

MINUTES

of the

COUNCIL OF THE COUNTY OF MAUI

November 8, 2019

THE REGULAR MEETING OF THE COUNCIL OF THE COUNTY OF MAUI, STATE OF HAWAII, WAS HELD IN THE COUNCIL CHAMBER, KALANA O MAUI BUILDING, WAILUKU, HAWAII, ON FRIDAY, NOVEMBER 8, 2019, BEGINNING AT 9:05 A.M., WITH VICE-CHAIR KEANI N.W. RAWLINS-FERNANDEZ PRESIDING.

VICE-CHAIR RAWLINS-FERNANDEZ: Aloha kakahiaka kakou. Will the regular Council meeting of the Maui County Council please come to order. It's 9:05 on November 8. And we'll start with roll call.

ROLL CALL

PRESENT: COUNCILMEMBERS NATALIE A. KAMA, ALICE L. LEE, MICHAEL J. MOLINA, TAMARA A.M. PALTIN, SHANE M. SINENCI, YUKI LEI K. SUGIMURA, AND VICE-CHAIR KEANI N.W. RAWLINS-FERNANDEZ.

EXCUSED: COUNCILMEMBER G. RIKI HOKAMA AND CHAIR KELLY T. KING.

DEPUTY COUNTY CLERK MARGARET C. CLARK: Madam Vice-Chair, there's seven Members present, two Members excused. A quorum is present to conduct the business of the Council.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Madam Clerk.

Okay. Councilmember Alice Lee will start with opening remarks.

OPENING REMARKS

The opening remarks were offered by Councilmember Alice Lee.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Lee.

PLEDGE OF ALLEGIANCE

The Members of the Council, and others in attendance, rose and recited the Pledge of Allegiance.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Members. Before we proceed with today's agenda, may I please request that everyone silence their cellphones or other noisemaking devices. Decorum in this chamber shall be maintained at all times. Mahalo.

Madam Clerk.

DEPUTY COUNTY CLERK: Madam Vice-Chair, proceeding with the presentation of testimony on agenda items. We have established limited interactive communication that enables individuals from Hana, Lanai, and Molokai, to provide testimony from our District Offices.

Individuals who wish to offer testimony from the District Offices, should sign up with staff now. Individuals who wish to offer testimony in the chamber, please sign up at the desk located in the eighth-floor lobby just outside the chamber door. Each testifier will be allowed to speak for up to three minutes on each item. Testimony at all locations is limited to the items listed on today's agenda.

When testifying, please state your name and the name of any organization you represent. Please also identify to the Council if you are a paid lobbyist.

Madam Vice-Chair, we currently have four individuals signed up to testify in the chamber. The first person signed up to testify is Bob Hansen, testifying on Committee Report 19-128. To be followed by Paul Laub.

PRESENTATION OF WRITTEN OR ORAL TESTIMONY

MR. BOB HANSEN (testifying on Committee Report 19-128):

Aloha.

VICE-CHAIR RAWLINS-FERNANDEZ: Aloha.

MR. HANSEN: I came to testify about the proposed changing of the tiered income tax for real estate tax of properties. For me, it would be absolutely horrible. I own three vacation rentals now. My retirement plan was to take one of the vacation rentals and make it a long-term rental, put it into the long-term market because it, it takes a lot of work to do vacation rentals, as many of you know. So, that would take that out of the mix to do that if you change those tiers; it would double my tax on that.

Also, I have a vacation rental that I will be, I plan on moving into. I know that one of the ideas is to, if you could qualify for the 200,000 deduction, then that would be okay. But by in large I bought property, and a lot of people brought property here on Maui under certain rules. And to change the rules now, I've been here 30 years, and to change the rules now, I think would be a disservice to the citizens of Maui. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. Members, questions?

Member Paltin.

COUNCILMEMBER PALTIN: Thank you. Thank you for your testimony and for your presence here today. I just had one clarifying question. The, the short-term rentals that you were talking about, those are the permitted, or legally allowed short-term rental without permit? Is that, or did you apply for a permit?

MR. HANSEN: No, it's legally allowed. It's Grand Champions and it's just a lot of work as you may know to--

COUNCILMEMBER PALTIN: So, none of those--

MR. HANSEN: --vacation rentals.

COUNCILMEMBER PALTIN: --are the permitted ones, but they're lawful.

MR. HANSEN: Correct.

COUNCILMEMBER PALTIN: Okay. Thank you.

MR. HANSEN: You're welcome.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin.

So, sorry, quick clarification. So, I think what Member Paltin's question regarding lawful is it's zoned the, where your vacation rental is, is zoned Hotel-Resort?

MR. HANSEN: It's, Grand Champions is zoned, Apartment zone, but it was built before 1998, '89. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo. Members any other questions? Okay, seeing none, thank you so much for your testimony.

Madam Clerk.

DEPUTY COUNTY CLERK: The next person signed up to testify in the chambers is Paul Laub, testifying on Committee Report 19-128. To be followed by Sam Small.

MR. PAUL LAUB (testifying on Committee Report 19-128):

Aloha kakahiaka mai kakou.

VICE-CHAIR RAWLINS-FERNANDEZ: Aloha kakahiaka.

MR. LAUB: *(Spoke in Hawaiian.)*

By the way, I lost a hearing-aid out there somewhere. If somebody finds it, I'd sure appreciate it.

I'm calling, I'm calling you because of the vacation rental taxation. A number of us who live in Maui are trying to save our homes for our children and our grandchildren. And the problem is, is that we can't just put them on the long-term market because then when your kids come home, where are they going to go? And so, like last year, my son . . . came for five months and he taught, we teach is what we do, he taught up at Lahainaluna for five months. Well, if the place is rented out, where is he going to stay, you know?

So, we're asking that if you live here and you're really trying to save your place for your, your offspring, that you put, put the, those properties into commercialized residential, because it makes the most sense there. Because the people and the B&B who live in their homes and rent out part of their homes, I live right next door to my house, and I rent out that house when I can. So, essentially, that's it. Thank you very much. And thank you for recognizing the, the flag. This is Veteran's week coming up, and Sergeant Molina here. Thank you very much.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. Members, questions?

Member Paltin.

COUNCILMEMBER PALTIN: Aloha, Mr. Laub. Thank you for coming in today. My question is, so is the short-term rental that you're referring to is that a permitted short-term rental?

MR. LAUB: Could you say that a little louder, one more time please?

COUNCILMEMBER PALTIN: Is, is your short-term rental permitted?

MR. LAUB: Yes.

COUNCILMEMBER PALTIN: Okay.

MR. LAUB: I only do permitted.

COUNCILMEMBER PALTIN: Oh, cause there's other ways to be legal, so I just was, wanted to clarify which one you were referring to.

MR. LAUB: The one I live in is not rented out, and the one that next door to me is permitted.

COUNCILMEMBER PALTIN: And it's, it's two separate lots or on the same.

MR. LAUB: Two separate lots, right.

COUNCILMEMBER PALTIN: Okay. Alright, thank you so much.

MR. LAUB: And they're small kine. You know, you add the two, you add the two homes together you get 2,000 square feet.

COUNCILMEMBER PALTIN: Right by where, that's right by where all the bicycles are?

MR. LAUB: One more time.

COUNCILMEMBER PALTIN: That's by where all the bicycles are on Front Street?

MR. LAUB: Yea, I'm the bicycle guy.

COUNCILMEMBER PALTIN: Okay, kay. Thank you, just.

MR. LAUB: Thanks for, thanks for the acknowledgement.

COUNCILMEMBER PALTIN: Yea, yea.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin. Members, any other questions? Seeing none, thank you so much for your testimony. Thank you so much for your testimony this morning.

MR. LAUB: Thank you for speaking up. I sure appreciate it.

VICE-CHAIR RAWLINS-FERNANDEZ: Madam Clerk.

DEPUTY COUNTY CLERK: The next person signed up to testify in the chamber is Sam Small, to be followed by Eric Poulsen.

MR. SAM SMALL, MAUI CAUSES (testifying on County Communication No. 19-453):

Good morning, Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Good morning.

MR. SMALL: I'm going to read quickly, but I may need to ask you for an extra minute. Oceanfront land development is a billion-dollar industry to allow developers to shift their financial obligations onto us taxpayers. Several specific Charter amendments have cleared the way for what I believe is the intentional mismanagement of our entire SMA permit process.

Past Councils got snookered into giving up all authority over SMA to politically appointed Planning Commission. The Planning Commission gets to write rules that have the same force of law and effect as your ordinances, but you have to honor the public's best interests by going through a legislative process. The Planning Commission doesn't. They adopt whatever rules they want, and no one can stop them, and that's just wrong.

Even Mike Victorino acknowledged to me that one of his goals going in as Mayor was to work with this Council to bring SMA back under this Council's authority. SMA permits in Honolulu come under the City Council. That SMA on Maui has to go through the Planning Commission is an often told lie. There is lots of parallels between SMA and the injection wells. Obviously, the County has mismanaged the injection wells. But is it just the typical mismanagement because of stupidity or negligence, or is it intentional mismanagement? Intentional mismanagement, is that even a thing?

Justice Sotomayor, at the Supreme Court, knows that it is. She asked Attorney Lin who's representing the Mayor, and also represents the Koch brothers and other major league polluters. She asked, what are you doing, this is fairly traceable to you in large quantities.

COUNCILMEMBER SUGIMURA: Chair. Point of information, Chair. Excuse me.

MR. SMALL: Please don't interrupt me.

COUNCILMEMBER SUGIMURA: Excuse me, what item is he speaking on?

MR. SMALL: Please don't interrupt me.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Sugimura.

COUNCILMEMBER SUGIMURA: What, we're trying to figure out what item he's speaking on.

MR. SMALL: Oh, sorry. SMA.

COUNCILMEMBER SUGIMURA: What item number, please?

VICE-CHAIR RAWLINS-FERNANDEZ: Madam Clerk, do you have the item, agenda item?

MR. SMALL: Yea, 19-453. Sorry.

VICE-CHAIR RAWLINS-FERNANDEZ: 19-453. Mahalo, Mr. Small.

COUNCILMEMBER SUGIMURA: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Please continue.

MR. SMALL: Yea, sure. This is all about SMA. This is fairly traceable to the polluters in large quantities. How did you get away with it? How do you continue without taking remedial steps? Mr. Lin tried to take issue with the premise that there's something being gotten away with here, and the Justice cut him off. She said, if they followed all the laws and they are still polluting, they're getting away with it. So, something failed. The preventive measures of this law were not followed and something failed.

The injection wells case stems from what Maui County does to manage its wastewater in a way that's supposed to comply with the Clean Water Act, but it doesn't. Something failed.

VICE-CHAIR RAWLINS-FERNANDEZ: Mr. Small.

MR. SMALL: Yea, you, I mean, I was interrupted, and I've already asked for more time, if you would indulge me. I, I don't have too much more to go, but a little bit--

VICE-CHAIR RAWLINS-FERNANDEZ: In your testimony, can you please tie together the agenda item?

MR. SMALL: Absolutely. This is SMA. The injection, how the County facilitates oceanfront land development through its management of SMA permits is supposed to be done in a way that complies with the Coastal Zone Management Act, but it doesn't; something's failed.

Take Olowalu. In 2001, David Goode signed off on a huge subdivision with an unfulfilled SMA permit. Ten years later, it took citizens to blow the whistle and a zoning inspector issued a notice of noncompliance forcing the developer back. And now it's another ten years, and still no firebreaks. Again, SMA, something has failed.

The same thing at Hui Road E off of Lower Hoanapili *[sic]* Road.

VICE-CHAIR RAWLINS-FERNANDEZ: Mr. Small, can you conclude in a sentence?

MS. SMALL: Yep. I, I, I will be if, if, again, I was interrupted, and I've already asked for another minute. So, I won't keep you very much longer, but I do have a couple more paragraphs. Thank you.

The same thing at Hui Road E off of Lower Hoanapili *[sic]* Road. There's an unfulfilled SMA permit there for three \$14 million oceanfront estates. That if you go there and look at the street and look at the permit, even Mayor Victorino was able to see that the permit condition's environmental protections have never been installed. I met with the Mayor last week on these issues and others and he promised to have a zoning inspector go to Hui Road E and assess it and issue a notice of noncompliance, just like at Olowalu.

VICE-CHAIR RAWLINS-FERNANDEZ: Mr. Small.

MR. SMALL: That was ten days ago, and it has yet to be done. That's the SMA permitting process under the Planning Commission not just failing, but intentionally failing. I've got 2,000 signatures here asking the Auditor to add SMA permit abuse to the audit of the three lot or less deferral agreements.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Small.

MR. SMALL: Please send SMA to Committee so that we can all discuss bringing the authority of SMA back to this Council. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Small.

MR. SMALL: Thank you for your indulgence.

VICE-CHAIR RAWLINS-FERNANDEZ: Members, do you have any questions for our testifier? Seeing none, mahalo nui for your testimony.

Madam Clerk.

DEPUTY COUNTY CLERK: The next person signed up to testify in the chambers is Eric Poulsen, to be followed by Tom Blackburn-Rodriguez.

MR. ERIC POULSEN (testifying on County Communication No. 19-453):

Good morning, Council. Good morning, Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Good morning.

MR. POULSEN: Before my timer starts, can I confirm everyone has the packet that I brought to the chamber this morning. It has a picture of my son on the front with the Mayor. That one, yea. So, can we restart the timer?

VICE-CHAIR RAWLINS-FERNANDEZ: Yes.

MR. POULSEN: I would like, that's an issue. Thank you. So, today I'm going to be speaking about the shoreline management area item 19-453. That top photo, the attached photo is my son, Zolten, with the Mayor. And I'm proud to say that Z-Man was voted Grom of the year by, in this Best of Maui edition.

My family's lives, they center around our love of Maui's amazing ocean resources, or should I say, decaying ocean resources. As a family, we support Surfrider Foundation.

The lack of enforcement of SMA is a subject which I feel passion about for many reasons.

This photo includes the Headmaster of Maui Preparatory Academy when they were stuck in Wailuku during the recent fires. Mr. Landau was visiting the Mayor that day to discuss the school's new performing art center and gymnasium as potential emergency shelter relief. With time being limited, I will let you ask a question about who the other two kids are in that picture if you're interested.

The attached photo of my foot is an injury I suffered from a small coral cut from the reef near Black Rock, Airport Beach. I almost had to have my foot removed, I almost died of septic shock. Was this caused by years of millions of gallons of injection well sewage pouring into our coastal waters, or the cumulative impacts of countless SMA minor permits issued by the Department of Planning that slide under the radar? I don't know.

But I surely believe the manner which citizens and community groups are forced to see the County SMA permit inspectors as a contributing cause to the abuse and resulting harm of our oceans. Who really wants to fight with their neighbors? What have we, what have we done to address the attached NOAA report that states that SMA permit compliance remains an issue? What have we done?

Please look at the next document. Olowalu, like Montana Beach, is a perfect example of citizens being caught in the middle of developers disregard for our laws. Almost ten years after the developer was signed off by Director Goode, they were found to be in violation of nine of their 33 SMA permit conditions. How is this possible? How much harm is done to the reefs in that time period before a citizen took action?

Justice Sotomayor said it best during the Supreme Court hearings, "All the laws and they still are polluting. They are getting away with it, so something has failed". I asked the Council, since your control of our tax dollars, is it true that the State provides financial compensation to the County to administer the SMA laws? Is it true that no inspectors are hired by the Department to ensure SMA permits are in compliance prior to the final approvals of developments? Is it true that the Council's upfront valuations are not checked for accuracy?

What we've learned from Montana Beach, Olowalu, and the recent SMA permit violations in Makena, please look at the next document. Thank you, just another 30 seconds.

VICE-CHAIR RAWLINS-FERNANDEZ: Sure. Go ahead.

MR. POULSEN: Thank you. You see in the documents a signed agreement by the Mayor to enforce an, a developer's SMA permit. Is Corporation Counsel actually advising the Mayor to breach this agreement? Planning Director and Director Lutey are protecting private developers at our expense and the destruction of our ocean resources.

I personally met with Mayor Victorino under the hale in West Maui and he promised he would wash the unclean hands of Corporation Counsel. Do we really need more lawsuits by citizens to uphold these environmental laws? Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Poulsen. Members, questions for our testifier?

Member Paltin.

COUNCILMEMBER PALTIN: Ah, thank you, Chair. Ah, thank you, Mr. Poulsen for being here. So, I might be wrong, but it's my understanding that I think there's only one SMA inspector. So, like, as a solution, are you requesting more SMA inspectors for the County of Maui? Is that kind of what you're saying?

MR. POULSEN: I just want clarity. You know, I don't want any backdoor. I don't want to read in the paper and read online about what's happening to our oceans, you know? I mean, whether it's one or many, I don't know. Do you have a question about the children in that picture with my son?

COUNCILMEMBER PALTIN: No. I know them.

MR. POULSEN: You know em? Okay, you know about this?

COUNCILMEMBER PALTIN: I'm from West Maui.

MR. POULSEN: Yea, yea, yea. Yea, so, you know, yea.

COUNCILMEMBER PALTIN: Thank you.

MR. POULSEN: It's brutal. Thank you . . .

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Paltin.

Member Sinenci.

COUNCILMEMBER SINENCI: Yea, I just wanted to ask Mr. Poulsen if he, did you want to submit your testimony? Or, we already received it, right? That was yours?

MR. POULSEN: Yes, sir.

COUNCILMEMBER SINENCI: Okay. Thank you.

MR. POULSEN: Thanks.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sinenci. It's the one with the photo on top, yea. Okay.

MR. POULSEN: Thank you, Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Mr. Poulsen. Mahalo, for testifying.

Madam Clerk.

DEPUTY COUNTY CLERK: The next person signed up to testify in the chambers is Tom Blackburn-Rodriguez, to be followed by Tom Croly.

MR. TOM BLACKBURN-RODRIGUEZ, GO MAUI, INC. (testifying on Committee Report 19-128):

Good morning, Vice-Chair--

VICE-CHAIR RAWLINS-FERNANDEZ: Good morning.

MR. BLACKBURN-RODRIGUEZ: --Members of the Council. My name is Tom Blackburn-Rodriguez and I am speaking on behalf of Go Maui. Before I begin with my remarks, I would like to honor and recognize the veterans who are with us today and who serve and protect us. Thank you.

My organization is concerned about the real property tax measure under review and has questions about how it will affect the tax bills of Maui residents. For example, will Maui's farmers see their properties classified in the same tax classification as luxury homes in the resort areas?

We were also pleased to learn the Council will be discussing how to correct any potential for some condominium units that are currently being used as long-term rentals and housing Maui residents being classified as short-term rentals. Such a classification designation and higher tax could result in these property owners

choosing to instead use their units for a short-term rental and thereby displace a Maui resident. We appreciate the Council's attention to this concern.

We are concerned that the tiered tax rates do not affect Maui's long-term residents, who may find themselves land rich but cash poor. And could be the case for many older Upcountry residents with large agricultural properties, that they are too old now to actively farm.

The TIG Committee report states that the Committee considered creating incentives for long-term rentals and Go Maui could support such a proposal. We feel that it would be prudent to introduce these long-term rental tax incentives simultaneously with making any significant changes to the current real property tax code.

The TIG Committee report also outlines plans for community outreach to educate the public about these changes. We encourage increased outreach efforts prior to making the code changes that are proposed in these measures. Perhaps community meetings in each Council district held at a time when it is most accessible to the community. While this may delay the implementation of these tax code changes until the tax year 2021, it may be better to accept this delay and make the changes that the public understands and supports, rather than to make changes prematurely that may result in unintended consequences.

For these reasons, Go Maui respectfully requests that the Council continue to work to bring forward a comprehensive tax reform plan that is better understood by the public and will meet the community's goal of protecting Maui's residents from large increases in tax rates which Go Maui supports. Thank you for taking the time to take on this challenging subject. As Supreme Court John Marshall famously said in 1819, "the power to tax is the power to destroy". We encourage your work and urge you to tread carefully as you make continued progress. Thank you for the opportunity to testify.

And in closing, we'd also like to thank the Council for, for what was a great conference that was put on by the counties. I found it very educational and very useful, and I thank you for doing that.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Blackburn-Rodriguez: And mahalo for recognizing that the intention of today is to keep in the condominium section of the tax bills.

Members, do you have any questions? We have Member Sugimura with a question.

COUNCILMEMBER SUGIMURA: Thank you for being here, Mr. Blackburn. And you're saying then that you are suggesting that there's sections of it that you still need

clarification, is what you said? And, and for community meetings to happen before finalizing? Can you summarize that . . .

MR. BLACKBURN-RODRIGUEZ: Well, I think one of the, I guess I would say reforms or initiatives that this Council has taken on is the idea of community participation, transparency, and getting issues out in front and having a conversation before they land here on the floor. So, I want to endorse that process, and I want to commend you for it.

COUNCILMEMBER SUGIMURA: Okay. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sugimura.

Members, any other questions? Oh, okay. Okay, seeing none, mahalo nui for your testimony today.

MR. BLACKBURN-RODRIGUEZ: Thank you very much. Have a good day.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, we'll take one more testifier here in the chamber and then we'll go to the Molokai Office.

Madam Clerk.

DEPUTY COUNTY CLERK: The next person signed up to testify in the chambers is Tom Croly, testifying on Committee Report 128 and Committee Report 19-133.

MR. TOM CROLY (testifying on Committee Reports 19-128 and 19-133):

Aloha, Chair. I'd like to start with--

VICE-CHAIR RAWLINS-FERNANDEZ: Aloha.

MR. CROLY --the committee report about the extension of the bed and breakfast and short-term rental permits. I just want to point out that this is a short-term rental permit, okay. Some people don't grasp what a permit is. But a permit is basically saying you, you've applied and here's the conditions of granting this permit. And contained within each and every one of these, about 150 bed and breakfast permits and about 225 short-term rental permits right now, each owner has one of these. And their job is to, to, to meet all the requirements that are in this letter that they get.

Currently, the code says that you must renew your permit within 90 days, okay. That means not before 90 days, but within 90 days of it expiring. And each of the 375 roughly permits that are out there, state that in these letters. So, I just want to make clear and kind of put it on record that, as we might make changes today to how that is, the guys who have these letters, it's not going to change their, their permits at this point. But down the road, when these permits get renewed another time, then it would make a change.

That sets up a little bit of a difficulty for the Planning Department in processing these because when they take one in, they have to figure out, okay, what do the, what did yours say? Did yours say within 90 days? Or did yours say before 60 days of the expiration? So, it, it's just a bit of an issue, you know, going forward for maybe the next three to five years as these older permits get renewed versus the new ones that could get granted. And I, I just kind of wanted to put that on record to make sure that everyone understood the, the processing of that, okay.

Chair, I'll move to Committee Report 19-128.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, one moment. Members, do you have any questions for this first item, CR 19-133?

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Croly for coming and testifying on that item. I think your assessment is completely correct and thank you for putting that on record. My one thing that I wanted to have clarity on is, when you're saying that each short-term rental homeowner has that permit.

MR. CROLY: Has a letter, like this, that says, "here's the conditions of your renewal", okay.

COUNCILMEMBER PALTIN: I think that is not true, because there's so many, like, thousands of short-term rental homes that are lawful without permits.

MR. CROLY: Well, yea, maybe I need to be, the ones that have to get a permit, okay, then they get this letter.

COUNCILMEMBER PALTIN: Oh, okay.

MR. CROLY: But, you're, you're right, not every short-term rental. And that's a very good distinction. There's, there's short-term rentals that have to go through the process to get a permit, and then there's short-term rentals that are legal by zoning or by grandfathering and, and some other means.

COUNCILMEMBER PALTIN: Yea, I just wanted to get that on the record as well, so that the record is all clear.

MR. CROLY: Right. So, particularly so that people don't get nervous who, who don't need a permit and say, "oh my God, where's my permits"?

COUNCILMEMBER PALTIN: Thank you. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin. Did anyone else have a, did you have a question? Okay. Okay. Okay.

Mr. Croly, can you move onto your next item.

MR. CROLY: Thank you. Making comments on, on the real property tax reform issues. I got a call from the Chair's Office yesterday to say that there will be some changes implemented today with respect to the condominium side of things. And that's the, that was my number one concern, to be quite honest with you, that changing that condominium thing might affect some long-term renters and also might put some incentive in for people to go outside of, of the condominium that they own right now that's allowed to do short-term rental, but that person doesn't want to do short-term rental, and go buy a condominium in a building where short-term rental is not allowed. And then just use it as a second home, which is really not what we want to have happen if, if you understand. So, so I hope that, that we deal with that.

I think that means that the issue of the change in the names of the categories and, and so forth will go forward. And it would seem to me that there needs to be some changes then in the condominium law right now to make clear what classifications someone would move into if they don't live in their unit and they're not using it for short-term rental. I assume that would be the non-owner-occupied category, but not the apartment category, which has now been defined differently. So, there's a little bit of, you know, kind of a couple different changes that you would have to make if you're not going to do the condominium changes today.

It sounds like you are going to move forward with the changes to create the tiers, okay. And I understand. And, and the Chair made reference to this, the idea of setting up progressive tax rates for someone's home where they live, I, I think that that can be done through the tiers. I think it also could be done through raising the homeowner exemption and raising the homeowner rate that would accomplish the same end. But the tiers make sense to me in the homeowner category. And they make sense to me to some degree in the non-homeowner category, but there are potential unintended consequences that Mr. Rodriguez made, made reference to as well in that.

I don't see the logic in applying the tiers to the commercial, industrial, and short-term rental classifications. I, I don't think we want to incentivize lower end or less expensive properties to be used for short-term rental by giving them a lower rate than higher end properties. So, I, I want you to think about that. I do understand that you may not fill in those numbers with different, with different tiers when the tax time comes. You may just make it flat and there you go.

Which brings me to another issue, which is your getting rid of the land and building values to facilitate this tier thing because the Department says we can only do one or the other. I, I think that that's a tool that had, may not have been used, the ability to set tax rates different for land and building. And you're giving up that tool and that could be used very effectively. Thank you, Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Croly. Okay, Members, questions for our testifier?

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Croly, again, for your testimony. I was wondering if you could clarify for me, I didn't understand the part where you said, and, and I think that we are putting back the condominium part in, but I didn't understand when you were saying that if we didn't put it back in, that it might incentivize people to go into some other condominium and use it as a second home. Can you kind of explain that?

MR. CROLY: Sure. Thank you for that opportunity. If someone currently owns, and there's a, there's many, many people on the, on this island, property owners who own a condominium and, in some cases, a single-family home that they strictly used as a second home. They don't rent it out to someone as a long-term rental, they don't use it as a short-term rental; it is strictly a second home to them. Those folks that are in condo--

COUNCILMEMBER PALTIN: So, that's the part, so you're meaning like when they use it as a second home, it's just empty, except for when they want to visit it. That's what you mean by second home?

MR. CROLY: That, that is what I mean by second home.

COUNCILMEMBER PALTIN: Okay.

MR. CROLY: People, people who are not using it as a short-term rental and, and they're just leaving it empty when they don't use it.

COUNCILMEMBER PALTIN: And not as a long-term rental?

MR. CROLY: And, and right they, and I would say, I would estimate it's probably on the order of 10 to 15,000 units, condominium units and single-family homes in Maui County that are second homes that the owner has zero interest in using it as a long-term rental. They are, this is not an investment property to them in any way, shape, or form. They simply want to use it themselves when they, when they come to Maui, okay. And those folks--

COUNCILMEMBER PALTIN: I had a question about that too.

MR. CROLY: Okay.

COUNCILMEMBER PALTIN: So, if you're saying it's not an investment property, how do you, how, what makes you think, okay, it's not an investment property if they are buying it? And I don't understand, like, it seems like a second home is an investment property.

MR. CROLY: Well, to, to some extent any real estate you own is an investment, right? You've, you've put a bunch of money out to buy a piece of real estate, and perhaps you hope that the value of that, that piece of real estate goes up and that makes it an investment. But the use of it is not to generate income for them, as would be a short-term rental. Someone, someone is using their short-term rental in order to, you know, rent it to someone and, and generate income or a long-term rental for, if someone would rent it.

COUNCILMEMBER PALTIN: Okay. So, it's a investment, but the use of it is not an investment?

MR. CROLY: The, the use that they're making of it is not to generate income.

COUNCILMEMBER PALTIN: Okay, got it.

MR. CROLY: I guess would be the, the better way to come, to say that.

COUNCILMEMBER PALTIN: Thank you.

MR. CROLY: Now, currently, those folks who own condominium units in a building that's allowed to make condominium use, okay, they say, I'm using it for just myself and they are assessed as apartment, okay. And the change that getting rid of the self-

declaration would push those folks up to the short-term rental classification. Now, maybe, you feel like we want those guys to have to pay more taxes, that's fine.

But those guys might say, and, and I'm speculating to some extent here, but they might say, if my taxes are going to go up by 75 percent because I own this condominium in a building that's allowed to do short-term rental but I don't do short-term rental, I'm going to go buy a condominium or maybe a single-family home in an area that is not subject to that higher short-term rental rate, okay.

So, so for those folks, they're going to now, and again there's already a lot of them who do, they're going to buy a house in, in Haiku or they're going to buy a house in Kula, or they're going to buy a condominium that in, in a building that was built after 1991 where short-term rental is not allowed. And then, and you've incentivized them to do that because you're saying you'll get a lower tax rate if you, if you buy in this, in this newer building that is, that was built presumably for residents to live in. But, but since their use is not one of short-term rental, they, they're not going to want to pay that higher short-term rental rate that, that would apply to them in the short-term rental building.

COUNCILMEMBER PALTIN: Ah, thank you. So, you are aware that there's also the non-owner-occupied category which would hopefully not create that incentive that you're talking about?

MR. CROLY: Well, that, that's exactly the point, is that they would fall into that non-owner-occupied category, which as Tom Blackburn just pointed out, is the same category that our Upcountry farmers who don't live on their lots are going to go into. So, now you have this disparity where you have the second homeowner with a, maybe a luxury home, it may not be a luxury home, but a second home that's being used not as a residential property in the same category as an Upcountry farmer who may have a second piece of land that may have a, a modest cottage on it that he may be renting out long-term, as the case may be. But he's got a large piece of land, and that large piece of land is driving the, the, the value of that property up.

So, so there's, there's a number of different folks that you're going to throw into this non-homeowner category that if that turns into a category that you decide to set a high tax rate on, you're going to, to hurt both a lot of resident renters, as well as a lot of resident property owners whose property is not primarily a residential property.

COUNCILMEMBER PALTIN: And would not the tiers address that, if you're saying it's a modest cottage?

MR. CROLY: The, the reason why I was saying it might not, okay, and I already heard from someone Upcountry. I heard from a 80 year old Upcountry widow and she lives in one

lot next to a larger lot that she owns. The lot that she lives in, she claims a homeowner exemption on and her taxes are kept low. And she would even be, be eligible for the circuit breaker if, if the taxes were too high on the lot she lives in.

But next to her, she owns this other lot that has 7.5 acres and so forth, that's assessed in a much higher value. She's 80 years old, her husband died many years ago, she can't farm that anymore, so she's not farming it, so she lost her exemption, if you will, for the, for the agricultural use, the active agricultural use. So, now she's got a property with a lot of land value, okay, so it's, so it's highly valuable, but modest dwellings on it that were built in the 20's, okay. I don't know the current state of those dwellings, but they're not assessed at a lot, at a high value. And her million dollar plus property is going to fall into the same tax category as that million dollar condo in Wailea, essentially. So, so their, the two of them are going to see the same tax rate applied to, to their properties.

COUNCILMEMBER PALTIN: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin.

Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. Real quick, Mr. Croly. So, how, how many, what was the number that you said that people that have condos that don't look at renting it out?

MR. CROLY: So, I don't know. And one of the suggestions that I made in testimony to you guys is that you send out a survey of all the condo owners, the way that we have in the past, where people were supposed to declare their use. And they say my use is, I live in it full-time, I'm a homeowner; my use is I'm using it for short-term rental. And then we have this other category, my use is either short-term rental, I mean, either long-term rental or I'm using it just as a second home.

And we don't know exactly how that breaks down within the condos, but I can tell you beyond the condos, whether we're talking about Wailea, whether we're talking about Kaanapali, whether we're talking about Kapalua, there's at least 10,000 homes, condominium units and single-family homes, that are second homes. No long-term rental taking place, most of the year are left empty for the owners to use, okay. And these are the homes that are going to fall into this category called "non-owner-occupied".

COUNCILMEMBER SINENCI: Do you know if these owners are out of state or residents?

MR. CROLY: Most of them are out of state owners. Most of them, you know, it's, it's almost hard for me to believe that, that people don't see this. Like, there's a, there's a subdivision up in Kapalua called Pineapple Hill. I know it because I've helped some folks with short-term rental permits in Pineapple Hill, for example. And there's 130 lots in Pineapple Hill. I counted, there's 19 homeowners of those 130 lots. So, only 19 of the folks in Pineapple Hill who own homes there are living in them full-time, okay. There's two or maybe three short-term rental permits up there, okay. There's a few, and a very few, like, like you can count them on a hand, long-term rentals that are, that are up there. All the rest are just second homes that sit empty.

In Wailea, there's other subdivisions that are, that are that way as well.

VICE-CHAIR RAWLINS-FERNANDEZ: Mr. Croly, I believe you answered Member Sinenci's question.

COUNCILMEMBER SINENCI: Thank you.

MR. CROLY: Yea, okay. Sorry.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, Members, any other questions?

Member Lee.

COUNCILMEMBER LEE: Thank you, Madam Chair. Tom, so the example that you gave with the woman Upcountry, you know, we're not done with our work. And we are putting together incentives and, and the ability for people to dedicate their properties for long-term rental use and other, you know, other mechanisms that help people who fall into that category. So, you know, I just want to let you know that we are continually looking at these issues.

And we're glad that you're bringing up these examples up so that, we don't often get a lot of feedback, you know, when we need it. It's usually after we do something, not before we finalize something. So it's good that we get the feedback early. And, but just for your information, keep, as you're, as you're critiquing what we're doing, keep in mind that we're not trying to encourage or see the proliferation, continued proliferation of empty homes, you know. We want people to live here, or to have long-term rentals.

We're not interested in people buying homes and then leaving them empty. It's, you know, doesn't serve our community. So, what we're doing is trying to provide more opportunities for our residents to live here. And so, if, if you come up with ideas, can you keep that in mind so that you can maybe help us with suggestions on how we can stay on that track, okay?

(Councilmember Kama was excused from the meeting at 9:50 a.m.)

VICE-CHAIR RAWLINS-FERNANDEZ: Yea, I believe that was a yes or no question.

MR. CROLY: I, I, I, that is exactly why I'm bringing these issues up, is that, is that I recognize we need a more comprehensive program that addresses that as a goal. But the Council hasn't quite stated that as a goal until you just did now.

COUNCILMEMBER LEE: You've come to many meetings, but I've stated that already several times, you know, about housing and the availability, and long-term use, and so forth. But that is a major goal.

MR. CROLY: And, and I think there's things that we can do to, to that end with tax policy, but I don't think we're there yet with, with what's on the agenda today. Thank you, Chair.

COUNCILMEMBER LEE: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Lee. Okay, so any other questions, Members?

Okay. So, let's see, we're, Mr. Croly. So, I believe that you came to the Committee meetings and heard our discussions, correct?

MR. CROLY: Yes, I have.

VICE-CHAIR RAWLINS-FERNANDEZ: Yea, and so you understand that the intention of the TIG was to repeal the condomi, condominiumize, condominiumization section coupled with the dedication of long-term rentals to help to address the concerns that you stated today? And that the intention of today, since Committee recommended removing the section for long-term rentals and long-term affordable rentals, that we will keep in the condomi, condominiumization section in the bill? Is that, is that what you understand?

MR. CROLY: That is what I understand. And, and again, I support the idea of the incentives for rentals. But it requires a lot more work as you, as you know--

VICE-CHAIR RAWLINS-FERNANDEZ: Right.

MR. CROLY: --before we can figure out how to implement that.

VICE-CHAIR RAWLINS-FERNANDEZ: Right.

MR. CROLY: So, I don't want you to go forward with something that says we'll do that later, and then have the net effects. Even if it was only for one year--

VICE-CHAIR RAWLINS-FERNANDEZ: Yea, mahalo.

MR. CROLY: --hit people.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo for that. And for all the hypotheticals that you described, we'll call up Finance later to help address any of the questions that the Members have regarding those.

MR. CROLY: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Croly, for your testimony.

Madam Chair *[sic]*, let's go to the Molokai Office.

DEPUTY COUNTY CLERK: Molokai Office.

MS. ZHANTELL LINDO: Aloha, good morning. Good morning, Chair. This is Zhan at the Molokai District Office and we have one testifier; Kim Svetin.

MS. KIMBERLY SVETIN (testifying on Committee Report 19-128):

Aloha. My name is Kimberly Mikami Svetin and I'm testifying on item CR 19-128. Aloha, Chair Rawlins-Fernandez and Members. My name is Kimberly Mikami Svetin and I currently manage several small businesses on Molokai.

On behalf of our 34 employees and their families, I am asking the Council to hold and do not pass Bill CR 19-128 in relation to real property tax reform.

Many of us on Molokai, including my parents who have been County taxpayers for over 50 years, were not aware of this measure. We need more information presented to us on island through the Molokai Dispatch, direct mailers to all 2,000 plus post office boxes, and social media for those that garner their information from this medium. We need more time to digest what this means for us in both the short and long-term as County taxpayers.

(Councilmember Kama returned to the meeting at 9:54 a.m.)

MS. SVETIN: I am requesting this hold until there is a clearer understanding of how this legislation will affect Molokai businesses and community members who own condominiums as their primary residences.

1. As a private employer, I am concerned with the language of this proposed legislation. Again, which I was just made aware of earlier this week. I would also like more clarification with "Section 3.48.565 Increase or decrease", which includes tax tiers and rates, and how this will affect small businesses such as the stores we manage and own here. Our business owners would appreciate the Council to explain the structure of tax rates and tiers and to proactively ask Maui, Molokai, and Lanai-based business owners what their opinion is of this legislation. There are over 200 businesses and even more business owners on the island of Molokai alone.

2. The second reason for my concern is the language regarding condominiums and owner-occupancy. On Molokai, I personally know teachers and staff at Molokai High, Kaunakakai Elementary, Kilohana School, Kualapuu Public Conversion Charter School, and Maunaloa School who own condos, have lived here for many years, and make Molokai their home. A number of these community members own their condominiums and occupy these units as their primary residences, garnering the current owner-occupant tax exemption. Under this proposed legislation, these community members would be taxed at the rate of highest and best use under apartment and/or short-term rental. One Molokai High teacher told me that he is able to live here and teach our students, including both of my children, because of the current property taxes being affordable.

"A BILL FOR AN ORDINANCE RELATING TO TIERS OF REAL PROPERTY TAX RATES" would implement major changes to the current real property tax laws in Maui County. This will affect a large group of stakeholders, many, if not all of the small business owners on Molokai, as well as condo owners who live in Maui County as full-time residents.

We ask that you ask your constituents to see how this proposed measure will impact the financial health of our County small businesses, as well as full-time residents who do not own stand-alone homes for tax exemptions. Mahalo.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. Members, questions for our testifier? Okay, seeing none, mahalo for your testimony.

MS. LINDO: Mahalo, Chair. There are no more testifiers at the Molokai Office.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Lindo.

Madam Clerk, will you please call our next testifier here in the chamber? How many more testifiers do we have?

DEPUTY COUNTY CLERK: We have two more people signed up to testify in the chamber. The first person signed up is Susan Thomson, testifying on Committee Report 19-128. To be followed by Dean Frampton.

MS. SUSAN THOMSON (testifying on Committee Reports 19-128 and 19-133):

Good morning. I'm Susan Thomson. I'm here today to testify on 19-128. And I want to thank all of you for all your hard work that you do every day throughout the year.

I am one of the owners who rents a condominium long-term, I have for many years. It is in a complex that is allowed to do short-term rental. I have had many, many other owners ask me, why don't you do short-term rental? You can make so much more money?. And I go, because I want to provide a place for someone who lives on Maui, who works here on Maui, a place to live.

My, my renter, a woman, a single woman, a really lovely person, a few years ago said, you know, I really want to move. I want to find another place. And I said, okay, not a problem. And she, I said, let us know what your plans are and no pressure, you know. And so, she went out and she started looking around. She was just shocked at the cost of apartments, studios, cottages, whatever you want to call them. She couldn't believe it. And she came back to us and said, can I stay? I said, not a problem, no, you know, no worries, you can stay. She's a great tenant.

You know, and I don't want to do short-term rental. That's my choice. I, you know, I could make more money for sure. But that's not the right thing to do for me. I don't have a problem with anybody else who wants to do short-term rental. That's their decision. However, I just really want to encourage you as you, you know, look into this really complex issue of real property taxes. It's really complicated. That those like me or other people that choose to do long-term rental have an incentive to continue doing long-term rental. I, I just don't want to see that all of a sudden, the condos that can do short-term rental, all of a sudden it's a blanket, all of them are going to be charged short-term rental rates.

And then for someone like me, I wouldn't be able to continue long-term rental at a short-term rental rate; I couldn't afford it. The cost of the taxes would be way too high.

So, so by doing that, you know, you're going to force a lot of people to make the unpleasant decision of going to short-term rental to be able to afford it and, and remove people from long-term rental or evict them.

So, you know, as you, as you proceed on this path, I hope you'll take that into consideration, and really do whatever you can to encourage people to do long-term rental with incentives, lower tax rate, whatever it is, because it's really needed.

I'd just like to comment on one other thing, and I don't know the number of the, of the bed and breakfast thing. But I also just want to state really briefly, I've been on Maui many, many years since the early 70's. And I've seen so many homes go up for sale that were long-term rentals, sell, and the next day a bed and breakfast sign goes up.

And I can't tell you how upsetting it is to me, that a home that was used for families is now short-term; three-bedrooms, four-bedrooms, or whatever. I'd really like you to look into what you can do to address this issue of homes that are 875, 900,000, whatever the price, that are converted immediately into bed and breakfast, because that's what's happening. That's where people are getting displaced, out of homes as well. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Thomson. And for the record, that last item that you testified on was CR 19-133.

MS. THOMSON: Should I say it?

VICE-CHAIR RAWLINS-FERNANDEZ: No, I said it.

MS. THOMSON: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. And I wanted to mahalo you for reaching out to my office, which helped to initiate the, leaving in the condominiumization section, so that will not be repealed today. And the discussion, as Member Lee said, will happen in the next TIG we create when we are able to have dedicated long-term rental use to protect those that are serving our community by providing long-term rentals to our community. So, mahalo for that.

Members, do you have any questions? We have a question from Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Good morning, Susan. And first, I want to thank you. It's very refreshing to hear you supplying something that's much needed in our community; long-term rental for our working citizens. That's much wonderful to hear, instead of, and you know, like, like you stated, people have a right.

If they want to go short-term and put money first instead of fulfilling something that's needed. That's, that's an example of what you're doing, is aloha. That's aloha.

Can you share with us, you mentioned incentives, can you offer us a suggestion for incentives for long-term property owners that you would like the TIG to consider?

MS. THOMSON: I don't know if you can, you know, I'm not that educated in all this so, you know, I don't know if a lower tax rate or same like the homeowner exemption; there's a \$50,000 exemption towards the cost, you know, the total tax amount. You know, something that's really going to impact it. Something that someone says, oh, I can do short term, I can do long-term, but I have this really good incentive that's really going to help me with the property taxes, so I don't have to keep raising my long-term rental rates, you know. Then I want to go that way, because the County is really doing that, you know.

And we're so blessed on Maui, because for homeowners, we get that \$200,000 exemption. I remember when it was 300, and I went okay, push that one up. But, because most islands, we don't, don't have that, you know. So, that's a blessing for sure, you know.

