

ECONOMIC DEVELOPMENT AND BUDGET COMMITTEE
Council of the County of Maui

MINUTES

October 3, 2019

Council Chamber

CONVENE: 9:02 a.m.

PRESENT: Councilmember Keani N.W. Rawlins-Fernandez, Chair
Councilmember Kelly T. King, Vice-Chair
Councilmember Riki Hokama, Member
Councilmember Tasha Kama, Member
Councilmember Alice L. Lee, Member (in 9:06 a.m.)
Councilmember Michael J. Molina, Member
Councilmember Tamara Paltin, Member
Councilmember Shane M. Sinenci, Member
Councilmember Yuki Lei K. Sugimura, Member (out 10:33 a.m.)

STAFF: James Krueger, Legislative Analyst
David Raatz, Supervising Legislative Attorney
Yvette Bouthillier, Committee Secretary

Zhantell Lindo, Council Aide, Molokai Council Office (via telephone conference bridge)
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)
Mavis Oliveira-Medeiros, Council Aide, Hana Council Office (via telephone conference bridge)

ADMIN.: Scott K. Teruya, Director, Department of Finance
Marcy Martin, County Real Property Tax Administrator, Department of Finance
Jeffrey Ueoka, Deputy Corporation Counsel, Department of the Corporation Counsel
David Galazin, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: William Jacintho, President, Maui Cattlemen's Association (EDB-37)
Tom Croly
Jasee Law
Others (8)

PRESS: *Akaku: Maui Community Television, Inc.*

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CHAIR RAWLINS-FERNANDEZ: . . .(*gavel*). . . Aloha kakahiaka kakou.

COUNCILMEMBER SINENCI: Aloha.

CHAIR RAWLINS-FERNANDEZ: `Elua minuke i ka hala o ka `eiwa ma ekolu okakopa i ka makahiki `elua kaukani umikamaeiwa. E `olu`olu mai, e ho`omalua ke Komike Ho`omohala Waiwai me Mo`ohelu Kala. `O wai ka Iku Ha`i o keia komike, Keani Rawlins-Fernandez. It is 9:02 on October 3, 2019. Will the Economic Development and Budget Committee please come to order. I am your Chair Keani Rawlins-Fernandez. I keia la, me ko kakou eia, Committee Vice-Chair and Council Chair King.

VICE-CHAIR KING: Aloha kakahiaka, Chair.

CHAIR RAWLINS-FERNANDEZ: Aloha kakahiaka. Member Shane Sinenci.

COUNCILMEMBER SINENCI: Aloha kakahiaka, Chair.

CHAIR RAWLINS-FERNANDEZ: Aloha kakahiaka. Member Mike Molina.

COUNCILMEMBER MOLINA: Aloha kakahiaka, Madam Chair.

CHAIR RAWLINS-FERNANDEZ: Aloha kakahiaka. And Member Alice Lee I'm sure will be joining us shortly. Member Riki Hokama.

COUNCILMEMBER HOKAMA: Good morning.

CHAIR RAWLINS-FERNANDEZ: Good morning. Member Tamara Paltin.

COUNCILMEMBER PALTIN: Aloha kakahiaka, Chair.

CHAIR RAWLINS-FERNANDEZ: Aloha kakahiaka. Member Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: Good morning.

CHAIR RAWLINS-FERNANDEZ: Good morning. And Pro-Temp Tasha Kama.

COUNCILMEMBER KAMA: Aloha kakahiaka, Chair.

CHAIR RAWLINS-FERNANDEZ: Aloha kakahiaka. Mai ka Administration we have with us Finance Director Scott Teruya.

MR. TERUYA: Good morning, Chair.

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CHAIR RAWLINS-FERNANDEZ: Good morning. And Real Property Tax Administrator Marcy Martin. From Corporation Counsel we have David Galazin.

MR. GALAZIN: Good morning.

CHAIR RAWLINS-FERNANDEZ: Good morning. And our wonderful Committee Staff we have James Krueger, good morning. Yvette Bouthillier.

MS. BOUTHILLIER: Good morning.

CHAIR RAWLINS-FERNANDEZ: Good morning. And David Raatz.

MR. RAATZ: Good morning.

CHAIR RAWLINS-FERNANDEZ: Good morning. Okay. Okay, just a reminder for everyone to please silence their noise-making devices. We have two items on our agenda today, EDB-24(11), Presentation on Proposed Recommendations Relating to County Property Tax Amendment; and EDB-37, County Property Tax Reform. Okay, we'll begin with testimony on the two items. For those testifying in the Chamber, please sign up at the desk just outside the Chamber door. If testifying from one of the remote testimony sites, please sign up with District Office Staff. Testimony is limited to three minutes and upon request a minute to conclude. If you're still testifying beyond that time, I'll kindly ask you to complete your testimony. When testifying, please state your name and the name of any organization you may be representing. If you are a paid lobbyist, please inform the Committee. We have established a connection to the Council District Offices and we'll first check in with them for testifiers. Okay. Ms. Mavis Oliveira-Medeiros, will you please or do you have anyone there wishing to testify? And good morning.

MS. OLIVEIRA-MEDEIROS: Good morning, Chair.

CHAIR RAWLINS-FERNANDEZ: Good morning.

MS. OLIVEIRA-MEDEIROS: This is Mavis Oliveira-Medeiros from the Hana Office, there is no one here waiting to testify.

CHAIR RAWLINS-FERNANDEZ: Mahalo. Okay. At the Lanai Office, Ms. Denise Fernandez, good morning. Do you have anyone wishing to testify?

MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez at the Lanai Office and there are no testifiers.

CHAIR RAWLINS-FERNANDEZ: Mahalo. And at the Molokai Office, Ms. Zhantell Lindo, good morning. Do you have anyone there wishing to testify?

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MS. LINDO: Aloha kakahiaka, Chair. There is no --

CHAIR RAWLINS-FERNANDEZ: Aloha kakahiaka.

MS. LINDO: --one here to testify.

CHAIR RAWLINS-FERNANDEZ: Mahalo. Okay. Mr. Krueger, do we have anyone here in the Chamber wishing to testify?

MR. KRUEGER: Yes, Chair. We currently have two people signed up to testify.

CHAIR RAWLINS-FERNANDEZ: Okay.

MR. KRUEGER: The first person signed up to testify is William Jacintho testifying on agenda item EDB-37, to be followed by Tom Croly.

. . .BEGIN PUBLIC TESTIMONY. . .

MR. JACINTHO: Good morning, Chair and --

CHAIR RAWLINS-FERNANDEZ: Good morning.

MR. JACINTHO: --and Members. The first...I didn't write out a formal testimony but I kind of made some notes just to discuss, because we've been having very brief discussions so far, not much time to dig into it and not much feedback also. But anyway, on the tier base, you know, the question circling is what are the tiers in dollar costs or rates, so I guess as you guys are discussing this, keep it in...keep us in mind. And as far as owner-occupied and non-owner-occupied, would the non-owner-occupied, how would that kind of like relate to farm/ranch worker housing as far as the taxes on it? As far as net, the net taxable value on Page 2, if you can please use caution on ag producers. And on Page 3, that was just, there's like remnant parcels, kind of what that meant. And then on the other part relating to--what is that--Article 7 on the Page 2, again owner, non-owner-occupied, you know, how would that work for ranch workers? And then on vacant agriculture, the highest and best use, we keep hearing that. It kind of scares us because some...we're kind of...well, that can be a little later but the main thing is retiree concerns. We have a huge concern on retired farmers and how would they deal with vacant agriculture land. So, please consider that when you guys are discussing it. And on Page 9, I think I have a copy there. Best use is kind of a tricky thing because, you know, it's kind of like who determines it? If the person determines it or the Director determines it, it's kind of...it's the old language but it's, you know, real kind of loose which is good in a way, but if someone insists that oh, you should be

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growing tomatoes here and I don't know how to grow tomatoes, I know how to raise cows. You know so that kind of thing, like holding you to the fire for a crop that you have to...so just please consider those. And as far as TIG goes, we're always more than happy to be involved in any discussions, and consider that. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo for your testimony, Mr. Jacintho. Members, any questions? Okay, seeing none...oh, sorry we have one question.

VICE-CHAIR KING: I just want to clarify.

CHAIR RAWLINS-FERNANDEZ: Oh.

VICE-CHAIR KING: Yeah.

CHAIR RAWLINS-FERNANDEZ: Clarify with him?

VICE-CHAIR KING: Yeah.

CHAIR RAWLINS-FERNANDEZ: Okay. Chair King?

VICE-CHAIR KING: Okay, thank you, Chair. Thank you for being here --

MR. JACINTHO: Thank you.

VICE-CHAIR KING: --Mr. Jacintho. So, I just wanted to clarify what you're saying that the term highest and best use for agriculture is subjective. So, there's --

MR. JACINTHO: ...*(inaudible)*...

VICE-CHAIR KING: --no standards that exist anywhere that say, you know, for...you know, we have classifications of agriculture, A and B and then C and D --

MR. JACINTHO: Right.

VICE-CHAIR KING: --like that. But there's no classifications that say what the highest and best use are for those types of agricultural lands. Is that what you're saying?

MR. JACINTHO: I'm kind of like between you, I don't know whether to say it or ask it, you know.

VICE-CHAIR KING: Okay.

MR. JACINTHO: Yeah.

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VICE-CHAIR KING: Okay. So, I mean 'cause what I'm getting from your testimony is that highest and best use can also depend on the knowledge and skill of the owner that's going to be farming --

MR. JACINTHO: True.

VICE-CHAIR KING: --that not necessarily just what can be done there -

MR. JACINTHO: Right.

VICE-CHAIR KING: --but what you can do with your background and your resources.

MR. JACINTHO: That would be the most reasonable, what the capability of the owner is, yeah.

VICE-CHAIR KING: Okay, so it's actually a lot more subjective. All right, thank you.

MR. JACINTHO: Okay, thank you.

CHAIR RAWLINS-FERNANDEZ: Mr. Jacintho...mahalo, Chair King, for your question. I'll have our experts from Real Property explain highest and best use so that everyone understands --

MR. JACINTHO: Okay.

CHAIR RAWLINS-FERNANDEZ: --you know, that term of ag. Yeah. And I'll be happy to contact you to discuss how we can improve to ensure that our farmers are protected --

MR. JACINTHO: Okay.

CHAIR RAWLINS-FERNANDEZ: --and considered in the bill.

MR. JACINTHO: Okay, thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo. Okay, Mr. Krueger, will you please call our next testifier?

MR. KRUEGER: Chair, the last person signed up to testify in the Chamber is Tom Croly testifying on agenda items EDB-24(11) and EDB-37.

MR. CROLY: Aloha, Chair.

CHAIR RAWLINS-FERNANDEZ: Aloha.

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MR. CROLY: Aloha, Committee Members. I'm Tom Croly speaking on my own behalf, as someone who has studied the Real Property Tax Code very closely over the past 12 years and also as a member of the Real Property Tax Review Board seeing some of the questions that taxpayers have when they, you know, when they get their assessments and so forth. Although in no way, shape, or form am I speaking on behalf of the board, just that experience behind me with respect to understanding some of the issues that have arisen. First on the TIG's report, when I was in school I was very good in math. By third grade I could multiple, I could divide, I could do it in my head. And in I think around fifth grade, they started teaching us how to multiply and divide and they asked you to put down on paper how you came to the answer. I never liked that because I could figure out the answer and just write the answer down, and the teacher said I want you to show me your work. Well, in all due respect, I would like the TIG to show us their work here. I don't see in the report here what's the policy basis that came about to the results that you're looking for? What are you trying to advance here with the recommendations that came out of the TIG? So, hopefully today you'll have a discussion about that, and it'll be more clear exactly what the intent was of each of these measures that are put forward. The TIG said that they were going to consult with tax reform advocates and experts, but I didn't see in the report any consultation that may have taken place, where I think they could learn some of the issues that currently exist in the Code, where maybe taxpayers don't understand how the Code is being applied or inconsistencies in the Code as far as one use being taxed in one tax category and the same use being taxed in a different tax category for a different taxpayer. There are situations that I've observed in the Code where we have a full-out hotel operating and taxed as Homeowner. Okay, it's a hotel and it's taxed as Homeowner. We have commercial properties in Paia that are truly commercial properties but they're taxed as Homeowner. We have properties in the Apartment District that have the ability and the right to do short-term rentals that are taxed as Apartment. So, there are a lot of inconsistencies within the Code, and I would hope that as we look at tax reform that we would address those in same way, shape, or form to try to make sure that, again, across the board we have fairness in terms of the classifications that are being imposed. I also hope that we do that very clearly, because next year when I'm sitting on the Real Property Tax Appeal Board, I don't want people coming forward and saying why did you put me in this class? I hope that it's very clear as to why people are put in each class. Chair, if I can move to the next item which is the bills that are under consideration. There's a number of issues that I have with them, and Mr. Jacintho brought up probably the first and most important one, and that is this idea of highest and best use. Okay. This is a term that we use often with respect to our tax Code and I think that it is misplaced in our Code. The term highest and best use is a term that's used in the appraisal of land, and it's used in the appraisal of land to determine the value of that land. What's the highest and most economically profitable use

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someone can make of a piece of land. Well, if the piece of land is agriculture and all they can do is agriculture well, then we know what it is. If the piece of land however is commercial in some way then the various different commercial ways that the land could be used come into play as far as determining the value of the land. Instead, we're using that term in a classification sense, and we have many commercial uses that are allowed in Apartment zoning. We have commercial uses that are allowed in Residential zoning. And yet we allow Homeowner to trump those, if you will. And then we have properties that are used in multiple ways, so you can say well, over here you're using this portion of the property for agriculture and you're using this other portion of the property for maybe living and you're using this other portion of the property for commercial use. So, I think that it's imperative that if we're going to have these new classifications and particularly if we're getting rid of some of the classifications that are based on zoning specifically, that we very clearly define what puts you into this classification and what classification would we consider a higher use than another if you're going to say well, if there's multiple uses, we're going to go to the highest use which again I don't think you should be using that terminology. But if you are then set up that hierarchy to say that if multiple uses are taking place, this is the use that will, you know, be applied based on that. There just is, are a host of issues within what's being proposed where I think we're going to get less clarification if you were to pass out today, and I don't think that you're intending to pass out today. But if you were to pass out today, what has been proposed I think that there's going to be many, many questions. And the room will be filled up only after the people understand how this is going to apply to them. Right now I...even people who have reviewed this don't really know how it's going to apply to their particular tax situation. And just as someone, again, who sits across from the folks who are saying you misclassified me or in some way my property is being treated unfairly, I want to be able to point to no, you fit into this category or this classification based on these criteria that have been set up for each of those classifications. So, hopefully you'll have that discussion and I'll learn more and you'll more today. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Croly. Okay, it looks like we have a question from Member Molina.

