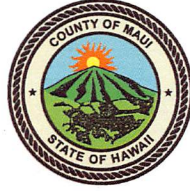


MICHAEL P. VICTORINO
Mayor



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SCOTT K. TERUYA
Acting Director

OFFICE OF THE MAYOR
MAY-ANNE A. ALIBIN
Deputy Director

COUNTY OF MAUI
DEPARTMENT OF FINANCE
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793

January 30, 2019

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OFFICE OF THE
COUNTY CLERK

Honorable Michael P. Victorino
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Kelly T. King, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

 1/31/19
Acting Mayor Date

Dear Chair King and Members:

SUBJECT: A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, RELATING TO LONG TERM DEDICATION FOR RESIDENTIAL WORKFORCE HOUSING RENTAL UNIT PROJECTS AND REPEALING THE EXEMPTION FOR LOW AND MODERATE INCOME HOUSING

I am transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, RELATING TO LONG TERM DEDICATION FOR RESIDENTIAL WORKFORCE HOUSING RENTAL UNIT PROJECTS AND REPEALING THE EXEMPTION FOR LOW AND MODERATE INCOME HOUSING".

The purposes of the proposed bill are as follows: 1) To create a new section in the Maui County Code (MCC) under Chapter 3.48 relating to the real property tax that establishes the policy and procedures for dedication of lands used for residential workforce housing rental unit, and; 2) To repeal Section 3.48.545 of the Maui County Code relating to the exemption for low and moderate income housing.

COUNTY COMMUNICATION NO. 19-80

Honorable Kelly T. King, Chair
and Members of the Maui County Council
January 30, 2019
Page 2

Prior to the passing of Ordinance No. 4939 Bill No. 140 relating to Chapter 2.96 of MCC, Residential Workforce Housing Fast Track Permitting, the Department of Finance had started an assessment of its exemption program for low and moderate income housing as established under Chapter 3.48 of Maui County Code. During this review, there were reports that several applicants were having difficulties in determining whether they qualify for the exemption due to the complexity of the requirements listed in the state and federal laws. The Real Property Assessment Division under the Department of Finance is not familiar with these laws and regulations as cited in the Maui County Code, Section 3.48.545. Additionally, it was brought up to management's attention that there were property owners who qualified for exemption but failed to fully comply with the affordability requirements.

The attached proposed bill will provide a mechanism for the Department of Finance to effectively administer the real property tax exemption program for residential workforce housing rental unit projects by working in conjunction with the Department of Housing and Concerns. This proposed bill also provides clarity on the qualification requirements for the real property tax exemption program and eliminates the annual application process through thirty year dedication period.

I respectfully request that this matter be referred to the appropriate Council committee for review, discussion, and action.

Thank you for your attention to this matter. Should you have any questions, please feel free to contact me at ext. 7474.

Sincerely,



SCOTT K. TERUYA
Acting Director of Finance

Enclosure

cc: William R. Spence, Acting Director of Housing and Human Concerns

ORDINANCE NO. _____

BILL NO. _____ (2019)

A BILL FOR AN ORDINANCE AMENDING
CHAPTER 3.48, MAUI COUNTY CODE, RELATING
TO LONG TERM DEDICATION FOR RESIDENTIAL WORKFORCE HOUSING
RENTAL UNIT PROJECTS AND REPEALING THE EXEMPTION FOR LOW AND
MODERATE INCOME HOUSING

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

SECTION 1. Chapter 3.48, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

“3.48.367 Lands dedicated for use as residential workforce housing rental unit project. A. “Owner” as used in this section, means a person who is the fee simple owner of the real property, or who is the lessee of real property whose lease term extends ten years or more from the date of the petition.

“Residential workforce housing unit” means the same as the term is defined in section 2.96.020 of this code.

“Residential workforce housing rental unit project” means any project comprised of ten or more rental units where all of the units are residential workforce housing rental units that are subject to the restrictions set forth in section 2.96.070 of this code.

