

# REQUEST FOR LEGAL SERVICES

**Date:** April 8, 2024  
**From:** Yuki Lei K. Sugimura, Chair  
Budget, Finance, and Economic Development Committee

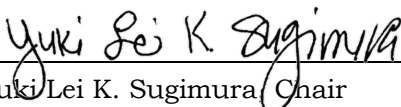
TRANSMITTAL

**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Kristina Toshikiyo, Esq.

**Subject:** FISCAL YEAR ("FY") 2025 BUDGET (BFED-1) (CC-4)

**Background Data:** Please see the attached document for questions that arose from the Committee's discussion with the Department of Water Supply. Please submit your response to bfed.committee@mauicounty.us with a reference to BFED-1 and CC-4.

**Work Requested:**  FOR APPROVAL AS TO FORM AND LEGALITY  
 OTHER: Please see background data section above.

Requestor's signature  Yuki Lei K. Sugimura, Chair	Contact Person <u>James Krueger or Carla Nakata</u> (Telephone Extension: <u>7761 or 5519, respectively</u> )
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ROUTINE (WITHIN 15 WORKING DAYS)       RUSH (WITHIN 5 WORKING DAYS)  
 PRIORITY (WITHIN 10 WORKING DAYS)       URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): \_\_\_\_\_  
REASON: \_\_\_\_\_

## FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR:  APPROVED  DISAPPROVED  OTHER (SEE COMMENTS BELOW)  
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DEPARTMENT OF THE CORPORATION COUNSEL

Date \_\_\_\_\_

By \_\_\_\_\_

(Rev. 7/03)

bfed:2025bgt:240405acc01:jpp

cc: Director of Water Supply  
Acting Budget Director

Attachment

At its meeting of April 4, 2024, the Committee discussed the Napilihau subdivision, which is zoned single-family but receives the multi-family water rate. The Committee was informed that the multi-family water rate applies because the dwelling units in the subdivision are all served by a single water meter.

May I please request your written opinion on the following:

1. Does zoning designation control or influence water rate classification? Please explain.
2. Under what authority is the Department of Water Supply charging the Napilihau subdivision the multifamily water rate?

bfed:2025bgt:240405acc01\_attachment:jpp

## **BFED Committee**

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**From:** BFED Committee  
**Sent:** Monday, April 8, 2024 2:29 PM  
**To:** CorpCounselRFLS@co.maui.hi.us  
**Cc:** BFED Committee; John Stufflebean; Linda Kimura; Lesley Milner; Kristina Cabbat  
**Subject:** OCS - BFED - FISCAL YEAR ("FY") 2025 BUDGET (BFED-1) (CC-4)  
**Attachments:** 240405acc01.pdf

Please see attached RFLS.

Thank you,  
BFED Committee

# REQUEST FOR LEGAL SERVICES

**RECEIVED**

By Corporation Counsel at 2:44 pm, Apr 08, 2024

**Date:** April 8, 2024  
**From:** Yuki Lei K. Sugimura, Chair  
Budget, Finance, and Economic Development Committee

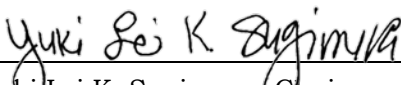
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**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Kristina Toshikiyo, Esq.

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Requestor's signature  Yuki Lei K. Sugimura, Chair	Contact Person <u>James Krueger or Carla Nakata</u> (Telephone Extension: <u>7761 or 5519, respectively</u> )
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 PRIORITY (WITHIN 10 WORKING DAYS)       URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): \_\_\_\_\_  
REASON: \_\_\_\_\_

**FOR CORPORATION COUNSEL'S RESPONSE**

ASSIGNED TO: KCT	ASSIGNMENT NO. 2024-0140	BY: maa
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TO REQUESTOR: [ APPROVED  DISAPPROVED  OTHER (SEE COMMENTS BELOW)]  
[ RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED]

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): \_\_\_\_\_  
Please see attached response.  
\_\_\_\_\_  
\_\_\_\_\_

DEPARTMENT OF THE CORPORATION COUNSEL

Date 4/22/24

By  (Rev. 7/03)

bfed:2025bgt:240405acc01:jpp

cc: Director of Water Supply  
Acting Budget Director

Attachment

At its meeting of April 4, 2024, the Committee discussed the Napilihau subdivision, which is zoned single-family but receives the multi-family water rate. The Committee was informed that the multi-family water rate applies because the dwelling units in the subdivision are all served by a single water meter.

May I please request your written opinion on the following:

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bfed:2025bgt:240405acc01\_attachment:jpp

**RICHARD T. BISSEN, JR.**  
Mayor

**VICTORIA J. TAKAYESU**  
Corporation Counsel

**MIMI DESJARDINS**  
First Deputy

**LYDIA A. TODA**  
Risk Management Officer



DEPARTMENT OF THE CORPORATION COUNSEL  
COUNTY OF MAUI  
200 SOUTH HIGH STREET, 3<sup>RD</sup> FLOOR  
WAILUKU, MAUI, HAWAII 96793  
EMAIL: CORPCOUN@MAUICOUNTY.GOV  
TELEPHONE: (808)270-7740

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DATE: April 22, 2024

TO: Yuki Lei K. Sugimura, Chair  
Budget, Finance, and Economic Development Committee

FROM: Kristina C. Toshikiyo *KCT*  
Deputy Corporation Counsel

SUBJECT: **FISCAL YEAR 2025 BUDGET** (BFED-1) (CC-4)

Mahalo for your request for a written opinion. We answer the following responses to your questions:

1. Does zoning designation control or influence water rate classifications? Please explain.

*Water service rates as set forth in the annual budget are not controlled by zoning designations, rather it is based upon the type of **consumer** which is using the water (emphasis added) (see FY 2024 Appendix B, p. 48-49, Section 3474). The term “consumer” is defined pursuant to Section 14.01.040 of the Maui County Code as “the person, firm, corporation, association, or governmental entity, whether owner or tenant, **whose name appears on the records of the department** as the party responsible and liable for receiving water service from the department” (emphasis added).*

2. Under what authority is the Department of Water Supply charging the Napilihau subdivision the multifamily water rate?

*For the Napilihau subdivision, there is only one meter providing water for the subdivision, and only one account that appears “on the records of the department as the party responsible for receiving water services from the Department.” Accordingly, the “consumer” for the purposes of the rate structure set forth in the budget is the subdivision, not the individual households who are not individually metered by the Department of Water Supply, and do not have accounts with the Department of Water Supply. As there are multiple households within the subdivision, the “consumer” for the purposes of the Water Rate fee structure is a multifamily consumer, and the multifamily rate would apply.*

Please do not hesitate to contact me if you have additional questions.

## BFED Committee

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**From:** Kristina Toshikiyo <Kristina.C.Toshikiyo@co.maui.hi.us>  
**Sent:** Monday, April 22, 2024 11:45 AM  
**To:** BFED Committee  
**Cc:** Melody Andrion; James G. Krueger  
**Subject:** BFED-1 CC-4  
**Attachments:** BFED-1 CC-4 2024-04-22 RAFL Closing FY2025 Budget.pdf

Aloha,

Please see the attached response to CC-4.

Thank you!

Kristina

\*\*\*Department of Corporation Counsel emails may contain attorney-client privilege information and should not be forwarded without approval.

Kristina C. Toshikiyo  
Department of the Corporation Counsel  
200 S. High Street  
Wailuku, Hawaii 96793  
Ph: (808) 270-7740  
Fax: (808) 270-7152  
Email:Kristina.C.Toshikiyo@co.maui.hi.us

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