

COUNCIL OF THE COUNTY OF MAUI
INFRASTRUCTURE AND
TRANSPORTATION COMMITTEE

October 7, 2022

Committee
Report No. _____

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

Chair and Members:

Your Infrastructure and Transportation Committee, having met on August 15, 2022, and September 12, 2022, makes reference to Bill 119 (2022), entitled “A BILL FOR AN ORDINANCE AMENDING SECTION 3.44.015, MAUI COUNTY CODE, RELATING TO CONVEYANCE OF EASEMENTS TO THE COUNTY OF MAUI.”

Bill 119’s purpose is to amend the requirement for the Director of Public Works to review and approve metes and bounds descriptions for acquisitions or conveyances of real property, other than easements, with a property description stamped by a surveyor licensed by the State of Hawai‘i.

The Director said the County’s surveyor who was responsible for easement reviews retired in 2019.

Your Committee noted that while third-party surveyors provide support for the easement review process, because they are additionally used for subdivision and land acquisition reviews, they do not have the capacity to expand their services.

The Director explained that third-party surveyor services have also been backlogged because of ongoing staffing vacancies and a lack of available third-party surveyors.

He further explained that projects most impacted by Bill 119 are building permit and subdivision approvals, but all types of projects, including private developments and capital improvement projects would be affected.

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Your Committee inquired about the volume of easement review requests the Department received since 2019.

Your Committee discussed the impacts to the timely review of housing projects if the Director continues to perform easement reviews.

Your Committee noted that the easement review process also includes the Department of the Corporation Counsel, Department of Finance, and the County department requesting the easement.

The Director of Water Supply and Deputy Managing Director expressed support for Bill 119.

Your Committee voted 7-0 to recommend passage of Bill 119 (2022) on first reading. Committee Chair Sugimura, Vice-Chair Kama, and members King, Lee, Molina, Paltin, and Rawlins-Fernandez voted “aye.”

Your Committee is in receipt of Bill 119, CD1 (2022), approved as to form and legality by the Department of the Corporation Counsel, incorporating nonsubstantive revisions.

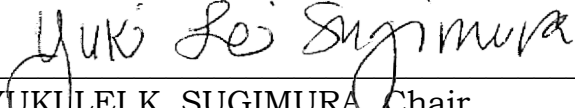
Your Infrastructure and Transportation Committee **RECOMMENDS** that Bill 119, CD1 (2022), as revised herein and attached hereto, entitled “A BILL FOR AN ORDINANCE AMENDING SECTION 3.44.015, MAUI COUNTY CODE, RELATING TO CONVEYANCE OF EASEMENTS TO THE COUNTY OF MAUI,” be **PASSED ON FIRST READING** and be **ORDERED TO PRINT**.

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



YUKI LEI K. SUGIMURA, Chair

it:cr:22105aa:lma

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:

 /s/ Michael J. Hopper

Department of the Corporation Counsel
County of Maui

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INTRODUCED BY:

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

Upon the request of the Mayor