

**COUNCIL OF THE COUNTY OF MAUI**

# **GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE**

July 15, 2022

**Committee  
Report No. \_\_\_\_\_**

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Government Relations, Ethics, and Transparency Committee, having met on June 28, 2022, makes reference to Resolution 22-158 entitled “AUTHORIZING PROCEEDINGS IN EMINENT DOMAIN FOR THE ACQUISITION OF REAL PROPERTY LOCATED AT 5385 LOWER HONOAPIILANI ROAD, LAHAINA, MAUI, HAWAII.”

Resolution 22-158’s purpose is to authorize proceedings in eminent domain to acquire the 0.4798-acre property located at 5385 Lower Honoapiilani Road, Lahaina, Maui, Hawaii, and identified for real property tax purposes as tax map key (2) 4-3-002:057, to be used as a public building for Hawaiian cultural education or other public purposes.

Your Committee received written and oral testimony in overwhelming support of Resolution 22-158.

Your Committee notes the property has been the focus of community criticism since 2021. The community expressed concern over the size and height of the structure and the permitting process that allowed construction to continue.

Your Committee notes the Council enacted Ordinance 5233 (2021), relating to hotel use and development standards in the Napili Bay Civic Improvement District, in response to the community’s concern about the property. Ordinance 5233, which took effect August 9, 2021, limits structures to a maximum of two stories and 30 feet in height, including all appurtenances such as elevator shafts, stairwells, vent pipes, and antennae, and prohibited any hotel or apartment-hotel use unless established by August 6, 2021.

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Your Committee notes Sections 46-1.5(6), 46-61, and 46-62, Hawaii Revised Statutes (“HRS”), and Chapter 101, HRS, authorize counties to exercise the power of condemnation by eminent domain when it is in the public interest to do so.

Your Committee further notes Section 4-2.7 of the Revised Charter of the County of Maui (1983), as amended, states: “Resolutions authorizing proceedings in eminent domain shall be adopted as provided by law.”

Your Committee discussed eminent domain as an option for property acquisition.

Your Committee noted the Council’s approval of Resolution 22-158 would provide the Administration with the authority to pursue eminent domain by filing a lawsuit in Second Circuit Court on the County’s behalf to purchase the property in fee simple for its fair-market value. Your Committee also noted the likelihood that the Council would need to approve a budget amendment to ensure an appropriation is available to support the proposed action.

A Deputy Corporation Counsel outlined the steps in the condemnation process should Resolution 22-158 be approved. He said the price of the property would be based on its best use and that an appraisal would help to determine the price.

He added that the County would receive the property in the condition it was at the time of condemnation, which may result in additional costs for the County.

Your Committee noted establishing a public building in West Maui for Hawaiian cultural education, among other public purposes, is in the public interest and supports the Maui County General Plan, which directs officials to “perpetuate the Hawaiian culture as a vital force in the lives of

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residents” and to “establish centers and programs of excellence for the perpetuation of Hawaiian arts and culture.”

Your Committee also noted real property may be acquired through the Administration’s negotiations, upon the Council’s approval under Chapter 3.44, Maui County Code.

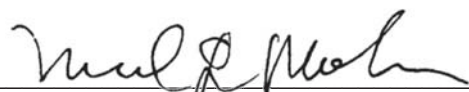
Your Committee supported the need to obtain community input on the future of the property, if acquired by the County.

Your Committee further supported using the property in a manner that is respectful and reasonable to the neighboring community, while ensuring communication and transparency.

Your Committee voted 8-0 to recommend passage of Resolution 22-158 on first reading. Committee Chair Molina and members Johnson, Kama, King, Lee, Paltin, Sinenci, and Sugimura voted “aye.” Vice-Chair Rawlins-Fernandez was excused.

Your Government Relations, Ethics, and Transparency Committee RECOMMENDS that Resolution 22-158, attached hereto, entitled “AUTHORIZING PROCEEDINGS IN EMINENT DOMAIN FOR THE ACQUISITION OF REAL PROPERTY LOCATED AT 5385 LOWER HONOAPIILANI ROAD, LAHAINA, MAUI, HAWAII,” be PASSED ON FIRST READING and be ORDERED TO PRINT..

This report is submitted in accordance with Rule 8 of the Rules of the Council.

