

BFED Committee

From: Kristina C. Toshikiyo <Kristina.C.Toshikiyo@co.maui.hi.us>
Sent: Monday, March 17, 2025 2:33 PM
To: BFED Committee
Cc: Kirsten E. Szabo; Alice L. Hale; Yukari Murakami
Subject: BFED-30 Bill 33

Aloha,

In the interest of time, please see the brief responses (*italic and bold*) to your request for legal opinion regarding use of the Affordable Housing Fund for housing projects on a parcel purchased with Open Space Funds.

1. Can property purchased using Open Space Funds be repurposed for uses that are inconsistent with the purposes listed in Subsection 9-19.1.a. of the Revised Charter of the County of Maui (1983), as amended? **Yes.** If so, explain how. ***The Open Space Fund must be reimbursed for all or the portion of the parcel used inconsistently with the requirements of Charter subsection 9-19.1a.***
2. Explain whether the County can use the Affordable Housing Fund for pre-development costs on property purchased with Open Space Funds for the purposes listed in Charter Subsection 9-19.1.a. ***The Affordable Housing Fund ("AHF") can be used for pre-development costs so long as the appropriation meets the use requirements in Chapter 3.35, Maui County Code ("MCC") and is also contingent upon reimbursement of the Open Space Fund (see answer to question 1).***
3. If the County does not pursue the creation of affordable housing on tax map key (2) 4-3-001:096 after expending the \$650,000, does the Affordable Housing Fund need to be reimbursed? Explain why or why not. ***Chapter 3.35, MCC does not require repayment of affordable housing grants if the project is not actualized. In contrast, there is a separate repayment requirement for loans made from the AHF under Section 3.35.070C if a borrower defaults or is not serving the affordable housing needs set forth in Chapter 3.35.***

Please let me know if you have any follow up questions or would like to discuss this matter further.

Mahalo,

Kristina

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