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M I N U T E S
BUDGET AND FINANCE COMMITTEE
COUNCIL OF THE COUNTY OF MAUI
WAILUKU, MAUI, HAWAII
SEPTEMBER 1, 2009

TRANSCRIBED BY: Tonya McDade
Hawaii Certified Shorthand Reporter #447
Registered Professional Reporter
Certified Realtime Reporter
Certified Broadcast Captioner

APPROVED:


Committee Chair

1 CONVENE: 1:36 p.m.

2 PRESENT: Councilmember Joseph Pontanilla, Chair
3 Councilmember Gladys C. Baisa, Member
4 Councilmember Jo Anne Johnson, Member
5 Councilmember Sol P. Kaho`ohalahala, Member
6 (out 4:21)
7 Councilmember Bill Kauakea Medeiros, Member
8 Councilmember Michael J. Molina, Member
9 Councilmember Wayne K. Nishiki, Member
10 Councilmember Michael P. Victorino, Member

7 EXCUSED: Councilmember Danny A. Mateo, Vice-Chair

8 STAFF: David Raatz, Legislative Attorney (BF-33)
9 Taguchi, Legislative Analyst (BF-38 and BF-42)
10 Scott Kaneshina, Legislative Analyst
11 Yvette Bouthillier, Committee, Secretary

10 ADMIN: Frederick Pablo, Budget Director, Office of
11 the Mayor
12 Carol Gentz, Community Development Block
13 Grant Program Manager, CDBG, Office of
14 the Mayor (BF-33)
15 Kalbert L. Young, Director, Department of
16 Finance (BF-38 and BF-42)
17 Agnes Hayashi, Deputy Director, Department of
18 Finance (BF-38)
19 Scott Teruya, Acting County Real Property Tax
20 Administrator, Real Property Tax
21 Division, Department of Finance (BF-38)
22 Jo-Ann Ridao, Deputy Director, Department of
23 Housing and Human Concerns (BF-42)
24 Traci Fujita Villarosa, First Deputy
25 Corporation Counsel, Department of the
 Corporation Counsel

19 OTHERS: Item 38: Thomas Croly
20 Dave DeLeon, Realtors Association
21 of Maui
22 Michael Trotto
23 Tony Fisher, Committee for More
24 Equitable Taxation
25 Item 42: John Andersen, Executive Director,
 Na Hale O Maui

 PRESS: Akaku: Maui Community Television, Inc.

1 CHAIR PONTANILLA: ... (gavel) ... The Budget
2 and Finance Committee meeting for September 1st, 2009,
3 is now in session. The time is 1:36.

4 Members, the Chair wanna apologize for the
5 late start. The Legislative Analyst and myself had some
6 discussion prior to this meeting regarding today's
7 agenda. So, Members, at this time I would like to
8 introduce each of you --

9 (Laughter.)

10 CHAIR PONTANILLA: -- that belong to the Committee
11 here. We do have Member Molina.

12 COUNCILMEMBER MOLINA: Good afternoon, Chair.

13 CHAIR PONTANILLA: Member Baisa.

14 COUNCILMEMBER BAISA: Good afternoon, Chair.

15 CHAIR PONTANILLA: Member Johnson. Member
16 Kaho`ohalahala.

17 COUNCILMEMBER KAHO`OHALAHALA: Aloha, Chair.

18 CHAIR PONTANILLA: Member Medeiros.

19 COUNCILMEMBER MEDEIROS: Aloha.

20 CHAIR PONTANILLA: Member Nishiki, and Member
21 Victorino.

22 COUNCILMEMBER VICTORINO: Good afternoon,
23 Chair.

24 CHAIR PONTANILLA: Good afternoon, Members.

25 Excused is our Council Chairman Danny Mateo.

1 With us this afternoon, we do have, from the
2 Administration, Traci Fujita Villarosa, who is the First
3 Deputy Corporation Counsel; along with our Budget
4 Director, Mr. Fred Pablo; and Carol Gentz from the CDBG
5 Office.

6 And supporting this Committee, we do have our
7 Committee Secretary, Yvette Bouthillier, as well as
8 Mr. David Raatz who is the Legal Analyst for this
9 particular committee.

10 And I would like to introduce the guy that's
11 next to David, but I -- I for -- kind of forgot his
12 name. And if you can introduce yourself to the Members,
13 please.

14 MR. KANESHINA: I'm Scott Kane -- I'm Scott
15 Kaneshina, I'm the Legislative Analyst.

16 (Applause.)

17 CHAIR PONTANILLA: Thank you, Scott, for your
18 self-introduction.

19 UNIDENTIFIED SPEAKER: (Inaudible)

20 CHAIR PONTANILLA: Scott is gonna be
21 supporting the Budget and Finance Committee going
22 forward.

23 Members, we do have some people signed up for
24 public testimony this afternoon. And before we go into
25 public testimony, I would just like to provide the

1 ground rules.

2 For those of you that are providing public
3 testimony, you have three minutes to provide your
4 testimony with one minute to conclude. And if you can
5 provide us your name and the organization that you
6 represent, the Chair and the Committee would appreciate
7 that.