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. Good morning, Mr. Croly. Just for the record now, you, are you still affiliated with the Maui Vacation Rental Association as a lobbyist or you're done, you're not...

MR. CROLY: I am not a board member anymore of the Maui Vacation Rental Association, I'm still a member of that organization. I am not speaking on their behalf in any way, shape, or form.

COUNCILMEMBER MOLINA: Okay, thank you. Just wanted clarification.

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MR. CROLY: And just to be clear, I've never been a lobbyist for them by your definition, I've never stood here as a paid spokesperson for that organization. Just to be clear so that nobody misunderstands my intention for being here.

COUNCILMEMBER MOLINA: Okay, thank you. That was a very longwinded response, I appreciate it. Thank you. Okay, no, just quick question. Now, you're currently a member of the Real Property Tax Review Board at the moment?

MR. CROLY: That's correct.

COUNCILMEMBER MOLINA: With the current system in place, have you guys had a lot of appeals with the, you know, regard this?

MR. CROLY: Relative to a lot, it's a hard to say 'cause I haven't been on the board for...I've only been on the board for the last six months. But there have been a number of questions that have up that I hope that will be addressed, for example, uses. When vacant land has come forward that has been condominiumized, okay, and the use that has been declared or the classification for them that has been put in has been based on the use of short-term rental, and then the owner of that land comes forward and says I have vacant land, I'm not doing a short-term rental. And one of the folks who appealed came forward and said it's even in my conditions of zoning that I'm not allowed to do short-term rental. So, there's questions that come up there where I hope those inconsistencies can be addressed in what we're doing right now.

COUNCILMEMBER MOLINA: Okay. Yeah, and thank you. As a member from that board, we appreciate your input, and I don't know if the TIG has reached out to the members of the Real Property Tax Review Board yet or vice versa, but I'm sure the TIG they're...everything is a work in progress, you know.

MR. CROLY: Somewhat vice versa, the TIG or the Real Property Tax Review Board did send the annual reports from our last five years to the TIG, which every year the chair of the board writes a, recommendations based on the appeals that came in as far as here's what we might recommend changes to the Code. So, we did forward the last five years of those to the TIG. I hope that...yeah --

COUNCILMEMBER MOLINA: Okay, thank you.

MR. CROLY: --Chair says she got it.

COUNCILMEMBER MOLINA: Well, thank you, and that's good to know. Thank you, Mr. Croly. Thank you, Madam Chair.

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CHAIR RAWLINS-FERNANDEZ: Mahalo for your questions, Member Molina. We have another question for you. And I'll confirm that I did receive the --

MR. CROLY: Thank you.

CHAIR RAWLINS-FERNANDEZ: --five years of annual reports, and I'm happy to report that a lot of our proposals reflect the recommendations from the Tax Review Board. Chair King?

VICE-CHAIR KING: Oh okay, thank you. That was one of my questions so you already answered that one. But I just wanted to follow up on something you said earlier about appeals. And so, were you able to grant appeals for people who, you know, you gave an example of somebody whose highest and best use was something that they were precluded from doing --

MR. CROLY: Right.

VICE-CHAIR KING: --in their conditions, were you able to grant those appeals in those cases?

MR. CROLY: You know I think it would be inappropriate for me to talk about specific cases, you know, in this --

VICE-CHAIR KING: Okay.

MR. CROLY: --case.

VICE-CHAIR KING: You just did talk about that case, so.

MR. CROLY: Yeah, but what I will say is that issue came up twice.

VICE-CHAIR KING: Okay.

MR. CROLY: And the first time it came up, we denied the appeal because the appellant did not tell us that additional piece of information that their conditions of zoning forbade making short-term rental uses. So, when the second appellant came up on a different day, we granted that appeal. So, there was a inconsistency in what --

VICE-CHAIR KING: Yeah, okay.

MR. CROLY: --the board did as well just because what we're as a board allowed to consider is only what either the Department brings to us or what the appellant brings to us.

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VICE-CHAIR KING: Okay.

MR. CROLY: So...

VICE-CHAIR KING: You're not allowed to go do any additional investigation?

MR. CROLY: Right, we're not supposed to do the research ourselves.

VICE-CHAIR KING: Right.

MR. CROLY: Exactly.

VICE-CHAIR KING: Okay.

MR. CROLY: Yeah.

VICE-CHAIR KING: All right, thank you. Thank you for being here.

MR. CROLY: Yeah.

VICE-CHAIR KING: Appreciate it.

MR. CROLY: Thank you.

CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Mr. Croly. Okay. And a couple points just for the Members, as I mentioned in the last meeting, we did have our TIG members identify resource people and consult with them. And that it took us about three months to develop these proposals so I wouldn't expect Members to want to vote today unless they really wanted to. So yeah, no worries about that. And...okay. And before I ask to call the next testifier, I want to recognize Member Alice Lee.

COUNCILMEMBER LEE: Good morning.

CHAIR RAWLINS-FERNANDEZ: No language today?

COUNCILMEMBER LEE: Madam Chair, back by popular demand, ohayo gozaimasu.

CHAIR RAWLINS-FERNANDEZ: Ohayo gozaimasu. Mahalo. Okay, Mr. Krueger, will you please call our next testifier?

MR. KRUEGER: Chair, we have one more person signed up to testify. The next person up to testify is Jasee Law, testifying on EDB-37.

MR. LAW: Aloha kakahiaka.

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CHAIR RAWLINS-FERNANDEZ: Aloha kakahiaka.

MR. LAW: And bom dia which is Portuguese. I'm talking about item EDB-37. Thank you, Madam Chair, for bringing this up on your agenda because it's a very important issue to me. I brought it up a couple years ago, and Mr. Hokama tried to explain to me that's...the difference between Federal and state and local laws. And I'm going to do something that the Portuguese like to do, they like to grumble a lot but I'm actually a pretty positive person. I'm trying to get stuff done up in there in my ahupuaa of Waiakoa. There's two churches in Waiakoa that are hogging the land. I'm talking about the administration, the so-called priests and the pastor. Some of the people but most of the people, 99 percent of them is good, but the ones that are trying to get in charge, that may be why you guys are having a problem with some of the people because they have a notion that people in charge are corrupt and they're not trying to do stuff. They both have million-dollar properties, they only use them 10 hours a week out of 188 hours, and if they're using it only 10 percent of the time why are they getting a 100 percent tax break? Is that the highest and best use? I've heard rumors that missionaries using Jesus to take over the islands and now I've seen it with my own eyes. Not only that, they call the cops on you if you're caught reading your Bible there or even getting a drink of wai. What kind doggone church that? Madam Chair, God spelled backwards is dog. So, if they're not going to take care of their kanakas up there then maybe they should turn into a dog park. Aloha.

CHAIR RAWLINS-FERNANDEZ: Okay, mahalo, Mr. Law, for your testimony. Okay, seeing no questions, Mr. Krueger, do we have any further testifiers?

MR. KRUEGER: Chair, there is no one else signed up in the Chambers to testify.

CHAIR RAWLINS-FERNANDEZ: Okay. Okay. So, if there are no objections, I'll now close public testimony.

COUNCILMEMBERS: No objections.

CHAIR RAWLINS-FERNANDEZ: Okay, public testimony closed.

. . .END OF PUBLIC TESTIMONY. . .

ITEM 24(11): PRESENTATION ON PROPOSED
RECOMMENDATIONS RELATING TO COUNTY
PROPERTY TAX AMENDMENT (RULE 7(B))

ITEM 37: COUNTY PROPERTY TAX REFORM (MISC)

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CHAIR RAWLINS-FERNANDEZ: Okay. All right, so we have the two items on today's agenda, EDB-24(11) and EDB-37, and we'll start with the first item, EDB-24(11), Presentation on Proposed Recommendations Relating to County Property Tax Amendment. As Members may recall, we also had an item referred to the EDB Committee, County Property Tax Reform, which I've also scheduled on this agenda. Because of the similarity of the two items I would ask that we take up EDB-24(11) concurrently with EDB-37. Any questions or objections?

COUNCILMEMBERS: No objections.

CHAIR RAWLINS-FERNANDEZ: Okay, mahalo. Okay. EDB-37, County Property Tax Reform. Okay. We have two bills...oh, sorry. Do all the Members have the two bills with them? There's a clean copy and a copy with track changes. Okay, please let me know if you don't have the copies and I'll...okay. Okay, anyone else? Yes, Chair King?

VICE-CHAIR KING: Is that the document that says Maui County Code at the top of it? That was the attachment I got with...

CHAIR RAWLINS-FERNANDEZ: Okay, so there's Article V and Article X. Okay. Do you have that one? Okay. Do you want...does everyone...you have it? Yeah, yeah.

VICE-CHAIR KING: Is it on Granicus?

CHAIR RAWLINS-FERNANDEZ: Okay. Yeah, it's on Granicus.

VICE-CHAIR KING: Okay.

CHAIR RAWLINS-FERNANDEZ: But I don't know if...it might be a little easier to follow with the hard copy.

VICE-CHAIR KING: Okay.

CHAIR RAWLINS-FERNANDEZ: But you don't have to have a hard copy.

VICE-CHAIR KING: Yeah, I don't...

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

CHAIR RAWLINS-FERNANDEZ: You'd like that? Okay.

VICE-CHAIR KING: Can we take a quick...

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CHAIR RAWLINS-FERNANDEZ: Are there any objections to calling a quick recess to make sure everyone has a hard copy?

COUNCILMEMBERS: No objections.

CHAIR RAWLINS-FERNANDEZ: Okay. Okay, quick recess. It's 9:27 on October 3rd. We're gonna recess at the call of the Chair. Okay, we're now on recess. . . .(gavel). . .

RECESS: 9:27 a.m.

RECONVENE: 9:43 a.m.

CHAIR RAWLINS-FERNANDEZ: . . .(gavel). . . Will the Economic Development and Budget Committee please return to order. It's 9:43 on October 3rd. Okay, so we have the copies for everyone that requested. So, Staff is going to distribute. Please let Staff know if you requested a copy, okay. All right. And so we have a clean copy and a copy with the track changes in color, okay. Okay. So, we have two bills before the Committee today, both of which should mimic the track changes format you will see in the proposed legislative amendments included in the TIG report. Please feel free to look at both side by side while we review and discuss the proposals if that is useful. Since some...sometimes the track changes format can be easier to follow along than the Ramseyer format we used for bills. There are a couple of nonsubstantive changes that we may like to make along the way, which were brought to my attention from various departments and community resources. When we get to them during our review, I will point them out and please feel free to do the same if you notice anything. Okay. So, the first bill, we'll begin with the first bill entitled A Bill for an Ordinance Relating to Tiers of Real Property Tax Rates. This is the shorter and less involved bill of the two which accomplishes two main goals. One, combining building and land for assessments, and two, creates tiers for certain tax classes which will enable the Council to set various rates for each tax class based upon a range of values during Budget Session. Before we begin our review on, of the first bill, I'd like to ask for any opening comments from the Department of Finance whose knowledge and expertise was instrumental during our tax reform TIG. So, we have again with us Finance Director Scott Teruya, Real Property Tax Administrator Marcy Martin, and Jeff Ueoka to assist. Okay, so, Department, any opening comments you would like to make about the process and/or specifically about the first bill before we begin deliberations?

MR. TERUYA: Thank you. Good morning, Chair and Members.

CHAIR RAWLINS-FERNANDEZ: Good morning.

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MR. TERUYA: Scott Teruya, Director of Finance. In going over EDB-37, first, I'd like to make a comment that both the Mayor and the Administration, myself included are in support of the tiered rate structure and the combination of land and building into a single rate. One of the...in review of 3.48.561 regarding the tax rate tiers, I might just make a comment that I realize what you've identified as tiers for four different classifications. I would maybe make a recommendation to this body that you might just want to have three tiers for every single classification in here, because you still have the option to make the rates the same for all three tiers, if you just wanted one rate. So, rather than cripple you down the end, it may be better to identify every classification and have three tiers for all so that you will have the leverage to use the two-tier structure if you wanted to out of three just by keeping the third tier the same rate. So, I would offer the body that might be a recommendation you might want to amend. That's really up to you guys to discuss. But in order to do the tiered structure, I think all the Members know that we have contracted with the vendor to work on the change order to allow for tax rate structures and we're still waiting for that. So, although both...I'm sure the Council and the Mayor is supportive of a tiered-rate structure, we must remember that first it must be completed by the vendor and that we vet it out and make sure we test it so that it is calculating correctly, and we have our certification and our reports that will be accurate for certification. So, I just offer that as opening comments, Chair, and available, myself, Jeff, and Ms. Martin for comments.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Director. Okay, and then may I ask the Department to also explain highest and best use at this time?

MR. TERUYA: Yeah, go ahead.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Martin.

MS. MARTIN: Chair, thank you. Highest and best use is a legal term, it's also an appraisal term and it's used in the valuation of properties. And it is the use that nets the highest value to the property. So, in our County Code, almost all of our properties are valued and classified based upon highest and best use. There are a few exceptions. And properties that are actually in agriculture production are an exception. They are valued at an agricultural use value which recognizes a lower value for that agricultural use.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Martin. And really quickly, Director, would you please explain the timeline you would need us to make decisions by so that you can be in touch with the vendor to make the adjustments to create tiers?

MR. TERUYA: Thank you, Chair. For certain, I believe the tiered structures would need to be done by February. Oh, well, Chair, the vendors are working on it

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currently, but in order for us to effectuate it in the...in...for the upcoming fiscal year, deadline...I would say that it should be...the classification in the Code would probably be best to be done by December 31st of this calendar year, prior to the assessment date of your certification which is as of January 1 of '20 for the next fiscal year. That would definitely be the safest route for everybody, because we are doing it prior to the start of the new assessment year. That would be my initial recommendation unless Corporation Counsel can have another opinion.

