

# REQUEST FOR LEGAL SERVICES

**Date:** August 21, 2025  
**From:** Tasha Kama, Chair  
Housing and Land Use Committee

**RECEIVED**

By Corporation Counsel at 4:17 pm, Aug 21, 2025

TRANSMITTAL

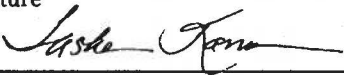
**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Nāhulu Nunokawa, Esq.

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

**Background Data:** Please see attached Resolution 25-161, CD1. 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	Contact Person <u>James Krueger</u> (Telephone Extension: <u>7761</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 27, 2025

REASON: For posting on the September 8, 2025, Council meeting agenda.


## FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: <u>CNN</u>	ASSIGNMENT NO. <u>2025-0171</u>	BY: <u>maa</u>
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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): Reviewed and signed.

Date 08/27/2025

DEPARTMENT OF THE CORPORATION COUNSEL  
By   
(Rev. 7/03)

hlu:ltr:001(1)acc03:jgk

Attachment

# Resolution

## **No. 25-161, CD1**

### 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 Kaahumanu 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

## **Resolution No. 25-161, CD1**

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, the Council finds that the two resident-manager units are part of the common area to support the Project's residents; and

WHEREAS, the Project is therefore a residential development with 100 percent residential workforce housing units, as defined under Code Section 2.96.020; 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,


## **Resolution No. 25-161, CD1**

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—collectively the developer—including the Project's preliminary plans and specifications, the Council approves 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.

**Resolution No. 25-161, CD1**

APPROVED AS TO FORM AND LEGALITY:




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Department of the Corporation Counsel  
County of Maui

hlu:misc:001(1)areso02

INTRODUCED BY:

  
TASHA KAMA

**EXHIBIT “A”**

**KAIAHALE ‘O KAHILUHILU AFFORDABLE HOUSING RENTAL PROJECT**

**MODIFICATIONS**

- A. The Project is modified to recognize it as a 100 percent affordable rental housing project with two onsite non-revenue-generating resident-manager units that are a part of the Project’s common area elements.
- B. The Project must start construction of both phases by December 31, 2028, and complete construction of both phases by December 31, 2030. For the purposes of this modification, construction starts with the visible start of grading under a valid grading permit. These deadlines may be extended by resolution.

## **EXHIBIT “B”**

### **KAIAHALE ‘O KAHILUHILU AFFORDABLE HOUSING RENTAL PROJECT**

#### **EXEMPTIONS**

The Project is a 100 percent affordable rental housing project with two onsite non-revenue-generating resident-manager units that are a part of the Project’s common area elements.

**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 and for the duration of its operation as an affordable housing rental project under 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 and special handling fees.
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 allow the separation between driveways to be less than the minimum distance of 45 feet, if a traffic evaluation of all proposed driveways that do not meet the minimum distance of 45 feet is prepared by the developer and the director of public works approves the driveway spacing proposed for the Project as adequate to protect public health and safety, which approval will not be unreasonably withheld.
3. An exemption from Code Chapter 12.24A, “Landscape Planting and Beautification,” is granted to exempt the Project from consistency with the adopted landscape planting plan relating to street trees, if trees are planted onsite along the Kane Street and Kaahumanu Avenue roadway frontages of the Project, as generally depicted on the Residential Phase Landscape Plan, Sheet L1.1 of the



application's Exhibit 23, subject to reasonable substitutions in species.

**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 paying the 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 because the Project is comprised of 100 percent residential workforce housing units, as defined in Section 2.96.020, Maui County Code, which must be evidenced by an executed, recorded, and valid residential workforce housing agreement between the developer and the County.
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 Section 16.16C.C406.10, "Electric vehicle infrastructure," is granted to exempt the Project from electric vehicle infrastructure requirements.
4. 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.
5. 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.

6. 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.
7. Because the Project is receiving County funds, Code Section 16.25.201, “Applicability and Scope,” exempts the Project from improvements—including pavement widening, construction of sidewalks, curbs, gutters, swales, drainage improvements, driveways, curb ramps, striping, signage, relocation of utilities, and placement of utilities underground—to Kane Street, except that the Project will install curbs, gutters, and sidewalks from its Kane Street driveway to Vevau Street, consistent with existing improvements.

**F. Title 18, Maui County Code, “Subdivisions”**

1. 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.
2. Except as provided in paragraph E.7, 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.
3. Except as provided in paragraph E.7, an exemption from Code Section 18.20.070, “Sidewalks,” is granted to exempt the Project from the requirement of constructing sidewalks along frontages.
4. Except as provided in paragraph E.7, 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, “Development standards,” 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.

hlu:misc:001(1)areso02 Exemptions