8 Also, the Chair would like to remind everyone
9 in these Chambers, if you can turn off your cell phone
10 or put it on silent mode. Chair, again, will appreciate
11 you for doing that. Thank you.

12 Members, we do have three items on the agenda
13 this afternoon.

14 And for those that are testifying, if you can
15 identify the item that you are testifying on, I -- I
16 think it would help all of us here, when we do our note
17 taking. So the person that signed up this afternoon,
18 the first person, is Mr. Tom Croly.

19

20 ...BEGIN PUBLIC TESTIMONY...

21 MR. CROLY: Aloha, Chair. Aloha, Council.
22 I'm Tom Croly, and I'm speaking on my own behalf today
23 on BF-38.

24 I support -- I support the intent of the
25 proposed ordinance to require property owners to --

1 granted a homeowner exception to show evidence of their
2 eligibility for such exemption. At the same time, I do
3 find it ironic that the Maui residents who thus far have
4 been the only ones who have had to prove their -- their
5 homeownership, that is the B&B permit holders, are the
6 ones excluded from this. But that's a whole other
7 issue.

8 I do have some concerns, though, about the way
9 this ordinance has been written and about the
10 eligibility for the exemption. If I read the
11 qualification criteria properly as its written, it
12 requires the person prove that they are a resident of
13 Maui, not that they live in the home that they're asking
14 for the exemption for. And this -- this is a -- an
15 issue because I'm aware that many people on Maui reside
16 at one address, but claim a homeowner's exemption at a
17 different address. And, in fact, I've seen it in the
18 internet and print, and so forth, that says claim the
19 homeowner exemption on your more expensive property and
20 you'll gain, you know, benefit from that.

21 So the wording really needs to be tightened up
22 to make sure that those qualifying for homeowner
23 exemption are indeed living in the property that -- that
24 -- that they're claiming it on.

25 The second item that I have concern about is

1 the implementation of this. It can be predicted that
2 many people won't respond to the call for this proof of
3 their residency. And as a result, when they get their
4 tax bills next July, they're gonna see their -- their
5 property tax has increased by three, five, eight times
6 as much as -- as if they were granted a homeowner
7 exemption. And you can -- you can hear the pleas that
8 are gonna come at that point. So there really needs to
9 be a -- if -- if this is implemented, a very clear way
10 of -- of -- of making sure that everyone knows about it
11 up front and -- and it doesn't create a problem.

12 I hope the Council can clean up these two
13 issues and implement this because I do believe that
14 there's a lot of additional revenue that could be
15 generated for the County from the more than 26,000
16 properties that are currently getting homeowner
17 exemption. Many of these properties that I know for
18 certain are not the full-time residences of their
19 owners.

20 I believe this is a good first step in the
21 reformation of our property tax system. And it -- it --
22 goes towards establishing fairness in the system. But
23 we also have to recognize, it's just a manini part of
24 many of the aspects of our property tax system that need
25 to be looked at, at this point.

1 So I -- I -- I support this. And I -- and I
2 hope that -- that it can go forward, but I also hope
3 that we can look at other aspects of our property tax
4 system and -- and try to establish fairness and
5 confidence across the board.

6 Thank you.

7 CHAIR PONTANILLA: Thank you, Mr. Croly.
8 Members, any questions for Mr. Croly this afternoon?
9 Seeing none, thank you again.

10 The next testifier is Mr. David DeLeon.
11 Mr. DeLeon will also testify on BF-38.

12
13 MR. DELEON: Good afternoon. Aloha. Dave
14 DeLeon, representing the Realtors Association of Maui.

15 Our Association agrees with the intent of the
16 -- with the bill to require that property owners are in
17 fact Maui County residents before they can qualify for a
18 homeowner's exemption. And we agree with the proposed
19 periodic review. This is an obvious step to take to
20 make sure that the -- the records are clean and correct.
21 However, we want -- we want to express caution. It's
22 the same caution that Tom has expressed. And that is,
23 given the history with -- the -- the Condo Survey of a
24 few years back, the -- there's a real demonstrated
25 history there of potential for unintention -- unintended

1 consequences or unnecessary collateral damage.

2 In the Condo Survey case, many who qualified
3 for the homeowner rate were taxed at hotel rate instead
4 because they didn't respond or didn't respond timely
5 and/or could not get their appeals taken care of. And
6 our Appeals Board became overwhelmed. And -- and it's
7 -- we found -- we found people with -- who living in Kihei
8 Villages is being taxed at hotel rate. And, clearly,
9 not a hotel.

10 Who's to say why people fail to respond when
11 government beckons? They don't understand. They don't
12 understand the language. They're too old and feeble to
13 be able to deal with it, have some kind of disability.
14 This bill will create a demand for a response. And rest
15 assured, some won't. And our fear is that the most
16 vulnerable will be the most affected.

17 The appeals process and real -- the Appeals
18 Board is already overwhelmed. It's about a year
19 and-a-half behind now. And the appeals process in Maui
20 County is just not flexible, it's -- you know, it's
21 pretty rigid. It will not be able to avoid causing
22 unnecessary collateral damage if it -- if it follows
23 this bill as written currently.