So, something that's really out of the box, something that's really creative, you know. You go, oh, you know, we could do it this, this way. But really, you know, stretch your minds and say, what can we really do to make an impact on people who have long-term rentals, who continue whether it's an ohana, you know, like I said, a condo, apartment, whatever, that they go, you know, I'm going to, I'm going to step up and I'm going to do a long-term rental. I'm not going to go the other way. And there's some really significant incentives that will encourage people to do that, because just having a low rate doesn't, it helps, but it doesn't really make a difference.

So, that's where I'm thinking just, you know, something that you can really step outside the box and say, wow, maybe we can really do an exemption or, or you know, whether it's . . . whatever the amount is, it's making the statement that these are really, really important, you know. And you just need to change so much over the years, you know. It's really, disheartening.

COUNCILMEMBER MOLINA: Thank you for your suggestions and your testimony.

MS. THOMSON: Okay.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina.

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Ms. Thomson, for being here. And I echo my statements of my colleagues for providing the much-needed long-term rentals.

My questions, I had a couple questions, if you don't mind answering. I don't want you to answer if you don't feel like it. But, would you mind saying what district this is in? Is it in West Maui?

MS. THOMSON: In Kihei. South Maui, yea.

COUNCILMEMBER PALTIN: Okay. Okay. And then, so my second question is kind of unrelated to that, but related to your response to Member Molina. In that the incentives we give, do you think there should be that one incentive for long-term rental and another better incentive for long-term affordable rental? Cause I'm, I have friend, some of my kid's friends' families, they're renting a two-bedroom for five grand. So, I mean, this is in West Maui, so, but, so I mean, do you feel that there is a difference between a long-term rental, a two-bedroom five grand apartment; or a two-bedroom 2500 a month apartment? And that the incentive should reflect that or is that too complicated in your opinion?

MS. THOMSON: Well, that, that's sort of a hard call. You know, a two-bedroom for five grand, I'd call that greedy, whatever else you want to call it.

COUNCILMEMBER PALTIN: I call it West Maui.

MS. THOMSON: But it's what the market bears. It's really, it's what the market bears, you know. If someone has the money, the, you know, the owner can charge whatever they want, and they'll get it depending on the location. So, I, I, that's a hard one to say because you don't want to, you know, you don't want to cut somebody from, you know, being able to charge what they want and be able to get it. But, I, you know, I think you have to say, well, the location, the amount, you know, what would be the incentive? Someone that's getting 5,000 a month, I don't think would really need it, you know, an incentive or, or an exemption or something like that. You know, so where would you draw the line of what's affordable?

That's a hard call too, cause everything is so expensive now, you know. So, what used to be, I mean, I had friends that rented cottages in Maui Meadows for 600 a month,

then it went to 800 a month, then they went to 900 a month, and all of a sudden, they're 1800 a month. And most of them now are vacation rentals, you know, so, you know, they pulled them out of the market completely.

So, I think it, you know, that's why your job, I really respect you guys, cause it's such a hard job to figure it out. You know, it's very complicated and Maui continues to grow and, and more and more people would like, want to be here. But how do you provide for, you know, residents that are here, been here all their lives and then can't afford a place to live. You know, so, that's, that's a hard one to say. But I think any kind of incentive, you know, to, to, for long-term, if it is, you know, long-term and then, you know, if they commit to, you know, two years, three years, or whatever, it might be more of an incentive to keep it in a long-term pool versus, you know, to, to, you know, there's so many things to think about. It's hard to, hard to say, you know, but something, so.

COUNCILMEMBER PALTIN: Thank you so much.

MS. THOMSON: I don't, I don't know if that answers your question, but.

COUNCILMEMBER PALTIN: Well, you gave me a lot to think about. Thank you.

MS. THOMSON: Yea, yes. It's just expensive.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin.

Okay, Members, if there are no other testifiers, I'll thank Ms. Thomson for her testimony today. Thank you.

MS. THOMSON: You get sort of nervous up here. Thank you. Have a wonderful weekend.

VICE-CHAIR RAWLINS-FERNANDEZ: You too. Thank you.

Madam Clerk.

DEPUTY COUNTY CLERK: The last person signed up to testify in the chambers is Dean Frampton, testifying on Committee Report 19-128.

MR. DEAN FRAMPTON (testifying on Committee Report 19-128):

Good morning, Vice-Chair, Members of the Council. My name is Dean Frampton and I'm testifying on item 19-128. I used to work at Real Property Tax many years ago,

and I was Chairman of the Board of Review for a number of years as well. I have the utmost respect for the Department, our current Finance Director. I really appreciate what they're doing. I appreciate and I'm supportive of the changes that you're making right now. I think these, the tax system reforms are really good.

But I want to just, I want to focus on the Committee Report dated November 8 from the Economic Development and Budget Committee. And on page 4, the second paragraph reads, "public-education efforts will be warranted if these bills are enacted, and your Committee agreed". I want, I just want the Council to consider that, because the worry I have is that their, that implies there's a lack of transparency in the process.

You go on to say in the next paragraph that the purpose is to ensure greater transparency in the property tax system. So, you know, and, and again, the one other point in that report says that you would look at hosting presentations and discussions during the budget session in April. And that that worries me, because I know what, how crazy the budget session can be and how much happens at that time. So, I do think that community meetings could be held prior to the April budget session. I do think that that could be accomplished. And I just want to keep this simple.

In closing, I think these are good changes. I want to see them enacted. But I don't want to see the community backlash from tax reform, which we've seen before; you think about Upcountry Ag farmers. We, the backlash can be brutal. And I just, I don't want to risk losing good legislation for the appearance or the lack of transparency. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Frampton. We have questions for you.

Member Paltin, oh, Member Su--

COUNCILMEMBER SUGIMURA: Go ahead. Go ahead.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Paltin and then Member Sugimura.

COUNCILMEMBER PALTIN: Thank you. Thank you, Member Sugimura. Thank you, Chair. Thank you, Mr. Frampton, for all your service and your testimony. My question was, when you're talking about the community outreach, what did you envision that as? Like, the Council going to the community or the Department going to the community or the individual Councilmember?

MR. FRAMPTON: Either or. I'll leave the details up to what the Department or what the Council feels necessary, but yea.

COUNCILMEMBER PALTIN: So, any of those three would be acceptable?

MR. FRAMPTON: I'll leave it up to smarter people than me. But I would just, again, I'm just encouraging transparency in the process, and the end product will be a lot stronger if that occurs, in my opinion. So, I just, again, I don't want to risk seeing good legislation robbed. If you get a backlash during budget session, this thing could be shelved for another year. I think we need it now.

COUNCILMEMBER PALTIN: And then when you're talking about that, like, you're not suggesting that we stall this right here? Like, we can pass it and then go to our communities, and then do it? Or are you suggesting before final, second and final reading?

MR. FRAMPTON: This is my personal opinion, I think your product is better going to first hearing after it's had more community input. But again, I'm going to leave that to smarter folks to decide.

COUNCILMEMBER PALTIN: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin.

Member Sugimura, and then Member Sinenci.

COUNCILMEMBER SUGIMURA: So, Member Paltin asked kind of what I was wondering from you, because today we're at first reading. And I hear you loud and clear in, in just, just from talking to the community or different people who have done some outreach to my office. The agriculture people are kind of concerned for some transparency. And the Committee did great work in working, the TIG did a lot of work working to get where we are today. I'm glad to hear that you support these changes and why, but I think there's some questions out there that still need to be answered. So, you're not saying, we're, we're getting testimony saying hold today and then have community meetings for transparency. But where are you on that?

MR. FRAMPTON: I'm advocating for transparency. And, and this kind of goes back to the previous question. And that is, entertaining what I would say Committee work on the, the full Council floor is always difficult and discouraged. And I know that can make things difficult. If you have community meetings and maybe some slight changes come out, if there's a fast-track way to do that on the floor in full Council, great. But a lot of times trying to make, you know, trying to do Committee work at the full Council is, is hard.

COUNCILMEMBER SUGIMURA: Discouraged. Thank you. Thanks for being here.

MR. FRAMPTON: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sugimura.

Member Sinenci, and then Member Lee.

COUNCILMEMBER SINENCI: Thank you, Mr. Frampton, for being here. So, you overall, do you support the tier structure, where, I guess, where, where we can have like different tiers or different flexibilities for specific situations when we're looking at each of the categories?

MR. FRAMPTON: In a very broad sense, yes. And, but I want to make sure, I want to make sure that everybody affected by these changes has a chance to understand what is happening to them before it happens.

COUNCILMEMBER SINENCI: So, so, possibly contribute to what, how those tiers might be developed or, or looked at, or set?

MR. FRAMPTON: Or making sure people, yea, or maybe just making sure people understand what is happening, so.

(Councilmember Paltin was excused from the meeting at 10:15 a.m.)

COUNCILMEMBER SINENCI: Okay. Thank you. Thank you, Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sinenci.

Member Lee, and then Member Molina.

COUNCILMEMBER LEE: Hi Dean.

MR. FRAMPTON: Hi.

COUNCILMEMBER LEE: Thank you for coming.

MR. FRAMPTON: Sure.

COUNCILMEMBER LEE: Just wanted to let you know, even though I'm supposed to be asking you a question, I just want to let you know that what we're working on is a structural change and we will get to the actual rates later. So, we, so we have to move in, in a logical methodical way to get to the point where we can actually talk about the changes in, in revenues, yea.

But for now, we are actually looking for, our goal was actually to be revenue neutral from the beginning, yea; not to go from zero to 100 in, in 20 seconds. The idea is to, to make sure that the structure is properly built, established, and then when the time comes, we will discuss the actual rates, you know. So, we don't know the, the numbers at this point, because we have to decide on that and that won't be for a while.

The next step, you know, when we have our phase 2 with the TIG, then we'll go into the incentives and, and you know, hone in on the comments that we're receiving, the feedback we are receiving and, and see if we can refine what we have so far and make it better. But in the meantime, your idea of, as the Committee Report says, we are starting outreach now and it's not like next, next year. Ms. Kama and I will be doing several for Central Maui and I'm sure some of the Council, other Councilmembers will be doing their outreach themselves, as well as the Departments.

So, we realize, we realize, like, as you say, it's important to, to educate the public and get the feedback now before the final decisions are made in April of next year. So, thank you for coming and I appreciate your support.

(Councilmember Paltin returned to the meeting at 10:17 a.m.)

MR. FRAMPTON: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Lee.

Member Molina.

COUNCILMEMBER MOLINA: Yea, thank you, Madam Chair. Good morning, Mr. Frampton. First of all, thank you for sharing that perspective of the points of transparency, which seems to be the political byword over the last several years.

If I could just dovetail off Member Lee's comments. What we're looking at today is, as the analogy of a house, this is just the foundation. There's still more work to be done by the TIG as far as putting the frame to the house and the roof and everything. So, this is just the initial steps.

And you mentioned the educational aspect and I guess it was sort of touched upon by Member Lee. I guess something similar to what we do during the budget session, we go out to the various community plan districts and educate the public. I guess that's something that maybe in, in tandem with the Administration to educate the public. And I certainly understand there may be some fear of any time a change is being proposed, especially by government. And certainly, that's well-respected I think by all of us.

So, you know, I feel this body will certainly respects that and we appreciate your input. And, and I guess it was mentioned earlier about getting in earlier to give your input, so that way when we reach this point then, you know, if we had heard some of these concerns early on, then maybe we could have addressed some of the concerns that we've been hearing in public testimony this morning.

So, any other suggestions for the educational aspect besides the, like, evening public hearings? Anything else you can suggest to us?

MR. FRAMPTON: The, you know, there's various groups. You know, the Realtor's Association, vacation rent, you know, there's farmer's asso, there's a lot. And again, I, there's--

COUNCILMEMBER MOLINA: So, meeting with various individual groups?

MR. FRAMPTON: I think. But I want to be clear, I'm in support of this. And, and I want to see the end product succeed. And so, I hope it doesn't come across like I'm taking shots at the process. I'm just--

COUNCILMEMBER MOLINA: No.

MR. FRAMPTON: I'm just, I'm just wanting to ensure there's transparency, because I've, I've been through the last-minute changes in reform when they were trying to propose new rules. And I've seen the outla, the backlash and the outcry, and it will railroad a good effort in no time, so.

COUNCILMEMBER MOLINA: Yea, I appreciate that, cause you don't want to see any unintended consequences, you know. So, but yea, your input is always welcomed here. Thank you.

MR. FRAMPTON: Thank you.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina.

Sorry, Mr. Frampton, one more question. Or a couple more questions. Okay. Mahalo for your support of the passage of this bill. So, is, is it your understanding that the discussion of establishing tiers is, is something new or has it been discussed before?

MR. FRAMPTON: In its current format, I believe it represents something that's a little different than what we're used to, so.

VICE-CHAIR RAWLINS-FERNANDEZ: But the discussion of establishing tiers to our tax rate has been discussed before?

MR. FRAMPTON: I'm unaware of that.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, okay. I just, I, I thought maybe you would know since you worked for the County.

MR. FRAMPTON: Many years ago.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, I see. Sorry. So, it's not new. And the discussions have been had before. And the way that the TIG sees it is, you know, we're taking the football into the endzone. So, the work that has been done before, we're completing.

And I agree in Committee with all the Members in reaching out. I personally hold townhall every month in my district. And for public outreach and transparency, I'm sorry you, you read our CR to imply that there was a lack of transparency, because on September 29, EDB made our TIG final report available publicly on October 3 and October 17. We had Committee hearings, and which is livestreamed on the internet, as well as shown on Akaku channel 53. And here it is for first reading.

I also published an article explaining these amendments on October 26 in the Maui News and will continue to outreach with the communities. I plan to go with Member Sugimura to the Kula Community Association. So, there is a lot of outreach that is happening. A lot of transparency and public discussion. And, and we can continue to go and meet with particular groups if that's the desire. But, so, I, I mahalo for your ideas and for coming out today.

MR. FRAMPTON: Was that a question? Or may I respond?

VICE-CHAIR RAWLINS-FERNANDEZ: Yes.

MR. FRAMPTON: Okay. Yea, in everything that you presented and, and is, the information is out there. But when you're talking about a mom and pop that's, or a family that can't come to these meetings or follow these meetings online from their, their couch at home, they don't get a chance to talk to the tax appraiser. They don't get a chance to find out what the, how the tax department is going to, how it affects to them. So, yea, this has been, what is here is, is kind of big picture. And sometimes it gets very detailed and it's hard for these entities to under, these families to understand and how it's going to affect them.

And no offense, but these Council meetings can run long, it's hard for people to pay attention, we're working, people have got things going on. So, again, I applaud everything that's been done today. And I just, I'm encouraging you, for the sake of this good legislation, to try and get more feedback. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Are you saying we're not entertaining? Mahalo for your testimony.

MR. FRAMPTON: Oh, entertaining for sure. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo for your testimony.

Madam Clerk, do we have any testifiers in our chamber?

DEPUTY COUNTY CLERK: Madam Chair, it looks like we have one more testifier; Jasee Lau.

MR. JASEE LAU:

Jasee Lau from Kula. Hey, Madam Chair, how come if we can get that guy from Australia, how come we can't get the people from Molokai up on the TV?

I have my own agenda today. Since the Council Chair is gone, I can get away with a personal privilege. Let's see. Don't laugh, Alice. So, you know that King of Albania?

VICE-CHAIR RAWLINS-FERNANDEZ: Mr. Lau, what, what item are you speaking to?

MR. LAU: I want to make a motion to, when you go to Albania, they make you the honorable queen. I just wanted a personal privilege for the Council Chair, say the king is dead, long live the king.

And I agree with my, my Upcountry representative; the Supreme Court comments are irrelevant here.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Lau.

Madam Clerk.

DEPUTY COUNTY CLERK: Madam Vice-Chair, there are no other individuals in the District Offices nor the chamber who wish to offer testimony. And we have received written testimony for this meeting.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Members, if there are no objections, I will close public testimony.

MEMBERS VOICED NO OBJECTION.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. And is there any objection to receiving written testimony into the record?

MEMBERS VOICED NO OBJECTION.

THERE BEING NO OBJECTION, WRITTEN TESTIMONY RECEIVED FROM THE FOLLOWING WERE MADE A PART OF THE RECORD OF THIS MEETING:

1. Eric Poulsen;
2. Kimberly Svetin; Molokai Drugs, Inc.;
3. Jason Economou, Realtors Association of Maui;
4. Joanne Foxxe;
5. Chris Haigh;
6. Kim Insley-Morrell;
7. Ryan and Kim Link;
8. Dan Macdonell, Hawaii Life Real Estate Broker, Wailea;
9. Teri Palmer;
10. Simon Russell, Hui `O Malama `Aina LLC;
11. Christopher Salem;
12. Gail Swanson, Hawaiian Style Realty LLC;

13. Pamela Tumpap, Maui Chamber of Commerce; and
14. Roy Vandoorn.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Great. Okay.

Okay. Madam Chair. Oh sorry, Madam Clerk.

DEPUTY COUNTY CLERK: Thank you. Madam Vice-Chair, proceeding with the minutes.

MINUTES

The minutes of the Council of the County of Maui's regular meeting of August 23, 2019, was presented at this time.

VICE-CHAIR RAWLINS-FERNANDEZ: Pro Tem Kama.

COUNCILMEMBER KAMA:

MADAM CHAIR, I MOVE TO APPROVE THE MINUTES OF THE
REGULAR MEETING OF AUGUST 23, 2019, AS POSTED ON
THE AGENDA.

COUNCILMEMBER SUGIMURA:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. Moved by Pro Tem Kama, seconded by
Member Sugimura.

Members, discussion? Okay, seeing no discussion, all those in favor please say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,
PALTIN, SINENCI, SUGIMURA, AND
VICE-CHAIR RAWLINS-FERNANDEZ.

VICE-CHAIR RAWLINS-FERNANDEZ: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA AND CHAIR KING.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Motion passes unanimously, seven "ayes", two "excused"; Chair King and Member Hokama.

Madam Clerk.

DEPUTY COUNTY CLERK: Madam Vice-Chair, proceeding with county communications.

COUNTY COMMUNICATIONS

NO. 19-424 - LORI TSUHAKO, DIRECTOR OF HOUSING AND HUMAN CONCERNS, (dated October 11, 2019)

Transmitting Modification Order No. 13 of Resolution No. 10-57, to provide a status update on the Kula Ridge Affordable Housing Subdivision.

VICE-CHAIR RAWLINS-FERNANDEZ: Pro Tem Kama.

COUNCILMEMBER KAMA: It's coming to my Committee, Chair.

The recommended action is that County Communication No. 19-424 be referred to the Affordable Housing Committee.

(See page 40 for additional discussion.)

NO. 19-425 - SCOTT K. TERUYA, DIRECTOR OF FINANCE, (dated October 15, 2019)

Transmitting a summary of the temporary transfers/loans from the General Fund and Department of Water Supply Revenue Fund to the 2020 Proposed General Obligation Bond Fund, as of September 30, 2019.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. That'll be Member Lee.

(See pages 41 and 42 for discussion.)

DISCUSSION RELATING TO
COUNTY COMMUNICATION NO. 19-424

VICE-CHAIR RAWLINS-FERNANDEZ: But before I call on Member Lee, for County Communication 19-424, Pro Tem Kama requesting that to be referred to--

COUNCILMEMBER KAMA: AH.

VICE-CHAIR RAWLINS-FERNANDEZ: --the Affordable Housing Committee.

COUNCILMEMBER KAMA: Yes. I'm sorry. Thank you, Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo for that clarification.

Member Lee.

COUNCILMEMBER LEE: I received a request from Member Sugimura to have that item referred to the WAI Committee, but.

COUNCILMEMBER SUGIMURA: It's fine.

COUNCILMEMBER LEE: Which, going to--

COUNCILMEMBER SUGIMURA: Yea, that's fine. Sorry.

COUNCILMEMBER LEE: --Affordable Housing. Okay. Just scratch those remarks.

COUNCILMEMBER SUGIMURA: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Which, which item are you referring to, Member Lee?

COUNCILMEMBER SUGIMURA: 19--

COUNCILMEMBER LEE: 19-424.

COUNCILMEMBER SUGIMURA: Same one.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh okay. And you're okay with it going to Affordable Housing instead of WAI?

COUNCILMEMBER SUGIMURA: Yes.

COUNCILMEMBER KAMA: Thank you, everyone. I just love that.

**DISCUSSION RELATING TO
COUNTY COMMUNICATION NO. 19-425**

VICE-CHAIR RAWLINS-FERNANDEZ: Member Lee.

COUNCILMEMBER LEE: Is it my turn?

COUNCILMEMBER SUGIMURA: Now your turn.

VICE-CHAIR RAWLINS-FERNANDEZ: Yea. It's County Communication 19-425.

COUNCILMEMBER LEE: Aren't all of these going to be referred or do you want them filed, yours?

VICE-CHAIR RAWLINS-FERNANDEZ: The first one will go to EDB. And the next three to be filed, if that is the wish of the Council.

COUNCILMEMBER SUGIMURA: Second.

COUNCILMEMBER LEE: Alright. On behalf of the Chair, she can't make the motion.

ON BEHALF OF THE CHAIR OF EDB, I WOULD LIKE TO
REFER COUNTY COMMUNICATION 19-425 TO THE EDB
COMMITTEE.

And if there are no objections, to file 19-426, 19-427, AND 19-428.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Lee.

COUNCILMEMBER SUGIMURA:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Sorry. So, we're on County Communication 19-4, County Communication 19-425, and the request is for it to be referred to EDB Committee. And then we'll ask Madam Clerk to read the next, to call up the next three items. And then we'll have the motion to file those.

COUNCILMEMBER SUGIMURA: File.

COUNCILMEMBER LEE: Okay.

The recommended action is that County Communication No. 19-425 be referred to the Economic Development and Budget Committee.

VICE-CHAIR RAWLINS-FERNANDEZ: Madam Clerk, will you please call up the next three items?

DEPUTY COUNTY CLERK: Yes. Thank you, Madam Vice-Chair.

NO. 19-426 - TIVOLI S. FAAUMU, CHIEF OF POLICE,
(dated October 3, 2019)

Transmitting a grant agreement with the State of Hawaii, Department of Transportation for the MPD Traffic Records grant to increase the budget by \$30,000.

NO. 19-427 - MARC TAKAMORI, DIRECTOR OF TRANSPORTATION,
(dated October 23, 2019)

Transmitting a copy of the notice of release of grant award from the State of Hawaii, Department of Transportation for the Federal Transit Administration, Section 5311 Non-Urbanized Area Formula Program in the amount of \$537,140.

NO. 19-428 - MARC TAKAMORI, DIRECTOR OF TRANSPORTATION,
(dated October 23, 2019)

Transmitting a copy of the Authorization and Project Agreement in the amount of \$350,000 for the Maui MPO FY2020 Unified Planning Work Program.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Madam Clerk.

Member Lee.

COUNCILMEMBER LEE: Madam Chair, the 19-426 through 19-428 are primarily informational items.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Lee, will you please make the motion?

COUNCILMEMBER LEE: I thought I did? Oh okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay.

COUNCILMEMBER LEE:

I MOVE TO FILE 19-426, 19-427, AND 19-428.

COUNCILMEMBER SUGIMURA:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. Moved by Member Lee, seconded by Member Sugimura.

Discussion? Okay, seeing no discussion, I'll call for the question. All those in favor of filing, please say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,
PALTIN, SINENCI, SUGIMURA, AND
VICE-CHAIR RAWLINS-FERNANDEZ.

VICE-CHAIR RAWLINS-FERNANDEZ: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA AND CHAIR KING.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Seeing none, the motion passes unanimously seven "ayes", two "excused"; Chair King and Member Hokama.

Member Lee. Sorry.

COUNCILMEMBER LEE: Are we going to skip to Mike.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Molina. Oh. Sorry.

COUNCILMEMBER MOLINA: If the Clerk could read the item first?

VICE-CHAIR RAWLINS-FERNANDEZ: Madam Clerk.

NO. 19-429 - MICHAEL P. VICTORINO, MAYOR,
(dated October 15, 2019)

Informing of a vacancy on the Board of Ethics due to the resignation of Napua Greig on October 14, 2019.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Molina.

COUNCILMEMBER MOLINA: Right on, Madam Chair. I'm ready now.

MADAM CHAIR, MOVE TO FILE COUNTY COMMUNICATION
NO. 19-429.

COUNCILMEMBER LEE:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Motion made by Member Molina, seconded by Member Lee.

Any discussion?

COUNCILMEMBER MOLINA: Yes, Madam Chair, yes.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Molina.

COUNCILMEMBER MOLINA: If I may? Napua Greig has been serving on the Board of Ethics since 2017. And citing out of State work commitments. And also, I guess mostly due to that, she submitted a resignation letter to the Administration on October 14, 2019. So, we'd like to thank Ms. Greig for her service to our community on this Board. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina. And I'll also extend my deep mahalo for Ms. Greig's serving our community on the Board of Ethics.

Okay, any other comments or discussion? Seeing none, I'll call for the question. All those in favor of the motion, please say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,
PALTIN, SINENCI, SUGIMURA, AND
VICE-CHAIR RAWLINS-FERNANDEZ.

VICE-CHAIR RAWLINS-FERNANDEZ: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA AND CHAIR KING.

VICE-CHAIR RAWLINS-FERNANDEZ: Motion passes unanimously; seven "ayes", two "excused"; Chair King and Member Hokama.

Madam Clerk.

NO. 19-430 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated October 10, 2019)

Informing of the acceptance of Sewerline Easement 10, Skill Village Subdivision,
TMK: (2) 2-5-012:044 POR.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Lee.

COUNCILMEMBER LEE: Madam Chair, could we have, if there are no objections, the Clerk bring up items 19-431 through 19-437?

VICE-CHAIR RAWLINS-FERNANDEZ: Members, any objections?

MEMBERS VOICED NO OBJECTION.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Seeing no objections, Madam Clerk, please call up the items.

NO. 19-431 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated October 10, 2019)

Informing of the acceptance of Sewerline Easement S-1, Paunau Tract No. 2, Lot 11,
TMK: (2) 4-6-026:067 POR.

NO. 19-432 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated October 10, 2019)

Informing of the acceptance of Sewerline Easement S-3, Sandhills Estates,
TMK: (2) 3-8-089:111 POR.

NO. 19-433 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated October 15, 2019)

Informing of the acceptance of a Warranty Deed for Road Widening Lot, Parcel A-2, Kuiaha-Kaupakulua Homesteads, TMK: (2) 2-7-013:049 POR.

NO. 19-434 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated October 23, 2019)

Informing of the acceptance of Sewerline Easement S-2, Portion of Lot 2 of Kualii, Section 2 of the 2nd Partition of Hamakuapoko Hui, TMK: (2) 2-6-004:015 POR.

NO. 19-435 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated October 23, 2019)

Informing of the acceptance of Sewerline Easement S-3, Lot 3-A, Portion of Lot 3 of Section 2 of the 2nd Partition of Hamakuapoko Hui, TMK: (2) 2-6-004:014:0002 POR.

NO. 19-436 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated October 31, 2019)

Informing of revised Waterline Easement W-1, Pueo Hills Subdivision, Lot 128-B-8, TMK: (2) 2-3-022-007 POR.

NO. 19-437 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated October 31, 2019)

Informing of revised Waterline Easement W-2, Pueo Hills Subdivision, Lot 128-B-9, TMK: (2) 2-3-022-007 POR.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo.

Member Lee.

COUNCILMEMBER LEE:

MADAM CHAIR, I MOVE TO FILE 19-430 THROUGH 19-437.

COUNCILMEMBER MOLINA:

SECOND.

COUNCILMEMBER SUGIMURA: Second.

VICE-CHAIR RAWLINS-FERNANDEZ: Moved by Member Lee, seconded by Member Molina.

Members, discussion?

COUNCILMEMBER SUGIMURA: I have a question.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, sorry. Member Lee.

COUNCILMEMBER LEE: Thank you, Madam Chair. Okay, most of these communications have to do with either sewerlines or waterlines and one road widening lot. These are available to us for informational purposes, and I therefore ask that the Members approve filing these items.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Lee.

Member Sugimura.

COUNCILMEMBER SUGIMURA: I support this, but I, I have a question. Are any of these at Haliimaile? Because I'm not familiar with the streets, so I apologize for that.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Lee.

COUNCILMEMBER LEE: No.

COUNCILMEMBER SUGIMURA: None. Okay. Fine.

COUNCILMEMBER LEE: Why are you asking?

COUNCILMEMBER SUGIMURA: Just because things are happening in Haliimaile.

COUNCILMEMBER LEE: Oh.

COUNCILMEMBER SUGIMURA: So, I'm just curious.

COUNCILMEMBER LEE: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Member Sugimura. Mahalo, Member Lee.

Members, any other discussion? Seeing none, I'll call for the question. All those in favor of the motion, please say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,
PALTIN, SINENCI, SUGIMURA, AND
VICE-CHAIR RAWLINS-FERNANDEZ.

VICE-CHAIR RAWLINS-FERNANDEZ: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA AND CHAIR KING.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Seeing no opposition, the motion carries unanimously. Seven "ayes"; no, zero "noes"; two "excused", Chair King and Member Hokama.

Okay. Madam Clerk.

NO. 19-438 - TASHA KAMA, PRESIDING OFFICER PRO TEMPORE,
(dated October 30, 2019)

Relating to Councilmembers' report on a Talk-Story Session regarding homeless individuals in Kahului, held on October 23, 2019.

VICE-CHAIR RAWLINS-FERNANDEZ: Pro Tem Kama.

COUNCILMEMBER KAMA:

I MOVE TO FILE COUNTY COMMUNICATION 19-438.

COUNCILMEMBER SUGIMURA:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Moved by Pro Tem Kama, seconded by Member Sugimura.

Pro Tem Kama.

COUNCILMEMBER KAMA: Councilmembers Lee, Molina, Sugimura, and I attended a talk story session organized with the assistance of the Office of the Managing Director on September 23, 2019, in the parking lot of the former Safeway Store in Kahului.

An invitation was circulated to the businesses in the Kahului Industrial Area between East Kamehameha Avenue, Hoohana Street, East Wakea Avenue, and Alamaha Street; both by email and by canvassing the area. I'd like to thank Councilmember Sugimura's staff for assisting in the canvassing effort.

Approximately 57 people attended this session, including 44 business owners, concerned employees, and members of the general public. Safety or the lack of safety, was a dominant concern expressed by attendees, followed by a desire to solve this issue rather than continuing to talk about it. Many expressed a concern that they have lost the community that they enjoyed working in. They no longer feel safe walking to lunch or doing other activities outside of their place of employment.

The Department of Housing and Human Concerns Director Lori Tsuhako explained the County's current approach to those who lack shelter. She stressed that there is a help, that there is help for those who want to be helped. All assistance to those without shelter, such as providing meals, and showers, and laundry services, need to be tied to social services so that we are not continuing to enable the unsheltered to continue in their unsheltered condition.

Mayor Victorino spoke briefly on this issue and noted the Council's budgetary control and development approval responsibilities. I thank the Mayor for taking the time to attend that meeting.

Sergeant Jan Pontanilla addressed the role of the police in dealing with the unsheltered and emphasized that it is a long-term process that often involves multiple interactions. She stressed that business owners and operators need to report crimes they see being committed.

Lawrence Kauhaahaa spoke about the Clean and Safe Program that operates in Uptown Wailuku and introduced Greg Payton of Mental Health Kokua, which operates a one-stop center for the unsheltered in Wailuku. Both spoke about what their programs offer and the possibility of establishing similar programs in other areas of the County.

I am making this report about a meeting which complied with State Sunshine Law, specifically all requirements of Section 92-2.5(e) of the Hawaii Revised Statutes. Vice-Chair Rawlins-Fernandez, that concludes my report.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Pro Tem Kama.

Okay. Members, any other discussion, comments, or questions?

Member Sugimura.

COUNCILMEMBER SUGIMURA: I, I want to express appreciation to Member Kama for being the, the force I guess, that put this meeting together. It was asked by the Veteran's Office, which is right where the shooting took place that caused this kind of community concern. And I look forward to hearing future steps for how this, how we can help with this problem and help house the homeless. And so, solve other problems that were addressed through these efforts. Thanks a lot.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sugimura.

Member Molina.

COUNCILMEMBER MOLINA: Yea, thank you, Madam Chair. And I too want to echo the sentiments of my colleague, Ms. Sugimura, in expressing appreciation to Member Kama. My thoughts on this session was very good, it brought a lot of, not only business folks, but also those in need.

And the Mayor had stated, requested a commitment from the Council to address this homeless issue, well I'm not sure if you remember, but during the past budget session with part of what was your recommendation, Madam Chair. And Member Lee cited it at the meeting as well, the Council committed millions, I don't know how much exactly, to already address this issue.

So, this Council, Madam Chair, has made a commitment in case that others think we haven't. But we do want to work with the Administration to address this homeless issue. So, just in case there are folks out there who thought the Council is not making a, you know, taking steps forward to address this issue, I just wanted to remind folks. So, and it's all there is the budget. We made a commitment, give the Administration millions to address this issue, working in tandem with this Council. Thank you.

And I want to thank Member Lee for refreshing our memories at that meeting. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina, for that refresher and reminder to the community.

Okay. Members, any other questions or comments? Seeing none, I'll call for the question. All those in favor please say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,
PALTIN, SINENCI, SUGIMURA, AND
VICE-CHAIR RAWLINS-FERNANDEZ.

VICE-CHAIR RAWLINS-FERNANDEZ: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA AND CHAIR KING.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Motion passes unanimously, two "excused"; Chair King and Member Hokama.

Members, I see that the time is 10:42. It's past our morning break. The Chair's intention is to call up the next item, and then have our ten-minute break, and return for the last referral items.

Okay. Madam Clerk.

NO. 19-439 - KELLY T. KING, COUNCIL CHAIR,
(dated October 31, 2019)

Transmitting a proposed resolution entitled "APPROVING THE APPOINTMENT OF ANA LILLIS AS LEGISLATIVE ANALYST IN THE OFFICE OF COUNCIL SERVICES".

VICE-CHAIR RAWLINS-FERNANDEZ: Pro Tem Kama.

COUNCILMEMBER KAMA:

I MOVE TO ADOPT THE RESOLUTION FOR ANA LILLIS,
TRANSMITTED WITH COUNTY COMMUNICATION 19-439.

COUNCILMEMBER LEE:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Moved by Pro Tem Kama, seconded by Member Lee.

Pro Tem Kama.

COUNCILMEMBER KAMA: Ms. Lillis received her Bachelor of Arts Degree in Business at the University of Hawaii, West Oahu. She was currently employed as a Planner IV, Zoning and Enforcement with the County of Maui, Department of Planning. She was previously employed as a Real Property Compliance Specialist II with the County of Maui's Department of Finance. Ms. Lillis's County of Maui experience in both Planning and Finance will make her a great asset in the Office of Council Services.

I ask for the Members full support in adopting the resolution for Ms. Lillis.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Pro Tem Kama. And was it your intention to also file the county communication in your motion?

COUNCILMEMBER KAMA: Yes, Chair, that is my intent. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo Pro Tem Kama.

Members, Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. So, I just wanted to inquire, cause I think this was the applicant that was on our last agenda, pulled their name, and then came back. So, I'm just curious, I, I didn't interview her. I've worked personally with her.

So, how come? Just curious. Maybe somebody else, you know, had that question or might have interviewed her. I didn't.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Paltin.

COUNCILMEMBER PALTIN: I just was noticing that the applicant is in the audience. And maybe I didn't have a chance to interview either cause, you know, a lot of stuff going on, maybe if she'd like to just say a few words, that would be super cool. If she's open to it.

VICE-CHAIR RAWLINS-FERNANDEZ: Members, are there any objections to asking Ms. Lillis to step to the podium?

MEMBERS VOICED NO OBJECTION.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Ms. Lillis, will you please join us at the podium? And I'll go back to Member Sugimura, if you have any questions.

COUNCILMEMBER SUGIMURA: Yea, so that was my question. I know that, I noticed that you were on the agenda. You withdrew before we could change the last agenda, so your name appeared then, and you're here now, so what happened?

MS. ANA LILLIS: Absolutely. Thank you for the question. So, there was a salary miscommunication on my end. I tried to renegotiate. I received a very generous offer from my current employer, and I wanted to be reconsidered. And we were able to iron it out and, you know, that's why we're here today. And essentially, I do want to communicate that it wasn't a hesitation on my end, it wasn't a second-guessing that I want this job. And I want to contribute to the Office of Council Services.

COUNCILMEMBER SUGIMURA: So, clarity. So, clarification. So, basically, what you did was you had a salary miscommunication?

MS. LILLIS: So, we, we were able to renegotiate a step higher and so that was the resolution. There was a miscommunication on my end wanting to be considered at a range. And I was under the impression that no higher steps were possible, and so that's why I withdrew my application. But through a further email, and a follow-up, and a thank you, we were actually able to iron out that; oh, actually, wait, let's talk about just one step higher and if that's okay. And so, that's the resolution that we were able to come to.

COUNCILMEMBER SUGIMURA: Oh, so that was, that was the cause for the salary change? In order to get you, we had to pay you more kind of, right?

MS. LILLIS: In the cost benefit ratio that we all do and, you know, given the economic situation that I'm in as a renter and wanting to be here on Maui, that's the, what I had to ask for. So, I'm really happy that we were able to iron it out.

COUNCILMEMBER SUGIMURA: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sugimura.

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. And I appreciate you being here, being that I, we didn't interview. I had one question and it was just, you know, on the record. Are you willing to commit to the full term, till the end? Because as people leave and were

only offered, allowed to offer employment for the term that we're sitting on the Council, it gets harder to fill the term the less amount of term there is. So, I just hope that we could get that commitment on the record.

MS. LILLIS: Absolutely. You have my full commitment for the exact term, and my hopes to pursue it further. But yes, you have my absolute commitment. And I understand the situation.

COUNCILMEMBER PALTIN: Thank you.

MS. LILLIS: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin.

Members, are there any other questions for Ms. Lillis? Okay. Seeing none, mahalo for joining us up at the, on the floor.

MS. LILLIS: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Members, any other discussion before I call for the question? Okay, seeing none, I'll call for the question. All those in favor of the motion, please say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,
PALTIN, SINENCI, SUGIMURA, AND
VICE-CHAIR RAWLINS-FERNANDEZ.

VICE-CHAIR RAWLINS-FERNANDEZ: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA AND CHAIR KING.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Seeing none, the motion carries unanimously, seven "ayes", two "excused"; Chair King and Member Hokama.

Okay, Members, we will have our morning break now for ten minutes. It's 10:47, so if we can be back in our seats by 10:57, 11:00? It'll probably end up being 11:00 anyway. So, yea, please return in ten minutes. It's 10:47 on November 8. And the regular Council meeting is now in recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:47 A.M., AND WAS RECONVENED AT 11:09 A.M., WITH ALL MEMBERS PRESENT, EXCEPT COUNCILMEMBER HOKAMA AND CHAIR KING).

VICE-CHAIR RAWLINS-FERNANDEZ: Will the regular Council meeting of the Maui County Council please return to order. It's 11:09 on November 8. And we're going to, mahalo for that break, Members. We're going to pick up where we left off.

Madam Clerk.

DEPUTY COUNTY CLERK: Thank you, Madam Vice-Chair. Proceeding with items for referral to Committee.

NO. 19-440 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated October 17, 2019)

Transmitting a report on short-term investments for the quarter ended September 30, 2019.

The recommended action is that County Communication No. 19-440 be referred to the Economic Development and Budget Committee.

NO. 19-441 - MICHAEL P. VICTORINO, MAYOR,
(dated October 21, 2019)

Transmitting a proposed resolution entitled "APPROVING COST ITEMS FOR BARGAINING UNIT 13, INCLUDED EMPLOYEES".

The recommended action is that County Communication No. 19-441 be referred to the Economic Development and Budget Committee.

NO. 19-442 - MICHAEL P. VICTORINO, MAYOR,
(dated October 21, 2019)

Transmitting a proposed resolution entitled "APPROVING COST ITEMS FOR BARGAINING UNIT 13, EXCLUDED EMPLOYEES".

The recommended action is that County Communication No. 19-442 be referred to the Economic Development and Budget Committee.

NO. 19-443 - MICHAEL P. VICTORINO, MAYOR,
(dated October 29, 2019)

Transmitting a proposed resolution entitled "APPROVING COST ITEMS FOR BARGAINING UNIT 02, SUPERVISORY, BLUE COLLAR EMPLOYEES".

The recommended action is that County Communication No. 19-443 be referred to the Economic Development and Budget Committee.

NO. 19-444 - DON GUZMAN, PROSECUTING ATTORNEY,
(dated October 7, 2019)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE DEPARTMENT OF THE ATTORNEY GENERAL, STATE OF HAWAII", relating to granting of funds for the VOCA, Victim Assistance Grant, Special Needs Advocacy Project.

The recommended action is that County Communication No. 19-444 be referred to the Governance, Ethics, and Transparency Committee.

NO. 19-445 - DON GUZMAN, PROSECUTING ATTORNEY,
(dated October 9, 2019)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE DEPARTMENT OF THE ATTORNEY GENERAL, STATE OF HAWAII", relating to granting of funds for the Stop Violence Against Women Formula Grant, Domestic Violence Investigation.

The recommended action is that County Communication No. 19-445 be referred to the Governance, Ethics, and Transparency Committee.

NO. 19-446 - TIVOLI S. FAAUMU, CHIEF OF POLICE,
(dated October 15, 2019)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI THROUGH THE CHIEF OF POLICE TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF HEALTH".

The recommended action is that County Communication No. 19-446 be referred to the Governance, Ethics, and Transparency Committee.

NO. 19-447 - TIVOLI S. FAAUMU, CHIEF OF POLICE,
(dated October 21, 2019)

Transmitting a proposed resolution entitled "AUTHORIZING THE ADOPTION OF A REVISED RECORDS DISPOSITION SCHEDULE FOR THE DEPARTMENT OF POLICE PURSUANT TO SECTION 46-43, HAWAII REVISED STATUTES".

The recommended action is that County Communication No. 19-447 be referred to the Governance, Ethics, and Transparency Committee.

NO. 19-448 - MICHAEL J. MOLINA, CHAIR, GOVERNANCE, ETHICS, AND
TRANSPARENCY COMMITTEE, (dated November 1, 2019)

Transmitting a proposed resolution entitled "OPTING OUT OF THE NEGOTIATION CLASS IN THE NATIONAL PRESCRIPTION OPIATE LITIGATION".

The recommended action is that County Communication No. 19-448 be referred to the Governance, Ethics, and Transparency Committee.

(COUNTY COMMUNICATION NO. 19-448 WAS FILED LATER
IN THIS MEETING. See pages 59 through 72 for discussion and
action.)

NO. 19-449 - DAVID C. THYNE, FIRE CHIEF,
(dated October 30, 2019)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT AMENDING THE MEMORANDUM OF AGREEMENT FOR LIFEGUARD SERVICES BETWEEN THE STATE OF HAWAII AND THE COUNTY OF MAUI FOR MAKENA BEACH PARK".

The recommended action is that County Communication No. 19-449 be referred to the Governance, Ethics, and Transparency Committee.

NO. 19-450 - RIKI HOKAMA, COUNCILMEMBER,
(dated October 30, 2019)

Relating to Violations of County Ordinances and Administrative Rules by Schools at County Parks Facilities.

The recommended action is that County Communication No. 19-450 be referred to the Healthy Families and Communities Committee.

NO. 19-451 - TAMARA PALTIN, COUNCILMEMBER,
(dated October 30, 2019)

Relating to the impacts of mobile vacation rentals, including campers, trailers, and recreational vehicles.

The recommended action is that County Communication No. 19-451 be referred to the Planning and Sustainable Land Use Committee.

NO. 19-452 - TAMARA PALTIN, COUNCILMEMBER,
(dated October 30, 2019)

Relating to planning and land use policy for 5G technology.