CHAIR RAWLINS-FERNANDEZ: Okay, mahalo, Director. Okay.

VICE-CHAIR KING: Chair, can I ask just a follow-up question on that?

CHAIR RAWLINS-FERNANDEZ: Chair King?

VICE-CHAIR KING: Yeah, thank you. I just wanted to...you said that it needs to be done by December 31st, I'm assuming you mean by the vendor. The system...no? Or what...I mean I guess we're concerned with what would be our deadline to complete --

CHAIR RAWLINS-FERNANDEZ: Second reading.

VICE-CHAIR KING: --the second reading in order for you --

CHAIR RAWLINS-FERNANDEZ: Before December 31st.

VICE-CHAIR KING: --to make the deadlines.

MR. TERUYA: Chair?

CHAIR RAWLINS-FERNANDEZ: Director?

MR. TERUYA: Sorry, let me further explain. I believe just the legislation by December 31st.

VICE-CHAIR KING: Oh, okay.

MR. TERUYA: The vendor will have more time, but we ultimately would need it tested. Probably final prior to us mailing out the notices, assessment notices would be the best timing for us. I don't...I would not feel very comfortable in expecting the change if we haven't tested it prior to sending out any --

VICE-CHAIR KING: Right.

MR. TERUYA: --bills, that's for certain. I would not...

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VICE-CHAIR KING: Okay. And then what's the date that you send out the assessment notice?

MR. TERUYA: The assessment notices go out on March 15th.

VICE-CHAIR KING: Okay. So, you need us to finalize before the end of the year and then that would give you the time that you need to test it out?

MR. TERUYA: Yes, Chair. And I would defer as to the language, as to upon its effective date. I'll defer to Corporation Counsel on that because I would assume that we would like it as soon as possible, but if it's not practicably able to be done, I'm not sure how you would word that effective date to be in the Code I guess and its actual application.

CHAIR RAWLINS-FERNANDEZ: Mr. Galazin?

MR. GALAZIN: Thank you. With taxation, you know, there are ways to have retroactive applications, it's not impossible. Certainly I think from what the Department's standpoint is presenting, it is a lot easier for both them and the public to implement it if it is prospective; however, that shouldn't preclude you from taking the necessary time. So, if it comes to a point where you do want to pass something and have a retro application, you know, you pass it in January or February, that's still possible although it may be cumbersome from a practical standpoint.

VICE-CHAIR KING: Okay. So, we...do you have a suggestion for an effective date? I mean if we can get this done in the next month or two, what...I mean should December 31st or January 1st be our effective date?

MR. TERUYA: Chair?

CHAIR RAWLINS-FERNANDEZ: Director Teruya?

MR. TERUYA: Chair, I think the best way would be...the body could pass the tiers. If it couldn't be implemented, we would still create the tiers but the rate would be the same for all three tiers. That's basically how you would circumvent that.

VICE-CHAIR KING: Okay. So, you would say we would just make it effective when we complete it, and then you put it into effect when you can.

MR. TERUYA: Just all the three tiers would have the same tax rate if we couldn't --

VICE-CHAIR KING: Oh.

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MR. TERUYA: --implement it, yes.

VICE-CHAIR KING: Okay. All right, thank you.

CHAIR RAWLINS-FERNANDEZ: Okay, mahalo, Director. Okay. Okay. So, I'll...oh sorry, Member Hokama? And then I wanted to go through the amendments really quickly with everyone, and then I'll open up the floor for questions on the amendments. But I'll open the floor for questions if you have questions on the process.

COUNCILMEMBER HOKAMA: Just for clarification, Chair.

CHAIR RAWLINS-FERNANDEZ: Member Hokama?

COUNCILMEMBER HOKAMA: Yeah, and I appreciate you explaining how you want to go through this so I appreciate it. So, Mr. Teruya, just what, how you responded to earlier questions, is there certain things that has to be done prior for the tier things to work? So, there was a comment earlier about single structure rate for land and building. Is that a requirement for the tiers to work?

CHAIR RAWLINS-FERNANDEZ: Director Teruya?

MR. TERUYA: Thank you, Chair. Member Hokama, you are absolutely correct because the vendor has been instructed to do a single tiered...well a single rate structure, because the vendor had mentioned that a multi-tier...a multiple land and building rate would not be able to be calculated in their estimation. So, and therefore the first order of business would be to task a single rate structure. That would be --

COUNCILMEMBER HOKAMA: Yeah.

MR. TERUYA: --definitely number one and should be taken maybe separately so that it doesn't hold anything up. That would be number one.

COUNCILMEMBER HOKAMA: Irregardless if the rate is the same, Director?

MR. TERUYA: Correct. We would need to have a single rate structure to amend land and building to be just a single rate. That would be number one on I think both the Council and the Mayor's...

COUNCILMEMBER HOKAMA: Okay. So, one of the things we heard this morning which was a unique point of view regarding I guess certain type of property owners, yeah, whether it's the eleemosynary --(inaudible)-- type organizations, churches, religions. Because nationally we've talked about it that the land can

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be exempted but if that entity chooses to put up a \$10 million structure, that structure should be considered for taxation purposes irregardless of the land.

MR. TERUYA: Chair?

CHAIR RAWLINS-FERNANDEZ: Director?

MR. TERUYA: Thank you.

COUNCILMEMBER HOKAMA: Like a credit union. We can give 'em a break on the land but if they want to put up a \$50 million building, why wouldn't we go and tax that when they can get by with a \$5 million building?

MR. TERUYA: Chair?

CHAIR RAWLINS-FERNANDEZ: Director?

MR. TERUYA: Right now similar to the Department of Hawaiian Home Lands we are only allowed to tax the building. So, however you choose to do it, we...even though it's a single tax rate, we still keep land and building separate internally, valuation-wise. So, if it is such that the body would choose to reevaluate how all of the properties are taxed or exempted and would like to only tax improvements, I mean the body can do so by amending the ordinance and do it however it chooses. So, we have that ability. We are set up to only tax structures if that's what it is. We're just trying to incorporate a single rate structure right now. We do keep land and building separate so that should not be a problem.

COUNCILMEMBER HOKAMA: And our sister counties have all moved to the single rate structure?

MR. TERUYA: Chair?

CHAIR RAWLINS-FERNANDEZ: Director?

MR. TERUYA: It's my understanding that for certain I can say for the City they have, and I believe Kauai County also has moved to a single rate structure. Just the Big Island has not converted over a single rate structure so far.

COUNCILMEMBER HOKAMA: Okay. Thank you for that clarification. Chair, just one for you, where does Planning's comprehensive rezoning proposal come into play with us trying to have a coordinated and comprehensive approach with zoning and taxation? I mean we know they're looking at the Zoning Code currently yeah. You're doing a, what I would say a very good and timely review of tax, property tax, but there comes a time when we're going to need to have

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the...both combined and make sure there is a comprehensive and coordinated effort between permitted uses and taxation rates. So, I was wondering if Planning gave you some comments so that the work we're doing will fit as Planning submits to Council the brand-new proposals for adjusting the Zoning Code.

CHAIR RAWLINS-FERNANDEZ: Okay. So, I guess I don't want to misspeak, so please, Department, if, correct me if I'm wrong, but the assessment is based on actual use and not necessarily on zoning.

MR. TERUYA: Chair?

CHAIR RAWLINS-FERNANDEZ: Director?

MR. TERUYA: The classification and the assessments are based on highest and best use in regards to zoning and all other entitlements. For example, you may have a special use permit or a conditional permit that allows for something other than its zoning, those are additional I guess entitlements, so we based on in that sense the highest and best use. That's the reason why you do highest and best use. In regards to Mr. Hokama's comment, that is also something that would really assist the Real Property Tax Assessment Office in using GIS to cross-reference with the zoning, because zoning affects valuation and classification. And if it is presented to us as a layer, we can probably further use that and cross-reference versus the Department's records so that things are accurately and classified correctly and value I guess as well correctly. So, that is something that we definitely would look forward to. Thank you.

COUNCILMEMBER HOKAMA: Thank you, Chair.

CHAIR RAWLINS-FERNANDEZ: Okay, mahalo, Member Hokama. And for your question regarding building and land being separated, so this first bill does achieve that. And that was the recommendation from the Department in order for us to move forward with tiers. So, mahalo for bringing that and bringing that and pointing out --

COUNCILMEMBER HOKAMA: Yeah.

CHAIR RAWLINS-FERNANDEZ: --and explaining it to the Committee.

COUNCILMEMBER HOKAMA: I just wanted to make sure that if we want to go down that path --

CHAIR RAWLINS-FERNANDEZ: Yes.

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COUNCILMEMBER HOKAMA: --and which I'm very open yeah, that certain other things get taken off the table, yeah. There's tradeoffs on whichever path we're going to take so I just want us to be clear that, you know, it's not always the advantages, there's some disadvantages as well. But I appreciate your review of this, Chair.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Hokama. Member Sugimura?

COUNCILMEMBER SUGIMURA: Yeah, so...I wanted to talk about that, you know, the land and the building discussion so I'm glad to hear this starting. But I wanted to go back to what Corp. Counsel said in terms of the deadline. So, if Corp. Counsel is saying that we cannot achieve the December 31st deadline but we can do January/February and do retro. What does that mean? That means what we say today is not going to be...or what we decide can be changed and so it's not going to affect the final outcome or what did you mean by that please?

CHAIR RAWLINS-FERNANDEZ: Mr. Galazin?

MR. GALAZIN: Thank you. So, what I was explaining by that is if you pass an ordinance that is going to have changes on real property assessments or valuations, that can...if it's something that the Department has to do on January 1st and you pass something in February, you can make that--and we're talking about real property tax legislation--you know, retroactive to January 1st. And that can be done, you know, with these kinds of ordinances, you know, as opposed to criminal ordinances you can only apply them prospectively. So, you can set the rate for something, you could sort of backfill it if you will to that date, that January 1st date. So, you don't need to rush to something you don't think is exactly right if you're coming up on the end of December. There are certain things you would have to do to, you know, to make sure that you don't run afoul of any prohibitions, but it is something that's out there as a possibility. I just wanted to mention it so that you don't feel too pressured to pass something you're not comfortable with.

COUNCILMEMBER SUGIMURA: Okay, I understand.

CHAIR RAWLINS-FERNANDEZ: And just for further clarification, we're not setting the ranges today or this month.

COUNCILMEMBER SUGIMURA: Right, right.

CHAIR RAWLINS-FERNANDEZ: We're going to set it in Budget. And what this does--and I'll go more into explanation when we get there--is it sets up the framework for us to be able to create tiers.

COUNCILMEMBER SUGIMURA: Okay. So --

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CHAIR RAWLINS-FERNANDEZ: Or to set tiers.

COUNCILMEMBER SUGIMURA: --I understand where Mr. Galazin is coming from because he's looking at law in its purest --

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

COUNCILMEMBER SUGIMURA: --yeah, purest sense. But I'm just concerned because we deal with what the people are going to perceive that we don't make a decision on December 31st and go oh by the way, we change our mind, because it's going to then screw up the...I think this is something very good so I want us to go out the gate and be firm and to, you know, justify that all the work the TIG did and all the work the Council agreed with the Department that it's going to be valid at the day we announce it and not do retroactive. I just want to caution you and us on that. So, thank you. But thank you, Mr. Galazin. I understand where you're coming from.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sugimura. The TIG actually operated or worked on this with the, with a December 1st deadline. Just...I thought that December 1st was actually the Department's deadline, but that's good that, you know, we're --

COUNCILMEMBER SUGIMURA: Thirty-one more days.

CHAIR RAWLINS-FERNANDEZ: --operating like that so it give us more, you know, buffer time. Director Teruya?

MR. TERUYA: Thank you, Chair. And the reason why we asked for the December 1st is so that internally we don't just pass it on to the person who has got to do it with a rush. But December 31st is ultimately the deadline for legislation. I understand Corporation Counsel's opinion about retroactively doing it and it can be done. My caution is when you provide legal notice to your taxpayers on March 15th, you are certifying that that is what you're giving them. So, if you change the ordinance, we would have to reissue another assessment notice, reissue...reopen appeal deadline, re...I mean you're already under the gun for certification, and therefore I would say that it...although you can back date it, once you give notice, you've given notice. So, you're going to have to live with that notice or re-notice if you change your opinion. So, I prefer the December 31st be really looked at and we have an affirmative deadline. Thank you, Chair.

COUNCILMEMBER SUGIMURA: Thank you for the clarification.

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CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sugimura and Director Teruya. And just for the Members' information, the Department already combines the land and building so although it's...they have the ability, we have the ability to tax the land and the buildings different rates. I don't think any of the Councils did that. So, in practice we've...we're just changing the language to reflect what we've been doing in practice all this time. Okay? Okay. I'm going to open up the floor to questions if you have questions on the proposals. But if you have a question on process I'll take your question now.

COUNCILMEMBER SINENCI: Just a general question --

CHAIR RAWLINS-FERNANDEZ: Member Sinenci?

COUNCILMEMBER SINENCI: --Chair. Thank you. Just for the Department, when we're talking about the tier system and then we're asking about highest and best use, does that refer to...would that refer to the tier 1, tier 2, possibly tier 3 when you're looking at highest and best use? Is that what it means?

MR. TERUYA: Chair?

CHAIR RAWLINS-FERNANDEZ: Director?

MR. TERUYA: I don't think when we deal with highest and best use we have any...it doesn't cross the tiers. It's totally independent.