24 So what happens to Mrs. Tokunaga in Wailuku
25 who never receives her demand for a response in the mail?

1 What happens if Mrs. Tokunaga's off island for two
2 months, or is hospitalized, or not good at taking good
3 -- taking care of her paperwork? She's not -- if she
4 does not respond in 60 days, she loses both her
5 exemption and her Circuit Breaker, because the Circuit
6 Breaker follows the exemption.

7 We recommend a alternative approach offered by
8 Bruce Erfer, the former chair of the Tax Review Board.
9 And you have that in your written testimony. This
10 general approach would first require a cross-checking to
11 see if the homeowner is also filing a State residential
12 income tax return. Only those who don't file a -- a
13 residential income tax return should be actively
14 reviewed. The State Tax Office has assured us that this
15 approach is available, and that Maui County's request
16 would be honored.

17 If Mrs. Tokanawa [sic] --

18 MR. RAATZ: Three minutes.

19 MR. DELEON: If Mrs. Tokanaga filed her -- her
20 income taxes, then her exemption would be continued
21 uninterrupted.

22 Tax cheats are clever, and no one system is
23 foolproof or perfect, but at least this approach would
24 be much less likely to unnecessarily cause the
25 overtaxation of those who can least afford it.

1 Thank you.

2 CHAIR PONTANILLA: Thank you, Mr. DeLeon.

3 Members, questions? Ms. -- Member Johnson?

4 COUNCILMEMBER JOHNSON: Yes. Dave, thanks
5 very much for that suggestion.

6 In some situations, where people, for whatever
7 reason, they file for an extension, they may not have
8 completed their taxes, was that issue addressed by Mr. Erfer, where
9 they actually didn't file, but they maybe filed for an extension?

10 MR. DELEON: You know, there's a refinement to this --
11 yeah, that we haven't -- he didn't get down to a refinement on it.

12 COUNCILMEMBER JOHNSON: Okay.

13 MR. DELEON: And there's -- there's cases where
14 people simply don't file tax returns. Well, the -- in
15 those cases, they'll have to explain why that they still
16 qualify. So you just, you know, have to take the extra
17 step of qualify -- requalifying for your -- your --

18 COUNCILMEMBER JOHNSON: Okay. So --

19 MR. DELEON: Maybe you can have a six months
20 lag or -- or eight-month lag, or something like that.

21 COUNCILMEMBER JOHNSON: Okay. So -- so that,
22 in other words, maybe if that came up as a red flag, for
23 example, because they didn't file on the cross-check,
24 that they would be sent a questionnaire having to give
25 information about why they did not --

1 MR. DELEON: Right.

2 COUNCILMEMBER JOHNSON: -- file, or explain if
3 there's a discrepancy in the record.

4 MR. DELEON: Uh-huh. I think maybe it's --
5 tax records might not work. Whatever it is, there
6 should be some way to cross off the obvious, you know,
7 the folks that have lived here their whole lives and
8 there isn't any need to be bothering 'em. And -- and --
9 and -- and get to the folks that -- who are -- are
10 cheating.

11 COUNCILMEMBER JOHNSON: Yeah. And -- and I
12 tend to agree with you because this -- that was always
13 my concern about --

14 MR. DELEON: (Inaudible.)

15 COUNCILMEMBER JOHNSON: -- even extending it
16 for five years and making everybody re-file. I can
17 guarantee you, not everyone is going to either know that
18 they have to or will do that.

19 MR. DELEON: We saw this very clearly in
20 the -- in the -- in the Condo Survey.

21 COUNCILMEMBER JOHNSON: Condo Survey.

22 MR. DELEON: And that's why the -- it raised a
23 flag for me, because we saw exact examples of that where
24 people are obviously qualified, but a little bit just --
25 you know, just not able to respond for whatever reason.

1 COUNCILMEMBER JOHNSON: Yeah. And -- and I
2 share your concerns. Thank you very much.

3 MR. DELEON: Thank you.

4 CHAIR PONTANILLA: Thank you. Members any
5 more questions for Mr. DeLeon? Seeing none, thank --
6 thank you again.

7 The next testifier is Michael Trotto, also
8 testifying on Item BF-38.

9 MR. TROTTO: Good afternoon, Chair Pontanilla,
10 Members of the County Council. My name is Michael
11 Trotto. I'm a resident of Kihei.

12 I came here to testify about BF-38. And
13 there's a couple of concerns that I had. And the
14 previous speakers have talked to it a little bit, but I
15 -- I wanted to be specific in some of the things. And
16 it may be just my feelings about this, but in the -- in
17 the -- in the paragraphs where it's -- it's writ where
18 it reads that the director will demand these -- these
19 requirements. And I -- I don't know, I got up this
20 morning, I was on Maui and I was very thankful to be on
21 Maui. And when I read this -- when you read this, you
22 know, "The Director shall demand documentary evidence,
23 failure to respond to this demand," I think we -- we are
24 a -- a gentler place. And maybe some of this wording
25 could be, I don't know, massaged a little bit to -- to

1 read a little bit easier.