  
\_\_\_\_\_  
MICHAEL J. MOLINA, Chair

# Resolution

No. 22-158

AUTHORIZING PROCEEDINGS IN EMINENT  
DOMAIN FOR THE ACQUISITION OF REAL  
PROPERTY LOCATED AT 5385 LOWER  
HONOAPIILANI ROAD, LAHAINA, MAUI, HAWAII

WHEREAS, the real property located at 5385 Lower Honoapiilani Road, Lahaina, Maui, Hawai‘i, encompassing about one-half acre, should be used as a public building for Hawaiian cultural education or other public purposes; and

WHEREAS, the property is identified for real property tax purposes as tax map key (2) 4-3-002:057; and

WHEREAS, the Maui County General Plan directs officials to “perpetuate the Hawaiian culture as a vital force in the lives of residents” and to “establish centers and programs of excellence for the perpetuation of Hawaiian arts and culture”; and

WHEREAS, Hawaiian education perpetuates the skills, knowledge, values, and practices of the native people of Hawai‘i and their innovations and resilient response to adapt to an ever-changing world; and

WHEREAS, Hawaiian education leads to the development of a cultural lens that preserves core Hawaiian perspectives and goes beyond content learning as it also includes internalizing and putting into practice the teachings of Kūpuna; and

WHEREAS, Sections 46-1.5(6), 46-61, and 46-62, Hawai‘i Revised Statutes (“HRS”), and Chapter 101, HRS, authorize counties to exercise the power of condemnation by eminent domain when it is in the public interest to do so; and

WHEREAS, under Section 101-13, HRS, “Whenever any county deems it advisable or necessary to exercise the right of eminent domain in the furtherance of any governmental power, the proceedings may be instituted . . . after the . . . county council . . . of the county has authorized such suit by resolution duly passed . . .”; and

WHEREAS, Section 101-13, HRS, also provides that the resolution “be published in a newspaper with the ayes and noes, at least one day (Sundays and legal holidays excepted) before final action upon it”; and

WHEREAS, Section 4-2(7), Revised Charter of the County of Maui (1983), as amended, states: “Resolutions authorizing proceedings in eminent domain shall be adopted as provided by law”; now, therefore,