The recommended action is that County Communication No. 19-452 be referred to the Planning and Sustainable Land Use Committee.

NO. 19-453 - KELLY T. KING, COUNCIL CHAIR,
(dated October 30, 2019)

Relating to review of Special Management Area permit enforcement.

The recommended action is that County Communication No. 19-453 be referred to the Planning and Sustainable Land Use Committee.

(COUNTY COMMUNICATION NO. 19-453 WAS LATER REFERRED TO THE ENVIRONMENTAL, AGRICULTURAL, AND CULTURAL PRESERVATION COMMITTEE. See pages 72 and 73.)

NO. 19-454 - MICHELE CHOUTEAU MCLEAN, PLANNING DIRECTOR,
(dated October 29, 2019)

Transmitting a letter from the West Maui Community Plan Advisory Committee on the proposed West Maui Community Plan update.

The recommended action is that County Communication No. 19-454 be referred to the Planning and Sustainable Land Use Committee.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Madam Clerk.

Members, are there are any objections to the referrals as read by our Deputy Clerk?

COUNCILMEMBER LEE: No objections. Oh, sorry.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Member Molina, and then Member Paltin.

**DISCUSSION RELATING TO
COUNTY COMMUNICATION NO. 19-448**

COUNCILMEMBER MOLINA: Yea, thank you very much, Madam Chair. I'd like to ask for consideration to pull up County Communication item No. 19-448 for discussion.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Madam Clerk.

COUNCILMEMBER MOLINA: And if the Clerk would like to read it again. Thank you.

NO. 19-448 - MICHAEL J. MOLINA, CHAIR, GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE, (dated November 1, 2019)

Transmitting a proposed resolution entitled "OPTING OUT OF THE NEGOTIATION CLASS IN THE NATIONAL PRESCRIPTION OPIATE LITIGATION".

VICE-CHAIR RAWLINS-FERNANDEZ: Member Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair, for this consideration, and Members.

Like most municipalities, Maui County is part of a class action lawsuit against opioid distributors and manufacturers, which has been quite a newsworthy topic of late. The Council has discovered that the Federal court in Ohio overseeing this case from back on September 11, established November 22, 2019, as the deadline to opt out of this class and, class action lawsuit and pursue independent litigation.

The resolution as attached to this communication, Madam Chair, would approve the County's opting out. And the communication has been submitted to allow for a public discussion and possible action before the November 22 deadline.

So, at this point, I'd just like to get, if Mr. Kushi is able to, just to kind of elaborate on this consideration?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina. We also have Mr. Caleb Rowe.

COUNCILMEMBER MOLINA: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: If you would like to--

COUNCILMEMBER MOLINA: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: --call him to the floor.

COUNCILMEMBER MOLINA: Yes, certainly.

VICE-CHAIR RAWLINS-FERNANDEZ: And perhaps he can provide some--

COUNCILMEMBER PALTIN: That's not Caleb Rowe.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh.

COUNCILMEMBER PALTIN: Thomas Kolbe.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, what did I call him?

COUNCILMEMBER LEE: Caleb Rowe.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh. Sorry. Scratch that from the record. Mr. Kolbe. Sorry. Yea, so, we'll have you properly identify yourself for the record. E kala mai.

DEPUTY CORPORATION COUNSEL THOMAS KOLBE: Did that work?

VICE-CHAIR RAWLINS-FERNANDEZ: One more time.

DEPUTY CORPORATION COUNSEL: Deputy Corporation Counsel Tom Kolbe.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo.

Member Molina. Oh, oh, would you like him to reply comments?

COUNCILMEMBER MOLINA: Yes, if Mr. Kolbe could elaborate.

VICE-CHAIR RAWLINS-FERNANDEZ: Mr. Kolbe, would you mind providing the Members some comments?

DEPUTY CORPORATION COUNSEL: I can, I can provide you a little bit of background. Member Molina already pointed out that this is a class-action settlement attempt to negotiate something between all of the municipal counties and cities and 14 or 13 defendants related to the opioid epidemic.

The 22, the November 22 deadline is for us to decide if we want to be part of that process, which we automatically are already, or whether he wants to file our own lawsuit and go our own way, which would opt out of participating in that process. That's a very difficult question and it involves discussion of a number of things. And I understand this is County Council as opposed to, I understand this the County Council as opposed to the Committee. But this would, would require us to discuss litigation tactics and the strength and weaknesses of our cases. And so, I know it would be unusual, but I would like to discuss those in a executive session.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Molina.

COUNCILMEMBER MOLINA: Okay. Thank, thank you, Madam Chair. And thank you, Mr. Kolbe for the insight on this matter. But for me, personally, I, I don' think at this point I would consider executive session today.

Well, we have a couple of options to consider with this. We can, if we want this to go to com, have a, I guess a larger discussion on this one consideration would be to waive requirement of committee referral because of the November 22 deadline. So, to have it go into Committee, have a discussion, then and go back to Council, there's no way we could meet this deadline.

Or we could just simply file the communication and stay with the class-action lawsuit, cause if we were to opt out, cause I know there's a high-risk and reward with this, but again, if we opted out, we would have to hire our own special counsel and more money, more, you know. So, there is a risk with that. And I cer, I'm not a gambler, at least with the public's dollar on this stuff. Yea, I see the smile there, Madam Chair.

But, but anyway, so my preference is, would be to stay status quo if you will; staying in the class-action lawsuit with everyone else and to consider filing of the communication. And as a side note to this, Hawaii County and Kauai County both filed cases in State court, but they've since been removed to Federal court and made part of the class-action lawsuit. And city of, City and County of Honolulu, they've taken no action and therefore is, you know, part of the class-action lawsuit by default.

So, again, my preference is to make a motion to file the communication and leave things the way they are. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina.

Discussion? Member Sugimura.

COUNCILMEMBER SUGIMURA: So, interesting. So, why is it on the agenda if we're going to, we're going to stay where we are, right, sounds like, and, and we were before today? So, just curious. Why, why did it come up for discussion? I mean, fine, I want to stay where we are and not lose the opportunity and don't gamble.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sugimura.

COUNCILMEMBER SUGIMURA: Just curious.

VICE-CHAIR RAWLINS-FERNANDEZ: Mr. Kolbe.

DEPUTY CORPORATION COUNSEL: I can't answer why it was agendized today. But with the, the November 22 deadline looming, the issue was if we were going to opt out, we needed to do it prior to November 22 or certain legal issues arise. And that's, that's the basis for why we were taking it up.

COUNCILMEMBER SUGIMURA: Okay. I stand by Mr. Molina's recommendation.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Member Sugimura.

Member Lee.

COUNCILMEMBER LEE: Thank you, Madam Chair. Mr. Kolbe, when, or did you submit this communication?

VICE-CHAIR RAWLINS-FERNANDEZ: Mr. Kolbe.

COUNCILMEMBER LEE: Where did it come from?

FIRST DEPUTY CORPORATION COUNSEL EDWARD KUSHI: Member Lee, what was your question again?

COUNCILMEMBER LEE: This communication, where did it come from? If, if you're asking us to opt out, the, it sounds like that your office sent us this communication and I was wondering when did you send the communication?

VICE-CHAIR RAWLINS-FERNANDEZ: Mr. Kolbe.

DEPUTY CORPORATION COUNSEL: Well, the communication that we're talking about, the, the notice to opt out, was sent by the Multi-District Litigation Judge out of the Northern District of Ohio. And that was sent in September, and it was sent to the, I think it was the Chief Legal Officer for the County of Maui, and then referenced building 709. And so, I don't know frankly exactly when it went, was received by the County. I believe it was received by our office September 24.

COUNCILMEMBER LEE: Yea, because, could you let us know about that, because, you know, I'm wondering perhaps this should have been submitted to us in a more timely manner. And I'm not criticizing your office. It could be something with our office.

VICE-CHAIR RAWLINS-FERNANDEZ: Mr. Kolbe.

DEPUTY CORPORATION COUNSEL: Yea, well, I, I really can't fill in that hole. I can say one thing, though, we generally will have primary and then backup attorneys for all of our matters, especially on a litigation side. In this particular case, the primary attorney was a woman who has since left our office, frankly right around September/October. And so, it's possible what happened was the notice was sent into our system, and routed to that person and, and to the backup. And so, I can't give you a definitive answer as to why you're getting it now as opposed to a month ago, but.

COUNCILMEMBER LEE: Okay. Thank you. But may I ask County Clerk, when we received this communication?

VICE-CHAIR RAWLINS-FERNANDEZ: Sure. Member, Madam Chair *[sic]*.

COUNCILMEMBER LEE: Clerk.

VICE-CHAIR RAWLINS-FERNANDEZ: Madam Clerk.

DEPUTY COUNTY CLERK: Thank you. It looks as though we received this communication on November 1. But the communication that we received was by way of the Chair of the GET Committee, Councilmember Molina. So, we, we didn't receive a communication directly from Corporation Counsel.

COUNCILMEMBER LEE: I see. Okay. Thank you. I guess he has a, something else to say.

VICE-CHAIR RAWLINS-FERNANDEZ: Mr. Kushi.

FIRST DEPUTY CORPORATION COUNSEL: Madam Chair, to give you some more background, again, Deputy Kolbe and I were not involved in this. It's not being blamed on people who are not here. But as I understand it, again, Deputy Richelle Thompson did send a memo to Chair Molina on October 31 of this year. And in her memo, she gives some background that this matter about initiating opioid litigation has been kind of hanging . . . for over a year.

About, about one year ago, November 13, the issue of retaining special counsel was brought up under the old Parks and Legal Affairs Committee, PL, PRL Item No. 46. And after the PowerPoint presentation, no action was taken. So, about a year ago, since that time, the State has filed, brought the suit and, and the State's lawsuit has been consolidated into this class, which class on behalf of the State, we're included. And then since that time, because of the class action, this notice of opting out was issued just recently. So, I think now the matter is under our GET Item No. 46, 11-46. So, I believe that's why the Chair is bringing this up; because of this opt out deadline of November 22 this year.

Now, again, what the Chair has described, Mr. Molina has described is that if it is his recommendation to not opt out and to file the, this matter, then I believe a couple things would be in order and you need to check with the County Clerk is that to waive committee referral, because there's no committee report on this that I know of. And then to act on the matter to file it.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Kushi.

FIRST DEPUTY CORPORATION COUNSEL: Again, Madam Chair, one point and I'm not a litigator, but Mr. Kolbe can correct me if I'm wrong, by not opting out, by staying in, it does not prevent the County from still thinking about suing individually, okay. But you need to hire special counsel, etc. And if you take your own private lawsuit, the County does it individually, they may be facing a dilemma in that they better get a judgement before the class action guys get a judgement. Because then they might be competing judgements and the Federal courts may just consolidate everything. But again, it does not preclude, by staying in your, you filing your own lawsuit. But if you opt out, then you opt, you're out forever on the class entitlement.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Kushi.

COUNCILMEMBER LEE: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Lee.

Member Molina, did you have any further comments?

COUNCILMEMBER MOLINA: Yea, just final thoughts. So, I guess basically what we can do, if we wanted to opt out, then we would have to waive referral to Committee and act on the attached resolution to opt out. If we choose to stay with the class-action lawsuit, then we just simply, a motion could be put on the floor to file, which is something I would, my preference would be. Just wanted to share that with the body, and if any other Members thoughts on that, please, by all means, share your thoughts on it.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Would you like to make that motion?

COUNCILMEMBER MOLINA: Sure. Thank you, Madam Chair.

WELL, THAT BE THE CASE, MOVE TO FILE COUNTY
COMMUNICATION NO. 19-448.

COUNCILMEMBER SUGIMURA:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Motion made by Member Molina, seconded by Member Sugimura.

Members, discussion? Okay, seeing none, I'll call for the question. All those in favor please say--

COUNCILMEMBER PALTIN: Um.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, Member Paltin.

COUNCILMEMBER PALTIN: I just wanted to make a comment that, you know, I know that when the Police Department was here, they, they were under the impression that opioid use hasn't really hit our County, but I don't believe that's true. It is a serious threat to our residents.

And you know, if, if, you know anybody that's just had routine surgery, I, I've had surgeries and I get way more painkillers than I need, and, and these things are very addictive. It, you know, there, there could be no intention to get addicted and, and different people have different levels at which they get addicted.

So, I, I don't want this vote today to be construed that we're not taking this seriously, and that we believe that opioid use is not a problem in our County, because it's a problem everywhere that opioids and painkillers are prescribed. And so, I think, you know, there, there are a lot of people in our community that function well on opioids. And it's something that we need to be cognizant of as decision-makers. And, and I'd like to just, you know, say that us filing this today, if that's what occurs, doesn't mean that we don't see the people in our community struggling with addiction. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin.

So, I, I, I'm going to respond. Okay, I'm going to say it, so by opting, by filing this resolution to opt out, we're staying in. Yea, so, we are recognizing that it is a problem and that we would like to stay in with the class-action lawsuit and that we are, you know, supporting the lawsuit moving forward together. And as Mr. Kolbe and Mr. Kushi said, it doesn't preclude us from also filing our own lawsuit if that's something that this body would like to do. But by filing this, you remain in.

COUNCILMEMBER PALTIN: Oh, okay. I thought it was the opposite.

VICE-CHAIR RAWLINS-FERNANDEZ: Yea.

COUNCILMEMBER PALTIN: So, hopefully maybe file it then.

VICE-CHAIR RAWLINS-FERNANDEZ: That's what it sounds like. Yea, so you're in support of the motion to file?

COUNCILMEMBER PALTIN: Support of the motion. Thanks for clarifying that.

VICE-CHAIR RAWLINS-FERNANDEZ: Absolutely. Mahalo.

COUNCILMEMBER PALTIN: I'm supporting. I'd like to speak in support of the motion then.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin.

Pro Tem Kama.

COUNCILMEMBER KAMA: Thank you. So, I was just going to read the second "WHEREAS" in the, in the reso that says, "WHEREAS, the County of Maui is currently a member of the negotiation class and will be awarded damages under a court-approved order unless the County opts out of the class by submitting a completed Exclusion Request Form by November 22, 2019", da, da, da, da, da, da. So, basically what I read is what you said. Were you paying attention, Chair?

VICE-CHAIR RAWLINS-FERNANDEZ: Yes, I was. I can multitask. So, what Pro Tem Kama has read, you know, says that if we, we have till November 22 to opt out and if we don't, that we are considered part of the class-action lawsuit. And I, I, so, my understanding initially before Corporation Counsel provided their comments was that if we remain in the class-action lawsuit that it would preclude us from filing our own lawsuit. And if, if we need further classification on that, I can call a quick recess or--

Mr. Kolbe.

DEPUTY CORPORATION COUNSEL: I'm not certain of your question, but, but if we maintain the status quo which is to not opt out, then that means we continue to be in the multi-district litigation, and that process would go forward, and they would negotiate a settlement or not. In the meantime, we haven't waived any rights to file our own lawsuit. And so, if for instance tomorrow we wanted to engage special counsel and file a lawsuit through them or our, by the County on its own, we still have the ability to do that.

Its nuanced a little bit in that if we did that and somehow or other we were unsuccessful in our litigation, we might be in trouble with the, receiving any damages from the multidistrict litigation settlement. So, we still can file and that's the type of the thing that you may want to take further consideration and legal strategy in a, in a Committee to discuss whether or not we'd want to retain counsel for that express purpose.

And one other thing, just so you know, as members of the class, there's also a certain amount of money that's set aside within any settlement, which we could, either through special counsel or on our own, go to the district and say that our circumstances are slightly different than, than their calculations of what portion we would get. We could say, well, we have a lot of tourists, for instance, or some type of thing that might impact how much we, we should be entitled to.

So, there, we have other options even if we maintain the status quo and stay in the MDL. And so, that's, I just wanted to make sure that you understand. We actually have a fair number of options still open to us. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Kolbe.

Pro Tem Kama.

COUNCILMEMBER KAMA: Thank you. You know, in a class-action suit, how, how is it determined who gets what? Because it looks like to me that this is a, the Northern District of Ohio. And whoever else is going to be participating in this litigation? So, how does that being determined if you got 50 States in there?

VICE-CHAIR RAWLINS-FERNANDEZ: Mr. Kolbe.

DEPUTY CORPORATION COUNSEL: It's actually not 50 States. This multidistrict negotiation class is really not about reaching any determinations as to fault. It's a negotiation attempt and it only involved counties and cities. And so, if you get on the website and there's a spreadsheet list, over 34,000 identified municipalities or counties and so, there's a whole bunch of them.

And they, they basically have already decided that, like a representative 49 counties will be kind of doing this negotiation and then the 13 defendants for all of their affiliates. And they have what's called an allocation model. And what that is, is it basically has taken to consideration things like the number of deaths, the amount of drugs entering into the County, and the number of people who have suffered some type of disability or are impacted by drug addiction. Those numbers get crunched, along with the population and that's how they calculate it.

If, if you went onto the website, they've determined that the County of Maui is entitled to roughly \$1.50 per person based upon a one-billion-dollar settlement. That's all fictional numbers; those aren't real numbers. But what it does do is it kind of gives you an idea about, you know, which communities would get a larger portion or a lesser portion. So, we get a \$1.50. I think the Big Island and Kauai are a little bit lower than that. Honolulu is a little bit lower than that. And some of the really hardly impacted communities in the Appalachian area are, are much higher; they get \$10 per person or something, for example. So, it's a mathematical calculation that they do.

(Councilmember Lee was excused from the meeting at 11:34 a.m.)

COUNCILMEMBER KAMA: Thank you. Thank you, Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Pro Tem Kama. Okay, Members.

Member Molina.

COUNCILMEMBER MOLINA: Yea, thank you, Madam Chair. I just wanted to add to what Mr. Kolbe mentioned about information out there. There's a website called "opioidsnegotiationclass.info", and a heck of a lot of documentation on this whole matter. So, if anybody wanted to spend the time to look at, you know, cause it involves a bunch of States, well, 49 other States, everybody else.

So, and again, which is why my preference is just to stay with the class-action lawsuit. And now that we have that option to go on our own, we can. But you know, of course,

we've been inundated with other special Council requests for this, that, and everything else. My, to me, let's just stay, stay put on this one rather than opting out for the time being. But at a later point, if, if this body feels necessary that we want to opt out and go for a high-risk/high-reward type of deal on this opioid matter, certainly, that discussion can be held at a future date. Thank you.

(Councilmember Lee returned to the meeting at 11:35 a.m.)

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina.

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Just requesting if you can repeat that website?

COUNCILMEMBER MOLINA: It's "opioidsnegotiationclass.info". You like me spell um out?

COUNCILMEMBER PALTIN: Negotiations, with a "s" or without?

COUNCILMEMBER MOLINA: Without the "s"; negotiationclass, C-L-A-S-S dot info.

COUNCILMEMBER PALTIN: Thank you.

COUNCILMEMBER MOLINA: You're welcome.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina. Mahalo, Member Paltin.

Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. This came up during the last term, Corp. Counsel presented. And I think what we decided at that point is that we, it must be what you're talking about because NACo had available through all the, you know, the NACo organizations, ability to join this lawsuit. So, I think that's what we're talking about now. And we decided to stay with the, you know, the NACo umbrella, I guess, if it has to be that word, rather going into our own separate negotiations. So, anyway, that's a little bit of history.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sugimura.

Okay, Members, if there are no other--

SUPERVISING LEGISLATIVE ATTORNEY DAVID RAATZ: Chair. Excuse me, Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mr. Raatz.

SUPERVISING LEGISLATIVE ATTORNEY: Council Services, David Raatz with the Office of Council Services. Just a little bit of final background information. The website that Councilmember Molina mentioned is actually prepared by the Federal District Court in Ohio that's overseeing the national class-action litigation. And there's a section on that site, again prepared by the court, that has frequently asked questions.

And for the record, there, number 11 on the list of questions talks about the ramifications of opting out or opting in. And the court does clarify that if a city or county chooses to opt out, or excuse me, if you remain in, that's the default position, so if you remain in the class and you later file a lawsuit against one of the defendants that's in the class-action litigation, you run the risk of having that separate case dismissed.

So, I, I just, we want to make sure that the body is aware that that is a risk that the court has expressly stated on the website. So, it, you know, we tend to think that there is a likelihood that if the, if the County remains in the class, which would be the result by filing the communication, the, any subsequent lawsuit may be dubious according to what we're seeing from what the court has published.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Raatz.

Pro Tem Kama.

COUNCILMEMBER KAMA: So, then would it be better to just pass the motion, but not file, but to defer; to keep it alive if we decide later on that we want to do this, Chair?

VICE-CHAIR RAWLINS-FERNANDEZ: Mr. Raatz, did you want to? Mr. Raatz.

SUPERVISING LEGISLATIVE ANALYST: Thank you, Chair. Again, the court has established, by order, this deadline of November 22, which is why once the Committee Chair was informed of this deadline, he opted to put this communication before the body so that we could have this public discussion before that deadline comes and goes on the 22nd.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Raatz.

Pro Tem Kama.

COUNCILMEMBER KAMA: So, if we don't act upon this by the 22nd then it's done? I mean, we can't go back? Is that what that means, that 22nd?

VICE-CHAIR RAWLINS-FERNANDEZ: So, the, the default is we remain in. If we don't affirm, affirmatively opt out to take action, to pass a resolution opting out, then we remain in. So, whether we file this now or we refer it to Committee, if action isn't taken before November 22, the default is we remain in.

COUNCILMEMBER KAMA: Okay. But can we bring the issue back at a different, at another time should we decide that we want to hire special counsel?

VICE-CHAIR RAWLINS-FERNANDEZ: Yes. We, we could discuss it.

COUNCILMEMBER KAMA: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: But the deadline of November 22--

COUNCILMEMBER KAMA: I got it.

VICE-CHAIR RAWLINS-FERNANDEZ: --you know, could have passed by the time we discuss it, so opting out would no longer be an option. But the hiring of special counsel could, with the understanding that if we were to file our own lawsuit that what Mr. Raatz is saying is that we aren't necessarily guaranteed that we will be recognized with standing, or that may not be.

COUNCILMEMBER KAMA: Got it.

VICE-CHAIR RAWLINS-FERNANDEZ: But our lawsuit may not stand.

COUNCILMEMBER KAMA: Yea, I got that.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay.

COUNCILMEMBER KAMA: Thank you. Yea, I'm good.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay.

COUNCILMEMBER KAMA: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Was there any questions on this side? Okay.

Okay, I'll call for the question, all those in favor of the motion, please say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,
PALTIN, SINENCI, SUGIMURA, AND
VICE-CHAIR RAWLINS-FERNANDEZ.

VICE-CHAIR RAWLINS-FERNANDEZ: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA AND CHAIR KING.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, motion passes unanimously. Seven "ayes", two "excused"; Chair King and Member Hokama.

Okay, Member Pal, okay, so that was the request for that item. Member Paltin, did you have a request as well?

DISCUSSION AND ACTION RELATING TO
COUNTY COMMUNICATION NO. 19-453

COUNCILMEMBER PALTIN: Yes. Thank you, Chair. I just wanted to request for Members consideration and the testimony that we received today on Item No. 19-453. And while I'm in complete support of this county communication, my fear is that I won't get to it in an efficient and timely manner. And since it does relate a lot to the environment, I was wondering if perhaps Councilmember Sinenci could take it in his Committee and get to it faster? I'm also a member of his Committee, so I would participate fully in the discussion.

But, you know, I have already, like, people lined up for the remaining dates in the year and guys requesting for next year already. So, I would like it to get heard sooner rather than later. And this would go to the end of the list of the requesters. So, expeditiously if, if Mr., Councilmember Sinenci would take it up in his Committee faster than I could, I would really appreciate it.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Sinenci, are you open to receiving this item into your Committee?

COUNCILMEMBER SINENCI: Thank you, Chair. Thank you, Member Paltin. Yes. The SMA permitting purpose is to protect our oceans and our shorelines, and it does fit within our Committee mandates, so I recognize Member Paltin's PSLU schedule so, so we can readily expedite this item in my Committee, sure.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sinenci.

Members, are there any objections to this item going to EACP?

MEMBERS VOICED NO OBJECTION.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, that will be referred to EACP.

Okay, Members, any other requests as the items were read by the Clerk for referrals?
Okay. Okay.

Deputy Clerk.

DEPUTY COUNTY CLERK: Thank you, Madam Vice-Chair. Proceeding with committee reports.

COMMITTEE REPORTS

COMMITTEE REPORT

NO. 19-128 - ECONOMIC DEVELOPMENT AND BUDGET COMMITTEE:

Recommending the following:

1. That Bill 58 (2019), entitled "A BILL FOR AN ORDINANCE RELATING TO TIERS OF REAL PROPERTY TAX RATES," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That Bill 59 (2019), entitled "A BILL FOR AN ORDINANCE RELATING TO REAL PROPERTY TAX VALUATIONS," be PASSED ON FIRST READING and be ORDERED TO PRINT.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo.

Member Lee.

COUNCILMEMBER LEE:

MADAM CHAIR, I MOVE TO ADOPT THE
RECOMMENDATIONS IN COMMITTEE REPORT 19-128.

COUNCILMEMBER MOLINA:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Moved by Member Lee, seconded by Member Molina.

Member Lee.

COUNCILMEMBER LEE: May we have a short recess?

VICE-CHAIR RAWLINS-FERNANDEZ: Absolutely.

COUNCILMEMBER LEE: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. We're, it's 11:44 on November 8. And short, as in to the call of the Chair, right Member Lee? Is that okay? Okay. Alright. We're going to call a quick recess at the call of the Chair. The regular Council meeting is in recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 11:44 A.M., AND WAS RECONVENED AT 11:49 A.M., WITH ALL MEMBERS PRESENT, EXCEPT COUNCILMEMBER HOKAMA AND CHAIR KING).

VICE-CHAIR RAWLINS-FERNANDEZ: Will the regular Council meeting please come to order. It's 11:49 on November 8. And we are on item CR 19-128.

Member Lee.

COUNCILMEMBER LEE: So, did I make the motion to adopt the committee report?

VICE-CHAIR RAWLINS-FERNANDEZ: You sure did.

COUNCILMEMBER LEE: Yea, I did huh?

VICE-CHAIR RAWLINS-FERNANDEZ: Yes.

COUNCILMEMBER LEE: Okay.

SO, NOW I AM, WOULD LIKE TO MAKE A MOTION TO MOVE
TO REPLACE THE BILLS ATTACHED TO COMMITTEE

REPORT 19-128, WITH THE SIGNED BILLS ATTACHED TO
AMENDMENT SUMMARY FORM 1.

COUNCILMEMBER MOLINA:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Moved by Member Lee, seconded by
Member Molina.

Member Lee.

COUNCILMEMBER LEE: Okay. I believe everybody has received a copy of the Amendment
Summary Form 1. And these, trust me, nonsubstantive, okay? Right? Okay, you want
to vote on that?

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Member Lee.

Okay, Members, any questions or comments?

Member Sugimura.

COUNCILMEMBER SUGIMURA: What are the next steps? Are we going to re--

VICE-CHAIR RAWLINS-FERNANDEZ: We're going to, so the, the amendments are on your
Amendment Summary Form 1.

COUNCILMEMBER SUGIMURA: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: And it's, the amendments are in red, if you would like
to review them. And Member Lee, you know, it's, it's nonsubstantive.

COUNCILMEMBER SUGIMURA: Okay. So, I'll, I want to have comments, but we can go
through this first if you want.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. I'll call for the question. All those in favor of
amending the main motion, please say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,
PALTIN, SINENCI, SUGIMURA, AND
VICE-CHAIR RAWLINS-FERNANDEZ.

VICE-CHAIR RAWLINS-FERNANDEZ: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA AND CHAIR KING.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, motion to amend the main motion passes unanimously; seven "ayes", two "excused"; Chair King and Member Hokama.

Member Lee.

COUNCILMEMBER LEE: Madam Chair, I have another motion to make.

I MOVE TO AMEND THE BILL ENTITLED "A BILL FOR AN ORDINANCE RELATING TO REAL PROPERTY TAX VALUATIONS". THIS IS AMENDMENT SUMMARY FORM 2. OKAY.

FIRST OF ALL, WE ARE REINSERTING EXISTING MAUI COUNTY CODE SUBSECTION 3.48.305(C) WITH REVISIONS FOR TERMINOLOGY CONSISTENCY AND NONSUBSTANTIVE REVISIONS AND RELETTERING THE SUBSEQUENT SUBSECTION; AND

2. STRIKING FROM CODE SECTION 3.48.310 THE FOLLOWING UNDERSCORED SENTENCE: "EACH CONDOMINIUM UNIT AND ITS APPERTAINING COMMON INTEREST IS A PARCEL AND MUST BE SEPARATELY ASSESSED."

Now, I'm just making that motion and then I'll explain.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay.

COUNCILMEMBER MOLINA:

SECOND FOR DISCUSSION.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. Okay. Moved by Member Lee, seconded by Member Molina.

Member Lee.

COUNCILMEMBER LEE: Okay, Members, it does sound complicated, but it really isn't, and it's right in front of you. It was passed out to you and it says, "Amendment Summary Form 2", and it gives the information. However, you probably want a little bit more specificity, so I'm going to ask our Legislative Analyst, James. Where's James?

VICE-CHAIR RAWLINS-FERNANDEZ: I can explain.

COUNCILMEMBER LEE: Oh, okay. We'll ask our TIG Chair to explain this particular motion.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Lee. Okay, so Members, what this amendment will do is, as Member Lee said in the motion, reinsert Subsection 3.48.305(C). And that's the condominium section. And the second part of the motion is to strike from Code Section 3.48.310, that sentence that was added to this section because we were repealing the condominium section. So, that's what we're doing. The, it is on page 4 and 5, and it's all in red.

But essentially, as Member Lee said, it's, it's simple and straightforward. We're undoing the amendments that we made in Committee. Okay?

Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. I just had a question. Some of the testifiers today mentioned about highest use for condominiums. Does this address it?

MR. JEFFREY UEOKA: If I may, Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mr. Ueoka.

MR. UEOKA: Thank you. Essentially what's happening now is condos will still be based or classified on actual use. It'll, it won't be going to highest and best use like other properties. So, this is basically leaving it as actual use for condos. Thank you, Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Ueoka. And I'll add to that, because I did read a lot of the testimonies that we received before nine o'clock this morning asking us to not use highest and best use. But that is the tax scheme that we use. We start off with highest and best use, and then we state the different exceptions to the general rule, which is the highest and best use. So, that's already what we've been doing for years. So, I just wanted to clarify that for the record and for community members that are listening in.

Member Sinenci.

COUNCILMEMBER SINENCI: Thank you. Thank you, Chair, for that explanation. I'll yield.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sinenci.

Okay. Member Paltin and then Member Sugimura.

COUNCILMEMBER PALTIN: Ah, thank you, Chair. So, I just wanted to clarify. So, what you're saying is by putting that, taking out the language on the Amendment Summary Form 2, folks in that condominium category that sent us this, those testimonies, it won't change the way that they've been taxed up to this point? Or classified?

VICE-CHAIR RAWLINS-FERNANDEZ: Yes.

COUNCILMEMBER PALTIN: Because we decide the rates every year? Okay, so classified up to this point?

VICE-CHAIR RAWLINS-FERNANDEZ: Yes.

COUNCILMEMBER PALTIN: Okay. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Member Paltin.

Member Sugimura and then Member Molina.

COUNCILMEMBER SUGIMURA:

So, as you're going through discussion, I want you to know that I want to make a motion for a 3-Member public hearing, because of the changes that we're talking about. I think these are important discussions, and for consistency and transparency.

On a, on a side note, because I did mention this in Committee, that I think that this needed to be taken out to the general public. And we heard it through public testimony; some from Molokai, Upcountry I heard it, and some of the other areas. That, and I have put together two meetings for Upcountry and some of the other Members have, but I think that what we really need is consistency in the message so that everybody in the general public has an opportunity to have consistency and transparency, especially in the message so that what we take out to our community is not different as we go through the different community meetings. So, I would like to make motion to have a 3-Member public hearing just so that we can have that transparency.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Sugimura, I'm not going to recognize your motion at this time. I want us to finish the motion that is before us first.

COUNCILMEMBER SUGIMURA: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: And then I'll recognize your motion after.

COUNCILMEMBER SUGIMURA: Okay. Thanks. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Okay, any discussion on the motion to amend the main motion?

Member Molina.

COUNCILMEMBER MOLINA: Yea, thank you very much, Madam Chair. Yes, these amendments have come to us on the floor today. But, you know, in reviewing this document thus far, it seems like these are just really a lot of nonsubstantive stuff. And I know a couple of testifiers had a lot of comments about what was being proposed today, especially Mr. Frampton who had mentioned about transparency.

Well, this is just the first step, so should this, well, the amendment and the whole motion pass today, it will still have to have a second and final reading on this. So, there is an additional time, there is additional time for the public to review the amendments as well, which I'm certain they will do.

So, at this point, I stand in support of the motion as amended. And, you know, a lot of this is just like bracketing out certain words and which basically carry the same meaning. It might actually strengthen the existing ordinance itself. So, I have no, no problem with, you know, supporting the amendments at this time for first reading. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina.

Okay. And I wanted to add that some of the information that we received from testifiers and in looking at it, like I mentioned to, I think, Mr. Frampton when he was testifying, is that the intention of the TIG's recommendation was to repeal the condominium section and provide a long-term rental use dedication. And that was the intention, for it to go together.

And since that, the long-term dedication was removed from the bill that we have before us, some unintentional consequences, we can already see what would happen. And so, for that reason we're reinserting the condominium section. And so, for those that

were concerned about long-term use, like one of the testifier's today or several of the testifiers today, that will remain intact. And so, the concerns that they expressed is, will be addressed by Member Lee's motion to amend the main motion. Okay. Alright. Okay.

I will, if there are no other questions or comments, I'll call for the question to amend the main motion. All those in favor please say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,
PALTIN, SINENCI, SUGIMURA, AND
VICE-CHAIR RAWLINS-FERNANDEZ.

VICE-CHAIR RAWLINS-FERNANDEZ: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA AND CHAIR KING.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Motion passes unanimously. Seven "ayes", two "excused"; Chair King and Member Hokama.

Okay. Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Thank you, Chair.

FOR, I GUESS I ALREADY STATED I WOULD LIKE TO MAKE
A MOTION TO CALL FOR A 3-MEMBER PUBLIC HEARING
JUST SO THAT WE CAN HAVE CONSISTENCY TO HAVE THIS
HUGE CHANGE THAT WE'RE PROPOSING FOR THE
COMMUNITY, WHICH WOULD BE REALLY IN PERPETUITY
UNTIL WE TAKE IT UP AGAIN.

And I think that we, we owe it, I think, to the community to, to have more transparency than, than the community. I know that you've worked hard, you know, working on this, as well as the TIG that you worked many, many hours and many meetings. But when it was presented to the community, Committee, in your Committee that that was one means. Your, you did do a Council 3, I think it's called, in the Maui News, so I appreciate that. I did post it on my Facebook.

(Councilmember Paltin was excused from the meeting at 12:02 p.m.)

COUNCILMEMBER SUGIMURA: But I would really like to suggest to the Members that we have the opportunity to take a unified message out to the community so that as Dean Frampton said, and I think when I heard him and his testimony talk about this is a good thing based upon his experience and to see it get bombed in the community, if we don't roll it out in a way that can be understood by many instead of it attacking a few and then that would then create an opportunity for snowball to, you know, get this, you know, delete it. So, I want to make that motion for a 3-Member public hearing and to organize that so that we can, you know, ensure that good work continues for the reasons that the TIG met. So, I'd like to make that motion, Chair.

COUNCILMEMBER KAMA:

I SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, my understanding is, procedurally, a motion for a 3-Member hearing is not necessary. But I'll recognize the motion and the second. Motion by Member Sugimura and a second by Pro Tem Kama, because I think it's cleaner that way. So, and then we can open it up for discussion and then we can take a vote even though a vote is not procedurally necessary.

Member Lee.

COUNCILMEMBER LEE: Madam Chair, maybe the, a vote is not necessary, but you need three people. And so far, there's two.

(Councilmember Paltin returned to the meeting at 12:03 p.m.)

VICE-CHAIR RAWLINS-FERNANDEZ: Right.

COUNCILMEMBER SUGIMURA: There's--

COUNCILMEMBER LEE: There's two.

COUNCILMEMBER SUGIMURA: Here's my third.

COUNCILMEMBER LEE: Oh. Oh okay.

COUNCILMEMBER SUGIMURA: I'm supposed to wait till she came back.

COUNCILMEMBER LEE: Okay. My thinking is that a public hearing could very well be premature, because we, we're putting together a framework. And as Mr. Molina

mentioned, it's only the framework. We have, we got a lot more to go to finish the house.

And if I were the general public, I would want to know what's my next tax bill going to look like. And we're not at that point yet. We're really not. In fact, it wouldn't even change for most people. The regular homeowner is not going to have a change. It's others, all these others depending on valuations in short-term rentals and timeshares and those kinds of categories are the ones that may be affected the most.

So, so there's not a whole lot that we can share with the typical homeowner at this point. So, you know, that's my concern. If I were a resident, I wouldn't, all I would want to know is how much I'm, am I going to pay next time. That's what I would want to know. And you know what? We don't have an answer for them. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo for that clarification, Member Lee.

Member Paltin, and then Member Molina.

COUNCILMEMBER PALTIN: Ah, thank you, Chair. And I just had to pause for the cause. But we're in the discussion, right?

VICE-CHAIR RAWLINS-FERNANDEZ: Yes, we're in discussion.

COUNCILMEMBER PALTIN: Okay. So, I take Member Lee's points to heart. And while I do want to support my Council colleague, Member Sugimura, I was, I'm kind of new to this and the way that I've seen the public hearings, can we not hold it concurrently with the next Council meeting?

I mean, my personal plan is to hold a community meeting in my district before the next Council meeting. And I was hoping maybe someone from RPT can come or maybe you can come like how you were going to do with Member Sugimura to the Upcountry. And then can we hold the public hearing concurrent with the second and final reading, like how it, how the public hearings that I've attended have been? Is that, I mean, like, just trying to work it out amongst us, is the question or discussion, not sure.

VICE-CHAIR RAWLINS-FERNANDEZ: Yea, so my understanding of our Council Rules is that we would be able to hold the public hearing concurrently with second reading.

COUNCILMEMBER PALTIN: Okay. And then so, would that make everybody happy?

COUNCILMEMBER SUGIMURA: So, Chair, if I could?

VICE-CHAIR RAWLINS-FERNANDEZ: Member Sugimura.

COUNCILMEMBER SUGIMURA: Second and final, promise. I, I believe that this is such a huge change. And for us to assume that if you're a homeowner it really doesn't matter, I guess, you know, is, is presumptuous because people may have other kinds of circumstances or situations that I received. I've, you know, sent it to RPT for some answers. And I think this is a monumental change.

And I really heard Dean Frampton this morning, where he says he worked in RPT and that he, he, many years ago, and that he also understands the, you know, the significance of the changes. And he did not want to see it die because of lack of communication, you know, how I heard him. So, that is the reason for being a request for a 3-Member public hearing.

Members, the, oftentimes when you have a situation or an item like this, which can be kind of controversial, the Chair will post 3-Member public hearing and the Council agenda simultaneously. So, this cannot happen, right? Exactly what I'm requesting cannot happen. So, I'm requesting for a separate, you know, meeting so that we can take it out to the community and get questions and hopefully raise the bar for discussion, so that we can pass this. I mean, it's because I want this to happen. It's not because I don't want it to happen. I think it's important enough, and especially for the reasons that Member Lee mentioned during your Committee meeting, and again, she mentioned it today, that I think those are important reasons why we're taking this step forward. So, that's, that's the reason for me requesting this. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sugimura.

Pro Tem Kama.

COUNCILMEMBER KAMA: Thank you, Chair. My sense is that, you know, our community is very diverse, and more information that we give them is better. We can't have not enough information. And I'm not sure how the 3-Member hearing works, but if only three guys gotta show up, I'm okay with that. But I'm concerned that the messaging that is out there is, should be consistent. So, we do have the support of RPT. They're going to send their person to, you know, my community meeting.

But I think that our community would certainly appreciate it if we all did what you're doing, Chair; to have a community meeting, but also to be able to have one that's just not individually sponsored by a Councilperson, but that is supported by the entire Council. So, yes, have a meeting in your own community, but to be consistent with the message is to have a 3-Member hearing. That's just my sense. I think people are more open to hearing what the entire Council is thinking about, what they're hearing,

what they're doing, and that we're working together. I think it shows that, so I'm supportive of the motion. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Pro Tem Kama.

Okay, so what I'm hearing from the Members is that we would like to share information to the community. A 3-person hearing, as I understand it is, we would be listening to concerns and not talking to the community. And so, I don't believe a 3-Member hearing would actually achieve the purpose that you all are hoping to achieve, which is to educate the community and allow them to ask questions and then us respond to their questions.

A 3-Member hearing is, is formatted like our Council meetings where we have them come and testify, we listen to them for three minutes and we don't engage with them. Well, we're not supposed to anyway. But, but I, and so for that reason, I think that it would be more service to our community members to go out individually.

And there was four TIG members who are familiar enough with the amendments that we made to the, to these bills to be able to explain what we, what we amended and what the purpose of those amendments were and what we hope to achieve at, you know, in going out to the community. So, I will be voting against the motion for those reasons.

Member Sugimura, I'm going to call on you after I recognize Member Molina, who I have been neglecting to call on. My apologies, Member Molina.

COUNCILMEMBER MOLINA: No apologies necessary, Madam Chair. As a matter of fact, I've appreciated the discussion. You know, Member Lee hit on a good word just now; premature. You know, if we happen to act on this today, I'm going to analogize this with baseball since we just finished the World Series. We take action on this assuming it passes. We just gotten only to first base on this. And while the motion to consider a public hearing is well-intended. We also got to consider now, do we also go out to Molokai and Lanai? And you know, having public hearings at this point, it is, there is a cost to the community in terms of, you know, having these hearings, so, one. And I know we're all trying to keep costs down.

But we haven't even finished yet and if we go out to the public now at this point, we're, even we ourselves don't fully know what we want to do. And the public ask us questions, we're going to look like fools out there not being able to answer their questions. And even Real Property Tax, if they decide to join us, which the Administration doesn't have to, it's their option to join us. They may not fully understand, you know, what we, exactly we want too. I mean, am I right on this? So,

to me, it's just a little bit premature, but well-intended. So, for me, I cannot, you know, support at this point going out to the public when we ourselves don't even know what we want to do with this.

We're, we've taken steps. And as I analogized earlier about the house, this is just putting the foundation in, and we still got a lot more work to do. And I'm going to trust our TIG; you and Member Lee, and Member Kama, to, and Member Paltin, yea, to come up with the additional considerations for this body to consider. If we could then do a public hearing, maybe let's do it at the point when we've got the product finished or nearly finished. Maybe at that point might be the best time to do it. But right now, again, I'm like Member Lee; this is just too premature to consider a 3-Member public hearing at this point.

And again, the information too, we had talked about it, I guess, with the people like Mr. Frampton, the educational aspect there's other ways we can do this now. If we want to do it this early, put it out there on the County website or something and maybe through community associations. If each Member wants to bring it to their respective community associations attention at this point, if they want to get everybody involved, or we can do it that way.

But to me, a 3-Member public hearing is a much more formalized process that should be done when an actual bill or ordinance is, you know, pretty much finalized by this body for first or second reading. So, again, a little bit too early for me to consider that. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina.

Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. I just wanted to say I appreciate the Amendment Summary Form too that's in front of us. It just shows our constituents how quick action active we are as a Council to address a lot of the issues that was sent in via email and through testimony today. So, mahalo for, gladly support the amendment.

