

REQUEST FOR LEGAL SERVICES

Date: September 19, 2022
From: Yuki Lei K. Sugimura, Chair
Infrastructure and Transportation Committee

TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Michael Hopper, Esq.

Subject: BILL 119 (2022), RELATING TO CONVEYANCE OF EASEMENTS TO THE COUNTY OF MAUI (IT-105)

Background Data: Please review the attached revised proposed bill. Please transmit response to it.committee@mauicounty.us with a reference to IT-105.

Work Requested: ☒ FOR APPROVAL AS TO FORM AND LEGALITY

☐ OTHER:

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| Requestor's signature  Yuki Lei K. Sugimura | Contact Person <u>Laksmi Abraham</u> (Telephone Extension: <u>7659</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): September 28, 2022
REASON: For posting for October 7, 2022, Council Meeting.

FOR CORPORATION COUNSEL'S RESPONSE

| | | |
|--------------|----------------|-----|
| ASSIGNED TO: | ASSIGNMENT NO. | BY: |
|--------------|----------------|-----|

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)

it:ltr:105acc01:lma

Attachment

ORDINANCE NO. _____

BILL NO. 119, CD1 (2022)

A BILL FOR AN ORDINANCE AMENDING
SECTION 3.44.015, MAUI COUNTY CODE, RELATING TO
CONVEYANCE OF EASEMENTS TO THE COUNTY OF MAUI

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

SECTION 1. Section 3.44.015, Maui County Code, is amended to read as follows:

“3.44.015 Acquisition of real property. A. Except as otherwise provided for by law, any acquisition of real property by the County, whether by agreement, purchase, exchange, gift, devise, eminent domain or otherwise, [shall] must be accomplished in accordance with the provisions of this chapter.

B. The director may negotiate for the purchase of real property for purposes in the public interest.

1. In negotiating the purchase price, the director [shall] must obtain an appraisal by a disinterested appraiser contracted for by the County, or accept an appraisal furnished by the prospective seller that has been reviewed by an appraiser employed by the County.

2. Notwithstanding the foregoing provisions of this subsection, the director may waive the appraisal when the real property's assessed value is \$3,750 or less. If an appraisal is waived [pursuant to] in accordance with this paragraph, the purchase price [shall] must not exceed 200 percent of the assessed value or \$7,500, whichever is lower.

C. The director may acquire property; except that in the case of real property with a purchase price that exceeds \$250,000, the council [shall] may authorize the acquisition by resolution; except that council approval is not required for the purchase of housing units for \$500,000 or less [pursuant to] in accordance with repurchase options and other buy-back provisions granted to the County as follows:

1. Deed restriction in a County housing project that secured final subdivision approval or certificate of occupancy prior to January 1, 1999.

2. Agreement that was executed by and between the County and the developer of a housing project prior to January 1, 1999 under a County housing program.

D. The council may, by resolution, authorize the acceptance of gifts or donations of real property or any interest in real property, including any conveyance described in subsection (F) that is rejected by the director.

E. The council may authorize proceedings in eminent domain by resolution. Any proceedings so authorized are subject to the requirements of chapter 101, Hawaii Revised Statutes.

F. The director may [accept the conveyance of] acquire real property or easements [to the County] without council approval if any one of the following applies:

1. The conveyance is approved by the director of environmental management, and is part of a capital improvement project by the department of environmental management or is necessary for improvement to a publicly owned treatment works, as defined in section 14.19A.040.

2. The conveyance is approved by the director of water supply, and is part of a capital improvement project by the department of water supply or is necessary for improvement to a public water system, as defined in section 14.01.040.

3. The conveyance is approved by the director of parks and recreation, and is made in accordance with a park assessment agreement approved by council resolution [pursuant to] in accordance with section 18.16.320.

4. The conveyance is approved by the director of public works, and is part of a capital improvement project by the department of public works; involves a road lot, road widening lot, remnant lot, or easement that complies with title 16 or title 18; or is required by and complies with title 16 or title 18; except that council approval is required when the conveyance is not compliant with title 16 or title 18.

G. The director [shall] must not acquire, or accept any conveyance of, any real property or easement [pursuant to] in accordance with this section unless:

1. The corporation counsel reviews and approves as to form and legality the conveyance documents.

2. [The] For acquisitions or conveyances of real property other than easements with a property description stamped by a surveyor licensed by the State of Hawaii, the director of public works reviews and approves the metes and bounds description of the real property [or easement being acquired or conveyed].

H. The director [shall] must notify the council in writing of any acquisition or conveyance made [pursuant to] in accordance with this section that does not require council approval. The notice [shall] must include a map of the real property or easement acquired or conveyed, and [shall] must be submitted no later than five days after the date the acquisition or conveyance is completed.

I. No later than thirty days after the end of each calendar year, the director [shall] must submit to the council an annual report of all acquisitions made, and conveyances accepted, [pursuant to] in accordance with this section.”

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 approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

it:misc:105abill01:lma

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Chris Lee", positioned above a horizontal line.

Upon the request of the Mayor