COUNCILMEMBER SINENCI: Okay. All right, thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sinenci. Mahalo, Director. Okay, so, Members, ready to go through the proposed amendments? Okay, great. Okay, so if you look at Article X, Determination of Rates, we add there "and Tiers" to set us up to be able to create tiers. Moving down the page, we struck out A, net taxable lands, which means all other real property exclusive of buildings, because we're going to be combining building and land. Okay? Okay, and then that...the next one is more of housekeeping to reflect the combining. B, the proposed language for the definition of "tax rate" here is just to reflect what we do during Budget. The rate is, means the dollar amount of tax levied under this chapter per \$1,000 of net taxable real property, computed to the nearest cent. Okay. Any questions on that section? Okay. Okay, next section 3.48.561, Tax rate tiers. Classification as referenced in 3.48.305 which is on the second bill that we're going to review after. Notwithstanding any provision to the contrary, the tiers are based on the net taxable real property and are as follows: 1. Owner-occupied tier 1, tier 2, and tier 3 rates; 2. Non-owner occupied tier 1, tier 2, and tier 3 tax rates; 3. Short-term rental tier 1 and tier 2 tax rates--and we can consider the recommendation from Director Teruya in creating all three here as well--4. Commercial/Industrial tier

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1 and tier 2 tax rates. And again we can consider adding the third tier as recommended by Director Teruya. The net taxable value shall be set forth in the annual budget. Okay, and I'll stop there and I'll take questions on this section. Member Molina and then Chair King.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. My question relates to more what Mr. Jacintho, one of our testifiers had asked with regards to the tier. And I guess for lack of a better term I guess the property price ranges, you know, for example tier 1, tier 2, tier 3, I don't know if you...the members of the TIG got to that point yet. So, any thoughts on what Mr. Jacintho had asked? Like the tier 1, what could be the property value ranges in tier 1 and the property value ranges in tier 2, tier 3, and so forth? So, just wanted to get your thoughts or from any members of the TIG. And by the way, appreciate your folks' work on this. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina. It looks like TIG Vice-Chair Lee would like to respond to your question. Member Lee?

COUNCILMEMBER LEE: Yes, appreciate your acknowledgment of our hard work. It was very hard. Okay. Now, what I think might be easier for people to visualize and grasp is if we showed them the old classifications and how we combined them so that they can see. Do we have that?

CHAIR RAWLINS-FERNANDEZ: Okay, so are you talking about 3.48.305, the classifications? So, if you look at your track changes it has it in there. But I think it has the old classifications.

COUNCILMEMBER LEE: Okay, I'm wondering if people can understand. Okay, well, when we get to...well, I think not when we get to that, I think it's easier for them to have that information, you know, some visual thing as we go through the tax tiers. Because it makes a difference like when he was asking about ag and Mr. Jacintho's question, where we combine that with something else, if we did. You catch what I mean? No?

CHAIR RAWLINS-FERNANDEZ: I don't know if you're --

COUNCILMEMBER LEE: I think they catch what I mean.

CHAIR RAWLINS-FERNANDEZ: --asking the same question.

MR. TERUYA: Chair? Chair?

VICE-CHAIR KING: Three oh five is not in here.

CHAIR RAWLINS-FERNANDEZ: Director Teruya?

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MR. TERUYA: If I may, you have two different proposed ordinances, one is Article X that we started on. The other one is Article VII and it's on Page 2 of Article VII under classification of land that you have the amendments there. My only point of comment and it's up to this body to choose however they want to classify it, it's just sometimes when we change classification names we create uncertainty from people as well. So, that's just my only comment. I know we're going to rid of Homeowner to become Owner-occupied, and like the name of circuit breaker, how people don't like it, it's just a matter of some people like homeowner, some people are going to want it another way. So, I'm just saying that caution that change by calling things another way will lead to some uncertainties as well, so that's just point of comment, Chair.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Director. Okay, I got what your question is. Okay, is your question, Member Molina, that we're calling...we create...we called the classification Owner-occupied? Is that your question?

COUNCILMEMBER MOLINA: Well, it was kind of more...well, what I was kind of interpreting from Mr. Jacintho like the value, the ranges of value for the properties like in tier 1. Like up to \$500,000 in property and then tier 2 may be a million dollars and over, you know, I don't know if...I'm trying to get it together here. So, just, I just...it's more of a question of clarity.

CHAIR RAWLINS-FERNANDEZ: Okay. Mr. Ueoka?

MR. UEOKA: Thank you, Chair. Mr. Molina, in the TIG meetings I believe the understanding is those threshold values where you move from tier 1 to tier 2 to tier 3, per the language the Chair is proposing, they'll be established during the Budget process.

COUNCILMEMBER MOLINA: Okay.

MR. UEOKA: And along with the rates. And it did make sense...well, to me it made sense, everybody else I'm not sure, but because when you guys are looking at where you set the tier thresholds along with your rates, that's basically how you're going to get the income for the County, you know what I mean? So, those things will be moveable and set by you guys at the Budget process per the proposed language. Thank you, Chair.

COUNCILMEMBER MOLINA: Okay. Well, thank you for that explanation.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Ueoka.

COUNCILMEMBER MOLINA: That really helps. And --

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CHAIR RAWLINS-FERNANDEZ: Okay.

COUNCILMEMBER MOLINA: --you know, Member Lee and I were talking on the side about the issue of visuals. You know for the future meetings, I don't know if...I guess I getting spoiled with the use of the screen so maybe as we walk through this, it could be posted on the TV screens and that way anybody in the gallery or *Akaku* can kind of watch as we work off the TV screens, you know, on our...something for future consideration, the PowerPoint. So, and just more work for your Committee analysts or the Department. But I really like the use of the TV screens as we march through this so it's not only us as Councilmembers looking at it but the public can also see, so just food for thought.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina. I wouldn't be --

COUNCILMEMBER MOLINA: Thank you.

CHAIR RAWLINS-FERNANDEZ: --opposed to just putting it up on the screen. Good idea. Okay. Maybe on the break we can put it up on the screen. It wouldn't be difficult to do. Okay, Chair King?

VICE-CHAIR KING: Okay, thank you. And then that might help me with my question because I think I don't have the same version that you're reading off of. I don't see that sentence that you started out with, notwithstanding.

CHAIR RAWLINS-FERNANDEZ: It's 3.48.561.

VICE-CHAIR KING: Wasn't it like under...yeah, B. My version doesn't start out that way. So, maybe I need, I do need to get the updated version from James.

CHAIR RAWLINS-FERNANDEZ: Three point four eight point five six one doesn't have a B.

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

CHAIR RAWLINS-FERNANDEZ: A B.

VICE-CHAIR KING: No, the one before that when you started off 3.48.560(B) and you started that sentence out with "notwithstanding."

CHAIR RAWLINS-FERNANDEZ: No, that was tax rate means the dollar amount.

VICE-CHAIR KING: Okay.

CHAIR RAWLINS-FERNANDEZ: And then I moved to the next section.

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VICE-CHAIR KING: Okay, 'cause I heard that phrase, notwithstanding something, something --

CHAIR RAWLINS-FERNANDEZ: Yeah.

VICE-CHAIR KING: --and then tax rate means...

CHAIR RAWLINS-FERNANDEZ: So, the next section is 3.48.561, Tax rate tiers, classification as referenced in 3.48.350 --

VICE-CHAIR KING: Okay.

CHAIR RAWLINS-FERNANDEZ: --and then right under that, notwithstanding any provision --

VICE-CHAIR KING: Okay, so I don't have that.

CHAIR RAWLINS-FERNANDEZ: --to the contrary.

VICE-CHAIR KING: That doesn't say that in my version.

CHAIR RAWLINS-FERNANDEZ: Okay.

VICE-CHAIR KING: Okay, so I think I don't have the updated version maybe.

CHAIR RAWLINS-FERNANDEZ: You guys don't have the red track changes?

VICE-CHAIR KING: I don't, and I don't think --

COUNCILMEMBER LEE: We don't.

VICE-CHAIR KING: --Member Lee has it either, so.

COUNCILMEMBER LEE: We don't.

CHAIR RAWLINS-FERNANDEZ: Okay. Okay, so the...those that asked for the hard copies I guess they have it.

VICE-CHAIR KING: We thought we had it already, but now I'm seeing that the one that you guys are working off that's in red is different.

CHAIR RAWLINS-FERNANDEZ: Okay.

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VICE-CHAIR KING: Yeah, so if I can get the format that everyone else has, that would be good. And then my other...

CHAIR RAWLINS-FERNANDEZ: Yes, Chair King?

VICE-CHAIR KING: Okay. So, then my other question was just for clarity. So, we're taking...if we look at Article VII and that 3.48.305, there's a list of 11 classifications that are corrected. And so, are we correcting that, those 11 classifications down to 4 classifications?

CHAIR RAWLINS-FERNANDEZ: Are you talking about the second bill?

VICE-CHAIR KING: Well, the first bill refers to the second bill, so --

CHAIR RAWLINS-FERNANDEZ: Right.

VICE-CHAIR KING: --basically what we're doing in 3.48.561 is condensing the classifications down to four classifications? Is that what we're doing --

CHAIR RAWLINS-FERNANDEZ: No.

VICE-CHAIR KING: --or no?

CHAIR RAWLINS-FERNANDEZ: No, these are the only classifications that will be tiered.

VICE-CHAIR KING: Oh, I see. Okay.

CHAIR RAWLINS-FERNANDEZ: Yeah.

VICE-CHAIR KING: So, we're only referring to the ones that have tiers then?

CHAIR RAWLINS-FERNANDEZ: Yes.

VICE-CHAIR KING: And all the rest will be just the same singular?

CHAIR RAWLINS-FERNANDEZ: No tiers.

VICE-CHAIR KING: Okay.

CHAIR RAWLINS-FERNANDEZ: Yes.

VICE-CHAIR KING: Okay, great. All right.

CHAIR RAWLINS-FERNANDEZ: Okay.

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VICE-CHAIR KING: Thank you for that --

CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair King --

VICE-CHAIR KING: --classification.

CHAIR RAWLINS-FERNANDEZ: --for asking that question.

VICE-CHAIR KING: And if I could get that copy, the...if I could get that copy from our support Staff.

CHAIR RAWLINS-FERNANDEZ: Okay. Staff said that that was --

VICE-CHAIR KING: Yeah.

CHAIR RAWLINS-FERNANDEZ: --that line just didn't make it into the clean copy.

UNIDENTIFIED SPEAKER: I just found it.

CHAIR RAWLINS-FERNANDEZ: Okay. Okay, any other questions on this section? Okay. Would any of the TIG members like to add anything else? Okay. Oh, I can call for consensus but would Members like to take the recommendation from Director in adding the tier 3 in both 3 and 4?

COUNCILMEMBER LEE: Yes, yes, yes.

CHAIR RAWLINS-FERNANDEZ: Consensus?

COUNCILMEMBERS: Consensus.

CHAIR RAWLINS-FERNANDEZ: Okay. All right, any other questions on 3.48.561 with the added third tier in 4...3 and 4? No other...oh, Director Teruya?

MR. UEOKA: Oh, if I may, Chair?

CHAIR RAWLINS-FERNANDEZ: Mr. Ueoka?

MR. UEOKA: Thank you. Just a comment on C.

MR. TERUYA: Five six one...

MR. UEOKA: Yeah, 561(C), the net taxable value will be set forth in the annual Budget. Can we do a revisit at some point on that to...the...that could be

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confusing. So, I think offline we should probably talk with you and your Staff and we can --

CHAIR RAWLINS-FERNANDEZ: Sure.

MR. UEOKA: --tweak that language.

CHAIR RAWLINS-FERNANDEZ: But the intent is of making that clear.

MR. UEOKA: Understood.

CHAIR RAWLINS-FERNANDEZ: Yeah

MR. UEOKA: But I think we need to wordsmith it a bit.

CHAIR RAWLINS-FERNANDEZ: Sure.

MR. UEOKA: Thank you, Chair.

CHAIR RAWLINS-FERNANDEZ: Okay. Okay, any other questions or comments before we move to the next section? Okay, great. Okay, so I'll work with Director Teruya and Mr. Ueoka on wordsmithing that last line just so that it's clear for everyone, and then I'll bring it back to the body. Okay. So, the next section is 3.48.565, Increase or decrease. And so, this is the section that is combining the buildings and the land. The Council may increase or decrease the tax rate for each class of net taxable real property established in accordance with Section 3.48.305. A resolution setting the tax rates and tiers shall be adopted on or before June 20 preceding the tax year for which property tax revenues are to be raised according to the following procedures. Okay. And from there wherever there was a tax rate, we included tiers so that the process in establishing the tiers would follow how we establish the tax rates. Okay, any questions on this section? Member Sugimura?

COUNCILMEMBER SUGIMURA: So, we had a discussion which I had a, wanted to talk about, about combining the land and the building part and this, you said this section does it.

CHAIR RAWLINS-FERNANDEZ: Yes.

COUNCILMEMBER SUGIMURA: So, I wanted to find out from the Director or Corp. Counsel or somebody, what is the impact of that? I mean are we going to be losing out by making this change or shall we leave it or is it better or what is it? 'Cause I've always noticed--

CHAIR RAWLINS-FERNANDEZ: So --

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COUNCILMEMBER SUGIMURA: --it's different.

CHAIR RAWLINS-FERNANDEZ: --I...

COUNCILMEMBER SUGIMURA: It was split rather.

CHAIR RAWLINS-FERNANDEZ: As I mentioned earlier, we...the Council has always had the opportunity to tax the land and the building at different rates but never did.

UNIDENTIFIED SPEAKER: We never did.

CHAIR RAWLINS-FERNANDEZ: So, that's been the practice for the last 20 years. And so, by combining them essentially there would be no impact since the, both the land and the building have been taxed at the same rate all this time. But, Department, would you like to add to that? Director Teruya?

MR. TERUYA: Thank you, Chair. My feeling is that there is no impact. The only --

COUNCILMEMBER SUGIMURA: Okay.

MR. TERUYA: --impact would be, well, you no longer have the ability to give a land value...a land rate different from a building rate, that's the only thing you're losing out. And right now and historically we've always had the land and building rate to be the same. So, if you were continuing to do that, this legislation would have no impact.

COUNCILMEMBER SUGIMURA: Is...

MR. TERUYA: No impact on revenue.

COUNCILMEMBER SUGIMURA: Right. But is it...do you want to lose that option or...

MR. TERUYA: Chair?

CHAIR RAWLINS-FERNANDEZ: So, also...yeah, this is the recommendation from the Department.

MR. TERUYA: Chair?

COUNCILMEMBER SUGIMURA: Oh, the recommended...I'm sorry.

MR. TERUYA: Chair? And...

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COUNCILMEMBER SUGIMURA: I didn't...I just want to make sure.

MR. TERUYA: No, Councilmember Sugimura, it's a good question and the reason why we're trying to combine it to one rate is so we can do the tiered rates.

COUNCILMEMBER SUGIMURA: Oh, I see.

MR. TERUYA: Without combining the land and building you cannot do the tiered rates according to our vendor.

COUNCILMEMBER SUGIMURA: Oh, okay. Okay. So, you're --

MR. TERUYA: Yeah.

