

# REQUEST FOR LEGAL SERVICES

**Date:** January 3, 2020  
**From:** Tamara Paltin, Chair  
Planning and Sustainable Land Use Committee


TRANSMITTAL

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

**Subject:** UNRESOLVED LAND USE VIOLATIONS (PSLU-37)

**Background Data:** Please review the attached revised proposed resolution and, if appropriate, please approve to form and legality. Please send signed hard copy with your response.

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

Requestor's signature  Tamara Paltin	Contact Person <u>Ana Lillis</u> (Telephone Extension: 7660)
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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): January 15, 2020  
REASON: For posting on January 17, 2020 for the January 24, 2020 Council meeting agenda.

## FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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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 \_\_\_\_\_

By \_\_\_\_\_  
(Rev. 7/03)

pslu:ltr:037acc01:alkl

Attachment

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

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

A BILL FOR AN ORDINANCE AMENDING SECTION 19.510.010,  
MAUI COUNTY CODE, RELATING TO UNRESOLVED LAND USE VIOLATIONS

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

SECTION 1. The purpose of this ordinance is to prohibit or suspend the processing of an application for land use on a lot that is the subject of a pending enforcement action by the Planning Department.

SECTION 2. Section 19.510.010, Maui County Code, is amended by amending Subsection C to read as follows:

“C. Application [Completeness Review] completeness review.

1. [Review of Applications for Completeness by the Planning Director.] All applications required by this title [shall] must be submitted to the [planning] director. [Not more than] Within fifteen business days [from the date upon which] after receiving an application [is received], the [planning] director [shall] must review the application [to] and determine if the application is complete or incomplete. If the application is complete, the [planning] director [shall] must continue processing the application. If the application is incomplete, the [planning] director [shall] must provide the applicant with a written statement that identifies the portions of the application [determined to be] that are incomplete. In addition to incompleteness as determined by the director, an application is automatically incomplete, at any stage of the application process, if it is for or relates to land use on a lot or on a unit in a condominium property regime that is the subject of an unresolved enforcement action by the department, if the department has sent a notice of warning or notice of violation for the enforcement action. However, an application is not automatically incomplete if: a)

the applicant pays all fines associated with the unresolved enforcement action as required by the director, and b) approval of the application would resolve the enforcement action. An enforcement action is unresolved until all fines as determined by the director have been paid.

2. For all community plan amendment and change in zoning applications deemed complete, the [planning] director [shall] must prepare a report that [shall include] includes an assessment and detailed explanation for each requirement set forth in [section] subsection 19.510.010(D). The report [shall] must include all relevant data, studies, agency reports, and any other information relied upon by the [planning] director in finding that an application is complete.

3. The [planning] director [shall] must transmit the report to the council and the appropriate planning commission as a part of the report [that is] required by [section] subsection 19.510.020(A)(5) or 19.510.040(A)(3).

4. The [planning] director [shall] must prepare an updated report for each amendment made to the application and transmit the updated report to the council and appropriate planning commission.”

SECTION 3. Repealed material is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the bracketing or underscoring.

SECTION 4. This ordinance takes effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

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Department of the Corporation Counsel  
County of Maui

pslu:misc:037abill01a:jgk