

COUNCIL OF THE COUNTY OF MAUI  
**COMMITTEE OF THE WHOLE**

December 17, 2001

**Committee  
Report No.**

01-249

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

Chair and Members:

Your Committee of the Whole, having met on December 4, 2001, makes reference to County Communication No. 01-108, from Councilmember Wayne K. Nishiki, requesting consideration of a draft bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.44, MAUI COUNTY CODE, REGARDING ACCEPTANCE OF REAL PROPERTY ONLY WITH INSURABLE TITLE AND BY WARRANTY DEED.

The purpose of the draft bill is to ensure that the County avoids costly legal disputes by prohibiting the acceptance of real property without clear title.

By correspondence dated November 16, 2001, Councilmember Nishiki requested that the item be scheduled for discussion.

By correspondence dated December 3, 2001, Councilmember Nishiki transmitted a revised draft bill entitled "A BILL FOR AN ORDINANCE TO ENSURE THAT THE COUNTY ONLY ACCEPTS REAL PROPERTY WITH GOOD TITLE".

The purpose of the revised draft bill is to prohibit the County from acquiring real property, unless the Director of Finance and the Corporation Counsel certify in writing that the interest conveyed constitutes "good title" or that the Council waive this requirement by a two-thirds vote. "Good title" means the interest conveyed must be free of any present litigation, obvious defects, or reasonable doubts concerning its validity or merchantability.

At its meeting, your Committee met with the Corporation Counsel, a Deputy Corporation Counsel and the Director of Finance.

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There being no public testimony, Councilmember Nishiki provided a brief introduction, followed by a brief overview of the revised draft bill by the Corporation Counsel.

Your Committee briefly discussed eminent domain procedures as well as quiet title.

Your Committee noted the importance of having flexibility to make decisions pertaining to the acquisition of real property based upon each individual situation.

Your Committee inquired whether the Corporation Counsel would be willing to approve the revised draft bill entitled "A BILL FOR AN ORDINANCE TO ENSURE THAT THE COUNTY ONLY ACCEPTS REAL PROPERTY WITH GOOD TITLE" as to form and legality. The Corporation Counsel indicated he would be willing to approve the revised bill.

At its meeting, the Corporation Counsel signed and approved the revised bill as to form and legality.

Your Committee voted to recommend passage of the proposed bill on first reading.

Your Committee of the Whole RECOMMENDS the following:

1. That Bill No. \_\_\_\_\_ (2001), attached hereto, entitled "A BILL FOR AN ORDINANCE TO ENSURE THAT THE COUNTY ONLY ACCEPTS REAL PROPERTY WITH GOOD TITLE" PASS FIRST READING and BE ORDERED TO PRINT; and
2. That County Communication No. 01-108 be FILED.

Adoption of this report is respectfully requested.

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**PATRICK S. KAWANO** Member

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**G. RIKI HOKAMA** Vice-Chair

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**MICHAEL J. MOLINA** Member

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**ALAN M. ARAKAWA** Member

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**WAYNE K. NISHIKI** Member

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**ROBERT CARROLL** Member

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**CHARMAINE TAVARES** Member

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**JO ANNE JOHNSON** Member