COUNCILMEMBER SUGIMURA: --supportive of this.

MR. TERUYA: It's just due to the complexity of the reporting in the system.

COUNCILMEMBER SUGIMURA: Their idea.

MR. TERUYA: So, that's all this is, it's a recommendation also from the Mayor to combine it so give you the ability to do tiered rate structure should you choose to do it.

COUNCILMEMBER SUGIMURA: Okay. Done.

MR. TERUYA: It doesn't mean you have to, it gives you an option.

COUNCILMEMBER KAMA: So, it's an opportunity.

COUNCILMEMBER SUGIMURA: Okay. I wanted to just hear you say that. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sugimura. Any more questions?

COUNCILMEMBER SUGIMURA: Done.

CHAIR RAWLINS-FERNANDEZ: Okay.

UNIDENTIFIED SPEAKER: Consensus.

CHAIR RAWLINS-FERNANDEZ: Okay. Any other questions on this section? Okay. All right, I'll ask for consensus.

COUNCILMEMBERS: Consensus.

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CHAIR RAWLINS-FERNANDEZ: Okay, okay. Okay, the next section is 3.48.575, Use of increased or decreased tax rates and tiers. And so, in this section we just add “and tiers” where rates is mentioned so that the tiers again will be included in the same process in establishing the rates. Any questions? Consensus?

COUNCILMEMBERS: Consensus.

CHAIR RAWLINS-FERNANDEZ: Okay, great. Okay, next is 3.48.580, Calculations submitted by director. Okay. A lot of these are just kind of housekeeping, just kind of making...tightening up the language. On or before April 19 preceding the tax year, the director of finance shall furnish the council with a calculation certified--and we took out “by him” ‘cause it could also be a her--as being as nearly accurate as possible, of the estimated revenues derived using the rates and tiers set forth in the proposed budget, separately stated for each category [sic] established in accordance with Section 3.48.305, for net taxable real property. And so, here’s where the land and the building is also combined. And as part B and then part A. And then part B again, On or before May 1 preceding the tax year, the director of finance shall furnish the council with a calculation certified as being as nearly accurate as possible, of the net taxable real property within the County, separately stated for each classification established in accordance with section 3.48.305 plus such additional data relating to the property tax base as may be necessary. So, there were “categories” changed to “classification,” it’s just so that there’s no confusion with what we’re talking about so we’re using the same term as referenced in 3.48.305, and again, combining land and building there. Okay, any questions on this section? Member Molina?

COUNCILMEMBER MOLINA: Yeah, yeah, thank you, Madam Chair. And I know this might be kind of silly but just, well, spelling later on, yeah, director of Finance, I guess the D for Director should be capitalized, yeah? Or am...is that appropriate? Director and Finance capitals, and that’s for later on. But just curious about the insertion of the word “possible,” I know it originally read “accurate as of the estimated revenues.” Now, we’re saying accurate as possible. Just curious why we want to...I guess is that --

CHAIR RAWLINS-FERNANDEZ: It used to be...

COUNCILMEMBER MOLINA: --well to add further emphasis?

CHAIR RAWLINS-FERNANDEZ: Oh, no, no, no. It, so it used to say “as...”

COUNCILMEMBER MOLINA: Of the estimated revenues.

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CHAIR RAWLINS-FERNANDEZ: Being as nearly accurate as may be. And so, we changed “may be” to “possible.”

COUNCILMEMBER MOLINA: Oh, okay.

CHAIR RAWLINS-FERNANDEZ: So, it’s the same concept.

COUNCILMEMBER MOLINA: Okay.

CHAIR RAWLINS-FERNANDEZ: Different words.

COUNCILMEMBER MOLINA: Different words.

CHAIR RAWLINS-FERNANDEZ: Yeah.

COUNCILMEMBER MOLINA: Okay.

CHAIR RAWLINS-FERNANDEZ: Yeah.

COUNCILMEMBER MOLINA: Kind of like building and land, you’re going to have the same thing right? Okay.

CHAIR RAWLINS-FERNANDEZ: No, no, not the same as that.

COUNCILMEMBER MOLINA: Well, yeah, yeah. Okay, okay.

CHAIR RAWLINS-FERNANDEZ: Different.

COUNCILMEMBER MOLINA: All right.

CHAIR RAWLINS-FERNANDEZ: May be and possible are interchangeable, but...

COUNCILMEMBER MOLINA: Okay, well, I appreciate the language, so okay.

CHAIR RAWLINS-FERNANDEZ: Okay. And then as far as capitalizing the Director, I know there are rules and guidelines in...for legislation and we’ll follow the guidelines. And if it does say to capitalize Director, I’ll be happy to capitalize Director.

COUNCILMEMBER MOLINA: Yeah, I just thought it was because it was a title of someone so anyway that’s just me.

CHAIR RAWLINS-FERNANDEZ: I think in English, so there’s like MLA rules and --

COUNCILMEMBER MOLINA: Yeah.

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CHAIR RAWLINS-FERNANDEZ: --you know like for...there's the Blue Book rules and for law, and --

COUNCILMEMBER MOLINA: Oh, okay.

CHAIR RAWLINS-FERNANDEZ: --for legislation there's different rules and guidelines and for writing.

COUNCILMEMBER MOLINA: Okay.

CHAIR RAWLINS-FERNANDEZ: Yeah.

COUNCILMEMBER MOLINA: Appreciate the education.

CHAIR RAWLINS-FERNANDEZ: So, we'll consult that and then we'll make that change if that's what it tells us to do.

COUNCILMEMBER MOLINA: Thank you.

CHAIR RAWLINS-FERNANDEZ: Okay, any other questions? Okay, consensus?

COUNCILMEMBERS: Consensus.

CHAIR RAWLINS-FERNANDEZ: Okay, next section. Okay, 3.48.585, Validity. And in this section we just added "and tier" after tax rate. Consensus?

COUNCILMEMBERS: Consensus.

CHAIR RAWLINS-FERNANDEZ: Okay, great. All right. And then the...that's it for this first bill. Okay. Okay. All right. Member Hokama?

COUNCILMEMBER HOKAMA: Just a question for Mr. Teruya please under .590. I know we just did housekeeping adjustments from numbers to letters, but I was still...that 150, is that...with the asterisk, that amount is whatever becomes the budgetary annual minimum real property tax number?

MR. TERUYA: Chair?

CHAIR RAWLINS-FERNANDEZ: Director?

MR. TERUYA: In letters D and --

COUNCILMEMBER HOKAMA: A, B, C, D.

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MR. TERUYA: --and E, those are not related to the minimum tax, those are numbers that were established by the Code. The minimum tax right now is at \$400 so this is other than the minimum tax. So...yeah, this is just, it's in the Code.

COUNCILMEMBER HOKAMA: Yeah, so is it still a good number? If you say this is in the Code, you know, we established this Code 100 years ago.

CHAIR RAWLINS-FERNANDEZ: Are you talking about the minimum, this language here? And as far...Member Hokama, are you asking about it being at \$400? Oh, okay. Mr. Ueoka?

MR. UEOKA: Thank you, Chair. Mr. Hokama, I believe it was like a few years ago that was changed, because there was a lot of people complaining about the high...there were complaints about remnant parcels being kind of worthless and they were having to pay the minimum tax on it. So, I believe the Council to address that and, you know, for those people, they lowered it, they lowered the minimum tax. Rather than giving a full exemption they just lowered it below the minimum tax. So, I believe that's why the language is specific to remnant parcels granted an exemption under 3.48.552 to be levied a real property tax of 150 per year. It was just an accommodation. You guys may revisit if you deem fit just through this rather than the annual Budget Ordinance. Thank you, Chair.

COUNCILMEMBER HOKAMA: Well, if we're --

CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Ueoka.

COUNCILMEMBER HOKAMA: --losing money we should review it. Okay. 'Cause we shouldn't be losing money on this remnants either. Okay, Chair, I'm good.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Hokama. Okay. Okay, since we have two bills listed under the same item I would like to ask the Members for consensus on the bill proposal, including any changes we have made today and begin our review of the second bill. After we complete our review of the second bill, I will entertain a motion--if we get there--to pass...or when we get there to pass both bills under EDB-37.

VICE-CHAIR KING: Chair?

CHAIR RAWLINS-FERNANDEZ: Any objections?

VICE-CHAIR KING: Just a --

CHAIR RAWLINS-FERNANDEZ: Chair King?

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VICE-CHAIR KING: --quick question. So, we're not discussing what any price structure right now, we're just putting in a structure to --

CHAIR RAWLINS-FERNANDEZ: Yes.

VICE-CHAIR KING: --create the tiers and then later on we'll do the...okay.

CHAIR RAWLINS-FERNANDEZ: In Budget.

VICE-CHAIR KING: Okay. So, did we make that change to, on this bill to 3 and 4 to add the third tier?

CHAIR RAWLINS-FERNANDEZ: Yes.

VICE-CHAIR KING: Okay, so that's the amendment. That's what we're voting on or we're just, it comes to --

CHAIR RAWLINS-FERNANDEZ: We had consensus on it.

VICE-CHAIR KING: --consensus? Okay. All right.

CHAIR RAWLINS-FERNANDEZ: Okay, any other questions? Member Sugimura?

COUNCILMEMBER SUGIMURA: So, based upon Member Hokama's question about the review for remnant piece, if you're looking at passing this bill today, are you going to take that up also in terms of a discussion? I don't even understand what that means, so, on that remnants, remnant pieces.

CHAIR RAWLINS-FERNANDEZ: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. And just to move things along, 3.48.552, remnant parcel exemption. A remnant parcel shall be levied a real property tax of 150 per year, provided the Department of Finance may require proof that...proof the property meets the definition of a remnant parcel. For the purposes of this section remnant parcel means a vacant, undeveloped parcel that is less than 5,000 square feet in size with a market value below \$7,500. So, that was...you have to file for that exemption if you meet what a remnant parcel means, because it's really...usually they're...got a fair-market value below 7,500, it's difficult so that's why they...that was the intent behind the exemption back then. So, there's certain parameters you must meet to be a remnant parcel to pay the 150 per year. Thank you, Chair.

COUNCILMEMBER SUGIMURA: So, based upon what Mr. Ueoka said, if I could continue the next question. So, you're fine with the language as it is about the 150 amount or...

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MR. UEOKA: It doesn't matter how I feel.

COUNCILMEMBER SUGIMURA: Yeah.

MR. TERUYA: Chair?

CHAIR RAWLINS-FERNANDEZ: Director?

MR. TERUYA: The 150 amount, we don't have a recommendation, it's up to this body to visit. It's...the reason why we did it as a remnant parcel, you got to remember several years ago we raised the minimum tax to \$400, and to offset that for the people who came in and said they had multiple remnant pieces and that, you know, if they don't pay it, ultimately it goes delinquent and the County can't sell it because these are remnant pieces. We kept it very minimal so they would continue to maintain those payments. So, we just kept it low and we had a definition of what is remnant so that not all types of properties come in, it's really, truly...I'm not going to say it's worthless but it's close to nothing. So, in the best interest of making sure that people don't go delinquent on these pieces we kept it relatively nominal.

COUNCILMEMBER SUGIMURA: Oh, I see. Thank you for the explanation.

COUNCILMEMBER KAMA: So, I just...

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sugimura.

COUNCILMEMBER KAMA: Chair?

CHAIR RAWLINS-FERNANDEZ: Pro-Temp Kama?

COUNCILMEMBER KAMA: So, I just wanted to be real clear. So, it has to be vacant, under 5,000 square feet, and it cannot be valued more than \$7,500, is that what the definition of remnant is?

CHAIR RAWLINS-FERNANDEZ: Mr. Ueoka?

MR. UEOKA: That is correct, Member Kama.

COUNCILMEMBER KAMA: Okay, cool. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Pro-Temp Kama. Okay, Chair King?

VICE-CHAIR KING: Yeah, thank you. So, we're not discussing any changes to that piece of it, that's not on here anyway. Okay.

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CHAIR RAWLINS-FERNANDEZ: It wasn't a recommendation of the TIG.

VICE-CHAIR KING: Right, okay. I just wanted to ask if you had any discussion of a potential fourth tier, or was it concluded that three would be enough?

CHAIR RAWLINS-FERNANDEZ: The software could only go up to three.

VICE-CHAIR KING: Okay, so the current software that we have. Okay. All right, thank you.

CHAIR RAWLINS-FERNANDEZ: Okay, any other questions? If not, it's time for our morning break. And so...I know, I know, I was having so much fun. But it's okay, we'll just take a quick break and we'll get right back into it. Okay, so it's 10:33 on October 3rd. We'll have a ten-minute break. Please return to your seats by 10:44. Okay? All right, EDB Committee is now in recess. . . .*(gavel)*. . .

RECESS: 10:33 a.m.
RECONVENE: 10:54 a.m.

CHAIR RAWLINS-FERNANDEZ: . . .*(gavel)*. . . Will the Economic Development and Budget Committee please return to order. It is 10:54 on October 3rd. Mahalo to Member Molina for his recommendation, we now have the bill up on the screen for everyone's viewing pleasure.

COUNCILMEMBER HOKAMA: Very good.

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

CHAIR RAWLINS-FERNANDEZ: Oh, that was a recommendation by Member Lee? Oh, mahalo, Member Lee, for your recommendation.

COUNCILMEMBER LEE: I was recommending pictures.

CHAIR RAWLINS-FERNANDEZ: Oh, pictures. Aw . . .*(chuckling)*. . . Okay, next time. All right, so will everyone grab your second bill and this is entitled A Bill for an Ordinance Relating to Real Property Tax Valuations. This bill accomplishes many things. So, if the...if it pleases the committee, we'll take it up the same way we took up the first bill in sections and ask for consensus. Okay. Where is my red one? Oh, okay. Okay, all right. Okay, the first section deals with classifications of real property and definitions of the classes. I know that we have had some feedback and questions about the addition of vacant agriculture and vacant conservation, so I expect some discussion there. So, if we go to 3.48.305, Classification of real property. So, yeah, so we struck out of "land

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and building” and combining it to “real property.” A. Except as otherwise provided in subsection B, real property shall be classified, upon consideration of its highest and best use, into the following general classes: 1. Non-owner-occupied; 2. Owner-occupied; 3. Commercialized residential; 4. Timeshare; 5. Short-term rental; 6. Hotel and resort; 7. Agricultural; 8. Vacant agricultural; 9. Conservation; 10. Vacant conservation...turn off your mic.

