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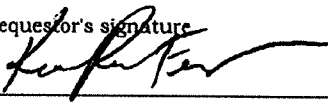
**REQUEST FOR LEGAL SERVICES**

**Date:** November 10, 2020  
**From:** Keani N.W. Rawlins-Fernandez, Chair  
Economic Development and Budget Committee

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

**Subject:** **COUNTY PROPERTY TAX REFORM** EDB-37 REVISED ORD RELATING TO  
CLASSIFICATION OF REAL PROPERTY  
**Background Data:** Please review the attached proposed bill.

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

Requestor's signature  Keani N.W. Rawlins-Fernandez	Contact Person <u>Lesley Milner</u> (Telephone Extension: 7886)
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- ROUTINE (WITHIN 15 WORKING DAYS)
- PRIORITY (WITHIN 10 WORKING DAYS)
- RUSH (WITHIN 5 WORKING DAYS)
- URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): November 12, 2020  
REASON: For posting on the November 20, 2020 Council agenda.

**FOR CORPORATION COUNSEL'S RESPONSE**

ASSIGNED TO: KCT	ASSIGNMENT NO. 2019-0098	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):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DEPARTMENT OF THE CORPORATION COUNSEL

Date 11/12/2020

By /s/Kristina C. Toshikiyo

(Rev. 7/03)

edb:ltr:037acc04:ljcm

Attachment

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2020)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48.305,  
MAUI COUNTY CODE, RELATING TO CLASSIFICATION OF REAL PROPERTY

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Section 3.48.305, Maui County Code, is amended by amending subsection C to read as follows:

“C. When property is subdivided into condominium units, each condominium association or any entity filing a condominium property regime must file an annual report with the director of all units in the association, by tax map key number, before December 1 of each calendar year.

1. The director will prescribe the form of the list and any supporting evidence as necessary. The list must include whether the unit is vacant, occupied by the owner, or rented long term or short term, by month.

2. Each unit and its appertaining common interest must be:

a. Classified upon consideration of its actual use into one of the general classes as follows:

i. Owner-occupied. Only those units owned and occupied as a principal home and for which a home exemption claim was filed and granted will be classified as “owner-occupied.”

ii. Non-owner-occupied. [Only those units] Units occupied by the owner for personal use where transient vacation rental use is prohibited by the comprehensive zoning ordinance or units occupied by a lessee for a term of at least six consecutive months or more [will be classified as “non-owner-occupied.”].

iii. Commercial. Only those units occupied by the owner or a lessee for business or

mercantile activities will be classified as “commercial.”

iv. Hotel and resort. Unless classified as “time share” or “commercialized residential,” properties that are occupied by transient tenants for periods of less than six consecutive months, have eight or more lodging or dwelling units as defined in the comprehensive zoning ordinance, and employ more than twenty full-time persons, will be classified as “hotel and resort.”

v. Time share. Units occupied by transient tenants for periods of less than six consecutive months that are subject to a time share plan as defined in section 514E-1, Hawaii Revised Statutes, as amended, will be classified as “time share.”

vi. Commercialized residential. Units that serve as the owner's principal residence and that have been granted a bed and breakfast home permit, a short-term rental home permit, or a conditional permit allowing transient vacation rental use in accordance with the comprehensive zoning ordinance, will be classified as “commercialized residential.”

vii. Short-term rental. Unless classified as “time share,” “hotel and resort,” or “commercialized residential,” lodging or dwelling units, as defined in the comprehensive zoning ordinance, occupied by transient tenants for periods of less than six consecutive months, [will be classified as “short-term rental,”] including properties granted a short-term rental home permit or conditional permit allowing transient vacation rental use and units occupied by the owner for personal use or are vacant where transient vacation rental use is allowed by the comprehensive zoning ordinance.

viii. Agriculture. Units that are vacant land and located in the County agriculture zoning district.

b. Deemed a parcel and assessed separately from other units.

3. The director may, after investigation, reclassify and reassess any unit in a condominium association found to be in violation of the owner's certification of actual use.

4. The director may require an owner to file a return providing information on the actual use of a unit. The return must be in a form prescribed by the director. The director may require documentary evidence, such as a lease agreement indicating that a unit is occupied by the same lessee for a term of six consecutive months or more, when a unit is classified as non-owner-occupied and transient vacation rental use is permitted. An owner who does not file the return or fails to respond to an inquiry of the director must be classified at the highest tax classification allowed for the unit.

[4.]5. A condominium owner, the condominium association, or any entity filing a condominium property regime must notify the director of any change in a unit's classification within thirty days of that change.

[5.]6. If the required annual report is not filed on or before December 1, the director may classify all units in the project in accordance with subsection B for the following assessment year.”

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This ordinance takes effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:

/s/Kristina C. Toshikiyo

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KRISTINA C. TOSHIKYO  
Department of Corporation Counsel  
County of Maui  
edb:misc:037abill11

## EDB Committee

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**From:** Melody Andrion <Melody.Andrion@co.maui.hi.us>  
**Sent:** Thursday, November 12, 2020 3:52 PM  
**To:** EDB Committee  
**Cc:** Kristina Toshikiyo; Lesley J. Milner; Yvette Bouthillier  
**Subject:** SUPER RUSH Approved EDB-37 Revised Classification of Real Property  
**Attachments:** EDB-37 2020-11-12 RAFL Closing Revised Classification.pdf

See attached e-signed by Kristina Toshikiyo. Thanks!

**NOTICE:** The information in this transmittal (including attachments, if any) is privileged and confidential and is intended only for the recipient(s) listed above. Any review, use, disclosure, distribution or copying of this transmittal is prohibited except by or on behalf of, the intended recipient. If you have received this transmittal in error, please notify me immediately by reply email and destroy all copies of the transmittal. Thank you.