I too, would like to support Member Sugimura, however, our office and our district, we've already started the process. We've, we've taken action by meeting with constituents of, of East Maui during our off-weeks. And we're, we'll continue to kind of garner more information and data to, to give back to our community. So, we've already had a meeting with RPT Director Teruya, so we're already in the process of that. And so, we'd like to continue on that route before a possible 3-TIG meeting or 3-Member meeting. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sinenci. Director Teruya, Director of Finance. Just wanted to clear, correct the record for that.

Okay. Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. And in light of all the discussion that we've had on this issue and especially that you're pointing out that a public hearing we would not be able to explain what is going on, it's makes me really happy that I'm planning a community meeting to explain what's going on.

But couple of things I just wanted to clarify, so by not making any changes with the condominium thing, all that we really are doing is, and giving the ability to have the tool, the tool to set tiers and rates, which is kind of what we do every year except for the tier part. And so, I mean, that, that is a little bit easy to explain. I mean, it's, I mean I think I just explained it. But, so, and we don't need to take up that tool if people don't want it. We can make all the rates the same and all the tiers the same. So, whether or not we use the tool is not even decided; it's just giving another tool similar to other tools in our toolbelt and our toolbox.

And so, my support of a 3-Member public hearing would then be contingent on having it concurrently so as not to, as the Council meeting, so as not to incur additional expense. If, because, I'm not clear on what the intent on when the public hearing was supposed to be or where it was supposed to be. But, I mean, if we hold it concurrently, then we have the public hearing to listen to people. And so, that would be my support for a public hearing, if, if that's clear. You can ask me questions if it's not.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin. So, you would want the public hearing if it's held concurrently. But what we would be doing with the second reading at Council is essentially the same thing as having the public hearing concurrently, except we would have two agendas.

COUNCILMEMBER PALTIN: Yea, that's, isn't that how we have done it in the past?

VICE-CHAIR RAWLINS-FERNANDEZ: Member Sugimura is asking for a--

COUNCILMEMBER SUGIMURA: Separate.

VICE-CHAIR RAWLINS-FERNANDEZ: Not to do that.

COUNCILMEMBER SUGIMURA: Separate.

COUNCILMEMBER PALTIN: Oh.

VICE-CHAIR RAWLINS-FERNANDEZ: So, it would not be concurrent.

COUNCILMEMBER PALTIN: Well, given the definition of what you said was a public hearing, I do not think it accomplishes what Mr. Frampton wanted. And so, if it's not concurrent, then I would be more inclined to support meetings in the individual community by the Councilmembers. And he did leave that up to us as one of the options of having a Council meeting in the community, having individual meetings in the community, or the public hearing; he was open to any of the three.

And given what you said that we can't share the information as part of the public hearing process, I'd like to share the information because I think that was the gist of what he was asking. So, the route that would be my preference would be to go into my community and share the information.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin. And I believe you also said that you invited the Finance Department, or RPT, to also attend?

COUNCILMEMBER PALTIN: Um, I'd like to.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, you'd like to.

COUNCILMEMBER PALTIN: I mentioned it to Mr. Ueoka if it's a possibility. And he said I would need to ask the Director, so I'm, I'm between steps on that, but I'd like to if, if possible. And maybe if they're not available or it's not a possibility, maybe you'd like to come out to the west side with me? But if that's also not a possibility, I'll, I'll fly solo. Cause, I mean, all I really need to say is we want to set up the tool that would give us tiers and do this annually. And, I mean, it could be a short meeting.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin.

Okay, Member Sugimura, is it a quick one? Or is it, this going to be the for real kind last time to the motion?

COUNCILMEMBER SUGIMURA: Oh no, no. So, I'm just asking for consistency--

VICE-CHAIR RAWLINS-FERNANDEZ: And then Member Lee.

COUNCILMEMBER SUGIMURA: --in the message, right, is really what I'm asking for. But if all of us think that we can take out a speech and say it, maybe that's one thing. But I,

I believe the, some of the comments that were just made that this is only the first step, that this is not the final, and it, what are we doing then? I mean, we're going to pass something, I hope we know that this is going to be final; that we're trying to pass, if it's not, let's not pass it. I mean, what I heard earlier was this is the first step, that this is not going to be final. So, what are we doing?

VICE-CHAIR RAWLINS-FERNANDEZ: Sure. I'll speak to that and if I misspeak, I'll call on Member Molina. But basically, this is the first step meaning that we're setting up the, the framework for us to take the next step, which is setting tiers and rates. We've never set tiers before. In order for us to set tiers, we need to establish the framework to authorize us under the law to do that. We don't have that power right now. So, that's what this bill does; it gives us that power to set up tiers, to set up the, and set the ranges for each of the three tiers.

And as Member Paltin and Member Lee correctly pointed out, is that essentially it, it could end up where the three tiers are set at the same rate. Meaning there would be zero change, that there, it would be treated as if there were no tiers, because each tier would be assessed the same rate.

And so, that was my understanding of what Member Molina was saying with putting up the frame of the house, I like that analogy, and that in the budget process, when we set the ranges, that would be the walls and that would be the next step to completing the house.

Because, right now, what Member Lee pointed out is that what members of the public are going to want to know is how is this going to impact us. And right now, we don't have that answer. We won't know that until budget, when we start discussing what our, the potential tier ranges we would like to establish.

So, that's really when I think, you know, we would be able to give the community concrete examples and answers, cause right now we don't have those answers, because this is just setting up the framework. This is not establishing the ranges that would go into the three tiers. Is, does that make sense?

COUNCILMEMBER SUGIMURA: That makes sense.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalos, Member Sugimura.

Did I explain that, did I misspeak Member Molina? Okay. Alright.

Member Lee.

COUNCILMEMBER LEE: Thank you, Madam Chair. Okay, I understand Ms. Sugimura's and Ms. Kama's concern for unified message. And because this is something different that we're working on, that we should, we should have our unified message. And whether it's the same video that we present to our communities, that's one, you know, instead of just paperwork that we hand out which is hard to, to comprehend sometimes when you don't have a context. Maybe like a video, we could work with the Department of Finance on something like that. And then, right, Kari? You know how to do videos, right?

VICE-CHAIR RAWLINS-FERNANDEZ: She's nodding yes, for the record.

COUNCILMEMBER LEE: Okay. So, I think that would be helpful, and we all be speaking from the same, you know, songbook. And then, as you said, it, I think if we had a public hearing right now, we would stir up more questions than anything, because we don't have a lot of answers yet. And they, they don't have to worry about anything right now because we're just trying to put this house together. We're not looking at rates. That's where it's going to be critical.

And as I mentioned earlier, we tried to agree at the very beginning that whatever we're doing is going to be revenue neutral for now. And until we receive the new budget, that's how it's going to be. When we receive the new budget, we may need to raise some new revenues, but maybe not, you know. So, we can't put it out to the public now and say well, maybe yes and maybe no and so forth, because we don't have all the answers. But we will in a few months. But in the meantime, if we do go out to our various districts and speak to associations and so forth, it would be very helpful to have the same video to use, yea. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Lee. I like that idea. Would you like to star in the, the video?

Member Molina.

COUNCILMEMBER MOLINA: Well, you know, Madam Chair, it's ironic. I know there's concern out there about a proposed change, but at the same time the reason for this proposed change cause there's a segment of our community that feels the, the way the current system is set up, there's some maybe some unfair taxation; like there should be others who should be, or other classifications that should be paying more. So, that's why we're looking at it.

That's why the TIG was created, to investigate, to create a system that is potentially much fairer, fairer to everybody. So, those that can pay, they pay their fair share. And those who may be overtaxed, that can be looked at as well. So, so again, I know

there's that, maybe, panic with change, but that's what government is about. Sometimes with the evolution of things through time, things may need to change. And, and that government I think has a responsibility to look and consider proposals for change. So, that's how I see it at this point.

So, now naturally, some who like the present system, maybe it, it benefits them on a financial basis or maybe that's why they're concerned about change. I don't know that for sure. But obviously, this is what the process of democracy is about; to receive the maximum input. And at the time when we have a finished product, and at this point we don't have any, so if we have a public hearing, then that's what it's supposed to be, just the hearing. But you know constituents are still going to ask the questions of us individually.

Myself, what I'm going to do for my own district, I'm going to make sure I get a consistent message from the TIG or other Members as to what's being considered, share that information with the community association leaders, then they can disseminate that information to their members. And it might be a helpful way to get more people engaged as well.

But again, you know, we can take some preliminary steps with the education process, but if you have a public hearing that's a whole different process that, you know, a lot of people in the public may not know how the process works, so they're going to expect us, they may expect a full-on presentation. When you say public hearing, you're just there to listen, and that's what the intent of the public hearing and not to, you know, really answer questions. You're just there to take testimony and that's it.

So, like I reiterated earlier, if we do it at this point when we don't even know what we want to do. So, well-intended but not at this point; maybe at a later point when the product is finished or nearly finished. So, that's a, and I think Member Lee would be great in that video too, so, you know, so, or the TIG.

But thank you, you guys, for those of you who are doing this, taking this tremendous undertaking. Cause this is a, I agree, it's a significant change or proposal to potentially revamp an existing tax system that's been in existence for, you know, a long, long, long time. So, but it's only natural to fear change at first, or be skeptical.

But I'm hopeful that we can make the necessary adjustments to create a taxation system that is fair. And of course, the dynamics of Maui County have changed over the years with how property values have just skyrocketed. And there's been questions from the public about how properties are being assessed and how it's affected neighboring properties, especially those who don't have a lot of financial means and resources. So, thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina.

Pro Tem Kama for second and final?

COUNCILMEMBER KAMA: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay.

COUNCILMEMBER KAMA: Thank you, Chair, for the opportunity to bring forth this discussion. I thank all my colleagues for your honest and truthful answers. And I just want to ask you to call for the question.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Pro Tem Kama.

So, what we would be voting on is whether we're going to have a 3-Member or hearing or not. The main motion, which a lot of the content and merits were discussed now, is still on the floor and is still open for discussion. So, I'm going to call for the question and we can continue to discuss the merits of the, the main motion, if, if there are no objections.

COUNCILMEMBER LEE: Which question?

VICE-CHAIR RAWLINS-FERNANDEZ: The question on whether we should have a 3-Member hearing or not.

COUNCILMEMBER LEE: Oh, okay.

VICE-CHAIR RAWLINS-FERNANDEZ: So, that's, it, it looks like there weren't three Members that requested a three Member hearing. But since I recognized Member Sugimura's motion, request as a motion and Pro Tem Kama's second, the option is either withdrawing the motion or we can take a vote.

COUNCILMEMBER SUGIMURA: Well, sounds like she withdrew her, there went my third person. Is that what you said?

COUNCILMEMBER PALTIN: Yea, I said I, I withdrew, draw my support unless it's concurrent.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, Member Sugimura, would you like to withdraw you motion, and Pro Tem Kama, withdraw your second?

COUNCILMEMBER SUGIMURA: I guess we need to, yea?

COUNCILMEMBER KAMA: We don't have to.

COUNCILMEMBER SUGIMURA: To be legal? I have a, I have a Frampton comment here.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, for the record, the motion was withdrawn?

COUNCILMEMBER SUGIMURA: Yea.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. And the second.

Okay. Member Sugimura, and then Member Paltin.

COUNCILMEMBER SUGIMURA: So, this is from Dean Frampton. He's listening in, right? This discussion came from his testimony, which I really appreciate. He's listening to Molina and loving his, his comments. He says that we are not, where did that go, we are not building a new house. We are dismantling an existing and rebuilding. Too good, right, Dean Frampton?

Yea, anyway, so I appreciate, I think that this discussion that we had, just for us to all say what we just said is important, because it's a really impor, the reason I asked for it is because this is so important. This is like exactly what I said, dismantling.

VICE-CHAIR RAWLINS-FERNANDEZ: Ms. Sugimura, you're speaking to the main motion now.

COUNCILMEMBER SUGIMURA: Yea.

VICE-CHAIR RAWLINS-FERNANDEZ: Yea. So, we're not talking about the 3-Member hearing anymore.

COUNCILMEMBER SUGIMURA: Yea, we aren't.

VICE-CHAIR RAWLINS-FERNANDEZ: Yea, main motion.

COUNCILMEMBER SUGIMURA: Okay. So, main motion. Dean Frampton said it.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, was that in support of the main motion or in opposition to the main motion? You don't, you don't have to clarify, but.

Okay. Member Paltin.

COUNCILMEMBER PALTIN: Ah, thank you, Chair. In talking about the main motion, I just was, I know in the TIG that you said many times that the reason that we're having to do it in phases, TIG 1, TIG 2, is because the timeline of things. And I'm not sure that that information that you conveyed to us during the TIG was conveyed as clearly as multiple times so that they got it in open session or in Committee. I mean, it probably was conveyed in Committee, but I was wondering if you could just repeat for all the folks that are watching why it is that we can't just put up a kit home one time?

VICE-CHAIR RAWLINS-FERNANDEZ: A kit home.

COUNCILMEMBER PALTIN: Like why--

VICE-CHAIR RAWLINS-FERNANDEZ: Right.

COUNCILMEMBER PALTIN: --why it is that--

VICE-CHAIR RAWLINS-FERNANDEZ: Yea.

COUNCILMEMBER PALTIN: --when we're doing this phase, TIG phase 1 and TIG phase 2, cause you explained it to us in the TIG and I don't want to try and explain it like how you explained it, cause I'm sure I'd get it, like, not the same level of clarity. So, I just was saying maybe that could help the folks, like why is it that they're not, they don't have the answers that we want. So then why are they moving forward with this part of it? And, and it might provide some clarity as to why, why, if we were to have the, the thing now, it wouldn't provide the answers that people want, because we can't tell them how it would affect them per say.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Member Paltin. And I think you're undercutting yourself. I think you would be able to explain it perfectly fine.

And what I explained in open session at the last EDB Committee where we recommend, recommended passage of the two bills that we have before us is that the Finance Department, in order for the tiered framework to be used in the next fiscal year, we need to pass these bills by December 1. And that's to give the Department of Finance time to work with the software and to work with their staff on establishing this new system. And, so, that, that's why we're moving in this direction. What people may think as quickly, but like I said, it's, it's not a new discussion. We discussed having tiered rates in years past. And so, with this Council, we're, you know, wanting to complete houses, right?

COUNCILMEMBER PALTIN: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: I don't know if that analogy might work. But we're finishing what was started in years past.

COUNCILMEMBER PALTIN: And I think also, thank you for that clarification, I think the, the point in that to emphasize is that it doesn't mean that we're going to do it. But if we don't give them the chance to get the software and get up to speed, it won't ever be able to be done. So, it, like, like, before it's a tool, but it doesn't mean that we're going to use it. If, if we start to set the rates and tiers and there's big feedback, like, no, this is crazy, we don't need to use. And then say the following year, whatever happens in the economy and they're like, we need to do this, then that option is available.

So, just allowing for the software, allowing for the Finance Department to have the ability doesn't necessarily mean that we're going to enact it. It's just another tool should the need arise, or should people request it overwhelmingly, it's set up, like, like, the framework is there but it doesn't mean that we need to use it. If, if during budget time we, we try to set the rates and tiers and people are like, this is crazy. We're like, alright, we'll toss it then, you know, we'll try again next year, or 20 years from now, or 10 years from now. It doesn't have to occur, but it's just another tool, right, or?

VICE-CHAIR RAWLINS-FERNANDEZ: That's exactly correct.

COUNCILMEMBER PALTIN: Okay. So, I, I don't know if that was clear to everyone that was testifying. And then you throw that condominium thing in too and that's totally off the table now, so now we're only talking about this situation.

VICE-CHAIR RAWLINS-FERNANDEZ: Yes.

COUNCILMEMBER PALTIN: So, I think, I hope that's more clear.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin.

Okay. Members, any other comments or questions? Okay.

Member Lee.

COUNCILMEMBER LEE: One more thing, Madam Chair. There's really no reason for alarm, because we are constrained by the budget itself. So, if the new budget is \$900 million, that's what we need to raise, you know. We're, we're not going to be raising \$2 billion for a \$900 million budget. So, we are constrained by the, by the size of the budget. And so, it's just a matter of how we are going to raise that funding.

And, and again, one of the major, major reasons for having this TIG and having, revising our tax and improving our tax system is that we are concerned, we are, we are dealing with a housing crisis. And we, we have to pull out all the stops, whether it's through taxation, through land use, you know, planning and land use, or however we can increase our inventory for our people, that's one of our major goals. And, and to make sure that the long-time residents are not having to foot the bill for all of these outside investors. So, that's, you know, primarily what we're trying to do. So, again, there's really no need to be alarmed.

And I, sorry, Dean, I do like Mr. Molina's analogy of the house, because we are building something, you know. We're not dismantling anything; we're making it better. We're making the taxation system better. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Lee.

Okay. And then, I guess, I'll, before I call for the question, I'll just, I wanted to address a couple things. So, again, I hope those watching and those that provided testimony recognize that we heard you. We heard our community members request, and that's why we amended the bill today. So, we are, I, I want that message, you know, to be heard that, that your Council heard you and is very responsive to the feedback that you shared with us.

That the, as Member Lee stated, that rates and tiered ranges won't be established until budget. And the, the way that budget is set up is, is so transparent and so, there's so much community involvement. We go to all the districts and we listen to what, what all the communities have, community members have to say. And there is testimony that was provided, I think that, you know, doesn't, tax, tax laws are very complicated and it, it's not exciting to some people, but it's exciting to me. And I think there is a misunderstanding about rates changing every year. That that's something that already happens, that there was testimony that was received from members of my community that asked us to not change the rates. But that's, that's not what we're discussing.

And the way that the tax scheme is set up is that it changes every year. And by giving us that flexibility, and that's why the TIG recommended so much flexibility to the Council in budget is so that we can be responsive to the economic climate. That if we are in a recession, that we can provide that kind of relief through taxation, that we wouldn't be held to tiered ranges or rates established by a different ordinance. So, that the ordinance, the budget bills that we discuss every year would be together and it has that transparent community process and engagement in it. And, yea, so those were the points that I, I wanted to make.

The three, the three main points that testifiers spoke to was the concern regarding condominium, and we as a Council addressed that concern by leaving that section in, the tiered rates, and the tiered ranges. And again, as the Members pointed out, we have that flexibility to give each tier the same rate which would essentially have zero impact.

And the last thing was public outreach. And that's something that it sounds like all Councilmembers have committed to do, committed to doing in their districts. And so, thank you, Members, for, you know, taking that initiative. And I would be happy to join Members as schedule allows and as my children allow and, you know, get out into our community to make sure they understand what it is that your Council is doing on their behalf.

And so, if there are no questions or comments, I'll call for the question. Okay. All those in favor of the motion, we're passing the two bills that we have before us, please say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,
PALTIN, SINENCI, AND VICE-CHAIR RAWLINS-
FERNANDEZ.

VICE-CHAIR RAWLINS-FERNANDEZ: Any opposed?

NOES: COUNCILMEMBER SUGIMURA.

EXCUSED: COUNCILMEMBER HOKAMA AND CHAIR KING.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Motion passes with six "ayes"; one "no"; Member Sugimura; and "two "excused", Chair King and Member Hokama.

Okay. Mahalo, Members, and mahalo to the RPT Division for being with us on the floor today and in the chambers all morning; appreciate it.

Okay, Members, it's 12:44. Would you like to take lunch, or would you like to finish? Power through. Okay, let's do it.

Okay. Deputy Clerk.

DEPUTY COUNTY CLERK: For the record, BILLS 58 (2019) and 59 (2019).

COMMITTEE REPORT
NO. 19-129 - GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE:

Recommending that Resolution 19-182, entitled "RELATING TO THE APPOINTMENT OF J. NALANI KANINAU TO THE BOARD OF WATER SUPPLY FOR THE COUNTY OF MAUI," be ADOPTED.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO ADOPT THE RECOMMENDATIONS OF
COMMITTEE REPORT NO. 19-129.

COUNCILMEMBER LEE:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Moved by Member Molina, seconded by Member Lee.

Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Your GET Committee met on October 15, 2019, to discuss the nomination of Ms. Kaninau to the Board of Water Supply. Your Committee voted 8-1 to recommend adoption of the proposed resolution approving her nomination. Thank you, Madam Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina.

Okay, Members other comments or questions? Seeing none, I'll call for the question. Those in favor of the motion please say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,
PALTIN, SINENCI, SUGIMURA, AND
VICE-CHAIR RAWLINS-FERNANDEZ.

VICE-CHAIR RAWLINS-FERNANDEZ: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA AND CHAIR KING.

VICE-CHAIR RAWLINS-FERNANDEZ: Motion passes unanimously, seven "ayes", two "excused; Chair King and Member Hokama.

Deputy Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 19-182.

COMMITTEE REPORT

NO. 19-130 - GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE:

Recommending the following:

1. That Resolution 19-183, entitled "AUTHORIZING THE EMPLOYMENT OF THE LEGAL AID SOCIETY OF HAWAII AS SPECIAL COUNSEL FOR LEGAL SERVICES ADMINISTERED THROUGH THE OFFICE ON AGING," be ADOPTED; and
2. That County Communication 19-342, from the Director of Housing and Human Concerns, be FILED.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

MOVE TO ADOPT THE RECOMMENDATIONS OF
COMMITTEE REPORT NO. 19-130.

COUNCILMEMBER SINENCI:

SECOND.

COUNCILMEMBER LEE: Second.

VICE-CHAIR RAWLINS-FERNANDEZ: Moved by Member Molina, and I'll give it to Member Sinenci for the second.

Member Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. Your GET Committee met on October 15, 2019, and discussed this matter with Director of Housing and Human Concerns Director, Ms. Lori Tshako, who requested approval of special counsel contract with the Legal Aid Society of Hawaii to provide legal services to qualified individuals through the Office on Aging. Your Committee voted 9-0 to recommend adoption of the proposed resolution approving this matter. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina.

Okay, Members, any questions or discussion? Seeing none, I'll call for the question. All those in favor of the motion, please say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,
PALTIN, SINENCI, SUGIMURA, AND
VICE-CHAIR RAWLINS-FERNANDEZ.

VICE-CHAIR RAWLINS-FERNANDEZ: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA AND CHAIR KING.

VICE-CHAIR RAWLINS-FERNANDEZ: Motion passes unanimously, seven "ayes", two "excused"; Chair King and Member Hokama.

Deputy Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 19-183.

COMMITTEE REPORT

NO. 19-131 - GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE:

Recommending that Resolution 19-184, entitled "AUTHORIZING SETTLEMENT OF TOMMY RUSSO VS. COUNTY OF MAUI, ET AL., CIVIL NO. 14-00515 JMS-KSC," be ADOPTED.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO ADOPT THE RECOMMENDATIONS OF
COMMITTEE REPORT NO. 19-131.

COUNCILMEMBER SINENCI:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Moved by Member Molina, seconded by
Member Sinenci.

Member Molina.

COUNCILMEMBER MOLINA: Mahalo, Madam Chair. Your GET Committee met on
October 15, 2019, to discuss the case of Tommy Russo versus the County of Maui,
which stems from the Plaintiff's filming of police officers on Haleakala Highway on
November 20, 2012. The Plaintiff subsequently sued for false arrest and violation of
First Amendment rights and other claims. After discussion, in executive session, your
Committee came out and voted in open session 7-1 to recommend adoption of the
proposed resolution approving settlement authority. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina.

Okay, Members, any discussion? Seeing none, I'll call for the question. All those in
favor of the motion, please say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,
PALTIN, SINENCI, AND SUGIMURA.

VICE-CHAIR RAWLINS-FERNANDEZ: Any opposed?

NOES: VICE-CHAIR RAWLINS-FERNANDEZ.

EXCUSED: COUNCILMEMBER HOKAMA AND CHAIR KING.

VICE-CHAIR RAWLINS-FERNANDEZ: Motion passes; six "ayes"; one "no", me; and two
"excused", Chair King and Member Hokama.

Deputy Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 19-184.

COMMITTEE REPORT
NO. 19-132 - HEALTHY FAMILIES AND COMMUNITIES COMMITTEE:

Recommending the following:

1. That Bill 60 (2019), entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 13.04A.290, MAUI COUNTY CODE, TO PROHIBIT COMMERCIAL OCEAN RECREATIONAL ACTIVITY AT WAHIKULI WAYSIDE PARK," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 19-344, from the Director of Parks and Recreation, be FILED.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you.

I MOVE TO ADOPT THE RECOMMENDATIONS CONTAINED
IN COMMITTEE REPORT NO. 19-132.

COUNCILMEMBER PALTIN:

SECOND.

COUNCILMEMBER SUGIMURA: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Moved by Member Sugimura, seconded by Member Paltin.

Member Sugimura.

COUNCILMEMBER SUGIMURA: Your Committee had a great discussion on this Wahikuli Wayside Park in Lahaina. Member Paltin and her community had a lot of good input on this. And while we recognize that these activities are an important part of the economy, the purpose of this legislation is to reduce the incidents of user conflicts at the park and allow a place for local families to visit that is free of commercial activities.

Your Committee voted 7-0 to recommend passage of the proposed bill on first reading. And I appreciate your Members full support on this mention *[sic]*. And this is from Member Hokama, on his behalf. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sugimura.

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I just wanted to recognize and thank Mayor Victorino for putting this bill forward, and for Member Hokama for hearing this in a timely manner and getting it through Committee.

I did want to, if possible, take up this opportunity to clarify what it is that this bill does, because there is some confusion within my community about, you know, what, what these bills, my previous Hanakao`o bill and this Wahikuli bill does. So, if, if it, if it's okay, I'd like to just clarify for the viewing public.

(Councilmember Kama was excused from the meeting at 12:50 p.m.)

VICE-CHAIR RAWLINS-FERNANDEZ: Please proceed.

COUNCILMEMBER PALTIN: Thank you. So, when we're talking about banning commercial activity at parks, and on Sundays, and things like that, our authority and jurisdiction extends to our County parks. So, you know, if you're seeing commercial activity on a beach, it doesn't mean that call me up or call up, you know, anybody, because our authority in doing this is limited to County beach parks. And in addition to that, it's limited to commercial ocean recreational activity permits. So, if there's something going on in the park and it's changed, the only thing that these actions do is stop the granting of a commercial operating recreation, commercial ocean recreation activity permit.

And, and the reason that I say this is I've been getting calls from, and I don't want to take a position on it, but I just wanted to clarify that I've been getting calls about, you know, tour groups that use to use the bathroom now being banned from using the bathroom at County parks. And that's not what this does. That could be an Administrative decision. All that this does is stop the issuance of commercial ocean recreational activity permits from being issued in Wahikuli Park. All the previous bill for Hanakao`o did was stop the issuance of commercial ocean recreation activity permits within County parks. So, it's, it's, it is a complicated manner and it's, it's hard to understand.

So, just wanted to clarify what it is we're passing today is stopping the issuance of commercial ocean recreation activity permits in County parks. And in Committee, we did discuss that there weren't any issued there for the past few years, so it shouldn't affect anyone from the past. I mean, it, it's kind of what it is, is maintaining the status quo really.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin.

Okay. And maintaining the status quo meaning that there weren't any permits there in, in the first place.

COUNCILMEMBER PALTIN: Not, not at Wahikuli for the past few years. And so, I guess, you know, it was a what you call, proactive step with the banning of commercial ocean recreation activity permits at Hanakao`o. It was very prudent of the Mayor to take this step in that, you know, it's kind of a contiguous park with two separate names. And so, you know, in theory, it might move down.

(Councilmember Kama returned to the meeting at 12:53 p.m.)

COUNCILMEMBER PALTIN: And, and when we have half-mile courses for regattas, a lot of people go down to Wahikuli to watch the turns, because it's a half-mile course and, as opposed to a quarter-mile course. So, I think it was, I'm very thankful to the Mayor for doing it. It's prudent and proactive and it's a good thing for my community and, and, and the Maui County, and I completely support it.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin.

Okay, Members, any other discussion or questions? Seeing none, I'll call for the question. All those in favor please say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,
PALTIN, SINENCI, SUGIMURA, AND
VICE-CHAIR RAWLINS-FERNANDEZ.

VICE-CHAIR RAWLINS-FERNANDEZ: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA AND CHAIR KING.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Motion passes unanimously, seven "ayes", two "excused"; Chair King and Member Hokama.

Okay. Deputy Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 60 (2019).

COMMITTEE REPORT

NO. 19-133 - PLANNING AND SUSTAINABLE LAND USE COMMITTEE:

Recommending that Bill 61 (2019), entitled "A BILL FOR AN ORDINANCE RELATING TO RENEWALS FOR BED AND BREAKFAST HOME AND SHORT-TERM RENTAL HOME PERMITS," be PASSED ON FIRST READING and be ORDERED TO PRINT.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATION IN COMMITTEE REPORT 19-133.

COUNCILMEMBER SINENCI:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Moved by Member Paltin, seconded by Member Sinenci.

Member Paltin.

COUNCILMEMBER PALTIN: By Committee Report 19-120, your Committee originally recommended passage on first reading of a bill to conditionally extend Conditional Permit, Short-Term Rental Home Permits, Bed and Breakfast Home Permits, and Special Use Permits when an application for extension or renewal is in process. However, the Council recommitted the Committee Report at its October 4 meeting in response to numerous testifiers.

Now, your Committee is recommending passage on first reading of bill, of this bill that conditionally extends only Bed and Breakfast Home Permits and Short-Term Rental Home Permits while an application for renewal is in process. So, we basically left out the special use side. Your Committee will still consider legislation relating to extensions for Conditional Permits and renewals for Special Use Permits, just not together here today. And I respectfully ask the Members support for my motion. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin.

Okay, Members, any questions or discussion? Seeing none, I'll call for the question. All those in favor please say, of the motion, please say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,
PALTIN, SINENCI, SUGIMURA, AND
VICE-CHAIR RAWLINS-FERNANDEZ.

VICE-CHAIR RAWLINS-FERNANDEZ: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA AND CHAIR KING.

VICE-CHAIR RAWLINS-FERNANDEZ: Seeing none, the motion passes unanimously, seven "ayes", two "excused"; Chair King and Member Hokama.

Deputy Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 61 (2019).

COMMITTEE REPORT

NO. 19-134 - WATER AND INFRASTRUCTURE COMMITTEE:

Recommending the following:

1. That Bill 62 (2019), entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 10.36.072, MAUI COUNTY CODE, RELATING TO THIRTY MILES PER HOUR – RESIDENTIAL DISTRICT EXCEPTION," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 19-373, from the Director of Public Works, be FILED.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Lee.

COUNCILMEMBER LEE:

MADAM CHAIR, I MOVE TO ADOPT THE
RECOMMENDATIONS CONTAINED IN COMMITTEE REPORT
19-134.

COUNCILMEMBER SUGIMURA:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Moved by Member Lee, seconded by
Member Sugimura.

Member Lee.

COUNCILMEMBER LEE: The proposed bill would reduce the speed limit on Hina Avenue from 30 to 20 miles per hour from its intersection with Wakea Avenue to intersection with Mokapu Street. The lower speed limit was requested by area residents to promote pedestrian safety and was endorsed by the Public Works Commission. That's all I have.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. Mahalo, Member Lee.

Member Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. I wholeheartedly endorse this and support this. And I appreciate Member Lee for ushering this matter very expeditiously before us, and also Member Kama for responding to her area residents' concerns.

I speak on this because I, I attend services over at Maui Evangelical Church, which is along Hina Avenue, and I've witnessed some near misses there. And you have a lot of seniors that walk and, and you know, that try to go onto the crosswalk. And as we've watched the news, especially on Oahu, it's becoming an almost, unfortunately, regular thing where you seeing people getting hit in the crosswalks and a lot of near misses. So, this is quite timely.

And I'm hoping the Maui Police Department can establish a somewhat consistent presence there to educate drivers that, you know, slow down; it's now 20 miles an hour and not 30, or 40, or 50. So, thank you very much, Member Lee and Member Kama for bringing this to the attention of our community. Mahalo, Madam Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina.

Okay. Seeing no other questions or discussion, I'll call for the question. All those in favor please say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,
PALTIN, SINENCI, SUGIMURA, AND
VICE-CHAIR RAWLINS-FERNANDEZ.

VICE-CHAIR RAWLINS-FERNANDEZ: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA AND CHAIR KING.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Motion passes unanimously, seven "ayes", two "excused"; Chair King and Member Hokama.

Okay. Deputy Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 62 (2019).

Madam Vice-Chair, proceeding with ordinances for second and final reading.

ORDINANCES

ORDINANCE NO. _____
BILL NO. 53 (2019)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE
COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT
WITH THE STATE OF HAWAII, DEPARTMENT OF HUMAN SERVICES TO
IMPLEMENT THE OHANA ZONE – KAHULUI AFFORDABLE HOUSING
FOR HOMELESS FAMILIES

VICE-CHAIR RAWLINS-FERNANDEZ: Pro Tem Kama.

COUNCILMEMBER KAMA: Thank you, Chair.

I MOVE TO PASS ON SECOND AND FINAL READING,
BILL 53--

COUNCILMEMBER SUGIMURA:

SECOND.

COUNCILMEMBER KAMA:

"A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF HUMAN SERVICES TO IMPLEMENT THE OHANA ZONE – KAHULUI AFFORDABLE HOUSING FOR HOMELESS FAMILIES".

VICE-CHAIR RAWLINS-FERNANDEZ: Moved by Pro Tem Kama, seconded by Member Sugimura.

Pro Tem Kama.

COUNCILMEMBER KAMA: The purpose of the proposed bill is to authorize the Mayor to enter into an intergovernmental relationship, agreement with the State of Hawaii for the Kahului Affordable Housing for Homeless Families, Ohana Zone, a 12-unit rental housing project at the former college dormitory site on Wahinepio and Kaahumanu Avenues.

Under the agreement, Maui County would receive \$864,200 through June 2022 to fund rental property and wrap around services provided by the project. This bill was passed on first reading, and I trust my colleagues will pass it again on this second reading. Thank you all.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Pro Tem Kama.

Okay. Members, discussion or questions? Seeing none, I'll call for the question. All those in favor of the motion, please say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,
PALTIN, SINENCI, SUGIMURA, AND
VICE-CHAIR RAWLINS-FERNANDEZ.

VICE-CHAIR RAWLINS-FERNANDEZ: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA AND CHAIR KING.

VICE-CHAIR RAWLINS-FERNANDEZ: Motion passes unanimously, seven "ayes",
two "excused"; Chair King and Member Hokama.

COUNCILMEMBER KAMA: Thank you. Thank you. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Deputy Clerk.

ORDINANCE NO. _____
BILL NO. 54 (2019)

A BILL FOR AN ORDINANCE TO AMEND THE WAILUKU-KAHULUI
COMMUNITY PLAN LAND USE MAP FROM SINGLE-FAMILY TO
PUBLIC/QUASI-PUBLIC FOR PROPERTY SITUATED AT LOWER MAIN
STREET, WAILUKU, MAUI, HAWAII, TAX MAP KEY (2) 3-4-018:106

VICE-CHAIR RAWLINS-FERNANDEZ: Member Paltin.

COUNCILMEMBER PALTIN: May I please ask the Clerk to also bring up Bill 55?

VICE-CHAIR RAWLINS-FERNANDEZ: Yes, please. Deputy Clerk.

ORDINANCE NO. _____
BILL NO. 55 (2019)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM R-1 RESIDENTIAL
DISTRICT TO P-2 PUBLIC/QUASI-PUBLIC DISTRICT (CONDITIONAL ZONING)
FOR PROPERTY SITUATED AT LOWER MAIN STREET, WAILUKU, MAUI,
HAWAII, TAX MAP KEYS (2) 3-4-019:003 AND (2) 3-4-018:106

VICE-CHAIR RAWLINS-FERNANDEZ: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I'd like to ask the Clerk at this time if the unilateral agreement has been recorded with the Bureau of Conveyances?

VICE-CHAIR RAWLINS-FERNANDEZ: Deputy Clerk.

DEPUTY COUNTY CLERK: No, the unilateral agreement has not been recorded yet at this time.

COUNCILMEMBER PALTIN: Oh, in that case, I'd like to request that the two bills be postponed to the Council's meeting of November 22, 2019, at 9 a.m. and with the hopes that it would be signed by, or recorded by then.

MEMBERS VOICED NO OBJECTION.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Seeing no objections, we will defer those two items to the next, to the date that Member Paltin said.

Okay. Deputy Clerk.

ORDINANCE NO. _____
BILL NO. 56 (2019)

A BILL FOR AN ORDINANCE ADOPTING DIGITAL ZONING MAP (2) AS
THE OFFICIAL ZONING MAP FOR THE ISLAND OF MAUI

VICE-CHAIR RAWLINS-FERNANDEZ: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I'D LIKE TO MOVE TO PASS BILL 56 (2019) ON SECOND AND
FINAL READING.

COUNCILMEMBER SINENCI:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Moved by Member Paltin, seconded by
Member Sinenci.

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. This bill will formally adopt Digital Zoning Map (2) as Maui island's official zoning map. The map contains 13 corrections to the first map and I have no further discussion, Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin.

Okay, Members, discussion? Seeing none, I'll call for the question. All those in favor of the motion please say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,
PALTIN, SINENCI, SUGIMURA, AND
VICE-CHAIR RAWLINS-FERNANDEZ.

VICE-CHAIR RAWLINS-FERNANDEZ: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA AND CHAIR KING.

VICE-CHAIR RAWLINS-FERNANDEZ: Motion passes unanimously, seven "ayes", two "excused"; Chair King and Member Hokama.

VICE-CHAIR RAWLINS-FERNANDEZ: Deputy Clerk.

ORDINANCE NO. _____
BILL NO. 57 (2019)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR
OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL
AGREEMENT WITH THE U.S. GEOLOGICAL SURVEY, PACIFIC ISLANDS WATER
SCIENCE CENTER, UNITED STATES DEPARTMENT OF THE INTERIOR
(COOPERATIVE WATER-RESOURCE MONITORING PROGRAM)

VICE-CHAIR RAWLINS-FERNANDEZ: Member Lee.

COUNCILMEMBER LEE:

MADAM CHAIR, I MOVE TO PASS BILL 57 ON SECOND AND
FINAL READING.

COUNCILMEMBER SUGIMURA:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: Moved by Member Lee, seconded by Member Sugimura.

Member Lee.

COUNCILMEMBER LEE: This bill will allow the Department of Water Supply to enter into a joint funding agreement with the USGS to continue the Cooperative Water Resource Monitoring Program from October 1 to September 30, 2020. And \$91,440 will be contributed by the Department and the remaining \$39,250 will be contributed by the USGS. Thank you, Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Lee.

Members, any discussion on this item? Okay, seeing none, I will call for the question. All those in favor of the motion, please say "aye".

AYES: COUNCILMEMBERS KAMA, LEE, MOLINA,
PALTIN, SINENCI, SUGIMURA, AND
VICE-CHAIR RAWLINS-FERNANDEZ.

VICE-CHAIR RAWLINS-FERNANDEZ: Any opposed?

NOES: NONE.

EXCUSED: COUNCILMEMBER HOKAMA AND CHAIR KING.

VICE-CHAIR RAWLINS-FERNANDEZ: Motion passes unanimously, seven "ayes", two "excused"; Chair King and Member Hokama.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Deputy Clerk.

DEPUTY COUNTY CLERK: Madam Vice-Chair, there is no further business before the Council.

VICE-CHAIR RAWLINS-FERNANDEZ: So sorry to disappoint you, Member Lee. I know how much you love long meetings.

Okay, Members, good job. We got through our entire agenda and it's only 1:04. Okay, so if there aren't any questions, comments, or further discussion, I'll adjourn today's meeting for the County Council. Any objections? No objections. Okay. It's 1:05 on November 8. Mahalo.

The regular Council meeting for November 8 is now adjourned.

ADJOURNMENT

The regular meeting of November 8, 2019 was adjourned by the Vice-Chair at 1:05 p.m.



JOSIAH K. NISHITA, COUNTY CLERK
COUNTY OF MAUI, STATE OF HAWAII



Eric Poulsen

12:07



ZOLTENPOULSEN

Posts



zoltenpoulsen
Lahaina, Hawaii



BEST LOCAL (MALE) GROM

Zolten Poulsen

This year's Best Local Male Grom is Zolten Poulsen from Maui's West Side. He's a surfer and skateboarder, and loves to SUP. The coconut wireless says that now he's onto the foil board. When he's not competing in contests and adventuring with friends, he might be handling business at his summer mango stand. Congrats to this little ripper that just won at the HSA Maui contest earlier this month. Z-Man sure knows how to have fun in the ocean! We're all looking forward to seeing what you're up to next. (Applause!) (AM) [instagram.com @zoltenpoulsen](https://www.instagram.com/zoltenpoulsen)



Liked by chaseburnes and 80 others

zoltenpoulsen Thank you so much for choosing me to be the best male grom of 2019. I am really surprised, humbled, and super stoked to be... more

View all 12 comments

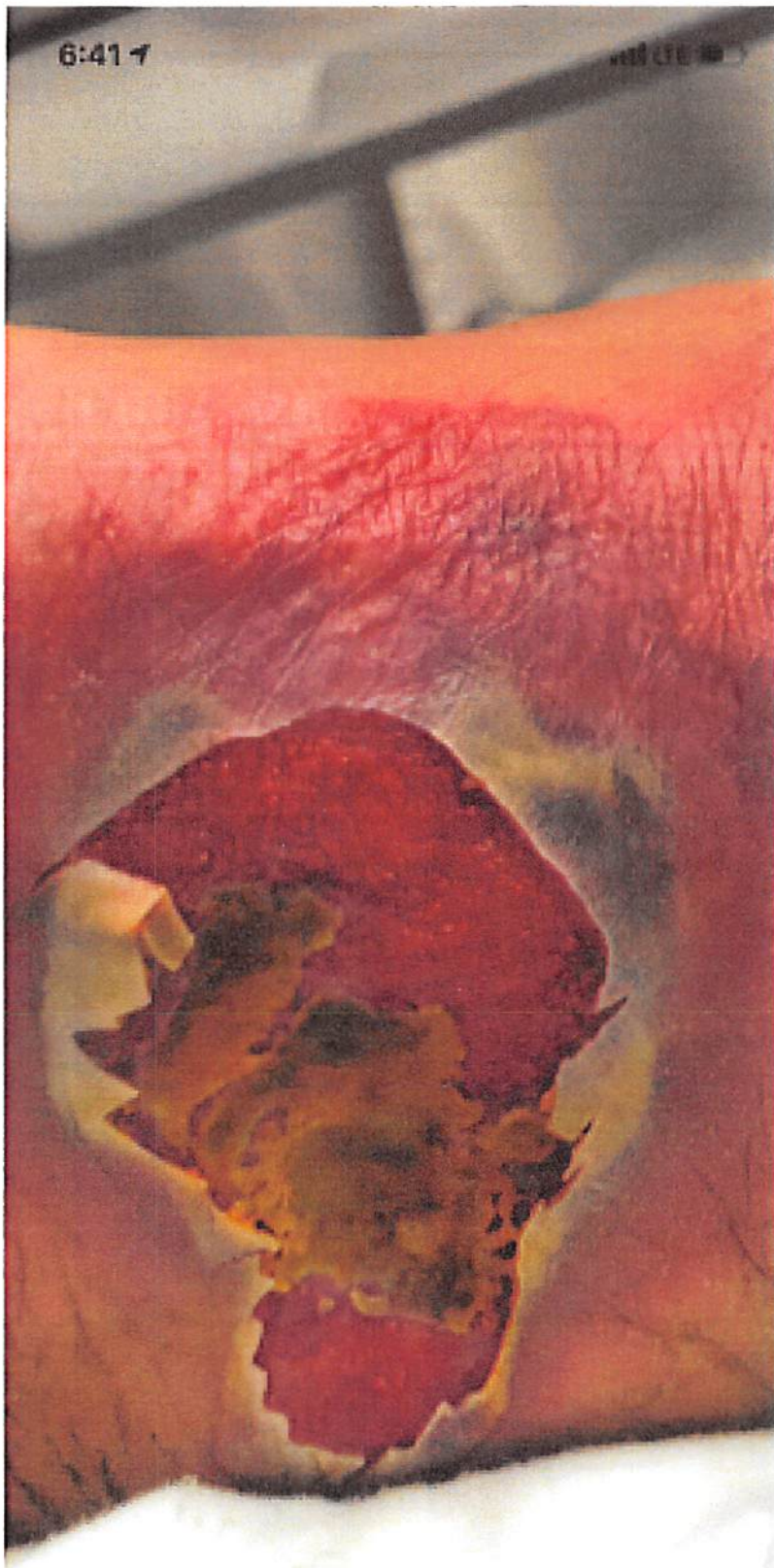
bullyssurfschool Omg!! Yeah Z man!! All the way son!!!

makercurfboards Ho'emaika'i's Zolten 🍌🍌



6:41 7

PHOTO 10



FINAL Evaluation Findings
Hawaii Coastal Zone Management Program

September 2004 – July 2008

January 2010



Office of Ocean and Coastal Resource Management
National Ocean Service
National Oceanic and Atmospheric Administration
United States Department of Commerce

G. COASTAL DEPENDENT USES AND COMMUNITY DEVELOPMENT

1. Special Management Area Permit System and Community Planning

The HICZMP manages Hawaii's coast in a partnership with the four counties of Maui, Kauai, City and County of Honolulu, and Hawaii. Chapter 205A, HRS calls for each county to regulate development in geographically designated Special Management Areas (SMA) through a SMA permit system. Each County has developed its own ordinances and regulations for carrying out the SMA permit system and ensuring that development proposals are in compliance with the CZM objectives, policies, and SMA guidelines in the HRS. The HICZMP has direct SMA authority over limited areas under the jurisdiction of the Hawaii Community Development Authority.