VICE-CHAIR KING: So, Chair, just point of information. If you look at the bill it's totally different.

CHAIR RAWLINS-FERNANDEZ: Yeah, so we're following the --

VICE-CHAIR KING: Okay.

CHAIR RAWLINS-FERNANDEZ: --monitor.

VICE-CHAIR KING: Okay. So, for those --

CHAIR RAWLINS-FERNANDEZ: The TV screen.

VICE-CHAIR KING: --who were... 'cause I think the Director was following the bill so we're following the actual...

CHAIR RAWLINS-FERNANDEZ: We're following the TV screen. 9. Conservation; 10. Vacant conservation; 11. Commercial/Industrial. Okay. And then we'll go into the definitions. Okay. Okay. B. In assigning land to one of the general classes, the director shall have...shall give major consideration to the districting established by the land use commission pursuant to chapter 205, Hawaii Revised Statutes, the districting established by the County in its general plan and zoning ordinance, use classifications established in the general plan of the State, and such other factors that influence highest and best use, except that: 1. Any dwelling, as defined in section 18.04.165, Maui County Code, in any class except “Hotel and resort,” “Timeshare,” “Commercial/Industrial,” “Commercial [sic] residential,” or “Short-term rental,” shall be designated “Non-Owner-occupied” or “Owner-occupied.” A parcel that does not serve as the owner's primary residence shall be classified as “Non-Owner-occupied.” The [sic] parcel that is used as the owner's principal residence and has been granted a home exemption in accordance with section 3.48.410 and 3.48.475, shall be classified as “Owner-Occupied” without regard to its highest and best use; 2. The [sic] parcel that serves as the owner's primary residence and has been granted a bed and breakfast permit, a transient vacation rental permit, or a conditional permit allowing a transient vacation rental use pursuant to title 19 of this code, shall be classified “Commercial [sic] residential” without regard to its highest and best use, and shall not qualify for a home exemption; 3. A

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parcel that is subject to a time share plan as defined in section 514E-1, HRS, as amended, shall be classified as "Timeshare;" 4. Unless classified as "Timeshare," "Hotel and resort," or "Commercialized residential," lodging or dwelling units, as defined in title 19 of this code, occupied by transient tenants for periods of less than six consecutive months shall be classified as "Short-term rental" including a parcel that does not serve as the owner's primary residence and has been granted a short-term rental home permit, a transient vacation rental permit, or a conditional permit allowing transient vacation rental use pursuant to title 19 of this code shall be classified as "Short-term rental" without regard to its highest and best use, and shall not qualify for a home exemption; 5. Unless classified as "Timeshare" or "commercialized residential," properties occupied by transient tenants for periods of less than six consecutive months, have eight or more lodging or dwelling units as defined in title 19 of this code, and employ more than twenty full-time persons, shall be classified as "Hotel and resort;" 6. "Vacant agricultural" which [sic] means a parcel, or portion thereof, which would otherwise be classified agricultural by the director upon major consideration of the districting established by the county in its general plan and zoning ordinance and of such other factors which influence highest and best use, but which parcel, or portion thereof: (i) has no residential buildings; and (ii) is not dedicated for agricultural purposes. If a portion of the parcel is dedicated as vacant agricultural, the remainder of the parcel that is zoned agricultural must be dedicated for agricultural use; 7. "Vacant Conservation" means a parcel, or portion thereof, which would otherwise be classified conservation by the director upon major consideration of the districting established by the county in its general plan and zoning ordinance and of such other factors which influences highest and best use, but which parcel, or portion thereof: (i) has no residential buildings; and (ii) is not dedicated for conservation purposes. If a portion of a parcel is dedicated as vacant conservation, the remainder of the parcel that is zoned conservation must be dedicated for conservation use. And C. Notwithstanding the foregoing, a parcel that does not serve as the owner's primary residence and was, prior to May 23, 2012, granted a conditional permit for bed and breakfast or transient vacation rental use pursuant to title 19 of this code, was classified as "Commercial [sic] residential" prior to May 23, 2012, shall retain "Commercialized residential" classification. Okay. Okay. We'll take it in order and then I'll call on Member Hokama. I don't know, should we go in order or...okay, Member Hokama?

COUNCILMEMBER HOKAMA: Okay, thank you, Chair. And maybe to assist you maybe all of us can just come up with maybe two or at the most three questions and then hand it off and then keep the pace going for you.

CHAIR RAWLINS-FERNANDEZ: Sounds like a great plan. Mahalo, Member Hokama.

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COUNCILMEMBER HOKAMA: Okay, thank you. My first and first few questions would be at the beginning as the Chair read, Mr. Teruya, I get what you said 'cause nationally everybody understands homeowner or a residential classification. So, you think we're really going to have some issues with convincing our home ownership of their...that it's just a new term? Again yeah, part of it is going to be how we put out our educational piece once we make final adoption of our policy. So, additional thoughts? 'Cause I know what you're saying, I mean even the last assessor's conference, we all went through this, they would talk about homeowners. So, I appreciate your concern about potential confusion or misunderstandings.

CHAIR RAWLINS-FERNANDEZ: Director?

MR. TERUYA: Thank you, Chair. Member Hokama, thank you for that question. Like anything, anytime you change something when people are used to it, it's a learning curve. There's going to be initial appeals just because of the uncertainty of how people are classified. That's going to be normal for the Division to enter into many appeals, because things change, people get called different things. People assume that the title means something other than what it's intended for. And that's just the nature of change. Residential, we know it what it is to be. All the classifications that we currently have and exist, the Division administers it very efficiently. I'm not sure how the change will affect and how it is going to be black and white or grey or what it's going to be, but that's going to come with it. My recommendation is always to try to keep the classifications the way it is. I'm open to the change as the Chair has proposed, but there are going to be instances that are going to be very unusual or not as easy to administer. I...there are some things that I'm looking through as a process of elimination, because here we are striking the classification of Apartment and I don't know how you're going to treat an apartment, because an apartment is not...or is it considered the dwelling or are you going to have a definition of what a dwelling is, because I'm not sure if an apartment is treated as a dwelling or vice versa. So, just a process of elimination, I'm not sure how things are going to be classified. In the City and County of Honolulu, the Residential classification, they define it as I think one to four dwelling units so that you have inclusive of multiple, you know, multiple...four-unit projects to be inclusive in Residential so that the large apartments such as discussed, maybe some of you might know like Kihei Regency in Kihei, larger apartment complexes, how is that...where are they going to go? I'm not so certain, maybe it's in here and I'm not figuring it out, but as of right now, those are some of the questions I have in my head, how to classify certain properties. So, we'll step through it and maybe Marcy Martin, the Administrator for Real Property may have further questions, because ultimately we need to know how to implement it. And thank you, Chair.

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COUNCILMEMBER HOKAMA: Okay. So, you know, I see our Chair has posted a communication from your Department for tomorrow which would adjust the condominium/apartment component and I reviewed that. That's something we've talked about last term. So, knowing it's coming to our Chair's Committee, is that maybe one of the vehicles we should be pushing out first before we push this out and get that squared away under the condominium/apartment area?

MR. TERUYA: Chair?

CHAIR RAWLINS-FERNANDEZ: Director?

MR. TERUYA: I want to be clear that in the proposal, the Chair has included the proposal that we...that I believe is coming out tomorrow. We had, the Administration and the Mayor has pushed for the repeal of condominium Code 3.48.305(C) and it's inclusive in this, the Chair's proposal. And I just want to let the Chair know I appreciate that, that we had pushed very hard, that the Chair had considered that portion as well. But it's part of this larger multiple things that are happening in this bill --

COUNCILMEMBER HOKAMA: Right, right.

MR. TERUYA: --but it is included --

COUNCILMEMBER HOKAMA: Yeah, no, no --

MR. TERUYA: --in here.

COUNCILMEMBER HOKAMA: --I supporting the Chair on this position. What I need to know is does it help us as well as you to push out that condo component first and then come up with the balance of this legislation, or one time would be okay with your ability to implement and --

MR. TERUYA: Chair?

COUNCILMEMBER HOKAMA: --effectuate?

CHAIR RAWLINS-FERNANDEZ: Director?

MR. TERUYA: I think it will be cleaner if it's separate. I think it kind of...this a huge bill, I mean there are multiple things happening in here. If we repeal the condo code then that's less to deal with, because there's a whole different section on classification on 305(C).

COUNCILMEMBER HOKAMA: Right.

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MR. TERUYA: If it's separate, it makes it a little cleaner, but it may or may not have to, depends how the Chair wants to move forward so I'll defer to the Chair's wishes on this. Thank you.

COUNCILMEMBER HOKAMA: Okay. No, no again, I appreciate the operations perspective, yeah. I mean, you know, we have a definite frame of mind from the Committee, but, you know, we understand the need of operations making it really happen. So, you know, we ask for your comments, and I appreciate that. Chair, I'm done for this portion so I'm happy to have the next Member ask their questions. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Hokama. Chair King?

VICE-CHAIR KING: Thank you, Chair. So, are...I mean are we, for process-wise are we going through these one at a time or one, two, three at a time? Are we just kind of bouncing around as far as the different classifications?

CHAIR RAWLINS-FERNANDEZ: Yeah, so this first section I know is a long section so I think Member Hokama's suggestion on just having two to three questions at a time...

VICE-CHAIR KING: Okay, but you're...we're...we can ask them on this whole section?

CHAIR RAWLINS-FERNANDEZ: Yeah.

VICE-CHAIR KING: Okay. So, my first question was are we at this point...because I'm assuming that some of those questions that were asked earlier about the difference between a home and an apartment would be designated in the tiers. Is that the intent of that? Oh, so you have the non-owner-occupied and the owner-occupied, and then what is the intent of the descriptions of the tiers, the three tiers?

CHAIR RAWLINS-FERNANDEZ: Okay. So, in this classification the intention behind our renaming and reclassifying is to kind of clean it up to make it easier for all our community members to understand, 'cause homeowners are residents and I know sometimes community members are, you know, they could get confused about whether they're in a, you know, Residential classification because they are residents and they live in residential areas. So, the intention behind this was to put everyone who has a dwelling into these classifications and hopefully catch a lot of those that have, you know, took advantage of some loopholes.

VICE-CHAIR KING: Okay, so regardless of if they're in an apartment or a condo or a house, if they own it and they live there, they would be in the owner-occupied category?

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CHAIR RAWLINS-FERNANDEZ: Right.

VICE-CHAIR KING: Okay. And then are the tiers meant to designate different values in different levels of --

CHAIR RAWLINS-FERNANDEZ: Assessed property values.

VICE-CHAIR KING: --assessed...okay. So, it's not like the tiers are going to be used to separate people who are in apartments from people who are in homes or...

CHAIR RAWLINS-FERNANDEZ: No, the classification is that.

VICE-CHAIR KING: So, there's going to be one category. Okay. And then my second question is in B(1) on the second...well, I don't...they're not in pages and numbered.

CHAIR RAWLINS-FERNANDEZ: Yes.

VICE-CHAIR KING: But okay, B(1), there's a section that says any dwelling in any class except hotel and...so it goes through the exceptions but it doesn't except agriculture. So, is agriculture...so how are we defining agriculture as far as non-owner or owner-occupied?

CHAIR RAWLINS-FERNANDEZ: If the owner lives on the agricultural property then it's owner-occupied. If it doesn't then it is a non-owner-occupied.

VICE-CHAIR KING: Okay, so that...so then they're in the owner-occupied category, not in agriculture? Or how are we...because we still have the agriculture and vacant agriculture. So, how does that...

CHAIR RAWLINS-FERNANDEZ: If there's a dwelling on the property then it'll be classified either owner-occupied or non-owner-occupied.

VICE-CHAIR KING: Okay, so then it won't be agriculture?

CHAIR RAWLINS-FERNANDEZ: There's also an actual use if your concern is if those are farming will get hit harder. Mr. Galazin?

MR. GALAZIN: Thank you, Chair, for allowing me to chime in while we're discussing this section. One thing I wanted to bring up while we talk this, in B(1) it starts out you're talking about any dwelling as defined in that Section 18.04 which is in the Subdivision Ordinance, but the rest of the sentences and sections talk about the parcel serving as the owner's primary residence and the parcel instead of the dwelling. So, if...maybe I could work with Staff just to make sure there's no confusion about the dwelling being designated one thing or the

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parcel. So, just keep that in mind if you're talking about, you know, as far as the agricultural use. Right now, you just have something defined as the dwelling itself and you're sort of divorcing that from the parcel.

VICE-CHAIR KING: Right. So, if the parcel is...like we just looked at a potential ag subdivision yesterday, and if the parcel is 36 acres on one parcel and there's 1 dwelling on it then that whole 36 acres gets taxed at the owner-occupant [sic] dwelling rate versus agriculture? So, I'm getting a little bit confused as...

MR. TERUYA: Chair?

VICE-CHAIR KING: I think that's the problem is that people don't know when they would fit into agriculture and when they would fit into owner-occupant [sic] or non-owner-occupant [sic].

CHAIR RAWLINS-FERNANDEZ: Director?

MR. TERUYA: When I read the proposed language, I'm assuming that if there's a dwelling that the classification will be non-owner-occupied. That would fall in that class. That's how I read the proposal. Chair, just one comment, I know we're referring to a dwelling in Chapter 18 which is the Subdivision Code. I'm not sure if it should be in chapter...in Title 19. I'm not sure if Mr. Ueoka was discussing that as well. I'm not sure if that's the right reference to. Yeah, maybe if you have a comment maybe as far as when you're talking about dwelling.

CHAIR RAWLINS-FERNANDEZ: Yeah, we definitely had that discussion in the TIG committee. Mr. Ueoka?

MR. UEOKA: Thank you, Chair. Yes, we did discuss that. My feel was I like the zoning definition better, because it refers more to use whereas the subdivision definition is more towards what types of things you're doing in the subdivision. So, it's a lot of intended to be used as type language in 18.04.165. And intended to be used as, it would be difficult when you're trying to classify property at a later date. So, just a slight comment. Thank you, Chair.