2 And if the intent is to go after or to try to
3 identify people who maybe have two residences and
4 they're maybe not playing by the rules, then maybe it
5 should be in here. Because this seems like a broad -- a
6 broad stroke. And it encompasses all of us.

7 Now, I -- I live here. I've been living here
8 for close to 40 years. And -- and I -- I benefited from
9 this homeowner's exemption, very appreciative that it's
10 there.

11 There's a lot of other people -- and
12 especially some of our elders -- who have a difficult
13 time with -- when they get information from the County
14 about what their requirements are. And sometimes that's
15 why they can -- they can be harmed by something like
16 this.

17 So I think the intention -- if that's the
18 intention of the Department to -- to go after people
19 like that, who are not playing by the rules, then it
20 should be stated so the rest of us don't feel like we --
21 we're going to be encumbered with this. So that's --
22 that's the other thing.

23 And then there's just some things about if the
24 Director -- the thing that got me, if the Director
25 somehow obtains evidence that a person is living or

1 residing or occupying a residence outside the County for
2 a period of (inaudible) -- I don't know how you can do
3 that. So I kept thinking about it last night when I
4 kept -- I read it over and over. And I said, so what
5 are we -- are there gonna be residency police or what --
6 what's happening here. So I -- I don't understand that.

7 Because, you know, our resident -- people
8 that -- that -- that have relatives, let's say, on Oahu,
9 maybe they have to go and live on Oahu for three months,
10 or even longer, maybe to take care of an elder family
11 member or some -- so that's why that I think it's too
12 broad. Because it doesn't say what your intentions are.
13 It just says, if you live someplace else for 95 days
14 during a calendar year, you'll get a letter saying
15 you've lost your homeowner's exemption.

16 So I think that's what I'm -- I'm trying to
17 get at here. Just it's a little bit too broad. You
18 could clean this up, maybe, and -- and still get to what
19 you're trying to do.

20 So, anyway, I thank you for listening. That's
21 -- that's all I had to say today. Thank you.

22 CHAIR PONTANILLA: Thank you, Mr. Trotto.
23 Members, any questions for the testifier? Seeing none,
24 thanks again.

25 John Andersen, testifying on BF-42.

1 MR. ANDERSEN: Good afternoon, Chair
2 Pontanilla, Committee Members. My name's John Andersen.
3 I'm the Executive Director of Na Hale O Maui, a
4 Community Land Trust. I am here speaking on behalf of
5 the organization on Item No. BF-42.

6 We were selected -- and we're very
7 appreciative of that -- to be one of the recipients of
8 the Affordable Housing Fund for a loan of \$300,000 to be
9 used as interim financing for buying back
10 deed-restricted properties that are coming up for resale
11 during the period of the original deed restriction. We
12 do appreciate that. And we look forward to working with
13 the Department in doing that.

14 When we put the proposal together, back in
15 January, I -- or December of last year, the Department
16 had been experiencing only about one at a time in terms
17 of requests to resell. Unfortunately, now the
18 Department is experiencing more like three to four at a
19 time. And our -- that interim financing will do one at
20 a time. So we'll do what we can to -- to work with
21 that.

22 But I did want to comment on the other
23 proposal that we submitted for funding. And that was
24 for the Maui County Neighborhood Stabilization Program.
25 And that was a request for a two-million-dollar grant to

1 acquire and rehabilitate foreclosed properties and
2 resell them as affordable housing. That was not
3 selected. And I do request that that be revisited.

4 And the reason why that needs to be revisited
5 is the foreclosure rate in this County is skyrocketing.
6 We started tracking a year ago, when there were less
7 than 200 foreclosures on the island. There are now
8 close to 500 pending foreclosures.

9 A pending foreclosure is where the notice has
10 been recorded and the auction date has been set for the
11 auction of the property, but it just hasn't occurred
12 yet. The rate of the pending foreclosures has doubled
13 in the last six months.

14 And so I've put together and distributed to
15 you the distressed property report, to give you an -- an
16 idea. And since this is Budget and Finance Committee,
17 you're gonna be dealing with the ramifications of this
18 next year when you sit down for the Budget Session. And
19 it's going to be very ugly. It is far worse than I
20 thought it was until I sat down and actually ran all the
21 numbers for the closed sales during the month of August
22 on the MLS. And that's what I'm sharing with you on
23 this report.

24 There are just under 1,000 distressed
25 properties on the island at this time. Distressed

1 properties consist of short sales, foreclosures and
2 REOs.

3 A short sale is a sale on the open market
4 where the owner owes more on the property than they can
5 resell it for. So they're trying to sell it for less
6 than the loan amount. And that requires lender
7 permission.

8 There are currently 338 short sales on the
9 Multiple Listing Service. There are 60 that are pending
10 escrow, 338 that wish they could get into escrow.

11 MR. RAATZ: Three minutes.

12 MR. ANDERSEN: The judicial foreclosures are
13 at 483. The REOs active on MLS are at 72. And the
14 pending sales of REOs are at 41. That's just under
15 1,000 distressed properties.

