025, DRIP Committee meeting.

**FOR CORPORATION COUNSEL'S RESPONSE**

<b>ASSIGNED TO:</b>	<b>ASSIGNMENT NO.</b>	<b>BY:</b>
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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)

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Attachment

As previously noted, Act 39 (2024), relating to urban development, provides:

“ . . . each county shall adopt or amend ordinances defining reasonable standards that allow for the construction of at least two accessory dwelling units, **or the reasonable equivalent**, for residential use on all residentially zoned lots.” (Emphasis in boldface)

Act 39 went into effect on May 28, 2024, and further provides:

“(k) For purposes of this section, ‘residentially zoned lot’ means a zoning lot in a county zoning district that is principally reserved for single-family and two-family detached dwellings. ‘Residentially zoned lot’ does not include a lot in a county zoning district that is intended for rural, low density residential development, and open space preservation.”

1. May Bill 103 be used as a vehicle to fulfill the requirements of Act 39, as it relates to Residential Districts under Chapter 19.08, Maui County Code? If so, the Committee may consider revising the bill to:
  - A. Allow for two ADUs, or their reasonable equivalent, on Maui, Molokai, and Lānaʻi, and across all Residential Districts, as required by Act 39; and
  - B. Insert a finding that allows for an additional dwelling unit to be the reasonable equivalent of an ADU for purposes of fulfilling Act 39. This would minimize the density and associated safety impacts reflected under, for instance, the R-1 district on Maui and the R-1, R-2, and R-3 districts on Lānaʻi.
2. To the Request for Legal Services dated February 28, 2025, if you opine that the autonomous living space created through the installation of a kitchenette represents the “reasonable equivalent” of an ADU, may Bill 104 be yet another vehicle for fulfilling the requirements of Act 39, as it relates to Residential Districts under Chapter 19.08, Maui County Code? If so, the Committee may consider:
  - A. Inserting a finding that a kitchenette is the reasonable equivalent of an ADU for purposes of fulfilling Act 39.
  - B. Viewing the cumulative impacts of Bills 103 and 104 as it relates to fulfilling the requirements of Act 39 – that is, the

interchangeability of a kitchenette or an additional dwelling unit or ADU to meet Act 39's requirements.

3. The Act 39 definition of "residentially zoned lot" excludes lots in a County zoning district intended for rural, low-density residential development. Please confirm that the ADU requirements of Act 39 do not apply to the County Rural Districts under Chapter 19.29, Maui County Code.

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## DRIP Committee

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**From:** DRIP Committee  
**Sent:** Monday, March 10, 2025 2:59 PM  
**To:** CorpCounselRFLS  
**Cc:** DRIP Committee  
**Subject:** (OCS) (DRIP-2 and DRIP-3), reply by 3/17/25  
**Attachments:** 002acc03 & 003acc01 signed.pdf