VICE-CHAIR KING: So, if I can follow up, if it's zoned Agriculture but there's a subdivision on it then...because, you know, we just had this discussion yesterday in committee that we were looking at somebody was asking for a Change in Zoning to Agriculture so they could put an ag subdivision in it. And that would have a zoning of Agriculture, but it would have people living in those lots that were owner-occupants. So, I'm assuming if...or a non-owner, so they would go into...so they would get taxed as an owner-occupant [sic] or a non-owner-occupant...I mean a non-owner-occupied rate rather than the ag rate. Is that correct?

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MR. TERUYA: Chair?

CHAIR RAWLINS-FERNANDEZ: Director?

MR. TERUYA: I would maybe caution not using the rate but the classification. But that is how I read it that if you're owner-occupied and you qualify for the exemption that you'll fall in this owner-occupied classification. If you're on Agricultural-zoned land and you do not have a home exemption, you will be classified as non-owner-occupied.

VICE-CHAIR KING: Okay. But that...but what I'm trying to get at is if you are Ag zoned but you live on your land and you get...you can't...are you saying you can't get an homeowner's exemption?

MR. TERUYA: Chair?

VICE-CHAIR KING: So, you get an homeowner's exemption 'cause you live on ag land, even though you're zoned Ag you would be in the classification of owner-occupied. Is that correct?

MR. TERUYA: Chair?

CHAIR RAWLINS-FERNANDEZ: Director?

MR. TERUYA: Let me try to put it this way. Currently, if you're on agricultural land and you have a home exemption, you're classified as Homeowner. In this proposal it's just changing Homeowner to owner-occupied --

VICE-CHAIR KING: Okay.

MR. TERUYA: --as a classification.

VICE-CHAIR KING: Okay, so we're not necessarily...

MR. TERUYA: So, it's just a classification...

VICE-CHAIR KING: Okay, so we're not necessarily just going by zoning, we're going by...

MR. TERUYA: It's just a placeholder of what this classification is called. It's just...my understanding is this proposal is just to change the term...the classification of Homeowner to owner-occupied. I think that's why...that's kind of the reason why I'm saying when we change it, everybody...what you're used to is no longer there so it's just the name of the classification is changed.

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VICE-CHAIR KING: Okay. So, I guess...so then...so the word vacant means that there's nothing happening there or there's nobody living there? We got vacant agriculture and vacant conservation, and I don't know what the difference between conservation and vacant conservation is.

MR. TERUYA: Chair?

CHAIR RAWLINS-FERNANDEZ: Oh, Director?

MR. TERUYA: I'm going to have to defer that to...I didn't create the, those classifications. I'm not really certain so I'll kind of defer to Chair at this time for the vacant agriculture and the vacant conservation.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Director. Okay, I'll defer to our TIG member, Member Paltin to explain.

COUNCILMEMBER PALTIN: Thank you, Chair. So, I kind of mentioned that we might want vacant agriculture and vacant conservation tax classes...is that what they're called, classes? Categories.

CHAIR RAWLINS-FERNANDEZ: Classifications.

COUNCILMEMBER PALTIN: And classifications. And the intent was to, you know, when you talk about highest and best use and a lot of people's feelings about ag subdivisions and things like that. So, the intent of creating vacant ag was to incentivize true ag and not development for dwellings and gentleman estates and whatnot. So, the intent...and then we may need to work on the definition a little, but the intent was if somebody has a large parcel and they're doing all ag and they're not living on it at all, we should encourage that because we do need true ag and the amount of ag lands that we have that doesn't have houses on it to this day is precious to us. And we tried to address it through sliding scale or, you know, I mean we haven't gotten to the cluster homes thing yet so it was just to incentivize that, like and recognize that they're using it for ag, they're not putting up houses on it and to give them a classification like that. And then kind of along the same lines for conservation like out in my district that I reside in, you have like multimillion-dollar homes on conservation land and it...in the building of those homes there was a backwards step to the conservation of the resource. So, and I do need to put more, a little bit more research into it. But, you know, like our watersheds and things like that which are kind of like State Conservation and they're being taken care of, partnerships, I wanted to recognize that. Like there's no dwellings that would harm that conservation area and maybe they're actively taking care of it like, you know, Puu Kukui Watershed Preserve or East Maui Watershed and just recognize that and put them in their own tax category to incentivize those types of uses.

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VICE-CHAIR KING: So, is the...

CHAIR RAWLINS-FERNANDEZ: Mahalo for that...

VICE-CHAIR KING: So, is the...so you're...I'm not, I'm still not clear on what vacant agriculture means, so that means...so you're saying that that's a better...that would be agriculture that is, that doesn't have anyone living on it?

CHAIR RAWLINS-FERNANDEZ: Okay.

VICE-CHAIR KING: And so, that would be...

COUNCILMEMBER PALTIN: No dwelling.

VICE-CHAIR KING: So, and then the...and then as opposed to agriculture that has dwellings on it?

COUNCILMEMBER PALTIN: Uh-huh.

VICE-CHAIR KING: So, that's what we're saying with the vacant and the agriculture?

COUNCILMEMBER PALTIN: Yeah, because, you know, when we talk about highest and best use maybe you're talking about an ag subdivision --

VICE-CHAIR KING: Okay.

COUNCILMEMBER PALTIN: --where...

VICE-CHAIR KING: So, but what if something doesn't have anything and it doesn't have any dwellings on it but it also is fallow?

COUNCILMEMBER PALTIN: I wouldn't like to encourage development of fallow fields, I'd like to encourage agriculture of fallow fields.

CHAIR RAWLINS-FERNANDEZ: We discussed that particular issue about fallow. Fallow is part of farming practices so it would be included in active farming. So, I'm going to...perhaps we can...

VICE-CHAIR KING: Okay, so that's part of vacant agriculture?

CHAIR RAWLINS-FERNANDEZ: Yeah, if it's, they're actually farming. So, I'm going to have us take a quick step back to ask the Department to explain what kinds of uses are on conservation and agricultural, because conservation, you know, intuitively how we define conservation is one thing, and how...

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COUNCILMEMBER PALTIN: How it's actually used.

CHAIR RAWLINS-FERNANDEZ: Yeah, exactly. And what's been happening in practice is a little different. So, that was part of the purpose in having owner-occupied, non-owner-occupied, because there's a lot of dwellings on conservation. And then I'm just going to remind Members that if...when you're not speaking to please turn off your mic. Okay, Department?

MR. TERUYA: Thank you, Chair. I guess I would just put out the caution out here, vacant conservation, many of your lands that are coastal lands which your hotels reside on, many...majority or some, I can't say what...maybe about 50 percent, let's just generalize. Your hotel lands have half Conservation zoning as well. Those portions are normally part of the setback where probably there's no improvements. Would that be considered vacant conservation? With a hotel on it but the zoning is split between Hotel and Conservation, how will that be handled? That would be one question I would...we would...we should know how we're going to handle those situations.

COUNCILMEMBER PALTIN: If you're asking me, I would say, you know, in the thinking about it I'm not sure if this is, vacant ag and vacant conservation can meet the deadline for TIG one and two and I'm happy to bring it back if we need to do more. But in just the short amount of time that I was thinking about that sort of thing, you know, and what Mr. Jacintho was saying, possibly something that could work for that is, you know, like a certain amount of time if it hasn't had any development of anything. Like that could apply to the retired rancher that has his house there, but he hasn't built a new house in say 20 years or he hasn't built a new hotel or any kind of structure in 20 years. And like for the hotels, like, you know, if they had been more knowledgeable and forward thinking, they might not have built so close to the ocean. But they're not building any further structures in that conservation land for like say the last 20 years or whatever the time amount is and they're using it as a buffer and they're not allowed to use it anymore. I don't see a problem with giving them the tax break, because they're acknowledging that they're not going to try and build more structures in this area that is sensitive and thus zoned Conservation. But that's just something that came to mind this morning after Mr. Jacintho's testimony. You know same thing for a large ranch, if they have their one dwelling that has been like, you know, that the dwelling for the rancher when he's been doing his ranch his lifetime and then he retires and, you know, you make some improvements or whatever, but you're not going out and highest and best using, ag subdivision'ing it, you know.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin. Okay. So, as Member Paltin suggested, you know, we are having a TIG, tax reform TIG part two and we'd be willing to fix this up in that second meeting.

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VICE-CHAIR KING: Okay.

CHAIR RAWLINS-FERNANDEZ: But...

VICE-CHAIR KING: So, the...but the...

CHAIR RAWLINS-FERNANDEZ: I think Member Lee...

VICE-CHAIR KING: Do we have to re-form the TIG if it got dissolved?

CHAIR RAWLINS-FERNANDEZ: Yeah, we got to reform it.

VICE-CHAIR KING: Okay.

CHAIR RAWLINS-FERNANDEZ: Member Lee, did you want to add to this conversation?

COUNCILMEMBER LEE: Yes, I did and I do and I will. Okay. So, I really want to talk to Marcy Martin who was at almost every meeting with us, and she is in charge of real property. So, Marcy, looking at the classifications that we created, which ones would be fairly easy to implement and which ones would give you difficulty?

CHAIR RAWLINS-FERNANDEZ: Member Lee, before I ask Ms. Martin to respond to your question, I'm just going to close the discussion that we had on vacant ag and vacant conservation, and we'll defer it to the next TIG. Member Sinenci, did you want to say something about vacant ag or vacant conservation before we close that and move on --

COUNCILMEMBER SINENCI: Yeah, sorry. Just --

CHAIR RAWLINS-FERNANDEZ: --and not bring it back up again?

COUNCILMEMBER SINENCI: --a comment about vacant conservation. If there was like a deed restriction or some kind of like timeline for conservation, does it...is it in there for perpetuity or so many years, or can you still go ahead and change zoning out of Conservation? That was my question.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sinenci.

COUNCILMEMBER SINENCI: Thank you.

CHAIR RAWLINS-FERNANDEZ: And then we'll take up that question in TIG part two.

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COUNCILMEMBER SINENCI: Thank you.

CHAIR RAWLINS-FERNANDEZ: Yeah? Okay, cool. Member Lee's question to Ms. Martin. Ms. Martin, will you please respond to Member Lee's question?

MS. MARTIN: Chair, thank you. With the vacant agriculture and the vacant conservation out of the discussion...

COUNCILMEMBER LEE: Marcy, can you just go down the line, you know, one, non-owner-occupied, no problem; two, owner-occupied, no problem? You know like that? All in order.

CHAIR RAWLINS-FERNANDEZ: And then you can skip vacant ag and vacant conservation, because we're going to defer those two items and the definitions for TIG part two. Mahalo.

MS. MARTIN: Okay, thank you, Chair. So, for one, non-owner-occupied, the difficulty again would be the transition in the language to the public. They're used to residential so it would require some public outreach. Also, Director Teruya had mentioned we would have some questions in terms of apartment buildings and where they would fall into. For number two, owner-occupied, the appraisal industry standards typically refer to this category as homeowner or homestead. A lot of people feel they're owner-occupied and may not meet our definition of owner occupancy. And again, part of that would be public outreach and letting people know that they haven't lost their home exemption if the change of their classification terminology is different. Hotel and resort is no change. Time share is no change. But commercial and industrial do have different types of properties. Traditionally Industrial has, you know, warehouses or more impactful uses than Commercial. So, by placing them in the category you're going to...in one category, you're going to lose that distinction between those different types of uses. And then I think from there everything stays the same.

COUNCILMEMBER LEE: Okay. So, Marcy, so far one and two would be more of an educational concern and not only concern but you, we can handle this through public outreach and education right? But I, as far as implementation, same thing?

CHAIR RAWLINS-FERNANDEZ: Ms. Martin?

MS. MARTIN: Chair, yes. That is true with the exception of like we said the apartment buildings.

COUNCILMEMBER LEE: Okay.

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MS. MARTIN: Yes, we would try to make those changes. And again, I would like to say that the sooner we get those changes, the better.

COUNCILMEMBER LEE: Okay. So, then the other one no change is timeshare and which one, hotel and resort?

MS. MARTIN: Yes.

COUNCILMEMBER LEE: Okay. Okay. And then the ones that may cause some issues might be, in terms of implementation now, commercial and industrial? Well, not industrial, industrial is crossed out. So, the commercial, residential, and what was the other one you said?

MS. MARTIN: Chair?

CHAIR RAWLINS-FERNANDEZ: Ms. Martin?

COUNCILMEMBER LEE: Oh, number 11.

CHAIR RAWLINS-FERNANDEZ: Yeah, number 11, commercial/industrial.

COUNCILMEMBER LEE: Okay. So, other than those two and then well, we kind of revisiting agriculture and conservation. Is it possible to move forward with those?

MS. MARTIN: Chair?

CHAIR RAWLINS-FERNANDEZ: Ms. Martin?

MS. MARTIN: Yes it is possible as long as a few...the clarifications that I mentioned are addressed.

COUNCILMEMBER LEE: Okay.

CHAIR RAWLINS-FERNANDEZ: And, Director Teruya, did you want to add to that? And I believe the, part of the reason we combined commercial/industrial is because the rates have historically been so close and in other counties they've combined it. That was the information that we received from the Department. Director?

MR. TERUYA: Thank you, Chair. My, more of my concern is the apartment classification and where would these large apartment complexes be classified. And if I may, Chair, just a recommendation, if you were to reinstitute apartment and clean the language of non-owner-occupied to read something like one to four unit dwellings, that way the larger projects would stay in apartment.

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Honolulu's residential category includes one to four units. So, a single-family dwelling, house and cottage, duplexes, and up to four units, those would be classified as residential. Else that, like a large apartment, they would be still be classified as apartment. So, that would answer it. Other than that and that's I'm just not sure how apartments are going to be classified that's why I offered that for you. Thank you, Chair.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Director. Okay. Mahalo, Member Lee. Member Paltin and then Member Molina, yeah.

COUNCILMEMBER PALTIN: Couple questions on the apartment building one. First one would be based on your one to four unit, are you talking that could be including like if you have a parcel and you have four...three accessory dwellings or something like that, is that what you mean by units?

MR. TERUYA: Yes, Chair. And Ms. Martin could clarify that. I'm just saying that these large apartments, especially when you have a tiered system, many of these are not high-market apartments, and that when you tier them, you're going to create a loophole whereby because they're over a million and you're hitting on the second or third tier, you're going to make them condominiumize so they can come under the million dollar threshold. So, I'm not sure if you're going to be achieving what you're really trying to achieve. So, I think if you keep them out and leave them in apartment, that would almost satisfy how you guys want to treat apartments.