B. A special land reserve is established to enable the owner of a property utilized primarily for a residential workforce housing rental unit project to be exempt from real property taxes during the period of dedication.

C. The owner shall petition the director of finance and declare in the petition that if the petition is approved, the property shall be utilized for a residential workforce housing rental unit project.

D. Upon receipt of any such petition, the director of finance shall confer with the director of the department of housing and human concerns as to whether the property described in the petition will be utilized for a residential workforce housing rental unit project. If the finding is favorable to the owner, the director of finance shall approve the petition and declare the unit to be dedicated as a residential workforce housing rental unit project.

E. Upon approval of the petition by the director, the owner shall record the petition with the bureau of conveyances of the State of Hawaii or the land court of the State, whichever is appropriate. The petition shall be recorded so that the terms and conditions of the petition will run with the land and bind and constitute notice to all subsequent grantees, assignees, mortgagees, lienors, and any other persons who claim an interest in such property.

F. The approval of the petition by the director of finance to dedicate a property for use as a residential workforce housing rental project shall constitute a forfeiture on the part of the owner of any right to change the use of the property for a period of thirty years, automatically renewable thereafter for additional one year periods, subject to cancellation by either the owner or the director of finance.

G. Failure of the owner to observe the restrictions on the property relating to use as a residential workforce housing rental unit project shall cancel the special tax assessment privilege retroactive to the date of the dedication, or the most recent one-year renewal period; and all differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be payable with a ten percent penalty from the respective dates that these payments would have been due. Nothing in this subsection shall preclude the County from pursuing any other remedy to enforce the covenant on the use of the land.

H. In the event that the owner is unable to observe the restrictions on the property relating to use as a residential workforce housing rental unit project, such determination shall be in the sole and absolute discretion of the director, the director may authorize a designated period, not to exceed thirty-six months, where the owner shall not be required to observe the restrictions on the property. The designated period shall be in addition to the dedication period and shall not count towards the dedication.

I. The additional taxes and penalties, due and owing as a result of failure to observe the restrictions on the property or any other breach of the terms of dedication, shall be a paramount lien upon the property as provided for by ordinance.

J. The director of finance shall prescribe the form of the petition. The petition shall be filed with the director of finance by September first of any calendar year and shall be approved or disapproved by December fifteenth. If approved, the assessment based upon the use requested in the dedication shall be effective on January first of the next calendar year.

K. The owner may appeal any disapproved petition or disapproval of a request for a designated period set forth in subsection G, above, as in the case of an appeal from an assessment.

SECTION 2. Section 3.48.545, Maui County Code, is deleted in its entirety.

[3.48.545 Low and moderate income housing.

A. For the purposes of this section, "nonprofit or limited distribution mortgagor" means a mortgagor who qualified for and obtains mortgage insurance under Sections 202, 221(d) (3) or 236 of the National Housing Act as a nonprofit or limited distribution mortgagor.

B. Real property used for a housing project which is owned and operated by a nonprofit or limited distribution mortgagor or which is owned and operated by a person, corporation, or association regulated by federal and state laws or by a political subdivision of the state or agency thereof as to rents, charges, profits, dividends, development costs and methods of operation shall be exempt from property taxes.

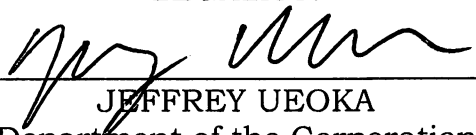
C. Exemptions claimed under Section 53-38 of the Hawaii Revised Statutes shall disqualify the same property from receiving an exemption under this section.

D. The director of finance shall promulgate rules and regulations necessary to administer this section.]

SECTION 3. 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 4. This ordinance shall take effect for the tax year beginning January 1, 2020.

APPROVED AS TO FORM AND
LEGALITY:



JEFFREY UEOKA
Department of the Corporation
Counsel

County of Maui
2017-0093/2017-1406
PAF 17-262 2017-11-15 Ordinance