16 The bottom section of the form is the real
17 serious part. The impact that these distressed
18 properties are having on resales. I computed all of the
19 resales for the month of August, looked at the assessed
20 values, and have given you the results of that survey.

21 The 16 REOs that closed in -- in August --
22 REO, real-estate-owned, that's bank-owned property --
23 they sold for 41 percent below the assessed value. The
24 non-REO sales -- and this is what shocked me -- the 67
25 that were just regular transactions, sold for an average

1 of 37 percent below assessed value. So for all of the
2 closings on the MLS of condos and single-family homes
3 for the --

4 MR. RAATZ: Four minutes.

5 MR. ANDERSEN: -- month of August, 38 percent
6 below assessed value.

7 Why is this important? The tax base is based
8 on the assessed value. And distressed properties don't
9 pay their property tax. So you're gonna see
10 delinquencies going way up and values coming way down.
11 That's gonna have a major impact.

12 Thank you.

13 CHAIR PONTANILLA: Thank you, Mr. Andersen.
14 Members, questions for the testifier? Member Medeiros?

15 COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.
16 Thank you for your testimony, for offering all that
17 information to us. Assessed value is the value as
18 assessed by our Tax Office?

19 MR. ANDERSEN: That's correct.

20 COUNCILMEMBER MEDEIROS: Okay. Thank you for
21 that clarification. Mahalo, Mr. Chairman.

22 CHAIR PONTANILLA: Thank you. Members, any
23 more questions for the testifier? Member Johnson?

24 COUNCILMEMBER JOHNSON: Yes. In regard to the
25 short sales and some of the statistical information that

1 you have here, are -- is -- is there -- because I'm, you
2 know, privy to some information, too, that other
3 realtors -- on -- particularly on short sales, and just
4 not getting answers back --

5 MR. ANDERSEN: Yeah.

6 COUNCILMEMBER JOHNSON: They're not even
7 bothering to respond?

8 MR. ANDERSEN: That's why you see so many, you
9 know, active short sales and -- and much slower
10 number -- smaller number in escrow. Banks are taking
11 four to five months to respond to a short sale. And the
12 problem is, today's short sales are tomorrow's
13 foreclosures.

14 COUNCILMEMBER JOHNSON: Yeah. And -- and that
15 really disturbs me because that is really -- you know,
16 it's a huge problem.

17 The other thing, too, is that I noted some of
18 the individuals that I've been speaking with, the
19 realtors that I have communicated -- or they've
20 communicated to me, that the bank will tell the
21 individual that they're going to foreclose, but then
22 they don't foreclose. It goes on month after month
23 after month. Now, I queried, and I said, "Well, is this
24 standard practice?" I mean, how does the person know,
25 at what point does eviction take place? And

1 particularly if they're trying to do a short sale, is a
2 short sale possible when you've already been in
3 foreclosure?

4 MR. ANDERSEN: It is possible, yes. And the
5 cancellations -- and I wish we were seeing more
6 cancellations. We're seeing very few of the pending
7 foreclosures. They come from successful short sales.
8 So, yes, but the -- the majority of the postponements
9 that I'm seeing are not caused by pending escrows;
10 they're caused by the bank staging the number of REOs
11 they take back to keep their books looking better than
12 they actually are.

13 COUNCILMEMBER JOHNSON: Okay. Okay. So it's
14 nothing that there's some kind of a Federal request to
15 slow down the foreclosure rate or anything --

16 MR. ANDERSEN: No.

17 COUNCILMEMBER JOHNSON: -- of that sort?

18 MR. ANDERSEN: If the -- if the workouts were
19 working and the short sales were working, I'd be
20 recording a lot of cancellations of these pending
21 foreclosures. And we're there on the courthouse steps
22 every day at twelve noon. I'm seeing a very small
23 percentage of cancellations. That's what's frightening.
24 They just keep building up and building up. And at any
25 moment, those houses can be sold as -- at the next

1 auction date.

2 COUNCILMEMBER JOHNSON: Yeah. And I wanna
3 thank you for your point about how this is gonna
4 negatively impact our real property valuations next
5 year.

6 MR. ANDERSEN: Director Young has told me that
7 he is -- he's reported to the Mayor to expect a 10
8 percent drop in the tax base for this coming session. I
9 think it's gonna be closer to 20 percent next year and
10 another 20 percent the year after that, from what I'm
11 seeing here.

12 COUNCILMEMBER JOHNSON: Yeah. And I don't see
13 this getting better. But I -- I thank you. Even though
14 it's maybe not the best news, I think it's better for us
15 to deal with the realty of this situation.

16 MR. ANDERSEN: Thank you.

17 COUNCILMEMBER JOHNSON: Thank you.

18 CHAIR PONTANILLA: Thank you. Members, any
19 more questions for the testifier? Seeing none, thank
20 you.

21 MR. ANDERSEN: Thank you.

22 CHAIR PONTANILLA: The next testifier is Tony
23 Fisher, testifying on BF-38.

24 MR. FISHER: Thank you, County Council, and
25 particularly Chair Pontanilla.

1 As you know, I try to come not with just
2 expressing what problems are, but to try to come up with
3 some solutions. I read this piece of legislation, I
4 don't like it for the -- what has been expressed before,
5 but I have some ideas to make it a heck of a lot less
6 onerous.

