

# REQUEST FOR LEGAL SERVICES

**Date:** December 11, 2019  
**From:** Tasha Kama, Chair  
Affordable Housing Committee

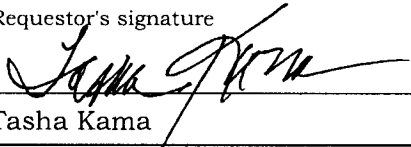
**TRANSMITTAL**

**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Mimi DesJardins

**Subject:** AMENDING RESOLUTION 18-187 TO EXTEND DEADLINES FOR WAILUKU APARTMENT RENTAL HOUSING PROJECT (AH-1(4))

**Background Data:** Please review the revised proposed resolution and approve as to form and legality. A hard copy of the revised proposed resolution is requested with your response.

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

Requestor's signature  Tasha Kama	Contact Person <u>Alison Stewart</u> (Telephone Extension: <u>7661</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): December 11 at 4:30 pm  
REASON: To submit for posting on the December 20 Council meeting agenda.

## 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)

ah:ltr:001(4)cc01:ans

Attachment

# Resolution

No. \_\_\_\_\_

## AMENDING RESOLUTION 18-187 (MODIFICATION NO. 1) TO EXTEND TIME DEADLINES FOR COMMENCEMENT OF CONSTRUCTION AND COMPLETION OF THE WAILUKU APARTMENT RENTAL HOUSING PROJECT

WHEREAS, on November 15, 2018 the Maui County Council adopted Resolution 18-187 approving with modifications the Wailuku Apartment Rental Housing Project by Legacy Wailuku LLC, in accordance with Section 201H-38, Hawaii Revised Statutes; and

WHEREAS, paragraph 1 of Exhibit "A" attached to Resolution 18-187 requires the construction of the Wailuku Apartment Rental Housing Project to commence within two years of the effective date of the Resolution and be completed, with Legacy Wailuku LLC's good faith and reasonable best efforts, no later than five years after the effective date of the Resolution; and

WHEREAS, Project commencement has been unexpectedly delayed by unanticipated recent events requiring repairs and upgrade to Maui County's wastewater system near Lower Main Street (referred to as the "County's Facilities"); and

WHEREAS, to facilitate a solution, Legacy Wailuku LLC has agreed to provide, at its own expense, the engineering work needed for the County to upgrade the County's Facilities and to obtain all required environmental reviews and approvals for the work; and

**Resolution No. \_\_\_\_\_**

WHEREAS, because of the scope and complexity of Legacy Wailuku LLC's agreed tasks on the County's Facilities, Legacy Wailuku LLC has requested an amendment to Resolution 18-187 to provide additional flexibility on its own project time deadlines; and

WHEREAS, in accordance with Section 4-1 of the Revised Charter of the County of Maui (1983), as amended, the Council is authorized to act by resolution; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That based on the transmittals and representations of Hawaii Housing Finance and Development Corporation and Legacy Wailuku LLC, the Council amends, paragraph 1 of the Modifications attached to Resolution 18-187 as Exhibit "A" to read as follows, with deleted content in brackets and added content underscored:

"1. Construction of the Wailuku Apartment Rental Housing Project ("Project") shall commence within [two years of the effective date of this resolution.] one year after the County physically starts its construction of the Lower Main Street Sewer Upgrade. Commencement and construction of the Wailuku Apartment Rental Project shall mean the visible start of grading, pursuant to a valid grading permit as needed for the development of the property. Legacy Wailuku LLC shall act in good faith and with reasonable best efforts to complete construction of the 195 residential workforce housing units, with all related roads and infrastructure, no later than [five years after the effective date of this resolution.] three years after the commencement of construction."

**Resolution No. \_\_\_\_\_**

2. That certified copies of this Resolution be transmitted to the Director of Housing and Human Concerns, the Planning Director, Director of Public Works, the Executive Director of Hawaii Housing Finance and Development Corporation, and Legacy Wailuku LLC.

APPROVED AS TO FORM  
AND LEGALITY:

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MIMI DESJARDINS  
Deputy Corporation Counsel  
County of Maui

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