The previous evaluation found that it was a necessary action for the HICZMP to improve the enforcement of local SMA programs and ensure open communication between all networked programs. The evaluation also encouraged the HICZMP to continue its outreach and educational activities. Since the previous evaluation, the HICZMP has taken several steps to address these concerns.

The HICZMP has focused on raising the public's understanding and awareness of the SMA permit system. The Coastal Program developed a *Participant's Guide to the Special Management Area Permit Process in the State of Hawaii*. The Guide is directed towards citizens and provides them with basic information on what an SMA permit is, what types of development are regulated, opportunities for public information, and contacts for more information at the state and county level. The guide is available in printed form and on the HICZMP website. The Coastal Program has also conducted SMA workshops for different audiences. Those attending SMA workshops have included planners, Planning Commissioners, developers, and the public. The workshops address the requirements of the SMA permit and the need for SMA permit conditions to have a CZM context. OCRM commends the HICZMP for continuing to increase awareness and understanding of the SMA permit process through the provision of training sessions and development and distribution of the SMA Guide.

The HICZMP also dedicated a position to serve as an SMA Coordinator. The SMA Coordinator serves as a liaison with county staff and the general public. The SMA Coordinator facilitates communication between the public and SMA administrators and assists with resolving issues. The Coordinator also holds quarterly meetings with the County Planning Directors and staff focused on addressing issues of mutual concern. Meeting topics have included public access, human-induced overgrowth of vegetation on beaches, and cumulative impacts of proposed development. The meetings also provide the Counties with the opportunity to exchange their experiences, successes, and challenges in administering the SMA permit and help ensure consistency in implementation.

In addition, the HICZMP also initiated a Special Management Area Permit System Assessment. The Assessment provides a comparative overview of the procedures and practices of each County's SMA permit system. The report includes a discussion of: (1) Effectiveness and efficiency of procedures for evaluating and regulating development (2) Consistency among

Counties in evaluating and regulating development (3) Effectiveness of public participation; and (4) Areas of concern for which guidance by the HICZMP may be needed. This assessment will be used by the HICZMP to streamline and improve the SMA permit system and to determine if the existing framework is sufficient to address the ORMP's strategic actions.

Accomplishment: The HICZMP has taken multiple steps to raise awareness of, and improve the implementation of, the SMA Permit System including: creating an SMA Permit Coordinator position, developing a Participants Guide, holding SMA permit workshops, and initiating an assessment of the SMA Permit System.

Evaluation participants raised a concern with the need to better monitor and enforce SMA permit conditions. Although the HICZMP has taken significant steps to improve the SMA permit system and expanded ongoing educational efforts, enforcement of permit conditions continues to remain an issue. SMA permit conditions are monitored and enforced at the County level. The HICZMP may wish to explore opportunities for assisting counties with monitoring and enforcement of SMA permit conditions.

2. Community EnVisioning

The EnVision Downtown Hilo 2025 project began as interested citizens, the Hilo Downtown Improvement Association and a County of Hawaii Planning Department staff member came together and began a process to envision Downtown Hilo's future. The group, the Friends of Downtown Hilo Steering Committee, reached out to hundreds of Hilo residents and stakeholder groups who provided input into a community based vision and a Living Action Plan that lays out a five year implementation plan. The EnVision Downtown Hilo project was the first time in Hawaii County that community members had come together to develop a shared vision for their future. The community is currently in the process of executing its Living Action Plan. OCRM commends the HICZMP for funding innovative community planning which encourages broad public participation.

3. Shoreline Certifications and Setbacks

The Coastal Program manages coastal development through shoreline setbacks in order to reduce hazard risks and protect public access. The Shoreline Setback program is implemented through DNLR and the Counties. DNLR is responsible for approving a shoreline certification and county zoning boards then use this information to determine the construction setback. The previous evaluation included a program suggestion that the HICZMP should work with DNLR to develop a scientifically-based shoreline definition process. This program suggestion arose out of a controversy surrounding the basis of shoreline certifications. The shoreline is defined in the HRS as the "upper reaches of the wash of the waves, other than storm and seismic waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves."

CHARMAINE TAVARES
Mayor

JEFFREY S. HUNT
Director

KATHLEEN ROSS AOKI
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

February 25, 2010

Certified Receipt No. (7008 1300 0000 5090 3943)
Olowalu Elua Associates L.L.C.

Mr. Peter Martin
33 Lono Ave, Suite 450
Kahului, Hawaii 96732

Dear Mr. Martin:

SUBJECT: FIRST (1ST) REQUEST FOR CORRECTION FOR A NON-CONFORMITY WITHIN THE SPECIAL MANAGEMENT AREA (SMA)

TMK: TOTAL OF 732.98 ACRES OF WHICH 659.963 ACRES ARE MAUKA OF HONOAPIILAI HIGHWAY AND 73.017 ACRES LIE MAKAI OF THE HIGHWAY. THE SUBJECT PROPERTY IS COMPRISED OF 49 EXISTING TAX MAP PARCELS. ON THE LANDS MAUKA OF HONOAPIILANI HIGHWAY, THERE ARE 38 EXISTING TAX MAP PARCELS. ON THE MAKAI LANDS, THERE ARE 11 TMK PARCELS, LAND IN OLOWALU FOR SUBDIVISION DEVELOPMENT. THE PROPOSED ACTION WITHIN THE COUNTY SMA INVOLVES THE CONSOLIDATION AND RESUBDIVISION OF FOUR (4) LOTS INTO SEVEN (7) LOTS.

MAUKA LANDS: TMK: 4-8-3:10, 50-70, 73-82; 4-8-4: 11-16

MAKAI LANDS: TMK: 4-8-3: 5, 41-49 AND 84

RFS No.: 10-0000452

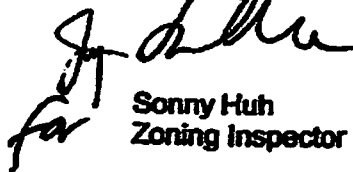
Description: Failure to comply with all SMA conditions for SMA Use Permit for Olowalu Subdivision Olowalu, Maui, Hawaii (SM1 990021)

Based on the evidence collected on February 2, 2010, we find that the non-compliance with SMA Conditions listed under SMA1 9990021 is in violation with §12-202-23, SMA Rules for the Maui Planning Commission, as amended. Please comply with all of the SMA conditions by March 27, 2010. Evidence of the aforementioned non-conformity includes: full review of the SMA Use Permit conditions and supporting documents. Condition numbers 2, 4, 8, 11, 12, 14, 19, 32 and 33 out of the 32 conditions listed in SM1 990021 have not been completed. Attached is a copy of SM1 990021 permit dated September 19, 2000.

Olowalu Eua Associates LLC.
February 25, 2010
RFS No. 10-0000452
Page 2

Please be advised that a follow-up investigation will be performed, and if not in compliance, you will be subject to civil and criminal enforcement action. Should you have any questions concerning this notice, you may contact me at Sonny.Huh@mauicounty.gov or (808)270-7810.

Sincerely,


Sonny Huh
Zoning Inspector

xc: Jay Arakawa, Supervising Zoning Inspector (via e-mail)
Sonny Huh, Zoning Inspector (via e-mail)
RFS No. 10-0000452 (KIVA related document; RFS Project File)
General File
AHS:FAC:JAA:SH:ckk

S:\ZONING\RFS\2010\0452_OLOWALU_MAIKA_SMAINOWNOW1.DOC (rev. 11.09)

RESOLUTION "A" - TERMS AND CONDITIONS:

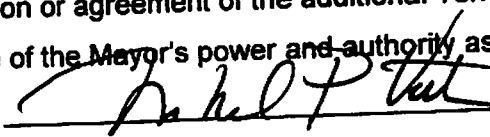
Christopher Salem shall release all claims against the County of Maui, Mayor Arakawa, and the named Defendants (except Defendant Milton Arakawa) in consideration of the following;

I. EXECUTIVE ACTS – MAYOR ELECT MICHAEL VICTORINO

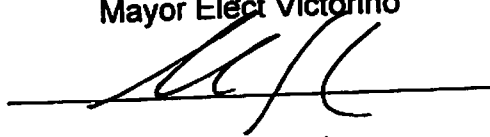
1. On or before January 10, 2019, Mayor elect Michael Victorino shall instruct the Director of Planning to issue a Notice of Non-Compliance to Developer Lot 48, LLC to insure Developer Lot 48A, LLC returns to their development to complete their unfulfilled roadway infrastructure and drainage improvements delineated in the signed and conditioned subdivision SMA Permit SM2 2000/0042. (Subdivision Condition #15 - Luca File #4.805)

- a) The action shall serve the public interest by preventing the citizens of Maui County from incurring Developer Lot 48A, LLC's subdivision roadway infrastructure improvement financial obligations.
- b) The action is consistent with the notices sent to Olawalu Elua Associates, LLC on February 10, 2010, nine years after final subdivision approval was issued by Public Works Director Goode.
- c) This action constitutes a good faith agreement between Mayor elect Michael Victorino and Christopher Salem to release Mayor elect Michael Victorino individually from personal liability for any past, present, or future acts involving Developer Lot 48A, LLC and the County of Maui relating to subdivision Luca File #4.805.

Mayor elect Michael Victorino hereby agrees to perform Condition #1 regardless of resolution or agreement of the additional Terms and Conditions set forth herein which are outside of the Mayor's power and authority as established in the Maui County Charter.

 12/5/18

Mayor Elect Victorino

 12/5/18

Christopher Salem

From: Moloka'i Drugs <molokaidrugs@gmail.com>
Sent: Thursday, November 07, 2019 10:26 PM
To: Kelly King; Keani N. Rawlins; Tasha A. Kama; Riki Hokama; Alice L. Lee; Mike J. Molina; Tamara A. Paltin; Shane M. Sinenci; Yukilei Sugimura
Cc: County Clerk
Subject: From Kimberly Svetin (Molokai Drugs, Inc. and Kamoi Snack-n-Go, Inc.) - For the Maui County Council - Agenda Item CR-19-128

November 7, 2019

Dear Chair King, Vice Chair Rawlins-Fernandez, and Maui Council Members:

On behalf of our 34 employees and their families, I am asking the Council of the County of Maui to hold—and do not pass—Bill CR 19-128 in relation to real property tax reform.

I am requesting this hold until there is a clearer understanding of how this legislation will affect Molokai businesses and community members who own condominiums as their primary residences.

1. As a private employer, I am concerned with the language of this proposed legislation, which I was made aware of only this week. I would also like more clarification with “section 3.48.565 Increase or decrease,” which includes tax tiers and rates and how this will affect small businesses such as the stores we manage and own on Molokai. Our business owners would appreciate the Council to explain the structure of tax rates and tiers and to proactively ask Maui-, Molokai-, and Lanai-based business owners what their opinion is of this legislation. There are over 200 businesses—and even more business owners—on the island of Molokai alone.
2. The second reason for my concern is the language regarding condominiums and owner-occupancy. On Molokai, I personally know teachers and staff at Molokai High, Molokai Middle, Kaunakakai Elementary, Kilohana School, Kualapuu Public Conversion Charter School and Maunaloa School who own condos, have lived here for many years, and make Molokai their home. A number of these community members own their condominiums and occupy these units as their primary residences, garnering the current owner-occupant tax exemption. Under this proposed legislation, these community members would be taxed at the rate of highest and best use under apartment and/or short-term rental. One Molokai High teacher told me that he is able to live here and teach our students (including both of my children) because of the current property taxes being affordable.

“A Bill for an Ordinance Relating to Tiers of Real Property Tax Rates” would implement major changes to the current real property tax laws in Maui County. This will affect a large group of stakeholders, many if not all of the small business owners on Molokai, as well as condo owners who live in Maui County as full-time residents. We ask that you ask your constituents to see how this proposed measure will impact the financial health of our County's small businesses as well as full-time residents who do not own stand-alone homes for tax exemptions.

Sincerely,
Kimberly Svetin
President – Molokai Drugs, Inc.
General Manager – Kamoi Snack-n-Go, Inc.
P.O. Box 558
Kaunakakai, HI 96748-0558
Phone 808-553-5790

From: Jason Economou <jason@ramau.com>
Sent: Wednesday, November 06, 2019 9:40 AM
To: County Clerk
Cc: Kelly King; Keani N. Rawlins; Tasha A. Kama; Alice L. Lee; Yukilei Sugimura; Riki Hokama; Shane M. Sinenci; Mike J. Molina; Tamara A. Paltin
Subject: Testimony to County Council RE: CR 19-128 Related to Real Property Tax Reform

RECEIVED

2019 NOV -6 AM 10: 26

COUNTY OF THE
COUNTY CLERK

Aloha,

Please accept the following as written testimony on behalf of the REALTORS Association of Maui regarding CR 19-128 and the two bills attached thereto, which are on the Agenda for the next County Council meeting on November 8th. Please note that I will be unable to attend the Friday meeting in person, but I am happy to respond to questions related to RAM's position via email or phone call at your convenience.

RE: CR 19-128 Related to Real Property Tax Reform

Aloha Chair King, Vice-Chair Rawlins-Fernandez, and Members of the Council:

I am submitting this testimony on behalf of the REALTORS Association of Maui and its more than 1,700 licensed, professional REALTORS regarding Committee Report 19-128 and the proposed bills related to real property tax reform. Based on Committee Chair Rawlins-Fernandez's report, the County Council should not move forward with these bills until a complete tax reform package can be agreed upon and public outreach and education have been conducted.

Though Vice-Chair Rawlins-Fernandez penned an eloquent editorial for the Maui News, it is a far cry from the level of public outreach that should be occurring when major changes are being made to the County's method of real property taxation. Though Vice-Chair Rawlins-Fernandez encouraged her fellow EDB Committee members to lead education efforts in their own residency districts, this does little to ensure that our residents are actually informed of the changes being made or the impacts those changes might have. Given the gravity of these changes and the EDB Committee's acknowledgement that more work is yet to be done regarding tax reform, it is in the best interest of the public to hold off on approving a hastily cobbled together (partial) tax reform package without proper outreach.

In addition to my objections related to the Council's methodology in trying to pass these reforms, I am concerned with the substance of the bills as well. The Committee Report notes that "the classifications bill eliminates the need for condominium owners to declare the actual use of their units to the Department of Finance. Instead, condominium units will be classified based on their highest and best use unless an exception applies." Having condominium tax rates be determined by "highest and best use," rather than actual use, makes the code less clear for taxpayers and may result in unintended inequity. For example, there are a number of condominium units where short term rentals are allowed by ordinance, but the owners rent them out long term. In these instances, the owner may now be subject to the short term rental tax rate as it is the highest and best use and because there is no applicable exemption for long-term rentals. This would be unfair to the property owner, and it would essentially penalize the owner for actually using the property as a long term rental. This will have a chilling effect on the long term rental market for condominiums, as well as a chilling effect on sales. I have already received calls from Realtors who have had sales jeopardized based on fears over this portion of the reforms. I have received similar calls asking what the "highest and best use" will be in condominium properties like Harbor Lights, Island Surf in Kihei, and Maui Sunset if this goes forward. Clearly there is little

understanding as to how the proposed changes will affect taxpayers and few explanations have been provided prior to first reading.

In relation to the removal of condominium declarations and the aforementioned example, the proposed reforms would be far more palatable had they been complete. The Committee admits that these reforms are only the beginning of the work they have started, and acknowledges that dedications for long-term rental use should have been a part of this reform package. Had a long-term rental dedication or exemption been included in these bills it might have assuaged some fears related to the taxation of condominiums, but it is noticeably missing. Moreover, the inclusion of such an incentive would have directly addressed our most pressing need in the County, increasing inventory of affordable housing, so I am at a loss as to why the rest of the reforms must move forward so quickly while other key pieces are being disregarded. In the most simple of terms, "highest and best use" is anti-affordable housing, and this bill will result in higher rents by creating more short term rentals and less long term rentals. Moreover, it is likely to result in mass confusion and dissatisfaction among a large portion of taxpayers.

For the foregoing reasons, the REALTORS Association of Maui **opposes** these current reform measures, and we will take a more active role in opposing these measures if moved forward as they are now. I encourage the Council to send these bills back to Committee for further clarification and to engage in sufficient public outreach for an issue of such high importance. I would be happy to work with the County in organizing and/or publicizing any educational events you plan on having.

Mahalo,

Jason A. Economou
Government Affairs Director

--

Jason A. Economou
Government Affairs Director
Realtors Association of Maui

441 Ala Makani Place
Kahului, HI 96732

Office: (808) 243-8585
Mobile: (808) 308-9015

County Clerk

From: Joanne Foxxe <jofoxxe@icloud.com>
Sent: Thursday, November 07, 2019 5:51 PM
To: County Clerk
Subject: Property tax

It is very important to keep the categories the way they are It is not fair to condo owners who have second homes and do not rent.

Warmest alohas,

Joanne Foxxe,CRS, GRI, SRES, e-Pro, RSPS Kapalua Realty
700 Office Road
Lahaina, Hi. 96761

808-385-2918 cell and direct line
Www. JoanneFoxxe.com

Quality isn't expensive, it is priceless.
Top 100 Hawaii Realtors 2017

Oh by the way, I am NEVER too busy for your referrals.

County Clerk

From: Chris Haigh <ibikeadv@gmail.com>
Sent: Thursday, November 07, 2019 12:25 PM
To: County Clerk
Subject: "highest and best use" method of taxation

RECEIVED
2019 NOV -7 PM 12: 46

OFFICE OF THE
COUNTY CLERK

Aloha,

I have a residence and have lived on Maui full time for 15 years and I also have 2 condo's as an investment property that I rent full time to local families. If the tax code is changed as planned to Highest and Best Use, I can assure you that I and many others I know will stop renting our condos long term to locals and start to short term rent them to make the financials work. Highest and Best Use will totally make the housing crisis on Maui so much worse. Please vote down this measure on Nov. 8th.

Mahalo,

Chris

County Clerk

From: Kim Insley-Morrell <kimdave@mauikim.com>
Sent: Thursday, November 07, 2019 3:29 AM
To: County Clerk
Cc: Kim Insley-Morrell
Subject: Property Tax Revision

RECEIVED
2019 NOV -7 AM 8: 47
OFFICE OF THE
COUNTY CLERK

Too Whom it May Concern,

I am against Classification Reform Bill. Our property taxes should be based on "ACTUAL USE"

Changing to the proposed Bill will have a negative impact on those that need the savings the most.



Kim Insley-Morrell
174 Kawaihani Circle
Kihei, Hawaii 96753

County Clerk

From: Ryan Link <ryanlink@hawaii.edu>
Sent: Thursday, November 07, 2019 8:55 PM
To: Kelly King; Keani N. Rawlins; Tasha A. Kama; Riki Hokama; Alice L. Lee; Mike J. Molina; Tamara A. Paltin; Shane M. Sinenci; Yukilei Sugimura
Cc: County Clerk
Subject: HOLD (Do not pass): BILL CR 19-128

Maui County Council
Hearing: November 8, 2019 @ 9:00am
HOLD (Do not pass): BILL CR 19-128

Aloha Council Members,

My name is Ryan Link and my wife is Kim Link. We are both teachers at Kualapuu Elementary school on Molokai. Molokai Shores Condominiums have been our only home since we moved here in 2003 (Ryan) and 2004 (Kim). We also have one son in 2nd grade.

We ask the County Council to **HOLD AND DO NOT PASS BILL CR 19-128** relating to RPT changes.

- I'm very concerned that living in a condominium could lead to losing my home exemption for taxes. This worries me the most.
- We ask the County Council hold more community outreach meetings to help its constituents understand the bill, as well as to gather more community input.
- There is no legitimate reason to rush something that will have such a vast impact to Maui County citizens, businesses and visitors.
- The community needs more time to fully understand and weigh the impacts that are being proposed.
- During the last committee hearing, only 3 people testified. We ask the Council to do more to create public awareness and outreach to its constituents and business community.
- Tax tiers and rates are not defined in ordinance, this means each year the Council could change the tiers during the budget process, as well as change the tax rates each year.

Mahalo for your time and consideration,
Ryan and Kim Link
Molokai Residents

From: Dan Macdonell <danmacdonell@hawaiiilife.com>
Sent: Thursday, November 07, 2019 1:56 PM
To: County Clerk
Cc: Kelly King; Keani N. Rawlins
Subject: RE: CR 19-128 Related to Real Property Tax Reform

RECEIVED
2019 NOV -7 PM 1: 58
OFFICE OF THE
COUNTY CLERK

Aloha Chair King, Vice-Chair Rawlins-Fernandez, and Members of the Council:

My name is Dan Macdonell R(S) and I am submitting this testimony on behalf of myself as a concerned resident and as a Property Manager for Long Term Rentals here on Maui. In the interest of disclosure I am a licensed REALTOR, active member of the REALTORS Assoc. Of Maui (RAM), Chair of the MLS Committee and a member of the Government Affairs Committee of RAM.

I think we all agree that there is a shortage of housing for our residents. Everyday I get inquiries as to if I have any properties available for rent. Sadly, most of the time I don't as there is not enough inventory. Rents are starting to flatten however most are still at a level where our most vulnerable residents can not find affordable housing. This then pushes them to live in overcrowded, substandard, non conforming even illegal housing units or worse into the streets.

In background, efforts have been made to increase the available inventory of affordable rentals such as the changes to MCC 19.35 adding the number of Accessory Dwellings which was adopted on December 21, 2018. However, changes to existing properties to take advantage of this new law are still in the permit process so none are currently on the rental market at this time. Also, the total number of properties in the permit process for this modification are extremely low so the net increase of available rental units will be negligible in the immediate future.

CR 19-128 seeks to modify the revenue structure of the tax code essentially to a "Highest and Best Use" format especially in regards to condominiums. It *"eliminates the need for condominium owners to declare the actual use of their units to the Department of Finance. Instead, condominium units will be classified **based on their highest and best use unless an exception applies.**"* This needs to be looked at and discussed much deeper with a clearer understanding of what this could do to our already short supply of housing and further hurting our residents. If an owner can apply for a Homeowners Exemption why then eliminate the ability to declare they are providing long term housing?

Many of the condominium properties in Maui County have a ***mixed use*** component. Individual owners have opted to provide long term housing in these properties that are zoned Hotel or even Commercial. To name a few are Harbor Lights, Maui Vista, Island Surf and Menehune Shores plus there are many more island wide. Highest and Best Use rates on these complexes would disincentivize owners to provide long term housing and instead rent to visitors since they are being taxed as if they were which would further cut into available housing.

You might ask why this is a problem as all but one of the examples are "resort" type properties? Where do the long term tenants go if they lose their home in these complexes? They go out into the general rental market many with the ability to pay more than existing tenants. That could squeeze out the marginally qualified applicants and even force rental rates to increase.

I urge you to not pass this bill as it stands and go back to committee and clarify what to do. This bill as it stands will do more harm to our vulnerable residents than good. If passed and this goes into law, another law will go into effect. The Law of Unintended Consequences.

Mahalo

--

Dan M Macdonell R(S), RS-57638

Hawaii Life Real Estate Brokers, Wailea

808-281-9588 (cell)

www.facebook.com/mauihb1 (facebook)

Danmacdonellrs (Linkedin)

Dan.Macdonell808 (Skype)

@MauiHomeBuyer (Twitter)

http://about.me/dan_macdonell (About Me)

www.MauiHomeBuyer.com

County Clerk

From: Teri Palmer <teripalmer808@gmail.com>
Sent: Thursday, November 07, 2019 5:45 PM
To: County Clerk
Subject: Condo Tax

- > Aloha,
- >
- > The classifications bill that is being considered on Friday contains a very alarming component to me that I am strongly against. I hope you will all vote against the bill that contains the change in condo use declaration provision.
- > If condos are automatically taxed at their highest and best use (other than owner exemption) this will force many owners into a much higher tax rate on 2nd homes and long term rentals.
- > Long term rents are SO HIGH right now, and this will make things even harder on renters since most owners will pass this cost through to our already tapped out renters. We have an affordable housing crises, and will only exasperate it.
- >
- > Thank you for adding my voice to the list of concerned people on this issue, and for voting against the proposed change. Please forward this email to all parties in Maui Government who will be involved in Friday's testimony.
- > I am unable to attend on Friday in person.

Teri Palmer

RECEIVED

2019 NOV -6 AM 9: 22

OFFICE OF THE
COUNTY CLERK

November 6, 2019 (Testimony submitted in person)

Honorable Tamara Paltin
Chairwoman Planning and Sustainable Land Use
200 S. High Street, Wailuku, Maui, Hawaii 96793
Testimony submitted in person
CC: Maui County Council/Office of the Mayor

Subject: Public Testimony for November 6 meeting of the Planning and Sustainable Land Use PSLU-42 relating to high-altitude aviation and 5G.

Aloha Honorable Chair Paltin Vice Chair Sinenci and Committee Members,

Mahalo for your service to our County, and mahalo for your time reading and hearing my testimony.

My name is Simon Russell, I represent Hui 'O Mālama 'Āina in the work I do to advocate and educate for sustainable agriculture and a healthy environment.

I do **not** give my consent to be experimented on with fifth generation millimeter wave signals. I do **not** give my consent to be a part of the total surveillance society. The massive harvesting of data that will constitute the internet of things and be hosted on the platform of 5G and will lead to the loss of privacy.

I do **not** give my consent for myself or my children to be harmed by uncontrollable wireless radiation.

For health and privacy reasons, Hui 'O Mālama 'Āina is strongly opposed to Fifth Generation Cellular Towers being installed in Maui County, or 5G drone platforms above Maui County providing service from our stratosphere.

I have expertise in technology that I would like to share with you today.

Part of my educational background is in electronics and computer science, and I previously held a FCC certification as a telecommunications technician.

The good news in the realm of 5G is that it is not on Maui yet. We can stop it from impacting our communities, while at the same time, supporting a safer connectivity to high speed broadband with fiber optics and wired high speed broadband.

From the other side, the problem side we have a novel and toxic technology that the Federal and State government are pressuring our communities across the state to accept.

5G millimeter band beamforming technology and ultra-dense antenna arrays:

For the Gigabit speed bandwidth to be realized by the internet of things and hand-held devices 5G Cellular towers will be placed every 100-300 meters on utility poles and will use millimeter wave beamforming technology to carry the cellular signals. According to testimony submitted to the US Congress, there may need to be up to 250 cell towers per square mile, massively increasing that area's exposure to wireless radiation. Additionally, the 5G regime requires cellular devices to act as routers, receiving and transmitting wireless radiation, exposing anyone and anything that is in proximity to a connected device to the frequency.

Currently under the 4G LTE regime, they can be placed every couple of miles and are high above the ground rather than on utility poles. Under 4G LTE, the antenna arrays are omnidirectional, meaning the signal transmits in all directions. While 4G is not totally safe, it is orders of magnitudes less powerful.

Under the 5G regime, the millimeter wave beamforming technology will permeate our residential communities, forcing every life form to be subjected to this type of focused energy, that has not even one biological test of safety. If you have ever seen or played laser tag, imagine every "smart device" hand held device and the rest of the internet of things emitting millions of beams of energy that literally pierce every living thing in our environment.

Because the millimeter wave frequency is absorbed by water, it is absorbed by humans, plants and animals, and should be considered toxic until proven otherwise. Absorption of radiation is interaction, and cause for concern.

See a short video on 5G by the Institute for Electrical and Electronic Engineers here:
https://www.youtube.com/watch?v=GEx_d0SjvS0&t=53s

You can see Lorrin Pang MD speaking as a private citizen give a presentation on potential risks of 5G here:
<https://vimeo.com/333630717>

I do not want my family, and especially my children or anyone else exposed to 5G wireless radiation beaming through our communities until it is proven to be safe. Additionally, according to many researchers and scientists there is great harm that will befall our natural ecosystems from this novel and toxic technology.

In spite of that, on June 20 2016 Federal Communications Chairman Tom Wheeler said to the National Press Club:

"Unlike some countries, we do not believe we should spend the next couple of years studying what 5G should be, how it should operate, and how to allocate spectrum, based on those assumptions. Like the examples I gave earlier, the future has a way of inventing itself. Turning innovators loose is far preferable to expecting committees and regulators to define the future.

We won't wait for the standards to be first developed in the sometimes-arduous standards-setting process or in a government-led activity. Instead, we will make ample spectrum available and then rely on a private sector-led process for producing technical standards best suited for those frequencies and use cases. Leadership in networks leads to leadership in uses, which quickly moves across borders."

That policy of not considering the environmental and health impacts before rolling out a technology is unacceptable to the hui I represent, and I am dedicated to changing that policy of non-standardization of toxic and radioactive technology and ignoring potential harm that may befall our environment and its inhabitants.

The risk our communities face is increased and constant exposure to wireless radiation at higher energy levels than ever before across many frequencies.

Please oppose this wireless 5G on Maui and protect our people and our 'Āina and our people's future with safer alternatives to broadband connectivity.

Mahalo for hearing my testimony today

Respectfully submitted,

Me ka ha'aha'a

Simon Russell
Managing Member

Hui 'O Mālama 'Āina LLC

A strong advocate for the 'Āina,
A registered lobbyist with the County of Maui and the State of Hawaii

Ua Mau ke Ea o ka 'Āina i ka Pono



On the web: <http://www.homallc.com>
Phone: (808) 268-6132
Email: Simon@homallc.com

Christopher Salem

RECEIVED

2019 NOV -7 PM 1:25

Maui County Council

OFFICE OF THE
COUNTY CLERK

Written Testimony

November 8, 2019

CC #19453

Christopher Salem

November 5, 2019

Office of Mayor Michael Victorino
200 High Street – 9th Floor
Wailuku, Hawai'i
Attention: Managing Director Sandy Baz

RE: SMA Permit Enforcement

Dear Mr. Baz;

This letter is in response to Mayor Victorino's request for a field inspection of a private developer's incomplete infrastructure as represented and approved by the Department of Planning in a conditioned oceanfront subdivision Shoreline Management Area ("SMA") Permit. (SM2 2000 0042)

Mayor Victorino signed the attached agreement to issue a Notice of Non Compliance to the private developer. By requesting a field inspection, Mayor Victorino is taking the necessary steps to hold the developer accountable to their conditioned SMA Permit obligations. The field inspection is just a formality; Mayor Victorino is a former Council member who has first-hand knowledge of the oceanfront developers unfulfilled infrastructure and conditioned SMA Permit.

The attached memorandum to Mayor Victorino includes the requested developers signed SMA Permit application and SMA Project Assessment Report. Included in the Report are the required submittals including the Civil Engineer's Cost Estimates for the construction of the subdivision infrastructure improvements.

For the record, the developer's incomplete infrastructure and drainage improvements lie along the frontage of the proposed Phase IV of Lower Honoapillani Road Capital Improvement Project. The roadway CIP is projected for construction within the next five 5 years. By failing to require the developer to complete their subdivision infrastructure obligations, the Maui County residents and taxpayers would ultimately incur the developer's SMA Permit financial obligations.

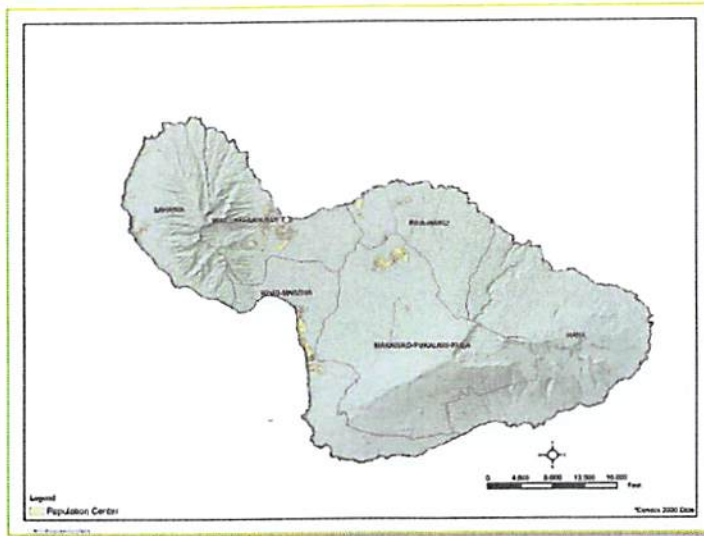
SMA Permit compliance remains a costly citizen's complaint driven process in Maui County dating back to the shores of Montana Beach. In this instance, the failure to issue the Notice of Non Compliance to protect the public interest would be a violation of Article 9, Section 9-12 of the Maui County Charter.

During our phone conversation earlier this week you stated you were sending the inspector to the subdivision to look for zoning. The purpose of this letter is to confirm you have forwarded the site specific SMA Permit violation documents to the County Enforcement officer. The SMA Permit documents provide the findings of the developer's noncompliance.

Respectfully; *Christopher Salem*

'cc: Members of the Maui County Council

'chrissalem8@yahoo.com



**DEVELOPER
VIOLATIONS
OF
Special Management Area Permits
(SMA)**

"I've learned over the years that you get them by their wallet, their hearts and minds will follow. The environment is everything here. It's so precious to the people and the culture. And y'all need a court to protect all this beauty."

**Tennessee Judge Larry Potter, Guest Speaker
Keep Hawaiian Islands Beautiful Conference
August 2012**

RESOLUTION "A" - TERMS AND CONDITIONS:

Christopher Salem shall release all claims against the County of Maui, Mayor Arakawa, and the named Defendants (except Defendant Milton Arakawa) in consideration of the following:

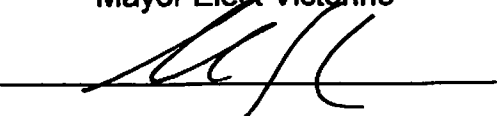
I. EXECUTIVE ACTS – MAYOR ELECT MICHAEL VICTORINO

1. On or before January 10, 2019, Mayor elect Michael Victorino shall instruct the Director of Planning to issue a Notice of Non-Compliance to Developer Lot 48, LLC to insure Developer Lot 48A, LLC returns to their development to complete their unfulfilled roadway infrastructure and drainage improvements delineated in the signed and conditioned subdivision SMA Permit SM2 2000/0042. (Subdivision Condition #15 - Luca File #4.805)
 - a) The action shall serve the public interest by preventing the citizens of Maui County from incurring Developer Lot 48A, LLC's subdivision roadway infrastructure improvement financial obligations.
 - b) The action is consistent with the notices sent to Olawalu Elua Associates, LLC on February 10, 2010, nine years after final subdivision approval was issued by Public Works Director Goode.
 - c) This action constitutes a good faith agreement between Mayor elect Michael Victorino and Christopher Salem to release Mayor elect Michael Victorino individually from personal liability for any past, present, or future acts involving Developer Lot 48A, LLC and the County of Maui relating to subdivision Luca File #4.805.

Mayor elect Michael Victorino hereby agrees to perform Condition #1 regardless of resolution or agreement of the additional Terms and Conditions set forth herein which are outside of the Mayor's power and authority as established in the Maui County Charter.

 12/5/18

Mayor Elect Victorino

 12/5/18

Christopher Salem

Christopher Salem
Community Liaison
Office of Mayor Victorino

OFFICE MEMO:

To: Mayor Michael Victorino

From: Christopher Salem

Date: October 30, 2019

SUBJECT:

- SMA Permit Non Compliance
 - SM2 2000 0042

CONTACT:

- County of Maui
 - Zoning & Code Enforcement

ATTACHMENTS:

- Photo of Unimproved frontage to Lower Honoapiilani Road
- Tax Map Plot Plan
- SMA Permit SM2 2000 / 0042
- SMA Assessment Report
 - Proposed Action
 - Roadway and Drainage Improvements
 - Lower Honoapiilani Road
 - Hui Road E
 - Engineer's Cost Estimate
 - Lower Honoapiilani Road
 - Hui Road E
 - Photo of Drainage

NOTES & COMMENTS:

- Per Mayor Victorino's directive, attached are the requested SMA Permit Records.

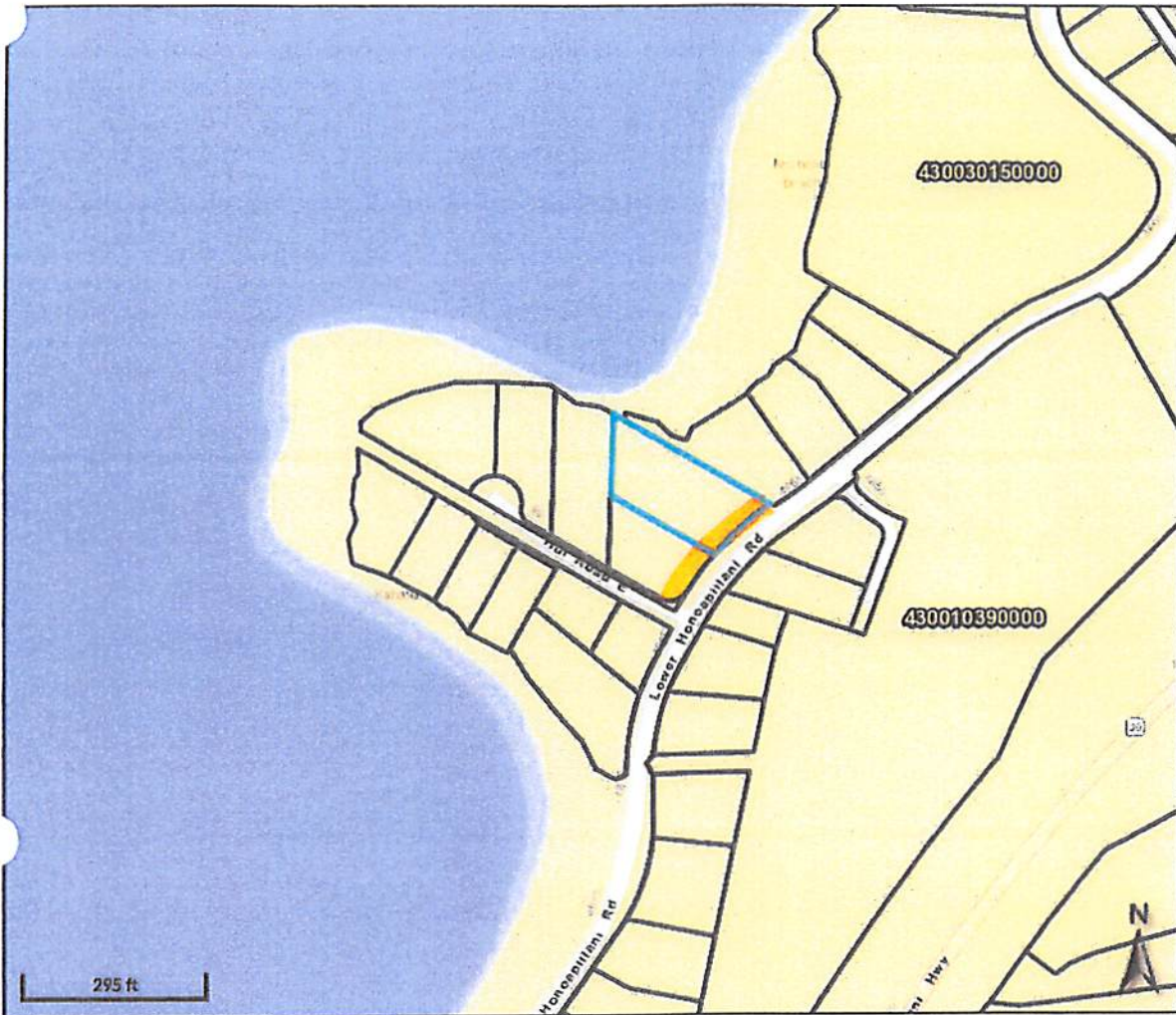
REQUESTS:

- Request to Zoning and Code Enforcement to confirm the roadway frontage improvements along Lower Honoapiilani Road are not constructed as represented and approved by the Department of Planning in the attached SMA Permit records, Project Assessment Report, and Civil Engineering Order of Magnitude Estimate.

Respectfully;

Christopher Salem





Overview



Legend

□ Parcels

Parcel ID	430150540000	Situs/Physical Address	4851 LOWER HONOAPIILANI RD	Assd Land Value	\$5,503,200	Last 2 Sales Date		Reason	Qual
Acreage	0.584	Mailing Address	ISLAND GIRL HOLDINGS LLC	Assd Building Value	\$4,114,200	6/25/2014	0	n/a	U
Class	RESIDENTIAL		C/O PATHSTONE FAMILY OFFICE, LLC	Total Assd Value	\$9,617,400	5/2/2008	\$8700000	n/a	U
			PO BOX 52047	Exempt Value	\$0				
			ATLANTA GA 30355	Taxable Value	\$9,617,400				

Brief Tax Description n/a

(Note: Not to be used on legal documents)

Date created: 10/30/2019
Last Data Uploaded: 10/29/2019 11:56:24 PM

JAMES "KIMO" APANA
Mayor

JOHN E. MIN
Director

LAYTON I. YOSHIDA
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

June 6, 2000

Mr. Hugh Farrington
Lot 48-A, LLC
P. O. Box 1516
Kihei, Hawaii 96753

Dear Mr. Farrington:

RE: Special Management Area (SMA) Minor Permit – For the Three-Lot Subdivision of Lot 48-A at Hui Road "E" and Related Subdivision Improvements at TMK: 4-3-015:004, Lahaina, Island of Maui, Hawaii (SM2 2000/0042)

In response to your application received on May 11, 2000, and in accordance with the Special Management Area Rules for the Maui Planning Commission, Sections 12-202-12 and 12-202-14, a determination has been made relative to the above project that:

1. The project is a development;
2. The project has a valuation not in excess of \$125,000.00 (Valuation: \$91,400.00);
3. The project has no significant adverse environmental or ecological effect, taking into account potential cumulative effects; and
4. The project is consistent with the objectives, policies and Special Management Area guidelines set forth in the Hawaii Revised Statutes (HRS), Chapter 205-A and is consistent with the County General Plan and Zoning.