7 There is a file, which all of you people know
8 about, which is called Voter Vault. And it is a record
9 of every voter in the State of Hawaii. And in our case,
10 we only care about the County of Maui. It would take
11 less than two hours to take all of the properties that
12 exist in Maui County and compare them with Voter Vault,
13 which says this person is a voter. If you'll notice,
14 Item 2 is registering to vote in the County. And
15 immediately, you would probably eliminate 20,000 of
16 those 26,000 people because homeowners tend to be
17 voters.

18 And the minute you find that a person is both
19 a voter and a homeowner, you have taken care of what's
20 on here. You don't have to send out any letters, you
21 don't have to do anything. It would eliminate 80
22 percent, maybe 90 percent, of all the effort of a
23 mailing stuff out, getting people to call back, as been
24 expressed here. Trying to go through all the
25 machinations of that is crazy making.

1 Number two: You have another file, this is a
2 file of what has been transpired on that property. I
3 have lived here a number of years. If what I have
4 registered on my property has not changed in your
5 records, then I ought to be off that list, also. You
6 can do that internally. Total time taken, less than one
7 hour. It is a very simple thing. That will take care
8 of some more.

9 Third thing: There are a few crooks in this
10 County who are illegally doing all sorts of nasty
11 things. And they are doing -- now, there's two reasons
12 they do it. One is they're just stupid, and they're
13 doing things because they don't know any better. And
14 other people are deliberately doing it.

15 So I have a suggestion. Why don't you go
16 through that same file that's -- belongs to you, belongs
17 to the Finance Department, and find every single person
18 who has a -- they claim residency at a particular
19 address, but their mailing address is Huntington Beach,
20 California, or Reno, Nevada, or something? I would be
21 very suspicious of those. And I'd pull those people out
22 and make them go through this rigmarole. Because -- or
23 a P.O. box, for that matter. I don't know of anybody
24 here who lives at a P.O. box. I would like to know why
25 they're using a P.O. box.

1 Now, when you've done those things, you have
2 eliminated probably 90 to 95 percent of all of your
3 problem. And if you go and do that --

4 MR. RAATZ: Three minutes.

5 MR. FISHER: I think this will -- three
6 minutes, you say?

7 MR. RAATZ: Yeah.

8 MR. FISHER: The other thing in your -- in the
9 bill itself, I am not clear whether the five years
10 starts running at July -- or January 30 -- or December
11 31st of 19 -- of 2009, or whether it's from there
12 backwards. It is not clear. That is a very poorly
13 written kind of thing.

14 The last suggestion is that when you send out
15 that bill, and you send your check with it, put on the
16 bottom of the bill -- just like you do, by the way, for
17 Circuit Breaker -- I hereby verify under penalty of
18 perjury, \$10,000 (inaudible) and a year in jail, that I am
19 entitled to the homeowner's exemption, and sign your
20 name. People who are not --

21 MR. RAATZ: Four minutes.

22 MR. FISHER: People who are cheating are gonna
23 think, you know, this is not a good idea.

24 And, finally, put an amnesty in right then,
25 and say, "This is your last chance." We, the County of

1 Maui, are not going to go backwards -- and just like
2 they did on the amnesty for the illegals -- we will not
3 go back and charge you back the last three, four, five,
4 eight years because you've been doing this a long time,
5 we will stop and you got a onetime chance.

6 And I think if you did all of those things,
7 you would clean up an enormous amount of the effort
8 that's -- would be required to do this.

9 This is not a good idea, and I mean the way
10 it's done. The idea of doing it, very good idea.

11 Sorry to overrun the time, Joe.

12 COUNCILMEMBER VICTORINO: Mr. Chair?

13 CHAIR PONTANILLA: Thank you, Mr. Fisher.

14 COUNCILMEMBER VICTORINO: Sure.

15 CHAIR PONTANILLA: Member Victorino?

16 COUNCILMEMBER VICTORINO: Thank you. And
17 thank you, Tony, for being here today. We do appreciate
18 it.

19 Couple of things I wanted to get
20 clarification. On the -- the Voter Vault --

21 MR. FISHER: Belongs to the State of Hawaii.

22 COUNCILMEMBER VICTORINO: Yeah, right. Okay.
23 So even with that in mind, what do you do? Because --
24 and to a -- a second question -- or a second statement
25 I'll make to you is, I know of a lot of people that use

1 P.O. boxes, mainly because they're afraid they've had
2 bad incidents of people taking stuff out of their
3 mailboxes. So they don't use home mailboxes anymore.

4 MR. FISHER: Uh-huh.

5 COUNCILMEMBER VICTORINO: A lot of elderly do
6 that. I -- I -- I've seen that happen more and more.
7 But the Voter Vault, if that had P.O. box, what would
8 you say to that point?