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

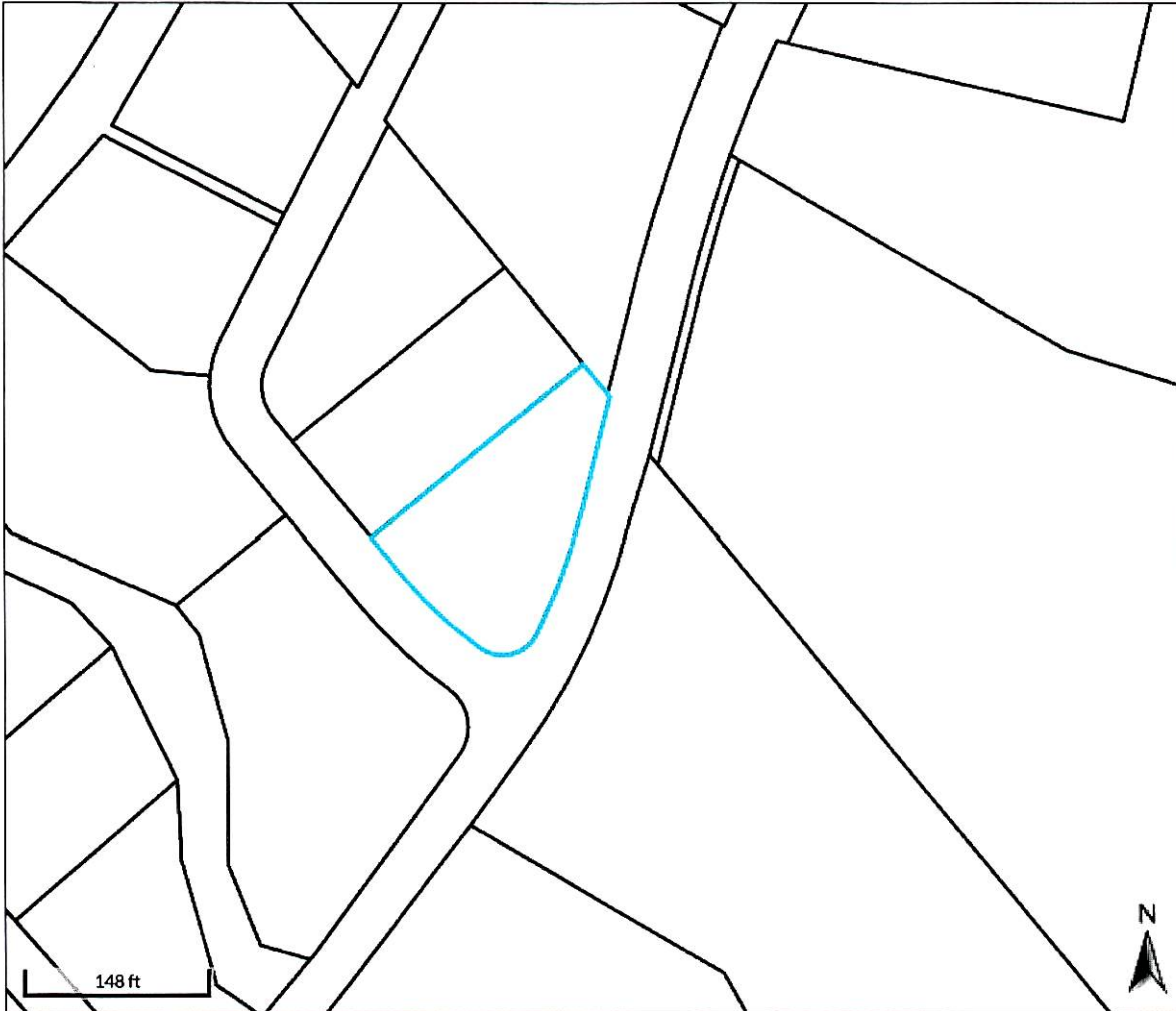
1. That, in accordance with Sections 46-1.5(6), 46-61, and 46-62, HRS, and Chapter 101, HRS, it finds that the acquisition of real property, in fee simple, located at 5385 Lower Honoapiilani Road, Lahaina, Maui, Hawai‘i, comprising about one-half acre and identified for real property tax purposes as tax map key (2) 4-3-002:057, by exercise of the power of condemnation, is in the public interest and necessary for the public purposes of establishing a public building for Hawaiian cultural education, among other public purposes;
2. That it authorizes proceedings in eminent domain as provided by law be instituted for the acquisition of the property identified in the prior paragraph, as illustrated in Exhibit “A,” and a temporary right to enter the property to allow for the completion of a proper survey and appraisal in accordance with law;
3. That the Corporation Counsel of the County of Maui is authorized to proceed in eminent domain for the acquisition of the property;
4. That the Corporation Counsel is further authorized to deposit with the Clerk of the Circuit Court of the Second Circuit, State of Hawai‘i, the estimated just compensation to obtain possession of the property;
5. That the Corporation Counsel is authorized and empowered to negotiate terms of settlement, subject to the approval of the Council and the Circuit Court of the Second Circuit, State of Hawai‘i, in which the proceedings are held; and

**Resolution No. 22-158**

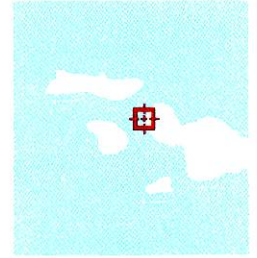
6. That certified copies of this Resolution be transmitted to the Mayor, Director of Finance, Director of Public Works, and Corporation Counsel.

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# Exhibit "A"



## Overview



## Legend

 Parcels

<b>Parcel ID</b>	430020570000	<b>Situs/Physical Address</b>	5385 LOWER HONOAPIILANI RD	<b>Assd Land Value</b>	\$1,274,800	<b>Last 2 Sales</b>		
<b>Acreage</b>	0.4798	<b>Mailing Address</b>	NAPILI BEACH HOUSE LLC	<b>Assd Building Value</b>	\$374,300	<b>Date</b>	<b>Price</b>	<b>Reason</b>
<b>Class</b>	NON-OWNER- OCCUPIED/RESIDENTIAL	<b>Address</b>	PO BOX 1060 LAHAINA HI 96761	<b>Total Assd Value</b>	\$1,649,100	10/3/2017	0	n/a
				<b>Exempt Value</b>	\$0	6/26/2017	\$1200000	Valid Sale
				<b>Taxable Value</b>	\$1,649,100			

**Brief Tax Description** LOT 13 NAPILI BEACH LOTS LPGR 13,622 20,899 SF DES  
(Note: Not to be used on legal documents)

Date created: 6/13/2022  
Last Data Uploaded: 6/11/2022 8:25:33 PM

Developed by  **Schneider**  
GEOSPATIAL

INTRODUCED BY:

*Tamara M. Paltin*

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TAMARA PALTIN