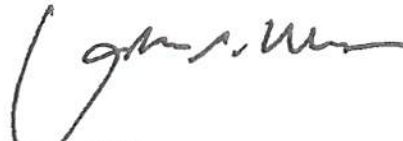
In consideration of the above-referenced determination, you are hereby granted a Special Management Area Minor Permit approval, subject to the following conditions:

Mr. Hugh Farrington
June 6, 2000
Page 2

1. That construction shall be in accordance with plans submitted on May 11, 2000.
2. That a subdivision approval shall be obtained prior to the initiation of construction (if applicable).
3. That construction of the subdivision improvements shall be initiated by December 31, 2000 and shall be completed within one (1) year of said initiation.
4. As represented, the existing chain-link fencing located within the minimum 48 ft. shoreline setback area shall be removed within sixty (60) days of the date of this approval. Documentation shall be submitted to the Maui Planning Department that the condition has been fulfilled.
5. That continued public-lateral shoreline access shall be allowed along the rock ledge, makai (ocean side) of the existing embankment and vegetation fronting the shoreline area of Lot 48-A.
6. That full compliance with all other applicable governmental requirements shall be rendered.

Thank you for your cooperation. If additional clarification is required, please contact Ms. Colleen Suyama, Staff Planner, of this office at 270-7735.

Very truly yours,



JOHN E. MIN
Planning Director

Mr. Hugh Farrington
June 6, 2000
Page 3

JEM:CMS:osy

c: Clayton Yoshida, AICP, Deputy Planning Director
Aaron Shinmoto, PE, Planning Program Administrator
Colleen Suyama, Staff Planner
Michael Munekiyo, AICP, Munekiyo, Arakawa & Hiraga, Inc.
LUCA (2)

~~2000/SM2 Minor Permit File~~

General File

(S:\CMS\HuiRoadE2)

ORIGINAL

***Special Management
Area Assessment***

**PROPOSED SUBDIVISION OF
LOT 48-A AT HUI ROAD "E"**

Prepared for:

May 2000

Lot 48-A, LLC

MUNEKIYOTI ARABAKI & MIRAGA, INC.

**APPLICATION FOR SPECIAL
MANAGEMENT AREA ASSESSMENT
for
PROPOSED SUBDIVISION OF
LOT 48-A AT HUI ROAD "E"**

INDEX

1. **SPECIAL MANAGEMENT AREA ASSESSMENT APPLICATION FORM**
2. **REQUIRED SUBMITTALS**
3. **LAND OWNERSHIP DOCUMENTATION**
4. **LETTER OF AUTHORIZATION**
5. **PROJECT ASSESSMENT REPORT**
6. **ENGINEER'S COST ESTIMATE**
7. **SITE PHOTOGRAPHS**
8. **PRELIMINARY SUBDIVISION MAP**

laningto48aindex.001

**1. SPECIAL MANAGEMENT AREA
ASSESSMENT APPLICATION FORM**

Planning RFS Responses 000009



COUNTY OF MAUI
 DEPARTMENT OF PLANNING
 250 SOUTH HIGH STREET
 WAILUKU, MAUI, HAWAII 96793
 TELEPHONE: (808) 243-7735; FAX (808) 243-7634

**MAUI PLANNING COMMISSION
 SPECIAL MANAGEMENT AREA ASSESSMENT AND/OR
 MINOR PERMIT APPLICATION**

DATE: _____

00 MAY 11 P3:48

PERMIT TYPE: SMA Minor PROJECT NAME: Subdivision of Lot 48-A

PROPOSED DEVELOPMENT: Three (3) lot subdivision

TAX MAP KEY NO.: 4-3-15:4 CPR/HPR NO.: --- LAND AREA: 1.4 acres

PROPERTY ADDRESS: Along Hui Road "E", Napili, Maui, Hawaii

OWNER: Lot 48-A, LLC PHONE: (808) 875-7000

ADDRESS: P.O. Box 1516

CITY: Kihei STATE: Hawaii ZIP CODE: 96753

SIGNATURE: *Heidi J. Livingston*

APPLICANT: Lot 48-A, LLC

ADDRESS: P.O. Box 1516

CITY: Kihei STATE: Hawaii ZIP CODE: 96753

PHONE (HOME): --- PHONE (BUSINESS): (808) 875-7000 FAX: (808) 875-7075

SIGNATURE: *Heidi J. Livingston*

CONTACT: Munekiyo, Arakawa & Hiraga, Inc.

ADDRESS: 305 High Street, Suite 104

CITY: Wailuku STATE: Hawaii ZIP CODE: 96793

PHONE (HOME): --- PHONE (BUSINESS): (808) 244-2015 FAX: (808) 244-8729

EXISTING USE OF PROPERTY: The property contains two small storage sheds within its fenced boundaries. Lawn and landscaped areas comprise the balance of the property.

CURRENT STATE LAND USE DISTRICT BOUNDARY DESIGNATION: Urban

COMMUNITY PLAN DESIGNATION: Single Family

MAUI COUNTY ZONING DESIGNATION: R-3, Residential

OTHER SPECIAL DESIGNATIONS: _____

2. **REQUIRED SUBMITTALS**

**SPECIAL MANAGEMENT AREA ASSESSMENT AND/OR
MINOR PERMIT APPLICATION
REQUIRED SUBMITTALS**

- X 1. Evidence that the applicant is the owner or lessee of record of the real property.
- X 2. A notarized letter of authorization from the legal owner if the applicant is not the owner and evidence that the authorization is from the legal owner.
- X 3. Provide documentation that full compliance with Chapter 343, Hawaii Revised Statutes (HRS), and the Environmental Impact Statement (EIS) Rules of the State Department of Health have been met. If required pursuant to Chapter 343, HRS, or by the Director of Planning, 30 sets of an EIS shall be submitted.
- X 4. Two (2) copies of a written description of the proposed action including, but not limited to the use, length, width, height, depth, building material and statement of objectives of the proposed action.
- X 5. A written description of the anticipated impacts of the proposed action on the Special Management Area that addresses or describes:
- a. The environmental setting of the property that is the subject of the proposed action;
 - b. The relationship of the proposed action to land use plans, policies and control of the affected area;
 - c. The probable impact, including cumulative impacts of the proposed action on the environment;
 - d. Any probable adverse environmental effects that can be avoided;
 - e. Alternatives to the proposed action;
 - f. Mitigating measures proposed to minimize impact; and
 - g. Any irreversible and irretrievable commitment of resources.

6. Two (2) sets of a certified shoreline survey (one of which must be an original) if the land abuts the shoreline. The survey shall be the actual field location of the shoreline as prepared by a land surveyor registered in the State of Hawaii. The survey maps developed by the registered land surveyor shall bear the surveyor's signature and date of field survey and the certifying signature and date of the Chairman of the Board of Land and Natural Resources.
- X 7. Verification of the valuation of the proposed action as estimated by an architect, engineer or contractor licensed by the Department of Commerce and Consumer Affairs, State of Hawaii, or verification of the valuation of the proposed action as estimated by the Administrator of the Land Use and Codes Administration, County of Maui. Valuation: \$91,400.00
- X 8. Two (2) sets of a plot plan of the land drawn to scale on which the proposed action is to occur.
- N/A 9. Two (2) sets of a plan designating in dimensions the location of the proposed action on the land. If structures are included in the action, the plan of the development shall also show a dimensioned floor plan, sections, elevations and other physical features. Said plans must be dated.
- X 10. Photographs of VHS format video tape identifying the area where the proposed action is to occur.
- X 11. Nonrefundable filing fee payable to the County of Maui Director of Finance in the amount of FIFTY AND NO/100 DOLLARS (\$50.00) (for projects with valuations greater than \$10,000).
- N/A 12. Any other information and documentation required by the Department of Planning to properly process the application.

I. DESCRIPTION OF THE PROPOSED IMPROVEMENTS AND ANTICIPATED IMPACTS

A. PROJECT LOCATION AND SETTING

The landowner and applicant, Lot 48-A, LLC, proposes a three (3) lot subdivision of TMK 4-3-15:4, located at Napili, Maui, Hawaii. See Figure 1 and Figure 2. Encompassing approximately 1.4 acres, the subject property is located along the north side of Hui Road "E". Bordering Hui Road "E" along its southern extent are single-family residential units. Two (2) vacant parcels (TMK 4-3-15: 54 and 55) border the property to the east. The property's northern boundary is defined by the coastline, while a pedestrian shoreline accessway, extending from the Hui Road "E" cul-de-sac, borders the property along its southwest property line. Access to the subdivided lots will be via Hui Road "E". Beyond Hui Road "E", surrounding land uses in the immediate vicinity include single-family residential, condominium and multi-family uses.

The property contains two (2) storage sheds measuring approximately 840 square feet and 580 square feet, respectively. A maintained lawn and landscaped perimeter make up the balance of the property.

B. PROPOSED ACTION

A three (3)-lot subdivision is proposed by the applicant. The lot sizes will range between approximately 16,900 square feet and 23,700 square feet. Improvements proposed in connection with the subdivision include the following:

1. Installation of approximately 220 lineal feet of curb, gutter, sidewalk and related improvements along Lower Honoapiilani Road;
2. Installation of approximately 142 lineal feet of curb, gutter, sidewalk and related improvements along the north side of Hui Road "E";

-
3. Installation of a fire hydrant;
 4. Installation of a 2-inch diameter force main to allow the conveyance of wastewater from each lot to the existing County sewerline on Lower Honoapiilani Highway; and
 5. Electrical, telephone and cable TV service.

The estimated cost for the foregoing improvements is \$91,400.00. Implementation of subdivision improvements will commence upon receipt of required permits and upon approval of construction documents.

C. RELATIONSHIP OF THE PROPOSED ACTION TO LAND USE PLANS, POLICIES AND CONTROLS

The property is within the State "Urban" district. The West Maui Community Plan designates the property as Single-Family. Underlying zoning for the property is R-3, Residential. The proposed subdivision is in consonance with the applicable land use designations.

The property is a shore-fronting parcel and must conform with setback requirements set forth in the Rules of the Maui Planning Commission Relating to the Shoreline Area of the Islands of Kahoolawe, Lanai, and Maui. Setbacks for the three (3) lots will range from approximately 42 feet to 55 feet. See Exhibit "A". No improvements are proposed within the setback area.

It is noted that the shoreline bordering the property is rocky and fixed.

D. PROBABLE IMPACTS

Construction activities associated with the proposed subdivision improvements may create temporary inconveniences, as construction vehicles and equipment (e.g., backhoes, concrete trucks) are used to

complete curb, gutter and sidewalk work. Appropriate traffic control measures will be used to ensure the safe and efficient passage of vehicles along both Lower Honoapiilani Highway and Hui Road "E". In addition to possible construction traffic impacts, construction noise and fugitive dust impacts will need to be addressed by the contractor. In this regard, construction is anticipated to be limited to daylight hours to help mitigate nuisance impacts. As required, sections of Hui Road "E" and Lower Honoapiilani Highway will be watered down while roadway improvements are undertaken. Existing grades of each lot will be maintained.

The creation of three (3) lots is not anticipated to have adverse long-term impacts upon infrastructure and public services. In particular, the subject action is not expected to affect traffic operations, water and wastewater systems. The development of the properties for three (3) single-family residences will not alter drainage patterns and characteristics. The increased runoff resulting from the new roofed and paved areas of the single-family residences will not adversely affect downstream or adjacent properties.

The property has been previously cleared and landscaped. There are no significant or sensitive habitats on the property. There are no surface archaeological features on the site.

E. ALTERNATIVES TO THE PROPOSED ACTION

With the exception of the "no action" alternative, no other subdivision alternative has been considered by the applicant. In the context of the property's existing land use designation and physical characteristics, the three-lot configuration proposed is deemed to be both appropriate and viable.

F. MITIGATING MEASURES TO MINIMIZE IMPACTS

The primary impacts associated with the proposed subdivision are those related to the attendant roadway improvements. These impacts include additional noise, dust and construction traffic. To mitigate the effects of these impacts, construction will be limited to daylight hours. As appropriate, traffic control, as well as noise and dust mitigation measures will also be implemented to ensure that nuisance and inconveniences to neighboring residents are minimized.

G. IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES

The proposed subdivision would involve the commitment of fuel, labor, funding and material resources. No other irreversible or irretrievable commitment of resources resulting from the project is anticipated.

Exhibit "A"

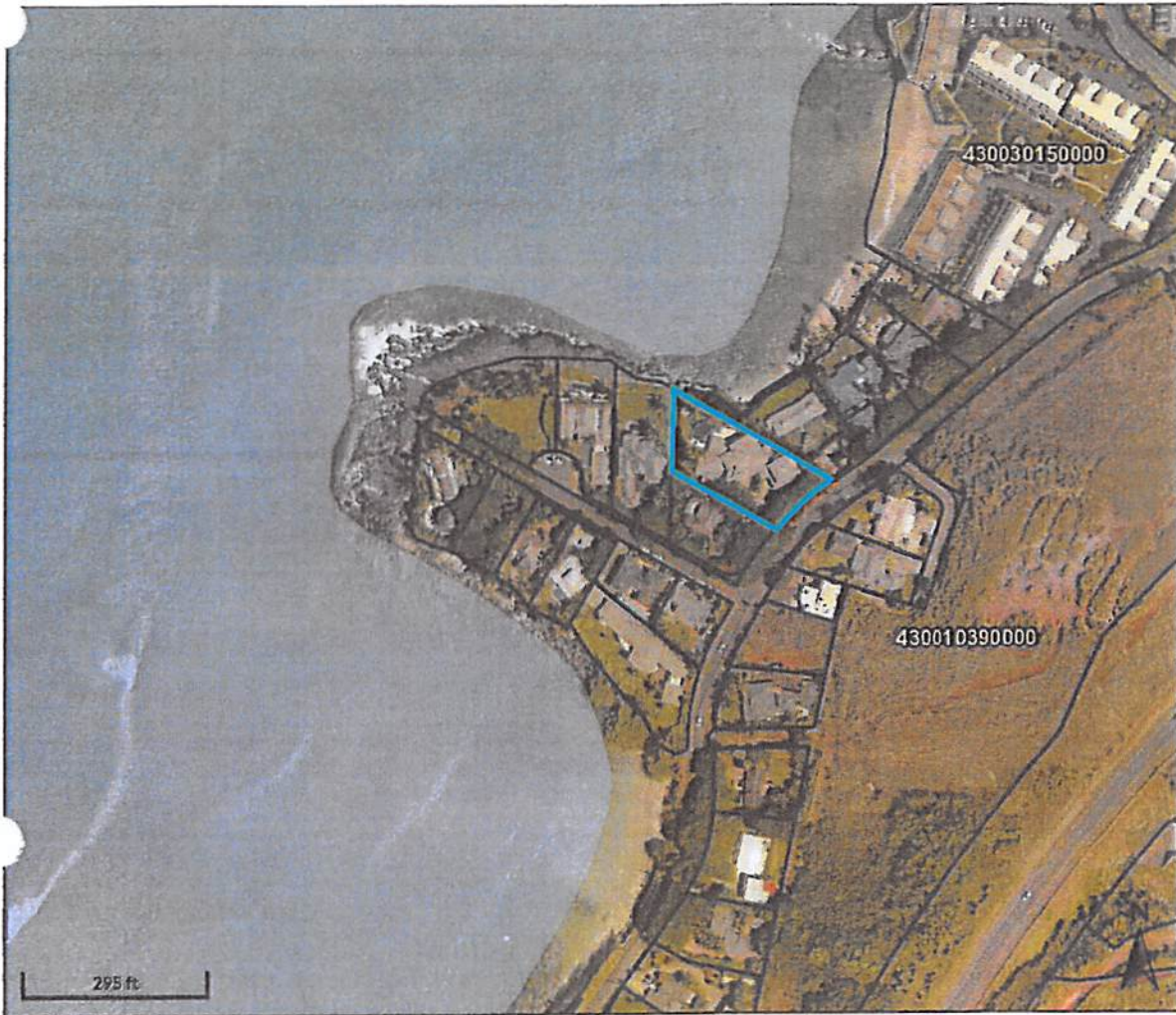
6. ENGINEER'S COST ESTIMATE

**ORDER OF MAGNITUDE ESTIMATE
FOR
SUBDIVISION OF LOT 48-A INTO 3 LOTS**

March 4, 2000

Description	Approx. Quan.	Unit	Unit Price	Total
<u>ROADWIDENING</u>				
<u>L. Honoapiilani Road</u>				
Grading L. Honoapiilani Road	220	l.f.	\$ 5.00	\$ 1,100
2½ AC	41	ton	\$ 85.00	\$ 3,485
4" ATB	66	ton	\$ 82.00	\$ 5,412
6" SBC	100	ton	\$ 35.00	\$ 3,500
Primer	103	gal.	\$ 4.00	\$ 412
Conc. Curb and Gutter	220	l.f.	\$ 20.00	\$ 4,400
4' Sidewalk	220	l.f.	\$ 18.00	\$ 3,960
Driveway Curb Cut and Apron	1	each	\$ 1,000.00	\$ 1,000
Traffic Control		L.S.		\$ 2,000
Grassing Shoulder	880	s.f.	\$ 0.50	\$ 440
Dust Control		L.S.		\$ 2,000
Subtotal - L. Honoapiilani Road:				\$ 27,709
<u>Hui Road E</u>				
Grading L. Honoapiilani Road	400	l.f.	\$ 5.00	\$ 2,000
2" AC	36	ton	\$ 85.00	\$ 3,060
6" UTB	108	ton	\$ 35.00	\$ 3,780
Primer	112	gal.	\$ 4.00	\$ 448
Conc. Curb and Gutter	142	l.f.	\$ 20.00	\$ 2,840
Sidewalk	142	l.f.	\$ 18.00	\$ 2,556
Driveway Curb Cut and Apron	2	each	\$ 1,000.00	\$ 2,000
Traffic Control		L.S.		\$ 1,000
Grassing Shoulder	600	s.f.	\$ 0.50	\$ 300
Dust Control		L.S.		\$ 2,000
Subtotal- Hui Road E:				\$ 19,984
<u>WATER SYSTEM:</u>				
Fire Hydrant	1	each	\$ 4,000.00	\$ 4,000
Double Service Conn.	1	each	\$ 2,000.00	\$ 2,000
Subtotal - Water System:				\$ 6,000





Overview



Legend

 Parcels

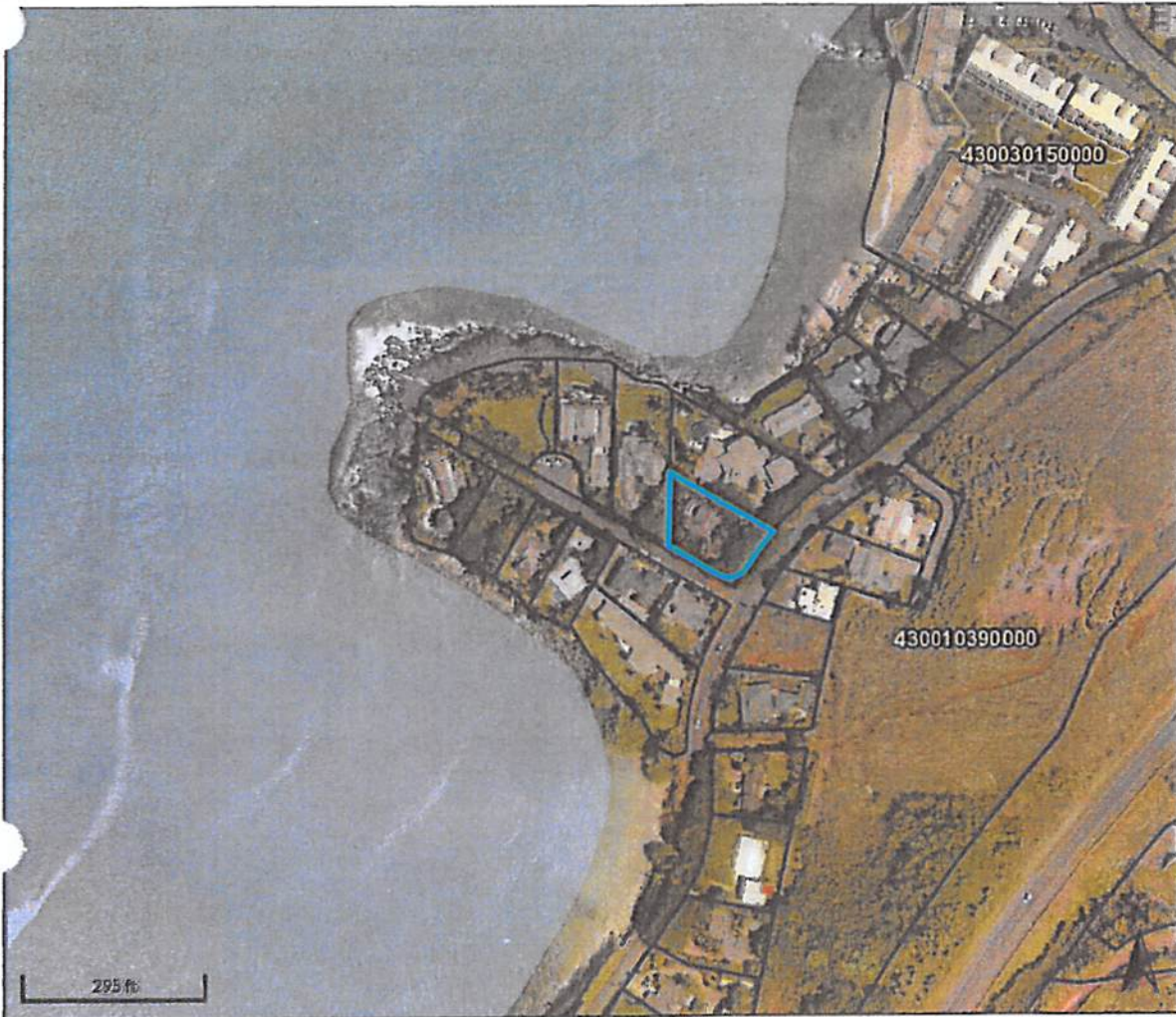
Parcel ID	430150540000	Situs/Physical Address	4851 LOWER HONOAPIILANI RD	Assd Land Value	\$5,503,200	Last 2 Sales			
Acreage	0.584	Mailing Address	ISLAND GIRL HOLDINGS LLC	Assd Building Value	\$4,114,200	Date	Price	Reason	Qual
Class	RESIDENTIAL		C/O PATHSTONE FAMILY OFFICE, LLC	Total Assd Value	\$9,617,400	6/25/2014	0	n/a	U
			PO BOX 52047	Exempt Value	\$0	5/2/2008	\$8700000	n/a	U
			ATLANTA GA 30355	Taxable Value	\$9,617,400				

Brief Tax Description n/a

(Note: Not to be used on legal documents)

Date created: 10/30/2019
Last Data Uploaded: 10/29/2019 11:56:24 PM

Developed by  Schneider GEOSPATIAL



Overview



Legend

 Parcels

Parcel ID	430150550000	Situs/Physical Address	10 HUI R D E	Assd Land Value	\$870,400	Last 2 Sales			
Acreage	0.344	Mailing Address	BEACH 14 LLC	Assd Building Value	\$906,900	Date	Price	Reason	Qual
Class	RESIDENTIAL		3333 PIEDMONT RD NE	Total Assd Value	\$1,777,300	5/8/2015	\$1901550	Foreclosure	U
			STE 2000	Exempt Value	\$0	5/26/2006	0	n/a	U
			ATLANTA GA 30305	Taxable Value	\$1,777,300				

Brief LOT 48-C MAILEPAI HUI PARTITION POR RPGR 1663 LCAW 5524 & ALLOTMENT
Tax Description 48 14,988 SF OR 0.344 AC (AS GIVEN) DES TOG/ESMT SUBJ/ESMT E-1 358 SF DES
 (Note: Not to be used on legal documents)

Date created: 10/30/2019
 Last Data Uploaded: 10/29/2019 11:56:24 PM

Christopher Salem

RECEIVED

2019 NOV -7 PM 1:34

Maui County Council

OFFICE OF THE
COUNTY CLERK

Written Testimony

November 8, 2019

CC #19453

INTRODUCTION

The County of Maui, with its revolving doors of politically appointed Directors safeguarded by politically appointed Attorneys in Corporation Counsel, continue to ignore their ethical and administrative responsibilities to “promote the public interest” by failing to follow the laws and ordinances adopted through the legislative process designed to protect and preserve the acquired property rights and environmental resources of the County of Maui and State of Hawaii.

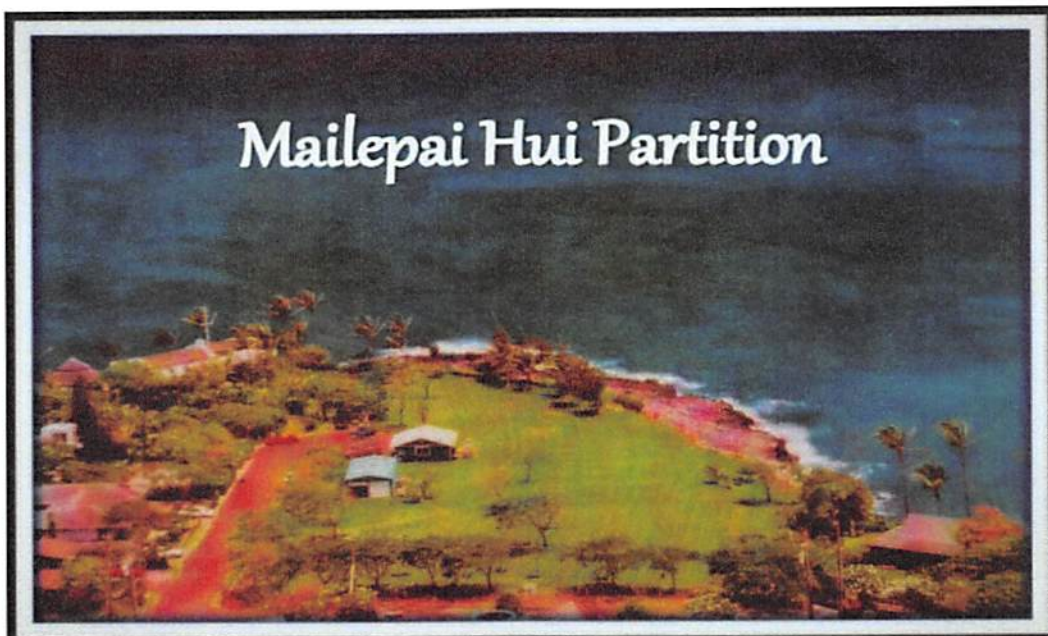
Dedicated citizens seeking compliance, responsibility, and impartiality from these impervious Directors in accordance with the Maui County Charter are forced to seek judicial remedies to defend these constitutional doctrines against a plethora of litigious diversions, intimidation, make believe legislative interpretations, and public displays of arrogant admissions that inflame and humiliate these innocent individuals.

This complaint will expose these truths and exhibit the unjust consequences suffered by a dedicated Maui father seeking preservation of his family’s property rights and developer compliance with their oceanfront subdivision entitlements and environmental obligations.

The role of the County of Maui former Directors and Attorneys played in the attempted concealment of evidence and erasing of developer obligations for their conflicting relationships with private developers explain their aggressive responses and merciless character assassinations.

The documented history and specific abuses involved in this complaint have an eerie similarity with the Montana Beach coercion and were orchestrated by the very same Developer representatives along with the assisting County of Maui Directors. The events and legal posturing of this complaint occurred during the very same months during 2001 and continue on to this very day.

Left unattended, the unethical decision documented in this complaint will cause immeasurable consequences for all parties involved and will further cause unnecessary expenditure of precious public funds. The goal of this filing is just the opposite. Financial recovery to County of Maui and reconciliation for the public and private losses will occur through appropriate investigation and compliance with the Maui County Charter by our trusted elected members of the Maui County Council.

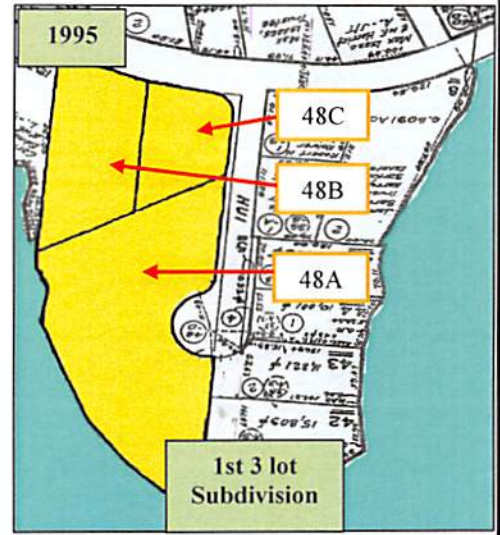


In 1994, Anka, Inc., which owned Lot 48 of the Mailepai Hui Partition along Lower Honoapiilani Road, applied to the County of Maui for a 3 lot subdivision of their oceanfront land.

In accordance with the Rules of the Planning Commission, a subdivision involving less than 4 lots was granted an exemption from SMA permits, public hearings, and environmental review, provided it was the final subdivision of the parent parcel.

In accordance with Title 18 of the Maui County Code, the conditioned roadway improvements to Lower Honoapiilani Road and Hui Road E were deferred "one time" with a "3 Lots or Less" subdivision agreement. 4 Lot subdivisions require full improvements and drainage mitigations to all subdivision frontages.

Hui Road E is a State of Hawaii designated Shoreline Access (#217) with no public beach parking.



Oct. 14, 1994

GEORGE H. KATA, Director
CHARLES J. JONES, Deputy Director
ARON SHIMMOTO, P.E., Chief Staff Engineer

COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
AND WASTE MANAGEMENT
LAND USE AND CODES ADMINISTRATION
250 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

RALPH NAGAMINE, L.S., P.E., Land Use and Codes Administrator
EASSE MILLER, P.E., Waterworks Rehabilitation Director
LLOYD P.C.W. LEE, P.E., Engineering Director
DAVID WISSMAR, P.E., Solid Waste Division
BRYAN HASEGOTO, P.E., Highway Division

1994

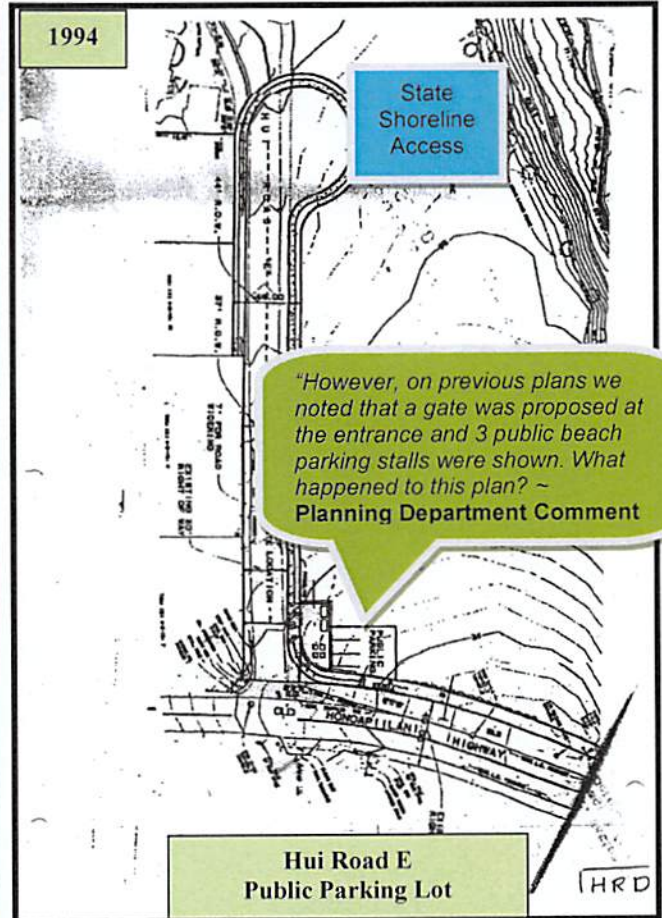
SUBJECT: ANKA SUBDIVISION

Planning Dept. Condition #4
Provided this is the final subdivision of the parent parcel, and no further subdivision is contemplated, would agree that the project is exempt from SMA.

Planning Dept. Condition #11
Improve the adjoining halves of Lower Honoapiilani Road and Hui Road E to the provisions of the subdivision ordinance for roads within the urban district or comply with Condition #13.

Planning Dept. Condition #13
Submit the original and four copies of a roadway deferral agreement (3 Lots or Less) for the cost of the roadway frontage improvements.

Dept. of Public Works
Anka, Inc. 3 lot Subdivision



MAUI COUNTY CODE

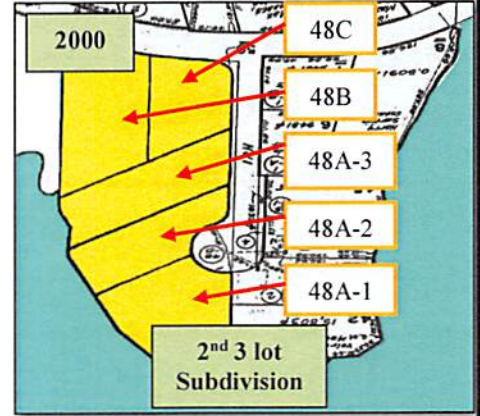
Title 18 - Section 18.20.040 (A)

"The land so subdivided shall not thereafter qualify for this exception with respect to any subsequent subdivision of any resulting parcels."

In 2000, Anka, Inc sold Lot 48A to developer Lot 48A, LLC. Lot 48B and Lot 48C had already been sold in years prior. Anka, Inc retained the law firm Mancini, Welch, and Rowland LLP to prepare the warranty deed for the sale of Lot 48A. The recorded document identified covenants and development restrictions on Lot 48A.

The restrictions included preservation of coastal views, open space, and specific limitations on future development of Lot 48A. Specifically, that further subdivision of Lot 48A would not cause financial harm to Lot 48C.

A site plan was attached to the declaration which clearly referenced the certified subdivision shoreline setbacks established along the oceanfront boundaries of Lot 48A.



March 7, 2000

STATE OF HAWAII
BUREAU OF CONVEYANCING
RECORDING

1990 06 01 AN
01 2000-01184

PAUL T. MATSUDA
ACTING
AS OF CONVEYANCE

Total No. of Pages: 28
After Recording, Return by Mail (EX) Pickup () To: Salem 5 R5-2
MFL CREDIT ADVISORY SERVICE, INC.
41 East Wapa Street, Suite 207
Elika, Hawaii, Hawaii 96721
Tax Key No. (2) 4-3-18-4

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS AFFECTING LOT 48-A OF THE
HUI LAND OF MALEPAI

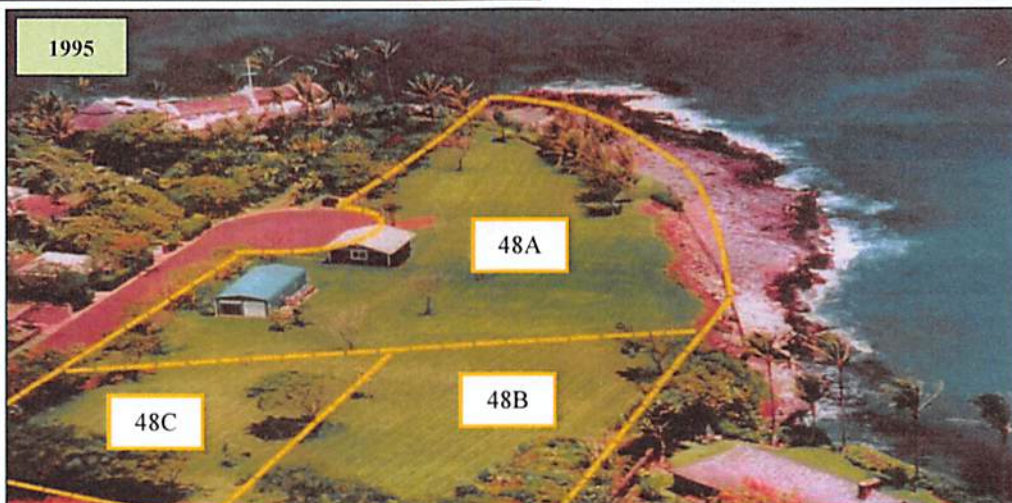
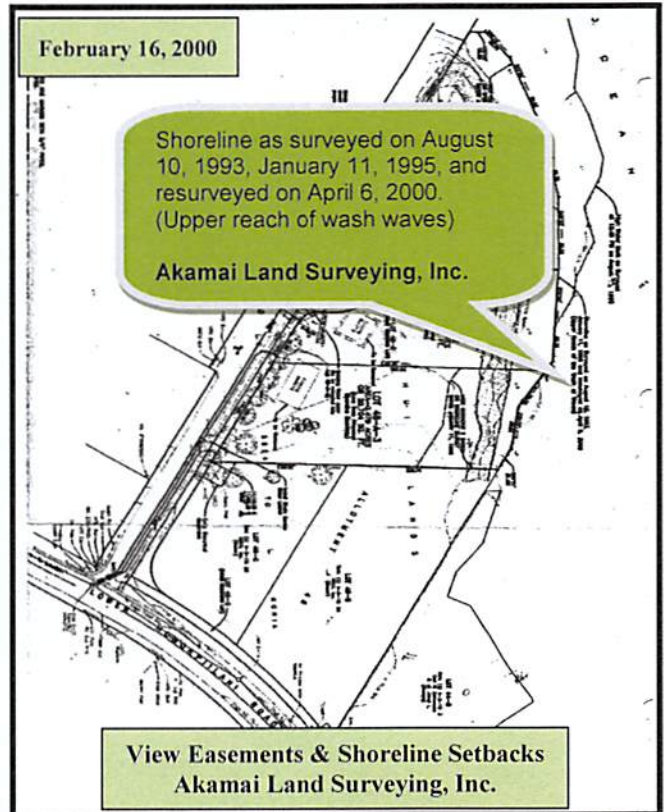
KNOW ALL PERSONS BY THESE PRESENTS THAT:

WHEREAS, ANKA, INC., a Hawaii corporation, is the owner of Lot 48-A
of the subdivision of Lot 48 of the "Hui Land of Malepai" (the "Subdivision"),
designated as Maui tax key no. 4-3-18-4 (hereinafter "Lot 48-A"); and

WHEREAS, ANKA, INC. is the wholly owned subsidiary of VALROSE
MAUI, INC., a Hawaii corporation; and

NO. 48881

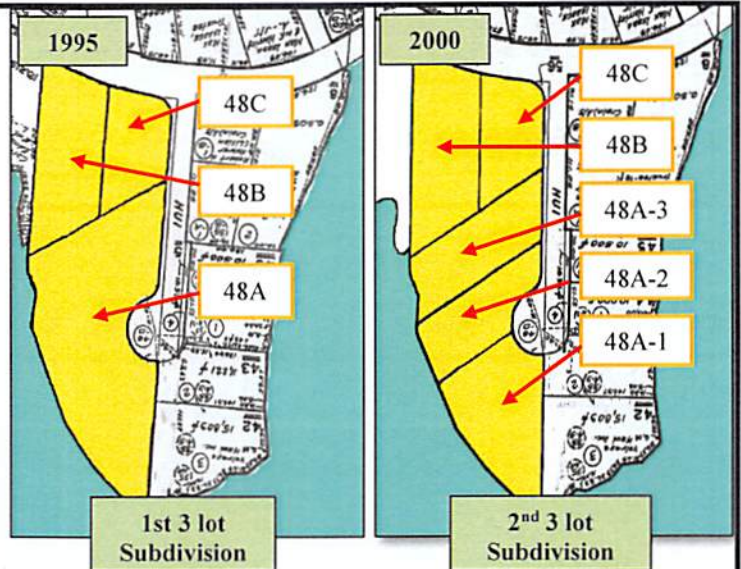
Covenants, Conditions, & Restrictions
Mancini, Rowland, & Welch, LLP



In 2000, Developer Lot 48A, LLC submitted a subdivision application to the County of Maui to re-subdivide oceanfront lot 48A into 3 new parcels.

On June 23, 2000 Preliminary Subdivision Approval was granted by Public Works Director Charlie Jencks with the condition to comply the SMA Permit issued on June 6, 2000 and to verify with the Planning Director if a SMA Major Permit was required after completion of the construction plans.

Unknown at the time was the authorized representative and consultant for the developer's SMA permits and studies was the land planning firm Munikiyo, Arakawa, and Hiraga, Inc. The civil engineer and licensed land surveyor for the shoreline setbacks was Unemori Engineering, Inc. Unemori Engineering, Inc is the design engineer of record for Palama Drive.



June 23, 2000

COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
AND WASTE MANAGEMENT
LAND USE AND CODES ADMINISTRATION
800 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

June 23, 2000

Condition 11. Of Preliminary Subdivision Approval
The one time exemption from construction of roadway improvements was used as part of the previous Mailepai Hui Partition subdivision Luca file #4686.

Dear Mr. Ariyoshi:
Preliminary approval was granted to the subject subdivision on June 23, 2000.

Condition 15. Of Preliminary Subdivision Approval
Comply with the conditions of the SMA Minor Permit (SM22000/0042) granted on June 6, 2000. Note: Upon approval of Construction Plans, the sub divider should verify if a SMA Major Permit is required.

Comments: Final approval of the subdivision is recommended. Line

**Department of Public Works
Preliminary Subdivision Approval**

June 6, 2000

COUNTY OF MAUI
DEPARTMENT OF PLANNING
June 6, 2000

Mr. Hugh Farrington
Lot 48A, LLC

The project has a valuation not in excess of \$125,000 (\$91,400.00)
The Construction shall be in accordance with the plans submitted on May 11, 2000.

Sections 12-202-12 and 12-202-14, a determination has been made relative to the above project that:

1. The project is a development:

In consideration of the above referenced determination you are hereby granted an SMA Minor Permit approval, subject to the following conditions:

1. The Construction shall be in accordance with the plans submitted on May 11, 2000.

**Department of Planning
SMA Permit**

THE MAUI COUNTY CODE

SECTION 18.08.020 PREPARATION AND SUBMISSION:

A. THE SUBDIVIDE SHALL HAVE PREPARED BY AN ENGINEER OR SURVEYOR A PRELIMINARY PLAT, TOGETHER WITH SUCH IMPROVEMENT PLANS AND OTHER SUPPLEMENTARY MATERIAL REQUIRED TO INDICATE THE GENERAL PROGRAM...SHALL BE SUBMITTED TO THE DEPARTMENT OF PLANNING.

SECTION 18.08.080 EXPLANATORY INFORMATION. THE FOLLOWING INFORMATION SHALL BE SUBMITTED WITH THE PRELIMINARY PLAT.

A. STREETS SHOWING LOCATION, WIDTHS, PROPOSED NAMES AND APPROXIMATE RADII IF CURVES.
G. IMPROVEMENTS TO BE MADE BY THE DEVELOPER

SECTION 18.08.100 APPROVAL

C. APPROVAL OF THE PRELIMINARY PLAT SHALL INDICATE THE DIRECTOR'S DIRECTIVE TO PREPARE DETAILED DRAWINGS IN THE PLAT SUBMITTED, PROVIDED THERE IS NO CHANGE IN THE PLAN OF SUBDIVISION AS SHOWN ON THE PRELIMINARY PLAT AND THERE IS FULL COMPLIANCE WITH ALL REQUIREMENTS OF THIS CHAPTER.

SECTION 18.12.070 TECHNICAL REVIEW

FINAL PLAT SHALL BE EXAMINED AS TO WHETHER IT IS SUBSTANTIALLY SIMILAR TO THE APPROVED PRELIMINARY PLAT.

In late 2000, Milton Arakawa, a former partner of the land planning firm Munekiyo, Arakawa, and Hiraga, Inc. went to work for the County of Maui for the Department of Public Works as Deputy Director.

In early 2001, impacted owner of Lot 48C Christopher Salem objected to the re-subdivision of Lot 48A on the grounds that the development required a SMA Major Permit, public hearings, environmental studies, and full roadway improvements and drainage mitigations to Hui Road E and Lower Honoapiilani Road.