9 MR. FISHER: I would say that's probably a
10 group of people that you ought to go take a look at.

11 COUNCILMEMBER VICTORINO: Okay.

12 MR. FISHER: You ought to send them out one of
13 the letters that is suggested in here. All I'm trying
14 to do is -- 90-plus percent of the people in Maui County
15 who are claiming a homeowner's exemption are entitled to
16 it. Maybe it's higher than that.

17 COUNCILMEMBER VICTORINO: Right.

18 MR. FISHER: Why would we bother all of these
19 people with all of this paperwork, and I gotta go get my
20 voter registration card and I gotta get this and I gotta
21 get that? If we can prove they are a voter and they're
22 claiming a homeowner's exemption, I don't know, by
23 golly, I think maybe we ought to just get them out of it
24 and let's get down to the scofflaws, as the expression
25 goes. And that is -- I will tell you this, I went to

1 two different people, one of whom deals with the Voter
2 Vault all the time --

3 COUNCILMEMBER VICTORINO: Uh-huh.

4 MR. FISHER: -- and another one who is my
5 stealth computer guy, the same guy from COMET, and he
6 said this is two hours of work on a computer. Because
7 both of the files are in Excel, and to go and take the
8 two files and just take the data out and compare 'em to
9 the other -- which, again, would get rid of 80, 90
10 percent of the -- it's just why are we bothering about
11 this?

12 And if I've lived in my home for umpteen years
13 and there's -- I had -- nothing has changed, why would
14 my homeowner's exemption, which I fulfilled the
15 characteristics of some years ago, have changed? The
16 answer is it wouldn't. If somebody had died in the
17 family and there was ownership, then you -- then it
18 becomes suspect.

19 I think this is just -- it is so much work for
20 no particular reason. This is the 21st Century. This
21 is Maui County. We bought a whole bunch of new
22 computers to go and do this kind of stuff for us.

23 COUNCILMEMBER VICTORINO: Thank you,
24 Mr. Fisher. Thank you, Chair, for allowing me to ask
25 the questions.

1 CHAIR PONTANILLA: Thank you. Members, any
2 more questions for Mr. Fisher? Seeing none, thank you
3 again, Tony --

4 MR. FISHER: Thank you.

5 CHAIR PONTANILLA: -- for being here.

6 MR. FISHER: And by the way, the COMET would
7 solve the problem. It was just brought --

8 (Laughter.)

9 MR. FISHER: Whole different issue
10 for a different time.

11 (Laughter.)

12 CHAIR PONTANILLA: We'll put one BF number to
13 that.

14 Members, Mr. Fisher was the last person to
15 sign up prior to the meeting. Is there anyone out there
16 that would like to provide public testimony at this
17 time? Seeing none, if there's no objections, the Chair
18 would like to close public testimony.

19 COUNCIL MEMBERS: No objections.

20 CHAIR PONTANILLA: Thank you.

21 ...END OF PUBLIC TESTIMONY...

22 ITEM NO. 33: ACCEPTANCE OF REAL PROPERTY FROM KA HALE
23 POMAİKAI (MOLOKAI) (C.C. No. 09-188)

24 CHAIR PONTANILLA: Members, the first item on
25 the agenda this afternoon is BF-33. And if I could have

1 Ms. Gentz provide us with some opening comments? And
2 BF-33, Members, is acceptance of real property from Ka
3 Hale Pomaikai (Molokai).

4 MS. GENTZ: Good afternoon, Committee Chair
5 Pontanilla and Members of the Budget and Finance
6 Committee.

7 Per the Committee's request at your last
8 meeting of August 18th, I sent a letter to Mark
9 Chandler, the Director of the Honolulu Field Office for
10 the U.S. Department of Housing and Urban Development --
11 Development, requesting an extension of time for Ka Hale
12 Pomaikai to establish a sober living facility at
13 Mapulehu, Molokai. In that letter, I requested a
14 response from Mr. Chandler by today in order to provide
15 that in -- information to the Committee.

16 I contacted Mr. Chandler yesterday to follow
17 up on the Committee's request, and was informed that he
18 would not be able to provide a writ -- written request
19 by today. Although, he did inform me that HUD would not
20 allow an extension of time for Ka Hale -- Ka Hale
21 Pomaikai to establish their proposed facility on the
22 site.

23 Mr. Chandler further indicated that HUD's
24 response would advise the County to accept the property
25 from Ka Hale Pomaikai, and for the County to utilize the

1 property for a CDBG-eligible activity, or for the County
2 to be prepared to reimburse the CDBG Program in the
3 amount of the current fair market value of the property.

4 Ka Hale Pomaikai has established a sober and
5 living facility and is providing support services at
6 another location leased from the Department of Hawaiian
7 Home Lands. We congratulate and support Ka Hale
8 Pomaikai on their success with their mission of
9 promoting wellness and drug-free living to the members
10 of the Molokai community.

11 Our intention for accepting the property and
12 conducting the feasibility study for -- for the property
13 is to not only fulfill the requirements of the CDBG
14 program and avoid the use of County General Funds to
15 reimburse the program, but to engage the Molokai
16 community in developing a plan for the future use of the
17 property, and thereby addressing a long-standing
18 contentious -- contentious issue.