COUNCILMEMBER PALTIN: So, my...

MR. TERUYA: I'm just trying to think it through and I don't know where they sit right now the way it's structured. So, just...

COUNCILMEMBER PALTIN: My question is isn't...I mean I thought I heard that you say that you currently use highest and best use, and isn't apartment legally permitted to do short-term rentals? So, would apartment all fall under short-term rental unless they have a declaration that they're not doing that?

MR. TERUYA: Chair?

CHAIR RAWLINS-FERNANDEZ: Director?

MR. TERUYA: Okay, currently apartments, some are grandfathered to do short-term rentals.

COUNCILMEMBER PALTIN: I thought we codified that.

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MR. TERUYA: Well, right now you didn't repeal the condo Code, okay, which is 305(C). That's why I said if you wanted to keep that separate and move that first, it cleans up how you want to move forward with the rest. But if you remain in 305(C) then it's a self-declaration, a testament of how you're using the unit. So, I'm just not sure how we're moving forward. I can...I'm all for --

COUNCILMEMBER PALTIN: Oh, like if we're going to continue --

MR. TERUYA: --however you guys want to move...

COUNCILMEMBER PALTIN: --305(C) or if we're not going to use that anymore --

MR. TERUYA: Right, yeah.

COUNCILMEMBER PALTIN: --is what you're saying?

MR. TERUYA: Right. It makes a big difference on how we're going to be dealing with true apartments.

COUNCILMEMBER PALTIN: Do you have any preference?

MR. TERUYA: Chair?

CHAIR RAWLINS-FERNANDEZ: Director?

MR. TERUYA: The proposal from the Mayor and the Chair I believe we're...have...the proposal is to repeal the condo Code so there's no two ways of classifying land. I think for purposes of assessment, it's uniform to repeal it and just have one way of classifying lands, and then it would be very clear as to what...which way it is. Right now, if you condominiumize, you have a separate set of rules of how to classify lands, and I think that skirts the subdivision Code. And I think if we just have one way of doing things, it would be very clear.

COUNCILMEMBER PALTIN: So, when you have an apartment that's owned by one owner, you have to...there's no way that you can divide the number of dwelling units in the building and then come out with like what the rate would be per unit?

MR. TERUYA: Chair?

COUNCILMEMBER PALTIN: Like I mean to assess.

CHAIR RAWLINS-FERNANDEZ: Director?

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MR. TERUYA: Currently, when it's a large...it's an apartment, it's one parcel. That highest and best use is determined based on what it can do. So, majority of the apartments are long-term rentals so it's classified as Apartment. Should that entire apartment have a conditional use to do short-term rentals then we would classify it as Hotel and Resort or in this case short-term rental. But majority of the apartments in Happy Valley, in Kihei, they're zoned Apartment and they're not allowed to do short-term rentals.

COUNCILMEMBER PALTIN: No one...

MR. TERUYA: And therefore highest and best use is Apartment.

COUNCILMEMBER PALTIN: The majority of apartments --

MR. TERUYA: But if we repeal Apartment...

COUNCILMEMBER PALTIN: --in West Maui is not for long-term rental, that's the problem I think that I was not seeing what you're saying. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Paltin. Okay.

COUNCILMEMBER MOLINA: Me, me.

CHAIR RAWLINS-FERNANDEZ: Oh sorry, Member Molina?

COUNCILMEMBER MOLINA: That's okay, thank you, Madam Chair. No, I just wanted to...I agree with the Director, maybe possibly reinstituting Apartment to avoid any confusion, modifying the language of non-owner like the Director had stated. Because I'm just kind of looking ahead potentially, you know, it's a learning process for the public, the Department going get slammed with all kinds of calls and clarifications. And of course Real Property Tax Review Board, the appeals sometimes get heavy with the present system we have now and whenever you put a new system in. So, just to avoid some potential clutter and all kinds of things that could take up a lot of staff time in trying to explain the new classifications, so just my thoughts. So, I could support the Director's suggestion to reinstitute Apartment to avoid any potential confusion. Thank you.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Molina. Okay. All right. Let's see, Ms. Martin or Director . . .*(inaudible)*. . . a suggestion on the floor, we didn't talk about this in the TIG. But so here's an idea and we can...I'll give you time to think about it, we can talk about it at the next meeting. But number five, that was stricken from this section so what is that, Page 3, after 4, after the old 4. No, the old five, yeah, go up or down. So, that was TVR so if that section said...oh, the old five in the definitions. The apartment shall form...so instead

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of a planned development...number five in the definitions. More down. The old five. Yeah, that one. Yeah. The apartment shall form an entity that shall annually report to the director on a form prescribed by the director, the actual use of each unit in the planned development along with any information deemed relevant by the director to determine the actual use of each unit. If the required annual report is...and yeah and so that's basically...Director?

MR. TERUYA: Chair, thank you. That repeal would be subject to repealing of 305(C) so that they wouldn't have to self-report because it would be based on the highest and best use. Thank you, Chair.

CHAIR RAWLINS-FERNANDEZ: Okay. Okay. Member Hokama?

COUNCILMEMBER HOKAMA: Chair, thank you. One of the areas that I was going to ask the Director on and this was part of the old D, under that same area you were looking at, Chair, after your B, whatever, then it would be C. I know we have certain language in the Code currently regarding...let's see, conditional permit for B&Bs and transient vacation rentals pursuant...as of...prior to 2012. Again, this is just so that, Mr. Teruya, the Department is clear how to tax that temporary use correct? Because we talking about permits which have a time-ending deadline. It's not like zoning. So, they have a temporary use and just this component would just say that for this portion of that period this is the classification or category we'll be placing the taxation at?

MR. TERUYA: Chair?

COUNCILMEMBER HOKAMA: 'Cause I want to make sure we are not through this component granting extended land use entitlement that has not gone through zoning.

CHAIR RAWLINS-FERNANDEZ: Mr. Ueoka?

MR. UEOKA: Thank you, Mr. Hokama. No, we're not extending any land use entitlement. This was strictly the parcels that were granted the permits before 2012 --

COUNCILMEMBER HOKAMA: Right.

MR. UEOKA: --still are treated for tax purposes how it was intended prior to 20...the changes that came up. I'm not sure, I forget when it was...

COUNCILMEMBER HOKAMA: So, even if they receive additional extension on the permit, we still would tax it the old way than the new current way?

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MR. UEOKA: That was my understanding of this language. It was grandfathering those certain properties to continue to get, I believe it's the Commercialized Residential.

COUNCILMEMBER HOKAMA: I don't have a problem during that term that it was, the transition happened yeah, but when you get one new permit or you extending your permit, why wouldn't then we make you follow the current law?

MR. UEOKA: Oh...

COUNCILMEMBER HOKAMA: Because the, it's a new time period.

MR. UEOKA: Oh, understood, Mr. Hokama. It's this body can make that change, we just...or, you know, Finance just adhered to what was in there. Thank you, Chair.

COUNCILMEMBER HOKAMA: Okay, no, no, thank you for that reminder, I guess, Mr. Ueoka. So, you have a benefit, you get still undeteriorated name recall. The other one that I wanted to make...check too, yeah, that I think...do you feel we need to make it clearer, Director? 'Cause I think there's a misunderstanding. I don't have a problem yeah, of granting anyone that resides on their property regardless of classification or category the ability to have homeowner's exemption for that area they occupy as a domicile, yeah, a portion of the property, especially if you get 100-acre property. If you're using 10,000 square feet, I have no issue with granting you that homeowner for 10,000 square feet, but the rest of the property should be taxed at whatever is the primary use. So, if it's ag, it's ag, if it's industrial, industrial, whatever the Code is. Do we need to have clarity in that?

MR. TERUYA: Chair?

CHAIR RAWLINS-FERNANDEZ: Director? And just for the Committee's understanding, when we discussed this in the TIG, the intention...part of the intention of doing it the way we did was for those who claim to be doing agriculture on that land and are supposed to be doing agriculture and are not. So, that was kind of the intention was to try to catch that. But, Director, will you answer Member Hokama's question please?

MR. TERUYA: Thank you. We can do whatever this body wants to do within reason, but I...that is an interesting question because many municipalities can do that as well where you're taking an exemption as a separate entity from classification. For example, the bed and breakfast, the current law reads that yes, you must reside but you're not allowed to have an exemption. That could be looked at differently in the sense that you could give them their exemption, because they're an owner occupant, however, your classification may be

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something different. So, for example, because it allows for transient use, you could have your home exemption amount of your 200,000, but your classification would be short-term rental, because it's transient as the highest and best use. So, there's many ways that you can...

COUNCILMEMBER HOKAMA: Okay, so then you would just deduct the exemption amount from your total tax bill?

MR. TERUYA: You would remove the exemption from your assessment, but your classification will be based on your use, the highest and best use.

COUNCILMEMBER HOKAMA: Okay, okay. I understand that. I understand that.

CHAIR RAWLINS-FERNANDEZ: Mr. Galazin would like to add to the conversation. Mr. Galazin?

MR. GALAZIN: Thank you for the opportunity, Chair. One thing I might mention when we're talking about that, you know, existing Subsection D right now, it's the parcel that prior to May 23, 2012, has a conditional permit for bed and breakfast or TVR use, one thing, it just sort of ends there. But I would suggest at a bare minimum adding at the end of that section so long as that use has continued, you know, uninterrupted. You certainly don't want somebody who at one point had one of these permits coming back and trying to sort of slip into that category by virtue of the fact that it's a little bit silent. So, regardless of whether...and, you know, as Mr. Ueoka pointed out, you know, that was put in for a situation that existed prior and, Member Hokama, as you mentioned too, these are permits that, you know, have limited lifetimes. So, one thing could be to take it out entirely. One thing could be to add that clarifier that okay, as long as that original permit and use remain intact, they can keep that but once it ends, it ends and that door closes. So, that's something you can consider. Thank you.

COUNCILMEMBER HOKAMA: Okay, thank you. Thank you, Chair.

CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Hokama. Okay. Okay, Members, any other questions on this section? If not, we'll move on to the next section. Oh, sorry. Chair King?

VICE-CHAIR KING: Oh, no, I just wanted to just find out do we make a...did we come to any resolution about whether we're going to have apartment or not?

CHAIR RAWLINS-FERNANDEZ: Ms. Martin, did you get the second to see that idea? Okay. So, part...would you please, Ms. Martin, explain what the challenges are in having, as you explained apartment would be one of the challenges in

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owner-occupied and non-owner-occupied and if the idea would help to address that challenge?

MS. MARTIN: Chair, as Director Teruya stated, defining the number of dwellings per classification in terms of the residential would help. And actually that is an appraisal standard in terms of, you know, private appraisers classify properties and it's usually one to four units as single-family and more than four is multifamily. So, we would need that distinction. And in terms of apartment buildings that have not been condominiumized, if they have permits dated prior to I think 1989, some of them are allowed to do the short-term rentals. So, you know, we would need to identify those to determine what category they would go into, whether they would go into short-term or apartment. We do do that now if we can discover them. But we could have a reporting mechanism for those apartments to let us know what their uses are within those apartment projects that have not been condominiumized, a claim form so to speak that would help us determine what is the highest and best use and correct and fair classification for those units. And that would be similar to the number five that we deleted for the planned developments.

VICE-CHAIR KING: So, are you saying that you could do this under the proposed classification or that you still need a separate apartment classification? That's what I'm trying to understand.

MS. MARTIN: Oh, we need the apartment.

VICE-CHAIR KING: Okay. And then when you do these classifications, are...you're just dealing with like an apartment or a condo with one entity for that entire building or do you deal with each individual owner?

CHAIR RAWLINS-FERNANDEZ: Ms. Martin?

MS. MARTIN: Chair? It would be one entity. So, for example it might be an apartment building that has 25 units and 1 owner, it has not been condominiumized or subdivided.

VICE-CHAIR KING: Okay. So, you're just talking about single-owner apartment buildings then?

MS. MARTIN: Correct.

VICE-CHAIR KING: Okay. Okay. I...yeah, I don't know where that leaves us. I'm just wondering if we're leaving this section if we have a consensus on that or not.

CHAIR RAWLINS-FERNANDEZ: Okay. We can defer this section and come back to it another time since it doesn't sound like we have a clear consensus at the

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moment. I'm okay with that. It looks like Members are okay with that. One of the things that I failed to point out when I was going through this section is the old Section C is where the condominium, condominiumized rules are and that's where they're stricken, so that's where it's appealed. Sorry. Okay. So, it's 11:51. Let's see.

COUNCILMEMBER HOKAMA: Chair, may I make a --

CHAIR RAWLINS-FERNANDEZ: Member Hokama?

COUNCILMEMBER HOKAMA: --request to you please?

CHAIR RAWLINS-FERNANDEZ: Sure.

COUNCILMEMBER HOKAMA: I would ask...I believe we cannot finish today so if you would consider deferring so we can have a reasonable break. I would like to start my meeting on time and finish as early as possible to allow anyone that would like to participate with the fair's activities today to prepare for traffic and other requirements as parents for kids and whatnot. So, if you would take that into consideration please, Chair, I would appreciate it. Thank you.

CHAIR RAWLINS-FERNANDEZ: Sure. I like that suggestion. Okay. So, we...I mean we did do a lot of work today. Good job, Members. So, we can pause there, defer the item till the next EDB meeting if everyone is open to that. And we can stop there. Okay. Any objections?

COUNCILMEMBERS: No objections.

CHAIR RAWLINS-FERNANDEZ: Okay, great. Okay. So, we'll defer the item. Okay. I think that's it. Are we forgetting anything? Okay. Good, good, good. Okay, all right. It's 11:52 on October 3rd and the Economic Development and Budget Committee is in recess--sorry--is adjourned. . .*(chuckling)*. . .psych. Okay, the meeting is adjourned. . .*(gavel)*. . .

ACTION: DEFER pending further discussion.

ADJOURN: 11:52 a.m.

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APPROVED:



KEANI N.W. RAWLINS-FERNANDEZ, Chair
Economic Development and Budget Committee

edb:min:191003:ds

Transcribed by: Daniel Schoenbeck

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CERTIFICATE

I, Daniel Schoenbeck, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 18th day of October, 2019, in Kula, Hawaii

A handwritten signature in black ink, appearing to read "Daniel Schoenbeck", is written over a horizontal line.

Daniel Schoenbeck