The only documents made available to the public at the County of Maui in 2001 was the SMA Minor Permit issued in June of 2000 with a Planning Department reference to the \$91,402 project valuation that kept the proposed development under the \$125,000.00 public hearing threshold. Despite numerous written requests, the studies to support the SMA Permit valuations and mitigations were not made available by the Planning Department to the public.

May 10, 2001

May 10, 2001

"...construction of the subdivision improvements shall be initiated by August 31, 2001, and shall be completed within one (1) year of said initiation..."

Mr. Michael T. Munekiyo,
Munekiyo & Hiraga, Inc.
305 High Street, Suite 10
Wailuku, Hawaii 96793

Dear Mr. Munekiyo:

Re: Special Management Area Minor Permit for the Subdivision of Lot 48-A at Hui Road E, TMK: 4-3-015:004, Napili, Maui, Hawaii (SM2 2000/0042)

In response to your request for a second time extension dated May 8, 2001, the Maui Planning Department hereby amends Condition No. 3 of the above-referenced permit and grants a two month extension as follows:

"3. That construction of the subdivision improvements shall be initiated by August 31, 2001, and shall be completed within one (1) year of said initiation."

Thank you for your cooperation. If additional clarification is required, please contact Ms. Colleen Suyama, Staff Planner, of this office at 270-7735.

Very truly yours,

JOHN E. MIN
Planning Director

JEM:CMS:omb
c: Clayton Yoshida, AICP, Deputy Planning Director
Aaron Shinmoto, Planning Program Administrator (2)
Colleen Suyama, Staff Planner

Planning Director John Min's Letter
Of Conditions for Subdivision to Lot 48A, LLC

February 6, 2001

INFORMATION REQUEST FORM
DEPARTMENT OF PUBLIC WORKS
AND WASTE MANAGEMENT

Please
 READ
 HANDLE
 APPROVE
and
 FORWARDED
 RETURN
 KEEP OR DISCARD
 REVIEW WITH ME

TO: _____
DIV: _____
FROM: CHRIS SALEM
REQUESTOR: SAAC RECEIVED BY: [Signature]
ADDRESS: 48 HUI RD E DATE: 2/6/01
TELEPHONE: 808 669-8776
REQUEST: Review Proposed Map & Conditions
COMMENTS: MAP for 48-A / TMK-4-3-15:55

Requestor: Chris Salem
Review Proposed Map & Conditions
Map of Lot 48A
TMK 4-3-15:54

Department of Public Works
Information Request Form

July 19, 2001

COUNTY OF MAUI
DEPARTMENT OF PLANNING

DATE: 7/19/01
FROM: Planning DEPT
CHRIS SALEM
TO: [Signature]

Requestor: Chris Salem

I would like the following government record:
SMA Application
#SM220000042
Improvement Valuation Summary
314816 - Box 1065

Although you are not required to provide a copy of the government record, we would like the following:

Describe the government record by subject matter, date, location, and other information that could help the agency identify the record. Attach a second page if needed.

SMA Application - # SM220000042
Improvement Valuation Summary
314816 - Box 1065

YOU'D LIKE please check one or more of the options below

To inspect the government record.
 A copy of the government record. (Please check one of the options below.) See the back of this page for information about fees that you may be required to pay for agency services to process your record request. Note: Copying and transmission charges may also apply to certain options.

Pick up at agency (date and time):

Mail

See back for more options if available

Department of Planning
Request for Government Records

MAUI COUNTY CHARTER

Section 13-9. Records and meetings open to public.
1. All books and records of every department shall be open to the inspection of any at any time during business hours except as otherwise provided by law.

In 1998, consulting firm Munikiyo, Arakawa, and Hiraga, Inc was retained by the County of Maui to perform a 600 Page Environmental Assessment for the County of Maui the Phase IV of Lower Honoapiilani Road Capital Improvement Project. (STP 3080 (8))

In February of 2000, County of Maui civil engineering consultant Austin, Tsutsumi, and Associates, Inc. submitted a drainage report and roadway improvement plans to the Department of Public Works for Phase IV of Lower Honoapiilani Road. The Capital Improvement Project was publicly noticed by the Department of Public Works to commence in 2002.

In early 2000, the Phase IV roadway engineering designs, drainage reports, & environmental studies were directly available to Lot 48A, LLC from their consultant to properly assess the SMA Permit valuations and mitigations. Public Works Director Milton Arakawa had first-hand knowledge of the specific roadway improvements required for the immediate frontage of the proposed development.

On June 6, 2000, Lot 48A, LLC was issued a SMA Minor Permit with a questionable development valuation of \$91,402 authored and signed by Unemori Engineering, Inc.

DEPARTMENT OF PUBLIC WORKS AND WASTE MANAGEMENT
 COUNTY OF MAUI
 WAILUKU, MAUI, HAWAII

February 12, 2000

PLANS FOR
LOWER HONOAPIILANI ROAD IMPROVEMENTS PHASE - 4
 FEDERAL AID PROJECT NO.

DISTRICT OF LAHAINA
 ISLAND OF MAUI

PRINTED BY: ATA
 DATE: FEB 12 2000

NO.	DESCRIPTION
1	GENERAL PLAN
2	EXISTING ROAD AND DRAINAGE IMPROVEMENT SECTION
3	PLAN - 5.0% GRADE TO E. BLDG. 100-00
4	PLAN - 5.0% GRADE TO E. BLDG. 100-00
5	PLAN - 5.0% GRADE TO E. BLDG. 100-00
6	PLAN - 5.0% GRADE TO E. BLDG. 100-00
7	PLAN - 5.0% GRADE TO E. BLDG. 100-00
8	PLAN - 5.0% GRADE TO E. BLDG. 100-00
9	PLAN - 5.0% GRADE TO E. BLDG. 100-00
10	PLAN - 5.0% GRADE TO E. BLDG. 100-00

"We will bid out the job in June (of 2002) and probably start in September."

~ Department of Public Works
 August 2001

May 4, 2000

Thomas M. Phillips, Chief
 Maui Police Department
 County of Maui
 55 Mahalani Street
 Wailuku, Hawaii 96793

May 4, 2000

"Preliminarily, construction of the proposed project is anticipated to commence by the spring of 2001."

Glenn Tadaki, Planner
 Munikiyo, Arakawa, & Hiraga, Inc.

Preliminarily, construction of the proposed project is anticipated to commence by the spring of 2001. This is well after the completion of the Honoapiilani Highway Widening Project (Kaanapali Parkway to Honokowai Stream), which is expected to occur by the summer of 2000. As noted in the project's Draft Environmental Assessment, a traffic control plan and public notification procedures will be utilized to minimize impacts to traffic during construction of the proposed project.

The construction work referenced in your letter, which is to be undertaken by the County and its contractor (Goodfellow Brothers), involves improvements along Lower Honoapiilani Road from Mahinehine Stream to Hooihui Road. This improvements project is expected to begin around the time the Honoapiilani Highway Widening Project is completed and is anticipated to be finished prior to the start of construction for the proposed project.

With regard to parking, the provision of Intermittent parallel parking along the metal side of the roadway has been deleted from the project since the time the project's early consultation project summary was originally prepared.

Environmental Study for Phase IV
 Munikiyo, Arakawa, & Hiraga, Inc.

February 2000

DRAINAGE REPORT FOR LOWER HONOAPIILANI ROAD IMPROVEMENTS (HOOHUI ROAD TO NAPILIHAIU STREET) West Maui, Hawaii
 Second Division TMK: 4-3-01, 03, 05, 15, and 19

Prepared for
 County of Maui
 Department of Public Works and Waste Management

VI. PROPOSED DRAINAGE IMPROVEMENTS
 Existing drainage outlets adjacent to Hui Road "D" and Hui Road "E" will be upgraded.

Prepared by
 Austin, Tsutsumi & Associates, Inc.
 Civil Engineers • Surveyors
 Honolulu • Wailuku, Hawaii

Drainage Report for Phase IV
 Austin, Tsutsumi & Associates, Inc.

In August of 2001, after receiving no assistance or information from the Planning Department on the SMA studies or the questionable consultant SMA valuation, owner Salem was forced to seek advice from legal counsel to address his property rights and the SMA laws.

Attorney Tom Welch, the former legal counsel for seller Anka, Inc. was now acting as legal counsel for the buyer Lot 48A, LLC. During the same time period he was also embroiled in the Montana Beach controversy involving a 3 lots subdivision and related SMA permits.

Attorney Welch disputed the claims that the exhausted "one time" deferral referenced in the preliminary subdivision approval letter required his client to install full roadway improvements to Hui Road E and Lower Honoapiilani Road. Issues were raised about the questionable \$91,402 SMA valuation.

Left with the distasteful choice of seeking civil remedies against the County of Maui or resolving the dispute with the Developer, Salem was advised to enter into a settlement agreement to mitigate his damages and the public impacts of the proposed development.

February 26, 2003

Mossman: County erred in Montana Beach case

By HARRY EAGAR, Staff Writer

Maui News, February 26, 2003 (front page)

WAILUKU - In the Montana Beach approval process, county planning director Boyd Mossman agreed with the appellants that they supported their arguments for an SMA exemption, which

In his findings of fact, Mossman wrote that; "county employees repeatedly gave advice and approvals that contradicted both state law and the commission's rules."
~ Boyd Mossman, Hearings Officer

In his findings of fact, Mossman wrote that county employees repeatedly gave advice and approvals that contradicted both state law and the commission's rules.

However, he added, "Neither the appellants nor their representatives, nor the director, nor Planning Department employees apparently took the time to read these rules or obtain an opinion from the corporation counsel until August of 2001."

Maui News

August 24, 2001

PAUL JOHNSON PARK & NILES

ATTORNEYS AT LAW, A LAW CORPORATION

"Lot 48A, LLC's proposed subdivision has and will continue to cause Salems to incur substantial costs and expenses."

Attorney Tom Pierce
Paul, Johnson, Park, & Niles

Tom Welch, Esq.
Mancini, Rowland & Welch
33 Lono Avenue, Suite 470
Kahului, HI 96732

Re: **Chris and Gloria Salem/Lot 48A LLC**

"Lot 48A, LLC intentionally misrepresented the cost of the improvements to the County in order to avoid triggering a SMA use permit and public hearings."

Attorney Tom Pierce
Paul, Johnson, Park, & Niles

CONCEPTS

The Salems continue to believe the remaining issues may be resolved in an amicable manner. To that end, we extend an offer that the parties, with the assistance of

"The Salems continue to believe the remaining issues can be resolved in an amicable manner;"

- 1) Protection of existing views.
- 2) Compensation for Lower Honoapiilani Road Improvements
- 3) Possible privacy barriers between properties.
- 4) Joint maintenance agreement for Hui Road E.

Attorney Tom Pierce
Paul, Johnson, Park, & Niles

HONOLULU OFFICE 1400 Pacific Tower 1001 Bishop Street Post Office Box 4478 Honolulu, Hawaii 96812-4478

MAUI OFFICE Letter to Attorney Welch Paul, Johnson, Park & Niles

MAUI OFFICE 947-934-0670

October 19, 2001

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") dated October 19, 2001, is made between Chris and Gloria Salem (collectively "the Salems"), and Lot 48A LLC, a Hawaii limited liability company. The Salems and Lot 48A LLC are collectively referred to as "the Parties."

RECITALS

WHEREAS, Lot 48A LLC is the fee simple owner of, and is seeking subdivision Alaaloa, Ka

subdivision Alaaloa, Ka TMK # (2) Lot 48A is 4.805 ("Sub 48A-1, Lot

RECITALS

"WHEREAS, the Salems have objected to the subdivision of Lot 48A, LLC and have alleged violations of applicable law and recorded covenants."

WHEREAS, the Salems are fee simple owners of Lot 48C, which is adjacent to Lot 48A, and proposed Lot 48A-3.

AGREEMENT

SECTION 4. HONOAPIILANI ROAD IMPROVEMENTS

and have Salems

"Lot 48A, LLC shall pay to the County Lot 48C's and Lot 48B's assessed pro rata shares of the costs determined by the County."

SECTION 6. PARKING COVENANT

considered described and in further herein, the Parties hereby agree as follows:

"With the objective of reducing the burden of parking on Hui Road E by guests and visitors, Lot 48A, LLC shall record a restrictive covenant which will require not less than two guest parking spaces within each lot."

SECTION 1. PAYMENT TO SALEMS

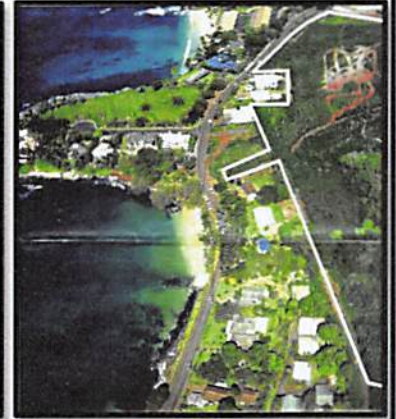
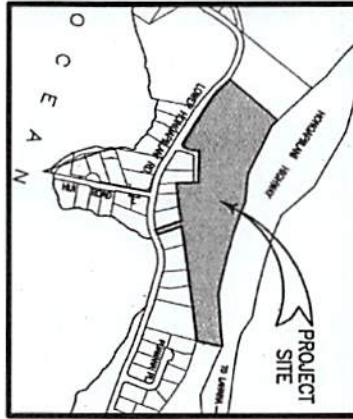
Lot 48A LLC agrees to pay the Salems Twelve Thousand and No/100

Settlement Agreement
Lot 48C / Salem & Lot 48A, LLC

In 2002, Public Works Director David Goode issued Preliminary Subdivision Approval for the Pu'u Kahana development application submitted by Smith Development. The proposed development is immediately adjacent to Hui Road E.

In 2003, David Goode, acting as Vice President of Development Operations for Smith Development, received compensation for soliciting the final approvals of the same ongoing Pu'u Kahana development application.

The engineer of record was Unemori Engineering.



January 14, 2002

MILYON M. ANTONIO, Deputy Director
 COUNTY OF MAUI
 DEPARTMENT OF PUBLIC WORKS
 AND WASTE MANAGEMENT
 LAND USE AND CODES ADMINISTRATION
 810 SOUTH HIGH STREET
 WAILUKU, MAUI, HAWAII 96793

Watermaster Registration Division
 LLOYD P. W. LEE, P.E.
 Engineering Division
 JOHN D. HARDER
 Solid Waste Division
 BRUCE HADAMCO, P.E.
 Highway Division

January 14, 2002

Mr. Warren S. Unemori, President
 WARREN S. UNEMORI ENGINEERING, INC.
 2145 Wells Street, Suite 403
 Wailuku, Hawaii 96793

RECEIVED
 JAN 15 2002
 WARREN S. UNEMORI ENGINEERING, INC.

SUBJECT: PUU KAHANA SUBDIVISION
 TMK:(2) 4-3-001:039
 LUCA FILE NO. 4.842

Dear Mr. Unemori:

Preliminary approval was granted to the subject subdivision on January 14, 2002. Final approval shall be contingent upon compliance with the following conditions:

- Requirements/comments from Maui Electric Company:
 - Electricity is available from nearby existing facilities (overhead and/or underground).
 - Requires line extension (overhead and/or underground) within existing County or State road right-of-way.
 - Requires line extension (overhead and/or underground) within private road or property.
 - Requires easement(s) from owner/subdivider/developer within subdivision for new or existing MECO facilities.

Comments: Easements are required by our Land Agent, Ralph Kubota. He can be contacted at 871-2367.

If you have any questions, please contact Mr. Alan Miyazaki at 871-2390.

**Department of Public Works
 Preliminary Subdivision Approval**

September 23, 2003

SMITH DEVELOPMENT
 Real Estate Development & Consulting

1043 Makawao Avenue, Suite 208, Makawao, HI 96768
 Phone: (808) 572-3011 Fax: (808) 572-8378
 www.SDHawaii.com email: KRS@SDHawaii.com

**Additional Information Regarding the Proposed
 Puu Kahana Residential Subdivision Located at
 TMK 4-3-001:039**

September 23, 2003

Puu Kahana Neighboring Property Owners


RE: Additional Information Regarding the Proposed Puu Kahana Residential Subdivision Located at TMK 4-3-001:039

Dear Neighboring Property Owner,

In an effort to provide you with the latest project related information, enclosed please find copies of FEMA's letter of map revision regarding detailing out the existing floodways in Ka'opala Gulch and findings from a water quality report on Ka'opala and Keonenui Bays prepared by Sea Engineering.

Should you like additional information on either of these reports, please contact Yichia at Smith Development offices.

If you have any questions or comments regarding these two reports, please forward them to our office by October 8, 2003.

Sincerely,

 David C. Goode
 Vice President
 Development Operations

cc: **Smith Development
 David Goode, V.P. Development Operations**

THE MAUI COUNTY CHARTER

PROHIBITIONS 1.f. NO OFFICER OR EMPLOYEE OF THE COUNTY SHALL RECEIVE ANY COMPENSATION FOR ANY SERVICE RENDERED ON BEHALF OF ANY PRIVATE INTEREST AFTER TERMINATION OF SERVICE TO OR EMPLOYMENT WITH THE COUNTY IN RELATION TO ANY CASE, PROCEEDING, OR APPLICATION WITH RESPECT TO WHICH THE OFFICER OR EMPLOYEE WAS DIRECTLY CONCERNED, OR WHICH WAS UNDER HIS OR HER ACTIVE CONSIDERATION..

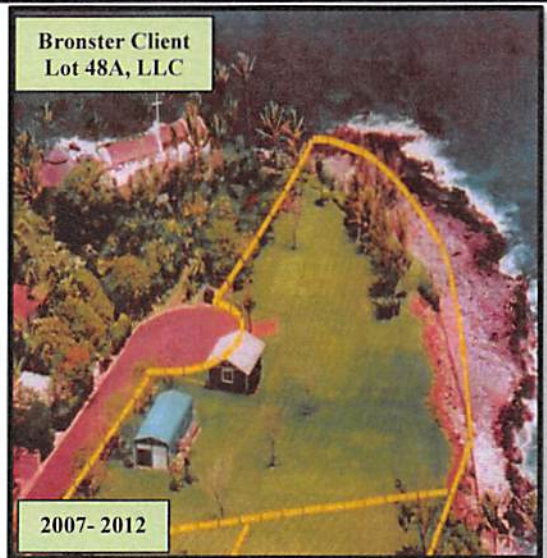
PROHIBITIONS 2.b. NO FORMER NON-ELECTED SALARIED EMPLOYEE OF THE COUNTY SHALL APPEAR FOR COMPENSATION BEFORE ANY DEPARTMENT OR OTHER AGENCY OF THE COUNTY BY WHICH SUCH EMPLOYEE OR OFFICER WAS LAST EMPLOYED WITH A PERIOD OF ONE YEAR AFTER TERMINATION OF SERVICE TO OR EMPLOYMENT WITH THE COUNTY.

10.5. PENALTIES. ANY PERSON WHO VIOLATES WTHE PROVISION OF THIS ARTICLE SHALL BE SUBJECT TO A FINE TO BE PROVIDED FOR BY ORDINANCE ADOPTED BY THE COUNTY COUNCIL AND IN ADDITION MAY BE SUSPENDED OR REMOVED FROM OFFICE OR EMPLOYMENT.

In 2006, a dispute arose over the breaches of the Settlement Agreement by Developer Lot 48A, LLC. Parking covenants were never recorded on the oceanfront parcels by Attorney Welch as agreed, building was taking place in protected view areas, and Attorney Welch argued that Lot 48A, LLC no longer had obligations to pay for the pro rata share of the Lower Honoapiilani Roadway improvements.

In 2007, Margery Bronster, the Attorney for the spec developer on Lot 48A2 and the Attorney for the developer of the massive oceanfront "Jewel of Kahana", replaced Attorney Tom Welch in as legal counsel for developer Lot 48A, LLC.

On July 9, 2008, during Circuit Court and Arbitration proceedings relating to the breaches of the settlement agreement by developer Lot 48A, LLC, Attorney Margery Bronster responded to a First Request for Production of the Developer's SMA permits and consultant studies stating she was unwilling to release the developer's SMA Permits based on a personal legal opinion that they were not relevant to the Lot 48A, LLC Settlement Agreement.



July 9, 2008

BRONSTER HOSHIBATA
A Law Corporation

MARGERY S. BRONSTER 4750-0
SANDRA D. LYNCH 8584-0
1003 Bishop Street
Pauahi Tower, Suite 2300
Honolulu, Hawaii 96813
Telephone: (808) 524-5644
Facsimile: (808) 599-1881

"Lot 48A, LLC objects to this request on grounds the Special Management Area is not an issue on this Arbitration. Respondent Lot 48A, LLC will not be producing documents referring or relating to the Special Management Area Permit."
Attorney Margery Bronster

CHRISTOPHER SALEM,	CASE NO. 07-0587-M/A
Claimant,	
and	RESPONDENT LOT 48A-LLC's
LOT 48A LLC,	RESPONSE TO CLAIMANT
Respondent.	CHRISTOPHER SALEM'S FIRST
	REQUEST FOR PRODUCTION OF
	DOCUMENTS AND THINGS TO LOT
	48A LLC, A HAWAII LIMITED
	LIABILITY COMPANY

"Lot 48A, LLC has represented that it has produced all relevant documents in it's possession or control. Accordingly, the request to compel production of the SMA studies is moot."
Arbitrator
Dispute Prevention and Resolution, Inc.

Christopher Salem's First Request for Production of Documents and Things to Lot 48A LLC dated June 6, 2008 and served upon Respondent on July 9, 2009 ("Request"), as follows:

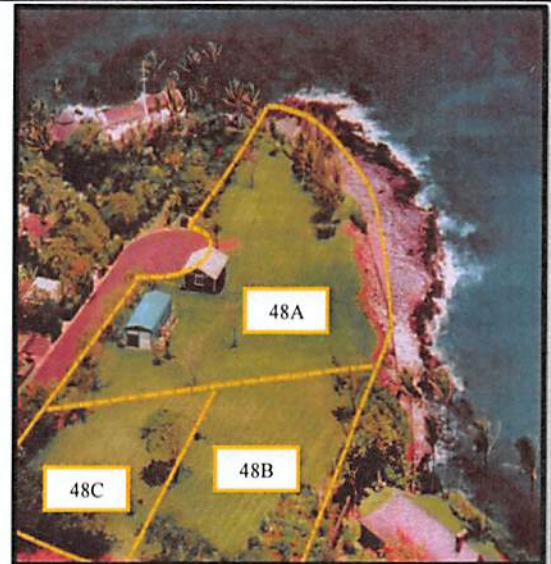
**Response to Request
for Production of Documents
Attorney Margery Bronster**

In January of 2008, Lot 48A, LLC's subdivision engineer Unemori Engineering, Inc. was also served with a Request for Production of Documents in the Second Circuit Court.

Unemori Engineering, Inc was the authorized representative, civil engineer, and licensed land surveyor for the development and re-subdivision of oceanfront Lot 48A.

The request was filed in Second Circuit Court and included a specific demand for all documents, valuations, and approval for the Lot 48A, LLC Special Management Area Permit.

Attorney Bruce Ito, legal counsel for Unemori Engineering, Inc, responded to the document demand with a false written statement denying any involvement or services performed by Unemori Engineering, Inc in connection with the SMA Permit process.



January 2, 2008

THOMAS KIRSCHBRAUN
A Limited Liability Law Company

DEBORAH K. WRIGHT 4444-0
KEITH D. KIRSCHBRAUN 4971-0
1885 Main Street, Suite 108
Wailuku, HI 96793
Telephone: (808) 244-6644
Facsimile: (808) 244-1013
Email: wrightkirsch@aol.com

Request #8.
Any and all documents constituting, referring or relating to Lot 48A, LLC's application for a Special Management Area Permit.

Attorneys for Plaintiff

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT
STATE OF HAWAII

CHRISTOPHER SALEM, in his individual capacity, and as owner of certain claims of BAY POINTE LOT 48 LLC, a Hawaii Limited Liability Company,
Plaintiff,
vs.
WARREN S. UNEMORI ENGINEERING, INC., a Hawaii Limited Liability Company, HUGH J. FARRINGTON, COLIN MORETON, ROBERT J. CELLA, DOUGLAS S. SCHATZ, and FARRINGTON BAYLESS ARCHITECTS LLP
Defendants.

Request #15.
Any and all documents constituting, referring or relating to estimates, proposals, and/or valuations of the improvement costs to obtain a Special Management Area Permit

PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANTS LOT 48A LLC, HUGH J. FARRINGTON, COLIN MORETON, ROBERT J. CELLA, DOUGLAS S. SCHATZ AND FARRINGTON BAYLESS ARCHITECTS LLP

**Request for Documents
Second Circuit Court**

January 18, 2008

Request 10.

~~WSUE and ARIYOSHI have no documents responsive to this request; neither WSUE nor ARIYOSHI were employed to perform any services in connection with the SMA Minor Permit Process.~~

**Attorney Bruce Ito
Attorney for Unemori Engineering, Inc.**

~~WSUE and ARIYOSHI have no documents responsive to this request; neither WSUE nor ARIYOSHI were employed to perform any services in connection with the Special Management Area Minor permit process.~~

Request 13.

WSUE and ARIYOSHI will produce these documents if the attorney client privilege between Tom Welch and this clients is waived.

Request 14.

Objection. Relevance.

Bruce M. Ito
Bruce M. Ito

Without waiving the foregoing objection, documents responsive to this request will be produced.

DATED: Honolulu, Hawaii, *Jan 18, 2008*.

Bruce M. Ito
BRUCE M. ITO
Attorney for Defendant WARREN S. UNEMORI ENGINEERING, INC.

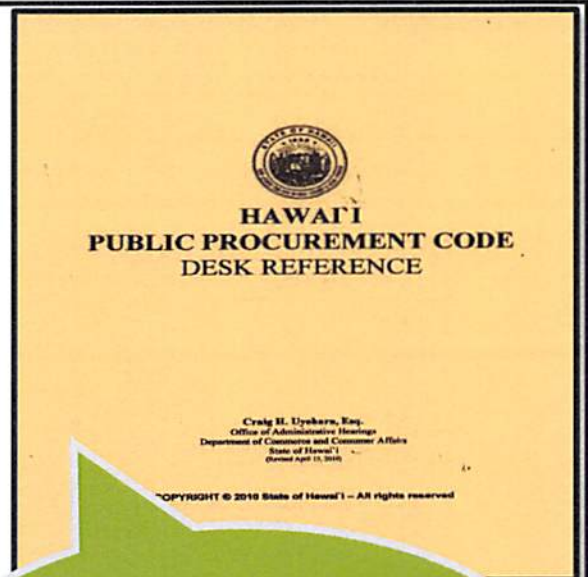
**Unemori Engineering, Inc.
Response to Request for SMA Documents**

In early 2008, Attorney Bronster was soliciting her services to the County of Maui on a case involving the Department of Public Works and Public Utilities in Molokai of Maui County.

On July 3, 2008, the Professional Services Procurement Committee for the County of Maui recommended approval of Special Counsel Margery Bronster. The committee report referenced the Bronster firm's completion of a conflict check. Attorney Bronster reported she had no conflicts.

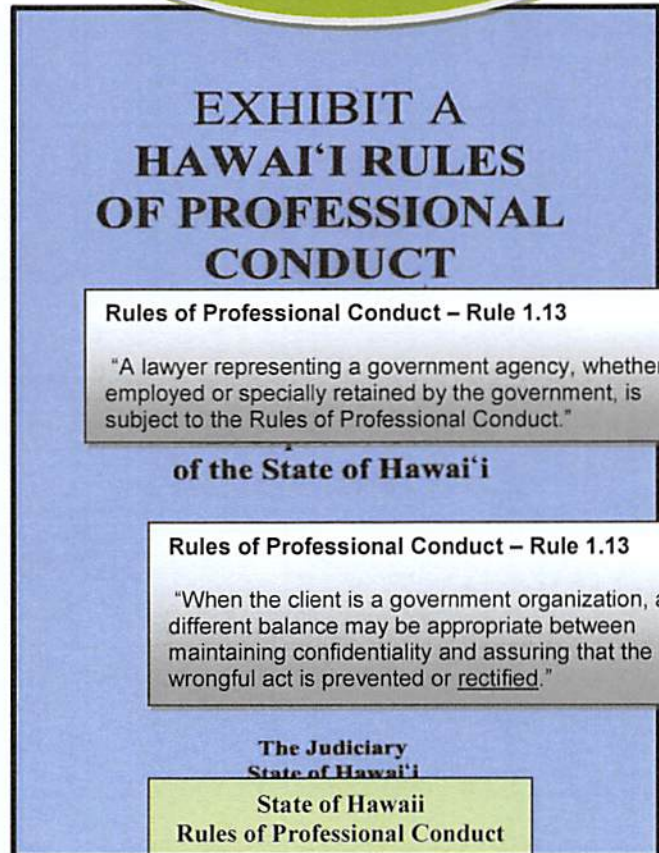
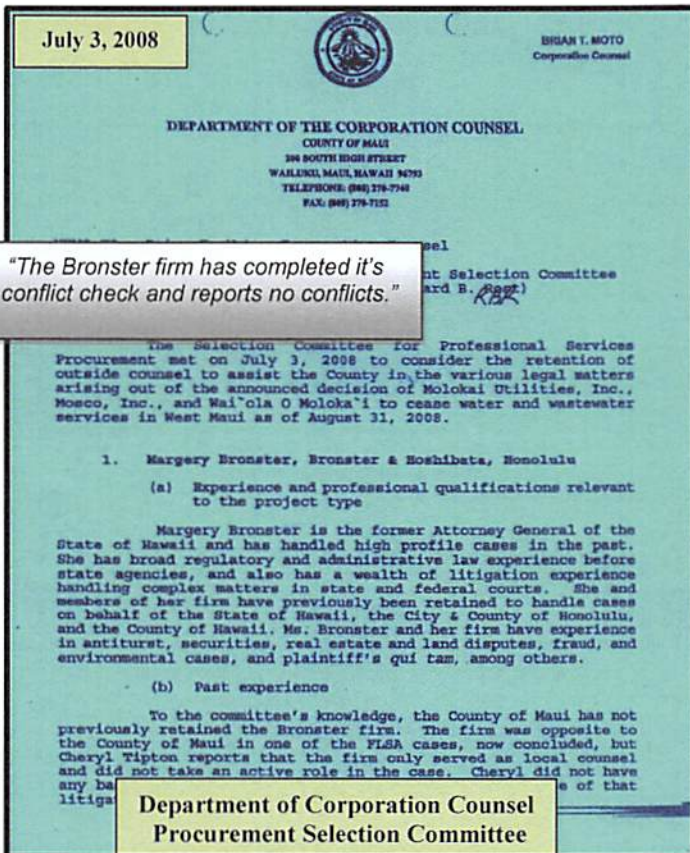
As we now know, at the same time Attorney Bronster was soliciting her services to the County of Maui, she was also representing multiple developers in different stages of permitting and disputes in Maui County including developer Lot 48A, LLC.

In July of 2008, Developer Lot 48A, LLC's Attorney Margery Bronster and SMA Consultant Milton Arakawa were employed by the County of Maui while their client Lot 48A, LLC was in litigation and discovery in the Second Circuit Court. Neither party disclosed their conflicts to the Maui County Council Members or the Procurement Committee.



"Prospective outside counsel is asked to perform a conflict check based on their records. Documents are not usually generated by this department in the course of these checks."

Attorney Jane Lovell
County of Maui – Dept. of Corp. Counsel
May 2012



In August of 2009, 45 days after obtaining the Arbitrators ruling on the terms of the Lot 48A, LLC Settlement Agreement, a shocking discovery was made at the County of Maui.

After years of filing Requests for Production of Documents in Second Circuit Court, Requests to Compel Documents in Arbitration, and Requests for Services with the County of Maui relating to the SMA Permit for Lot 48A, LLC, a 40 Page Special Management Area (SMA) Report authored by Munikiyo, Arakawa, and Hiraga, Inc was uncovered.

The study was completed in May of 2000 just prior to Milton Arakawa's employment with the County of Maui. The study included the following;

- 1) Signed SMA Permit Application by Developer Hugh Farrington, May 11, 2000.
- 2) Order of Magnitude SMA Valuation by Unemori Engineering, Inc.
- 3) Narrative, engineering drawings, and valuations for the roadway improvements to the underlying subdivision frontages dated May 11, 2000, including Hui Road E and Lower Honoapiilani Road.

Discovery also unveiled a transmittal from Warren Unemori wishing the developer Lot 48A, LLC "good luck" convincing the Planning Director the project would falsely require a SMA Minor permit, thereby denying citizens their rights to a public hearing and shoreline preservation.

March 4, 2000

TELECOPIER TRANSMITTAL

Warren S. Unemori Engineering
1147 Waihi Street, Suite 403
Waihi, Maui, Hawaii 96791
(808) 403-7421 FAX (808) 404-4828

TO: Tim Farrington
P.O. Box 1516
Kihui, Hawaii 96753

DATE: March 4, 2000
PROJECT: Mailepai Hui Subdivision
of Lot 48-A, Inc. 31 pts

JOB NO.:
RE:

ATTENTION:

TELECOPIER NO.: 876-6450

We are transmitting 3 page(s) including this cover sheet. If they are not received, please call us and we will retransmit them as soon as possible.

Originals to be Mailed: () Yes (X) No

Documents: Order of Magnitude Estimate of Construction Cost of Anticipated Improvements

Remarks: I wasn't exactly sure about existing improvements on Hui Road E. Therefore I assumed the worst case scenario. I also assumed that the existing 6-inch line will be able to deliver the required fire flow of 1000 gpm because of the very short run. Hope you're successful in convincing Planning that improvements will cost less than \$125,000.

"Hope you're successful in convincing Planning that the improvements will cost less than \$125,000."
 ~ Warren S. Unemori

Copies To: By: *Warren S. Unemori*
Warren S. Unemori

"Lot 4A, LLC has represented that it has produced all relevant SMA permit documents in it's possession or control Accordingly, the request to compel production of this request is moot."
 Arbitrator Andy Winer
Circuit Court Testimony – October 2009

May 11, 2000

Special Management Area Assessment

PROPOSED SUBDIVISION OF LOT 48-A AT HUI ROAD "E"

Roadwidening	
Lower Honoapiilani Road	\$27,709
Hui Road E	\$19,984

Installation of approximately 220 linear feet of curb, gutter, sidewalk, and related improvements along Lower Honoapiillani Road.

Installation of approximately 142 linear feet of curb, gutter, sidewalk, and related improvements along the north side of Hui Road "E."

Prepared for: _____ May 2000

Lot 48- Munikiyo, Arakawa, & Hiraga, Inc.
SMA Project Assessment Report

June 23, 2000

COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
AND WASTE MANAGEMENT
LAND USE AND ZONING ADMINISTRATION
510 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

June 23, 2000

Mr. Reed M. Ariyoshi, P.E., P.L.S.
WARREN S. UNEMORI ENGINEERING, INC.
2145 Waihi Street, Suite 403
Wailuku, Hawaii 96793

SUBJECT: MAILEPAI HUI PARTITION SUBDIVISION
TMK:(2) 4-3-015:004
LUCA FILE NO. 4.805

Condition #15.
 Comply with the conditions of the Special Management Area (SMA) Minor Permit (SM2 2000/0042) granted on June 6, 2000. Note: Upon the approval of the construction plans, the subdivider should verify with the Department of Planning to verify if an SMA Major Permit is required.

c. Requires line extension (overhead and/or underground) within private road or property.

Comments: Final approval of the subdivision is recommended. Line extension requirement for Lot 48-A-2 can be deferred until it is developed.

Preliminary Subdivision Approval
Department of Public Works

On August 27, 2009, Clayton Yoshida of the Department of Planning confirmed the SMA Permit issued to Lot 48A, LLC was expired and unfulfilled and no amendments or extensions were requested or granted to Developer Lot 48A, LLC.

On June 23, 2000 Preliminary Subdivision Approval was granted by Public Works Director Charlie Jencks with the condition to comply the SMA Permit issued on June 6, 2000 and to verify with the Planning Director if a SMA Major was required after completion of the construction plans.

As we now know, in 2001, the Department of Public Works did not send copies of the engineering drawings to the Planning Department to confirm the SMA Permit conditions and mitigations were included on the plans. Planning officials did not perform a construction plan review as directed.

On March 24, 2010, Planning Department Staff Planner Joseph Prutch confirmed the County of Maui SMA permit tracking system listed the SMA Permit SM2 2000/0042 as still "open" and not complete.

TAX MAP REV. 4-3-015-08 File 4.805

State: LUCI District: County: Maui: I. County: Lot 48A, LLC
 Section: I. CIP: I. No. of Lots: 3

PRELIMINARY PLAN	Submittal	Date	Comments
Submittal	1/2/00	6/23/00	
Comments	1/2/00		
LUCI Inspector	1/2/00		
Engineer	1/2/00		
Water Supply	1/2/00		
State Health	1/2/00		
Watermain	1/2/00		
State Highways	1/2/00		
State Agricultural	1/2/00		
State Parks	1/2/00		
Fire	1/2/00		
Public	1/2/00		
Final	1/2/00		
APPROVAL	1/2/00		
CONSTRUCTION	1/2/00		

Construction Plan Review:			
Engineering	x	State Health	x
Water Supply	x	State DOG	x
NRCS	x	State DLNR	x

APPROVED: _____
 ADMITTANCE: _____
 CONSTRUCTION: _____
 RECORDS: _____

FINAL PLAN	Submittal	Date	Comments
Submittal	1/2/00	6/23/00	
Comments	1/2/00		
LUCI Inspector	1/2/00		
Engineer	1/2/00		
Water Supply	1/2/00		
State Health	1/2/00		
Watermain	1/2/00		
State Highways	1/2/00		
State Agricultural	1/2/00		
State Parks	1/2/00		
Fire	1/2/00		
Public	1/2/00		
Final	1/2/00		
APPROVAL	1/2/00		

DESIGN: _____
 CONSTRUCTION: _____
 RECORDS: _____

ACCEPTED: _____
 RECORDS: _____
 PARK ADDRESS: _____
 TAX CLEARANCE: _____

1886

**County of Maui
Department of Public Works**

August 27, 2009

CHAPMAN TAVARES
Mayor
JEFFREY A. HUNT
Director
KATHLEEN ROSS AOKI
Deputy Director

COUNTY OF MAUI
DEPARTMENT OF PLANNING
August 27, 2009

Mr. Chris Salem
8 Hui Road "E"
Lahaina, Hawaii 96761

Dear Mr. Salem:

SUBJECT: GOVERNMENT RECORDS FOR FILE ASSOCIATED WITH LOT 48-A, LLC; TMK: (2) 4-3-016-004 (SM2 2000/0042)

On pages No. 1 & No. 4 in the Project Assessment Report under Section B Proposed Action, the Document refers to installation of 220 linear feet of curb, butter, sidewalk, and related improvements along Lower Honoapiilani Road.

An Order of Magnitude Estimate for Subdivision of Lot 48A into lots was included as the Engineer's Cost Estimate (Unemori Eng., Inc) dated March 4, 2000.

The document referenced in No. 7 above included estimates for road widening of both Lower Honoapiilani Road and Hui Road "E".

280 SOUTH HIGH STREET, WAILUKU, MAUI, HAWAII 96793
CURRENT DIVISION (808) 270-7223

**Department of Planning
Government Records**

March 24, 2010

From: Joseph Prutch <jprutch@co.maui.hi.us> AM to Contact
 To: chrisale@hawaii.com
 Sent: 03/24/2010 12:12:31 PM

Attached is that KIVA printout you asked for.

Joe Prutch, Staff Planner
 Maui County, Current Planning
 250 South High Street
 Wailuku, HI 96793
 office: (808) 270-7512
 fax: (808) 270-1775
 jprutch@co.maui.gov

SM2 2000/0402 - Status - "OPEN"


**Department of Planning
Current Planning Division**

The Department of Planning holds the responsibility of administering the Federal Coastal Zone Management Act (CZMA). As we now know, the Planning Department has no formal process for final field inspections for developers SMA Permit conditions and mitigations. Compliance occurs only upon citizen's complaints.

Federal review of policies and practices of the administration of CZMA in the State of Hawaii has confirmed that the SMA compliance measures employed by the Counties are flawed and ineffective.

From the upfront SMA valuations to the back end SMA Permit compliance procedures, the entire administration of the Federal CZMA program in Maui County relies solely on the dubious integrity of the developers and their paid consultants.

Recent attempts by members of the County of Maui Planning Department to strengthen the laws of enforcement in the SMA permitting process were protested in public hearings by Attorney Tom Welch on behalf of his developer clients.



Hawaii CZM Program
Coastal Zone Management

Program Initiatives
ORMP MACZAC
Resources

Federal Consistency

The national Coastal Zone Management Act (CZMA) requires direct federal activities and development projects to be consistent with approved state coastal programs to the maximum extent practicable. Also, federally-permitted, licensed, or assisted activities occurring in, or affecting, the state's coastal zone must be in agreement with the Hawaii CZM Program's objectives and policies. Federal agencies cannot act without regard for, or in conflict with, state policies and related resource management programs that have been officially incorporated into state CZM programs (Code of Federal Regulations, 15 CFR 930).

- [Federal Consistency Overview](#)
- [Federal Consistency Resources](#)

Federal Consistency Forms

"Both forms are now fillable on Adobe Acrobat. Please complete forms, print using the "Print" button at the end of each form, sign and date appropriate lines and submit as indicated on instructions. Or, if you prefer, print the forms first and complete them manually.

- [Federal Consistency Instructions and Application](#)
- [Federal Consistency Assessment Form](#)

2013 Hawaii's CZM Routine Program Changes

- [Concurrence Letter – NOAA Office of Ocean and Coastal Resource Management](#)
- [Public Notice – February 6, 2013](#)
- [Submittal of Federal Assistance Applications and Review Time Frame](#)
- [Required Necessary Data and Information for Consistency Reviews of Activities Requiring a Federal License or Permit](#)


January 2010


FINAL Evaluation Findings

Hawaii Coastal Zone Management Program

September 2004 – July 2008

January 2010





Office of Ocean and Coastal Resource Management
National Ocean Service
National Oceanic and Atmospheric Administration
United States Department of Commerce

FINAL Evaluation Findings
Hawaii Coastal Zone Management Program

G. COASTAL DEPENDENT USES AND COMMUNITY DEVELOPMENT

1. Special Management Area Permit System and Community Planning

The HICZMP manages Hawaii's coast in a partnership with the four counties of Maui, Kauai, City and County of Honolulu, and Hawaii. Chapter 205A, HRS calls for each county to regulate development in geographically designated Special Management Areas (SMA) through a SMA permit system. Each County has developed its own ordinances and regulations for carrying out the SMA permit system and ensuring that development proposals are in compliance with the CZM objectives, policies, and SMA guidelines in the HRS. The HICZMP has direct SMA authority over limited areas under the jurisdiction of the Hawaii Community Development Authority.

The previous evaluation found that it was a necessary action for the HICZMP to improve the enforcement of local SMA programs and ensure open communication between all networked programs. The evaluation also encouraged the HICZMP to continue its outreach and educational activities. Since the previous evaluation, the HICZMP has taken several steps to address these concerns.

The HICZMP has focused on raising the public's understanding and awareness of the SMA permit system. The Coastal Program developed a *Participant's Guide to the Special Management Area Permit Process in the State of Hawaii*. The Guide is directed towards citizens and provides them with basic information on what an SMA permit is, what types of development are regulated, opportunities for public information, and contacts for more information at the state and county level. The guide is available in printed form and on the HICZMP website. The Coastal Program has also conducted SMA workshops for different audiences. Those attending SMA workshops have included planners, Planning Commissioners, developers, and the public. The workshops address the requirements of the SMA permit and the need for SMA permit conditions to have a CZM context. OCRM commends the HICZMP for continuing to increase awareness and understanding of the SMA permit process through the provision of training sessions and

"Evaluation participants raised a concern with the need to better monitor and enforce SMA permit conditions. Although the HICZMP has taken significant steps to improve the SMA permit system and expanded ongoing educational efforts, enforcement of permit conditions continues to remain an issue..." ~ NOAA

and challenges in administering the SMA permit and help ensure consistency in implementation.

In addition, the HICZMP also initiated a Special Management Area Permit System Assessment. The Assessment provides a comparative overview of the procedures and practices of each County's SMA permit system. The report includes a discussion of: (1) Effectiveness and efficiency of procedures for evaluating and regulating development (2) Consistency among

HAWAII COASTAL ZONE MANAGEMENT PROGRAM
FINAL EVALUATION FINDINGS – 2010
22

In October of 2001, Deputy Director Milton Arakawa signed off on the Final Subdivision Plat for former developer client Lot 48A, LLC.

In direct violation of the Maui County Code, Deputy Director Arakawa ignored the Public Works condition to comply with the SMA Permit issued to his former company Munikiyo, Arakawa, & Hiraga, Inc.

As we now know, on May 16, 2000, prior to Arakawa's employment with the County of Maui, the Engineering Division for the Department of Public Works also required the roadway and drainage improvements to Hui Road and Lower Honoapiilani Road. The engineering conditions were noted on the same plans referenced in the signed SMA Permit.

In further violation of the Maui County Code, Deputy Director Milton Arakawa failed to require a bond or security for the construction related conditions referenced in the issued SMA Permit. The erosion and runoff from the unimproved frontage continues to impact the State of Hawaii Shoreline Access.



June 23, 2000

CHARLES JENCKS
Director
WYMO C. GOODE
Deputy Director

COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
AND WASTE MANAGEMENT
LAND USE AND CODES ADMINISTRATION
250 SOUTH HIGH STREET
WAILUKU, HAWAII 96793

RALPH M. NAGAMINE, L.S., P.E.
Land Use and Codes Administration
RONALD R. JENKA, P.E.
Wastewater Reclamation Division
LLOYD P.C.W. LEE, P.E.
Engineering Division
ANDREW M. HERDGE
Solid Waste Division
BRIAN HASKRO, P.E.
Highways Division

June 23, 2000

Mr. Reed M. Ariyoshi, P.E., P.L.S.
WARREN S. UNEMORI ENGINEERING
2145 Wells Street, Suite 403
Wailuku, Hawaii 96793

SUBJECT: MAILEPAI HUI PARTITION SUBDIVISION
TMK:(2) 4-3-015:004
LUCA FILE NO. 4.805

Dear Mr. Ariyoshi:

Preliminary approval was granted to the subject subdivision on June 23, 2000.
Final approval shall be contingent upon compliance with the following conditions:

Condition #15.
Comply with the conditions of the Special Management Area (SMA) Minor Permit granted on June 6, 2000.

c. Requires line extension (overhead and/or underground) within private road or property.

Comments: Final approval of the subdivision is recommended. Line extension requirement for Lot 48-A-2 can be deferred until it is developed.

If you have any questions, please contact Mr. Alan Miyazaki at 871-2390.

**Department of Public Works
Preliminary Subdivision Approval**

May 16, 2000

RECEIVED
MAY 16 2000
ENGINEERING DIV.
DEPT. OF PUBLIC WORKS

County of Maui
Department of Public Works & Waste Management
LAND USE & CODES ADMINISTRATION
250 S. High Street
Wailuku, Hawaii 96793
(808) 270-7252 FAX: (808) 270-7972

1) Road Widening Lots Required
2) Radius Return @ Lower Honoapiilani Road Required

Subdivision: Lot 48A LLC
Location: Wailuku
Owner: Lot 48A LLC
Surveyor/Engineer: Reed M. Ariyoshi
Transmitted by: Warren S. Unemori Engineering, Inc.
2145 Wells Street, Suite 403
Wailuku, Hawaii 96793

Size Land Use: Urban
County Zoning: R-3
Community Plan: SF
No. of Lots: 3

PRELIMINARY PLAT REVIEW Received: 5/19/00 Sent: 5/11/00

Engineering: Electric Co., State Health Planning
LUSA Inspector Permits
DLNR
Wastewater Reclamation Division

Submit your comments by 5/18/00, or we will proceed without your review.

CONSTRUCTION PLAN REVIEW Received: Sent:

Engineering: Water Supply, SD, NRCS, erosion control report
State Health, State DOT, State DLNR, Wastewater Reclamation Division

Submit your comments by , or we will proceed without your review.

FINAL PLAT & SUBDIVISION REVIEW Received: Sent: 060021

Engineering Division State DOT

**Department of Public Works
Engineering Division**

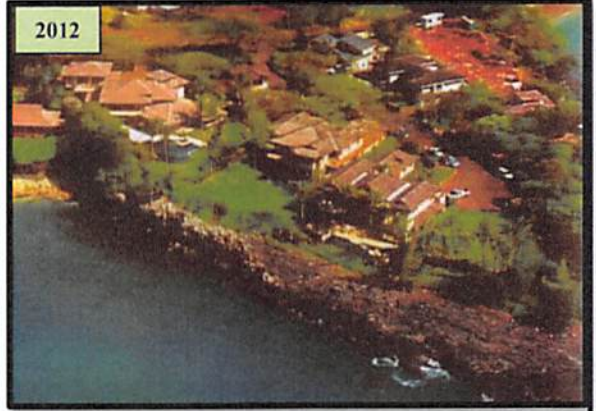
On Hui Road, a pristine section of oceanfront land has gone through the entire subdivision process two times resulting in over 30 million dollars in speculation and developers financial reward.

As we now know, the "Good Luck" \$27,900.00 SMA valuation by Unemori Engineering, Inc for the Lower Honoapiilani Road roadway improvements and drainage mitigations have been proven by a licensed engineering contractor to be ten times that amount.

With the secretive assistance of Director Arakawa, Developer Lot 48A, LLC has intentionally avoided any form of public review and responsibility for their signed and permitted development obligations.

In 2001, the citizens of Maui County were denied public hearings and their civil rights to defend their vested property rights and the shoreline due to intentional SMA valuation fraud by Developer Lot 48A, LLC and Unemori Engineering, Inc.

As we now know, the Unemori Engineering, Inc filings in the Second Circuit Court of the State of Hawaii stating that they played no role in the SMA Permitting and studies was a blatant lie.



April 29, 2008

P.B. Sullivan Construction Inc.
 P.O. Box 734
 Kihel, HI 96753
 Phone: 808-875-2633
 Fax: 808-874-5090
 License # AC-22090

Date: 4-29-2008

Project: Lower Honoapiilani Road Improvements Phase 4 at Lots 48-C and 48-B

Item #	Description	Bid Qty.	UM	Unit Price	Price
1	Roadway Excavation	102	CY	\$239.91	\$24,470.82
2	6" Permeable Pipe W/ Permeable	210	LF	\$76.34	\$16,031.40
3	6" UTB Under Roadway	40	TON	\$189.45	\$7,578.00
4	3" AC Pavement	27	TON	\$343.73	\$9,280.71
5	5" Asphalt Treated Base	37	TON	\$343.73	\$12,718.01
6	4" Base Course Under Swale	33	TON	\$218.27	\$7,202.91
7	1 1/2" Asphalt At Paved Swale	13	TON	\$343.73	\$4,468.49
8	18" Storm Drain	13	LF	\$178.58	\$2,321.54
9	24" Storm Drain	95	LF	\$172.78	\$16,414.10
10	Type "61614P" Drain Inlet (3" X 4")	3	EACH	\$4,579.09	\$13,737.24
11	ARV W/ Type F Manhole	2	EACH	\$2,745.71	\$5,491.42
12	12" Waterline (CL 52)	91	LF	\$999.88	\$90,989.08
13	Concrete Jacket (12" Waterline)	91	LF	\$512.36	\$46,624.76
14	Engineering Design			By Others	
15	Control Survey/Staking			By Others	
16	Permits				
17	Construction Water				

**Lower Honoapiilani Road
P.B. Sullivan Valuation
\$257,328.48** ←

Estimate prepared using plan sheets C-4, C-5, C-32, C-32, C-37, C-38 drawn by Kent Morimoto dated 6/2001 for the Lower Honoapiilani Road Improvements Phase 4

Price Excludes:
 Design, Authority Approvals, Construction Water or any items not specifically mentioned in this estimate

**P.B. Sullivan Construction, Inc.
Improvements Valuation**

March 4, 2000

ORDER OF MAGNITUDE ESTIMATE
 FOR
 SUBDIVISION OF LOT 48-A INTO 3 LOTS

March 4, 2000

Description	Approx. Qun.	Unit	Unit Price	Total
ROADWIDENING				
L. Honoapiilani Road				
Grading L. Honoapiilani Road	220	LF	\$ 5.00	\$ 1,100
2 1/2 AC	41	ton	\$ 85.00	\$ 3,485
4" ATB	66	ton	\$ 82.00	\$ 5,412
6" SBC	100	ton	\$ 35.00	\$ 3,500
Primer	103	gal.	\$ 4.00	\$ 412
Conc. Curb and Gutter	220	LF	\$ 20.00	\$ 4,400
4" Sidewalk				
Driveway Curb Cut and Apron				
Traffic Control				
Grassing Shoulder				
Dust Control				
Subtotal - L. Honoapiilani Road:				\$ 27,709
Hul Road E				
Grading L. Honoapiilani Road	400	LF	\$ 5.00	\$ 2,000
2" AC	36	ton	\$ 85.00	\$ 3,060
6" UTB	106	ton	\$ 35.00	\$ 3,780
Primer	112	gal.	\$ 4.00	\$ 448
Conc. Curb and Gutter	142	LF	\$ 20.00	\$ 2,840
Sidewalk	142	LF	\$ 18.00	\$ 2,556
Driveway Curb Cut and Apron	2	each	\$ 1,000.00	\$ 2,000
Traffic Control			L.S.	\$ 1,000
Grassing Shoulder	800	s.L.	\$ 0.50	\$ 300
Dust Control			L.S.	\$ 2,000
Subtotal - Hul Road E:				\$ 19,984
WATER SYSTEM:				
Fire Hydrant	1	each	\$ 4,000.00	\$ 4,000
Double Service			\$ 2,000.00	\$ 2,000
System:				\$ 6,000

**Lower Honoapiilani Road
SMA Valuation
\$27,709**

**Unemori Engineering, Inc.
SMA Valuation**

On October 12, 2009, after discovery of the Munikiyo, Arakawa, & Hiraga, Inc SMA Permit studies, Public Works Director Milton Arakawa informed the Maui County Council that the Lot 48A, LLC SMA Permit conditions still applied and he would look to the Planning Department for enforcement.

One month prior, on September 23, 2009, Honorable Judge Cardoza presided over a motion to vacate the Arbitrator's decision due to the discovery of the concealed Munikiyo, Arakawa, & Hiraga, Inc. SMA Permit studies and Unemori Engineering, Inc. valuations.

To satisfy a motion for corrective action and post judgment motion related to fraud, the Courts would require from the County of Maui a Notice of Non Compliance for the unfulfilled SMA Permit.

In a meeting with County Council Member Sol Ko'ohalahala, Chair of the Planning Committee, and Executive Assistant Kathy Kaohu, Planning Director Jeff Hunt informed the group he was unwilling to enforce the Developers SMA Permit and take the wrath for Public Works Director Milton Arakawa's misdealing.

EXHIBIT A HAWAII RULES OF PROFESSIONAL CONDUCT

(SCRU-11-0001047)

Rule 1.2. SCOPE OF REPRESENTATION

(d) "A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent...."

December 6, 1993
Effective January 1, 1994
With Amendments as Noted

The Judiciary

State of Hawaii
Rules of Professional Conduct

September 23, 2009

1
2 IN THE CIRCUIT COURT OF THE SECOND CIRCUIT
3 STATE OF HAWAII
4
5
6 CHRISTOPHER SALEM,
7 Claimant,
8 vs. Civil No. 09-1-0040(3)
9 LOT 48A LLC, TRANSCRIPT OF
10 Respondent. PROCEEDINGS
11
12
13 TRANSCRIPT OF PROCEEDINGS
14 had before the Honorable Joseph E. Cardoza, Circuit
15 Court Judge presiding, on Wednesday, September 23,
16 2009, in the above-entitled matter.

"They are attempting to investigate...(The concealment of compelled SMA Permits & Studies) If they're going to open an investigation, that is for the County of Maui to do..."

Bronster Hoshibita
Circuit Court Testimony - October 2009

24
25 Reported By:
Melissa Noble, RFR, CSR 376

Circuit Court of the Second Circuit Court
Motion to Vacate

October 12, 2009

PLANNING COMMITTEE MINUTES
Council of the County of Maui
October 12, 2009

CHAIR KAHUO'
VICE-CHAIR J...
CHAIR KAHUO'
VICE-CHAIR J...
CHAIR KAHUO'
VICE-CHAIR J...
CHAIR KAHUO'
VICE-CHAIR J...
CHAIR KAHUO'

"Mr. Chair, the second three lot subdivision was the subject of the SMA Minor Permit, if I'm correct would still apply. But the conditions of the SMA Minor Permit, I mean it would still apply. From our standpoint we would look to the Planning Department to enforce the SMA Permit conditions."

Public Works Director Milton Arakawa
Public Testimony to the Maui County Counsel
October 12, 2009

conditions are placed on by the Planning Department for a permit, and does moving to the second subdivision or SMA, are those compliance, are those conditions still attached to the original? Because you were talking about these were the original conditions for an SMA permit, and there were these compliance issues that were placed as conditions. And then if you move that same, and then you're going to re-subdivide another, a, a parcel that then it goes to the SMA part of it, I guess. The question is are those compliance requirements still attached in the, the, the new subdivision?

MR. ARAKAWA: Mr. Chair, the second three-lot subdivision was the subject of an SMA Minor Permit, if I'm correct. But the conditions of the SMA Minor Permit, I mean would, it would still apply. From, from our standpoint, we, we would look to the Planning Department to basically enforce those SMA Minor Permit conditions. If there are any violations regarding the actual subdivision regulations and it's brought to our attention then of course we would go out and investigate. But the, the SMA Minor Permit conditions should be enforced by, by Planning.

CHAIR KAHUO'OHALAHALA: Okay. And I guess just what I want to understand is that we got two departments that are interacting and then you have several other agencies. And when we're looking at the compliance then I want to be sure that how, how is this organized within your own Department's review? Is it always going to go back to the Planning Department for, for review? Or is it gonna, do you have a jurisdiction over that SMA so that you make approvals, you know, from Public Works? Can you just help me understand where the interaction is between the departments itself? Because now it's coming back to Planning that has all of that jurisdiction. So any, any comments on that?

MR. ARAKAWA: We, we basically, of course as you know, administer Title 16 and 18 in, in general. Title 16 being the, the building code and plumbing, electrical codes as well as Title 18 which is subdivisions. If there are any potential violations regarding those two codes and investigate. But if

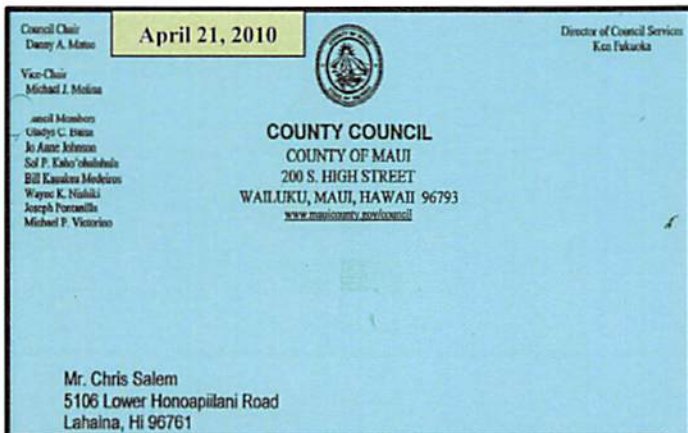
Planning Committee Minutes
Maui County Council

In February of 2009, Council Member JoAnne Johnson was a key witness in the Arbitration involving Developer Lot 48A, LLC. Undisclosed by Developer Attorney Margery Bronster were her conflicting attorney relationships with Corporation Counsel of the County of Maui, Developer Lot 48A, LLC, and Public Works Director Milton Arakawa.

In August of 2001, Attorney Welch disputed his client's obligation to install roadway improvements to Lower Honoapiilani Road and Hui Road E. In his back pocket were already signed and issued SMA Permits with the conditions and studies requiring the same roadway improvements and drainage mitigations to Lower Honoapiilani Road.

As we now know, Attorney Bronster's legal filings claiming that the SMA Permit and related studies were not relevant to the Attorney Welch Settlement Agreement were fraudulent, financially self-serving, and resulted in years of unnecessary and costly litigation which has shattered the lives of an innocent Maui family.

Council Member Johnson documented the events of fraud, concealment of government documents, and conflict of interest involving Attorney Margery Bronster and Public Works director Milton Arakawa in a letter dated April 10, 2010.



"The fact that Ms. Bronster was also representing the County of Maui on another case during the very same time period is disturbing."

Councilmember Jo Anne Johnson

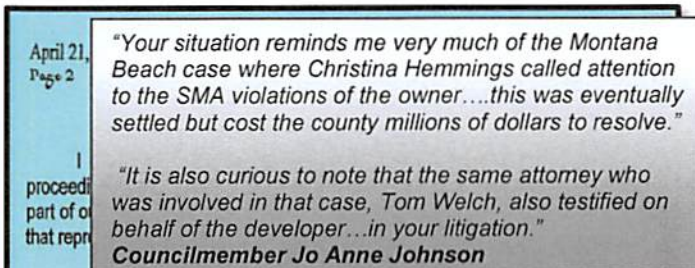
As you are aware I too have been placed in an untenable situation by the developer's attorney, Ms. Bronster and our own Public Works Director, Milton Arakawa. The fact that Ms. Bronster was also representing the County of Maui on another case during the very same time period is disturbing. It was not until this case unfolded that I became aware that the developer of the property adjacent to yours, was legally required (and already submitted studies by his consultants and received SMA Permits on the same) to honor the obligations that you were simply trying to have the county enforce. I know that this was something that was not known to either of us when this case began. I cannot understand how Ms. Bronster appears to have been made aware of the existence of these documents, and yet failed to produce them during the legal proceeding. I do not know what the legal ramifications are for failure to produce documents before the hearing officer or your attorney. At the very least, this

"I cannot understand how Ms. Bronster appears to have been made aware of the existence of these documents, and yet failed to produce them during the legal proceeding."

Councilmember Jo Anne Johnson

the County's potential financial losses, if this had been done and the information made available, it would have been clear to you and your attorney that you did not need to have any agreement with the developer from the beginning, let alone attempt to enforce the terms of the agreement, since the County already had put these conditions in the SMA at

**Maui County Council Letter to Salem
Jo Anne Johnson, Councilmember**



Your situation reminds me very much of the Montana Beach case where Christina Hemmings called attention to the SMA violations of the owner and yet had to take the issue further through years of legal proceedings to compel the county to follow the law. This was eventually settled but cost the county millions of dollars to resolve. It is also curious to note that the same attorney who was involved in that case, Tom Welch, also testified on behalf of the developer who was involved in your litigation. Perhaps this issue bears further investigation as well.

I cannot help but feel that you and the County of Maui have been defrauded, the taxpayers have been cheated out of financial obligations that the developer should rightfully have paid, and that I have been placed in a position that is unacceptable and now creates a

"I cannot help but feel that you and the County of Maui have been defrauded, the taxpayers have been cheated out of financial obligations that the developer should have rightfully paid....."

I am so sorry that it appeared during the hearings that my comments were irrelevant and I was made to look foolish before the hearings officer Andrew Winer. Please let me know what the status of this situation is and please feel free to share my comments with those who can help bring this matter to a satisfactory close.

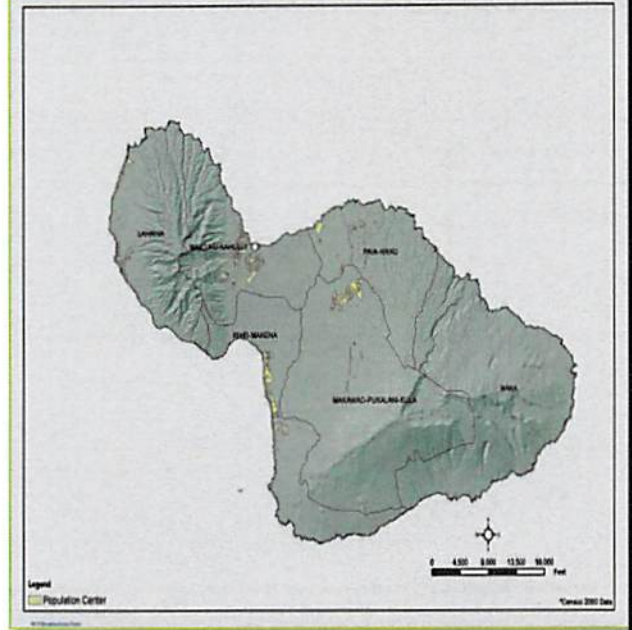
Sincerely,
Jo Anne Johnson
JO ANNE JOHNSON
Councilmember

**Maui County Council Letter to Salem
Jo Anne Johnson, Councilmember**

Requests for compliance and demands for enforcement of the expired Lot 48A, LLC SMA permit have been formally submitted to Planning Director Will Spence and Mayor Arakawa. Further demands have been made to investigate and reprimand the "Good Luck" valuation submitted by the developer's professional consultant.

Despite being warned and witnessed by fellow members of the Arakawa Administration, under the conflicting influence and representation of Corporation Counsel, Planning Director Will Spence refuses to enforce the SMA Permit conditions upon developer Lot 48A, LLC and investigate the consultant's false valuation.

Planning Director Will Spence and Corporation Counsel are obstructing justice in the Second Circuit Court of the State of Hawaii by refusing to remedy the unlawful decisions of former Public Works Director Milton Arakawa. The Palama Drive history is now repeating itself in West Maui.



December 22, 2011

Chris Salem 5106 Lower Honoapiʻilani Road
December 22, 2011 Lahaina, HI 96761

County of Maui CERTIFIED MAIL
250 South High Street
Waikaloa, HI 96793

Attention: Planning Director Will Spence

RE: Request for Notice of Non Compliance
- SMA Permit SM2 2008/0042
- TMK (S) 4-3-095004

Dear Mr. Spence,

"The Developers have failed to honor their land entitlement obligations and shoreline mitigation impacts, as clearly documented in the attached findings of Clayton Yoshida, Planning Program Administrator for the County of Maui."

Chris Salem

Permits and relies solely on the Developers' integrity as a compliance measure.

In 1995, Munkitjoy, Arakawa, and Hiraga, Inc. were retained by the County of Maui to complete a 600-page Environmental Assessment Report as a part of the Phase IV Lower Honoapiʻilani Improvement District.

"As confirmed by County of Maui Staff Planner, Joe Prutch, the SMA Permit is documented in County Records as "open." This SMA Permit is now expired and the Developers' conditions have been left unfulfilled."

Chris Salem

event took place. As confirmed by County of Maui Staff Planner Joe Prutch, the SMA Permit is documented in County records as "open". (See Exhibit "B") This SMA Permit is now expired and the Developers' conditions have been left unfulfilled.

The Honorable Mayor Arakawa made campaign promises to the citizens and to me personally that he will enforce the laws and ordinances of Maui County and insist that developers perform their land entitlement obligations. The developers of Hui Road made millions of dollars in profits and failed to complete the oceanfront subdivision as they agreed in their signed permits and subdivision approval documents, causing continuing da

Chris Salem Letter to Planning Director Will Spence

April 11, 2011

Date: April 11, 2011
To: Will Spence - Director of Planning
From: Jo Anne Johnson Wimer - Director of Transportation
Re: Lingerin Issue on SMA violations and compliance per attached Maillepei Hui Partition Subdivision T

Aloha Will-

Thanks so mu challenge wh

I have attache came to be an This date shou incumbent upon the County to send forward a letter to the Developers that they are not in compliance with the original conditions of their SMA Permits.

If you are able to quickly review this file information and confirm the findings that the entire subdivision needs to comply with their issued SMA Permits and their Private Consultant studies and reports, he would only ask that you send out a letter to the Developers. Mr. Salem is in a position where he cannot resolve his issues on his own and is at risk of losing him home if the County of Maui Planning Department does not send notice of non compliance to the Developer by April 14, 2011.

I know this a lot to absorb, but the matter is truly not complicated. The Developer received all the rewards of their oceanfront subdivisions and must fulfill their land entitlement obligations. I have been dealing with this particular issue for quite some time and it now appears that to avoid further difficulties for addressing this Developer to c benefits of the

If the Develop within the pro their rights to

Thank you for me at 270-6236, I met with Ed Kushi and Rowena Andaya about the deferral agreement side of this issue and he is working with her (with some assistance from Mr. Salem via me) to look at options for collections. He is familiar with Mr. Salem and I am sure he will concur when you speak to him that protecting the County is upmost in his mind, and I agree with him. That is why I am trying to assist in resolving this asp.

"It is incumbent upon the County to send forward a letter to the Developers that they are not in compliance with the original conditions of their SMA Permits."

~ Jo Anne Johnson, Director of Transportation Arawaka Administration

"The Developer received all the rewards of their oceanfront subdivision and must fulfill their land entitlement obligations."

~ Jo Anne Johnson, Director of Transportation Arawaka Administration

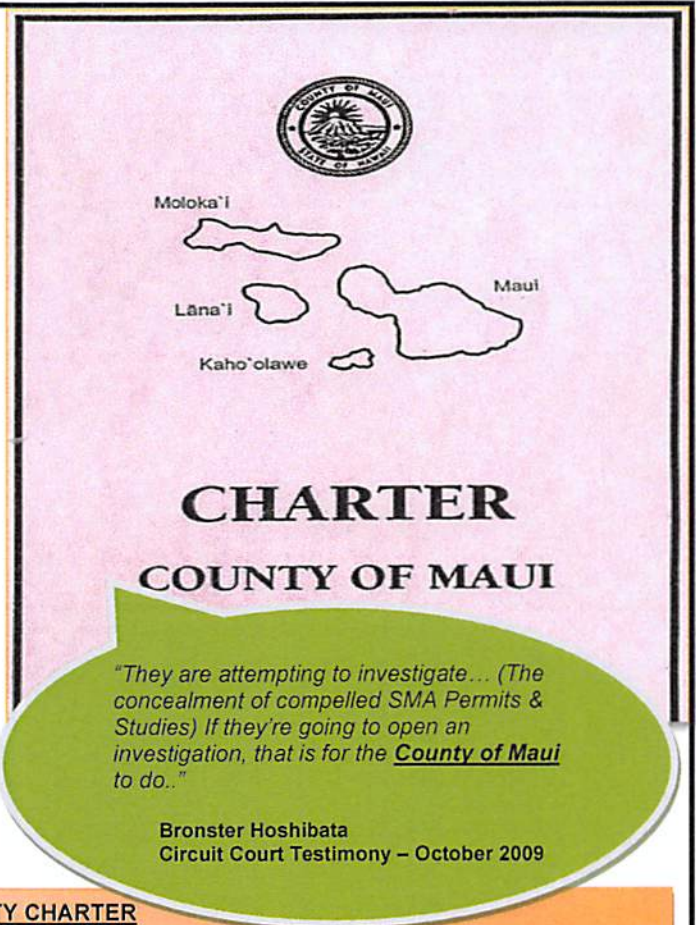
Jo Anne Johnson Letter to Planning Director Will Spence

The Maui County Charter is a constitutional doctrine adopted by the people to protect the citizens and the precious resources of the islands of Maui County. The Department of Corporation Counsel is charged with the responsibility of protecting and defending the public interest.

To ensure the balance of government is preserved and realized, the elected officials in the Maui County Council have the sole authority and obligation to review, investigate, and discipline administrative decisions and violations of the laws and ordinances adopted through the legislative process.

The Maui County Charter also provides for personal liability for any elected official, director, or employee that incurs financial obligations upon the County of Maui.

To prevent the County of Maui from incurring further financial liability at the hands of former Director Milton Arakawa, the Maui County Council is hereby compelled to investigate and punish the documented abuse of the SMA laws and phantom "3 Lots or Less" subdivision deferral agreements that have led to a decade of frustration and financial destruction a dedicated citizen and his family.



THE MAUI COUNTY CHARTER

SECTION 3-6. POWERS OF COUNCIL. THE COUNCIL SHALL BE THE LEGISLATIVE BODY OF THE COUNTY. WITHOUT LIMITATION OF THE FOREGOING GRANT OR OF OTHER POWERS GIVEN IT BY THIS CHARTER, THE COUNCIL SHALL HAVE THE POWER:

3. TO CONDUCT INVESTIGATIONS OF (A) THE OPERATION OF ANY DEPARTMENT OR FUNCTION OF THE COUNTY AND (B) ANY SUBJECT UPON WHICH THE COUNCIL MAY LEGISLATE.

SECTION 7- 5. POWERS, DUTIES AND FUNCTIONS. THE MAYOR SHALL BE THE CHIEF EXECUTIVE OFFICER OF THE COUNTY. THE MAYOR SHALL:

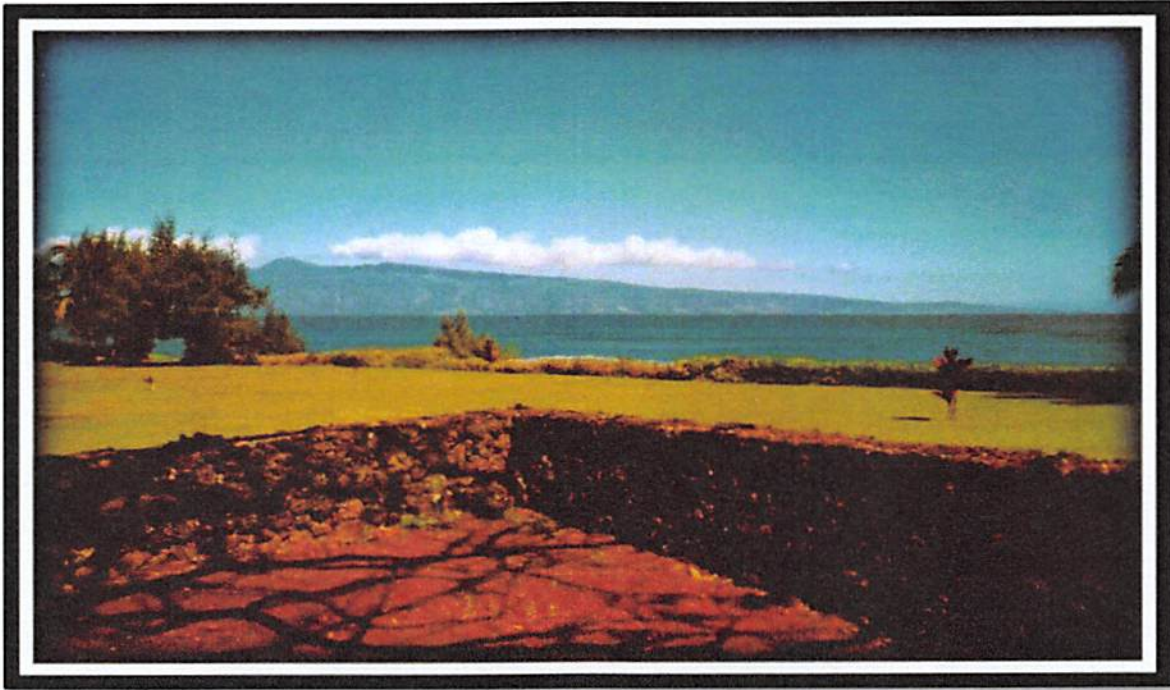
17. ENFORCE THE PROVISIONS OF THIS CHARTER, THE ORDINANCES OF THE COUNTY AND ALL APPLICABLE LAWS.

SECTION 9-12. PAYMENTS AND OBLIGATIONS.

1. WITH THE EXCEPTION OF DEBT SERVICE CHARGES, NO PAYMENT SHALL BE AUTHORIZED OR MADE AND NO OBLIGATION INCURRED AGAINST THE COUNTY, EXCEPT IN ACCORDANCE WITH APPROPRIATIONS DULY MADE AND UNDER SUCH PROCEDURES AND POLICIES AS MAYBE ESTABLISHED BY ORDINANCE. EVERY OBLIGATION INCURRED AND EVERY AUTHORIZATION OF PAYMENT IN VIOLATION OF THE PROVISIONS OF THIS CHARTER SHALL BE VOID. EVERY PAYMENT MADE IN VIOLATION OF THE PROVISIONS OF THIS CHARTER SHALL BE ILLEGAL, AND ALL COUNTY OFFICERS WHO KNOWINGLY AUTHORIZE OR MAKE SUCH PAYMENT OR ANY PART THEREOF SHALL BE JOINTLY AND SEVERALLY LIABLE TO THE COUNTY FOR THE FULL AMOUNT SO PAID OR RECEIVED. IF ANY COUNTY OFFICER OR EMPLOYEE KNOWINGLY AUTHORIZES OR MAKES ANY PAYMENTS OR INCURS ANY OBLIGATION IN VIOLATION OF THE PROVISIONS OF THIS CHARTER, OR IN VIOLATION OF THE PROVISIONS OF THE PROCEDURES AND POLICIES ESTABLISHED BY ORDINANCE, OR TAKES PART THEREIN, THAT ACTION SHALL BE CAUSE FOR REMOVAL FROM OFFICE.

SECTION 13-10. PENALTIES:

THE COUNCIL SHALL, BY ORDINANCE, PROVIDE FOR THE PUNISHMENT OF VIOLATIONS OF ANY PROVISIONS OF THIS CHARTER AND MAY PROVIDE FOR PUNISHMENT OF VIOLATIONS OF ORDINANCES AND RULES HAVING THE FORCE AND EFFECT OF LAW, BUT NO PENALTY SHALL EXCEED THE AMOUNT OF \$1,000.00, OR ONE (1) YEAR'S IMPRISONMENT, OR BOTH.



CONCLUSION

As exhibited at Montana Beach and recently in Olowalu, innocent citizens suffer the burden of enforcement by being left with no choice but to retain legal counsel to demand the developers comply with permitted conditions and environmental laws.

Since 2000, tens of millions of dollars of public funds have been wasted on the senseless defense of Director decisions which are clearly outside of their authority and the ordinances publicly adopted by the Maui County Council.

The most costly and disastrous example was the defense of Director Milton Arakawa's decision to ignore the grading laws adopted by the Maui County Council at Palama Drive along the borders of Maui Lani. The County of Maui now owns the developer's land in the same form of resolution fashioned at Montana Beach.

In 2001, after making millions on their oceanfront development, instead of just honoring their land entitlement obligations and SMA permits signed with the County of Maui, Lot 48A, LLC, employed Montana Beach Attorney Tom Welch in order to deceive an innocent neighbor by making false claims of his client's development obligations. In his back pocket were the very same government permits and concealed obligations in dispute.

From 2007 to 2011, Lot 48A, LLC employed the most powerful and influential law firm to manipulate public officials to deceptively shield themselves from their development obligations and dishonest behavior.

On July 19, 2010, Lot 48A, LLC Attorney Margery Bronster solicited the Maui County Council for additional compensation for her Special Counsel legal services involving public utilities in Molokai.

From 2008 thru 2010, Attorney Bronster's compensation from the County of Maui totaled \$500,000.00 while claiming to be protecting the public interest and demanding the Company honor their obligations.

From 2008 thru 2010, Attorney Bronster's compensation from Developer Lot 48A, LLC totaled over \$500,000.00. The collective concealment of government documents from the Second Circuit Court and an innocent owner prolonged a dispute over developer obligations that never should have occurred.

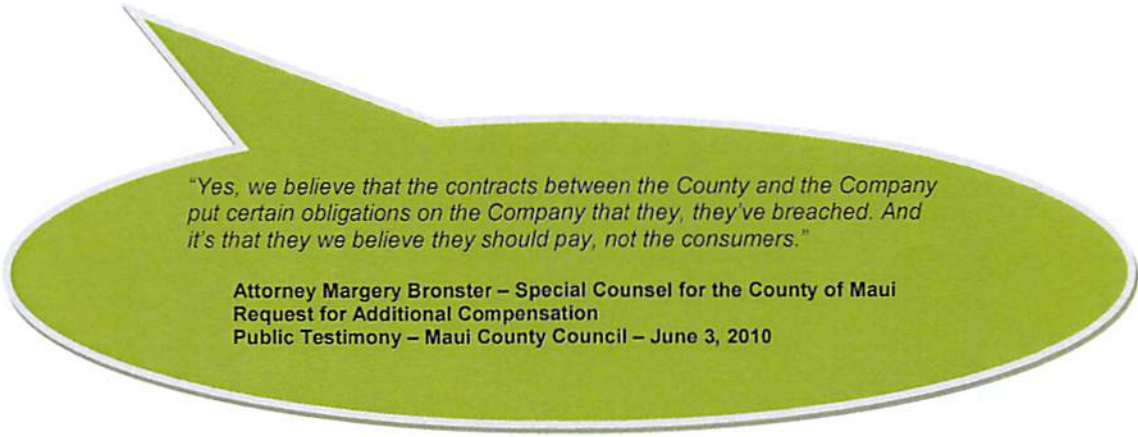
Coupled with their negligent administration of the unaccounted for "3 Lots or Less" subdivision deferral agreements, which have intentionally shifted tens of millions of dollars of developer's financial obligations to the citizens of Maui for over 38 years, along with the irresponsible administration of SMA Permit valuations and compliance, the County administration has caused the complete financial destruction of an innocent citizen that has once again been forced to uphold the laws adopted by the Maui County Council.

Laws designed to protect the resources and vested property rights have become a conduit of manipulation and acts of greed and deception by self serving individuals and their financially compensated representatives.

The recent acknowledgment by the administration that it is the responsibility of the County of Maui to collect on the "3 Lots or Less" development agreements will now lead to millions in financial recovery for the County of Maui. The rewards come at the unnecessary financial expense of Christopher Salem and his family. The 11 year history of dishonorable acts of a conflicting County Director and the developer's legal counsel has now forced Mr. Salem into personal bankruptcy.

Through the powers afforded by Section 3-6 of the Maui County Charter, the Maui County Council has the authority and obligation to investigate the operations of every department or function of the County on any subject which the Council may legislate. This includes the prior dubious decisions of the Department of Corporation Counsel to defend Director decisions that are not supported by law or ordinance and under concealment of public documents and conflicting legal representations. In this specific case history, the list Director and Attorney violations are lengthy and well documented.

With the known conflicts of interests in Corporation Counsel, the elected members of the Maui County Council have the sole responsibility to restore public trust and prevent further escalation and legal exposure. In accordance with Section 13-10 of the Maui County Charter, the Maui County Council shall, by ordinance, provide for the punishment of the attached violations of ordinances and rules which have the force and effect of law.



"Yes, we believe that the contracts between the County and the Company put certain obligations on the Company that they, they've breached. And it's that they we believe they should pay, not the consumers."

**Attorney Margery Bronster – Special Counsel for the County of Maui
Request for Additional Compensation
Public Testimony – Maui County Council – June 3, 2010**

County Clerk

From: Gail Swanson <gailswansonmaui@gmail.com>
Sent: Thursday, November 07, 2019 8:11 AM
To: County Clerk
Subject: Highest and Best/Condo declarations

RECEIVED
2019 NOV -7 AM 8:47

OFFICE OF THE
COUNTY CLERK

Aloha,

The classifications bill that is being considered on Friday contains a very alarming component to me that I am strongly against. I hope you will all vote against the bill that contains the change in condo use declaration provision.

If condos are automatically taxed at their highest and best use (other than owner exemption) this will force many owners into a much higher tax rate on 2nd homes and long term rentals.

Long term rentals are SO HIGH right now, and this will make things even harder on renters since most owners will raise their rents if their taxes potentially double as opposed.

Thank you for adding my voice to the list of concerned people on this issue, and for voting against the proposed change. Please forward this email to all parties in Maui Government who will be involved in Friday's testimony.

I am unable to attend on Friday in person.

Gail Swanson



Gail Swanson R(B)
Owner/Principal Broker, RB-20977
Hawaiian Style Realty LLC
www.HawaiianStyleRealty.com
808-205-0816



MAUI

CHAMBER OF COMMERCE
VOICE OF BUSINESS

RECEIVED
2019 NOV -7 PM 3:50
OFFICE OF THE
COUNTY CLERK

Testimony on CR 19-128
Regarding Tax Reform
Friday, November 7, 2019

Dear Chair King, Vice-Chair Rawlins-Fernandez and
Members of the Maui County Council,

The Maui Chamber of Commerce supports the two bills to establish a new set of real property tax classifications for homeowner and tiers of real property tax rates.

During the budget hearings in May, we were concerned that commercial/industrial rates were increasing in order to keep the revenue flat, despite some properties increasing in valuation who would then take a considerable hit with a rate increase. We feel tiered rate categories will help to address this issue and provide more equity.

We look forward to seeing and ringing in on the future proposals for the new category tiers.

We appreciate the opportunity to provide testimony and ask that this bill be passed.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.



MAUI

CHAMBER OF COMMERCE
VOICE OF BUSINESS

RECEIVED
2019 NOV -7 PM 3:50
OFFICE OF THE
COUNTY CLERK

Revised Testimony on CR 19-128
Regarding Tax Reform
Friday, November 7, 2019

Dear Chair King, Vice-Chair Rawlins-Fernandez and
Members of the Maui County Council,

This is revised testimony that supersedes any earlier testimony sent in. Please see the underlined portion not included in earlier testimony.

During the budget hearings in May, we were concerned that commercial/industrial rates were increasing in order to keep the revenue flat, despite some properties increasing in valuation who would then take a considerable hit with a rate increase. We feel tiered rate categories will help to address this issue and provide more equity.

However, while the rates may change, the established tiers should be set into law and not change annually with the budget to avoid instability for residents and businesses. Changing the tiers every year would create significant hardships to businesses and homeowners as they would not be able to budget based on the tier they are currently in from year to year, which creates instability.

We appreciate the opportunity to provide testimony and ask that this bill be amended to solidify the tiers into law.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

County Clerk

From: Roy Vandoorn <royvandoorn1956@gmail.com>
Sent: Wednesday, November 06, 2019 5:36 PM
To: County Clerk; Kelly King
Cc: Roy Vandoorn
Subject: Opposition to CR 19-128

RECEIVED

2019 NOV -7 AM 8: 47

OFFICE OF THE
COUNTY CLERK

To the Maui County Council,

My name is Roy Vandoorn, many of you know that I am a REALTOR, but I am submitting testimony representing myself and not RAM as I am not empowered to speak for RAM.

I understand the need for Property Tax Reform and the need for Maui County to generate sufficient revenue to meet the needs of all the citizens. However, this reform needs to be done carefully and deserves a great deal of thought. A rushed approach will only result in unintended consequences.

For this testimony the area that I will raise an objection to is that condominium units will be classified based on their highest and best use rather than actual use. This idea has been raised before and rejected before, so many of you will already know the consequences of this approach. The short version is, higher rents, less long term rentals and more short term rentals. As you all know Maui has a housing crisis. This starts with a long term rental crisis. There are not enough long term rentals and as a result the ones that do exist are too expensive. Raising property taxes on condos that are currently long term rentals, that could be short term rentals will result in either the rents going up to cover the increase in property taxes or the owners moving them into a short term rental program since the tax incentive to long term rent has been removed. "Highest and best use" will make our housing crisis worse. It is just that simple.

My recommendation is that CR 19-128 be returned for committee for additional analysis, study and a more complete recommendation from the committee.

Thank you for reading my testimony.

Best Regards,

Roy Vandoorn

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