19 I respectfully request the Committee's
20 favorable passage of the resolution before the Committee
21 today. And I'm available if the Committee has any questions.

22 CHAIR PONTANILLA: Thank you, Ms. Gentz.
23 Members, any questions for the CDBG Administrator?
24 Member Medeiros?

25 COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

1 Ms. Gentz, thank you for your efforts to get a
2 response. But you did speak to Mr. Chandler via
3 telephone?

4 MS. GENTZ: That's correct.

5 COUNCILMEMBER MEDEIROS: Okay. And he said
6 that HUD would not extend the time. And did he say --
7 give the reasons why?

8 MS. GENTZ: It's because of the Federal reg --
9 regulations are very clear that the organization have --
10 has a five-year limit. And they would deem that
11 anything over five years is land banking. And that is
12 prohibited by the Federal regulations.

13 COUNCILMEMBER MEDEIROS: (Inaudible.)

14 MS. GENTZ: And he want -- had to be
15 consistent with those Federal regulations.

16 COUNCILMEMBER MEDEIROS: Okay. So it's
17 strictly by the books that -- his decision and response
18 was. Was he made aware of the situation that they had
19 gotten into as far as delaying their progress, or that
20 wasn't brought to his attention, or was that in your
21 letter?

22 MS. GENTZ: He is very familiar with the
23 property. We have been working with HUD throughout the
24 past five years. So he's very familiar with the
25 property. And so he's aware of the situation.

1 COUNCILMEMBER MEDEIROS: And my final question
2 is, have they ever extended a -- a time for any other
3 application?

4 MS. GENTZ: Not to my knowledge, no.

5 COUNCILMEMBER MEDEIROS: Okay. Thank you,
6 Ms. Gentz. Mahalo, Mr. Chairman.

7 CHAIR PONTANILLA: Members, any more questions
8 for Ms. Gentz? Member Kaho`ohalahala?

9 COUNCILMEMBER KAHO`OHALAHALA: Thank you,
10 Chair. Chair, just to follow up on -- on Member
11 Medeiros' questioning. Was the HUD aware of the fact
12 that the issues before this particular organization had
13 directly been involved in trying to mitigate burials?

14 MS. GENTZ: I'm sorry. Could you repeat the
15 question?

16 COUNCILMEMBER KAHO`OHALAHALA: Yeah. Was HUD
17 aware that some of the issues faced with Ka Hale
18 Pomaikai was the issues that have to be -- have to do
19 with burials itself?

20 MS. GENTZ: Yes, they are aware of that.

21 COUNCILMEMBER KAHO`OHALAHALA: And is he aware
22 of all of the -- the instances where these burial issues
23 have been compounded in terms of the organization trying
24 to -- to complete that kind of assessment of burials,
25 and that burials are still being uncovered, and that

1 these processes are really outside of the -- the hands
2 of the organization, they were really left in the hands
3 of State Burial Council? And, further, is he aware that
4 the Molokai Burial Council is an entity that isn't in
5 place?

6 MS. GENTZ: Umm.

7 COUNCILMEMBER KAHO`OHALAHALA: I'm looking at
8 all of the -- the reasons why an organization was held
9 at -- at abey [sic], you know,
10 to try and finish. Because here's an issue that they
11 were not necessarily able to complete because that
12 responsibility rests in another agency's, you know,
13 purview.

14 MS. GENTZ: HUD would -- yes, they are aware
15 of it. And, again, that -- those issues should have
16 been addressed. Like now, when we evaluate projects,
17 looking at -- at that -- not only the outstanding
18 environmental issues, but, also, the capacity of the
19 agency to address those issues. And that's a big
20 criteria we use in evaluating whether we would fund a
21 project or not.

22 Also, HUD is also aware of the letter that the
23 program, CDBG, received from the organization,
24 indicating that they did not want to move forward with
25 the project. That letter of November of '08, I believe

1 it was. And I believe you have a copy.

2 COUNCILMEMBER KAHO`OHALAHALA: Yeah. Okay.

3 And -- and I'm just wondering if HUD real -- realizes or
4 understands that the Burial Council itself, the Molokai
5 Burial Council, was an entity that should be making
6 decisions about burials, was not organized, was not in
7 place, and currently has not been fully put together by
8 the State of Hawaii, and you have another agency who
9 has, really, jurisdiction over burials. And if they're
10 not in place, then what happens to an entity who has no
11 means of moving forward unless a State agency, and in
12 this case the Molokai Burial Council, has responsibility
13 to help make decisions about burials? So --

14 MS. GENTZ: So the Federal regulations are
15 very clear that there is a five-year time limit in order
16 to move a project forward.

17 COUNCILMEMBER KAHO`OHALAHALA: So if -- (inaudible)

18 MS. GENTZ: And so -- so in any -- in any
19 case, if there was anything that would prevent a project
20 from moving forward, it's my understanding that HUD's
21 position would be that the entity or -- and the --
22 and/or the County would either have to find an eligible
23 -- another eligible use for the property, or reimburse
24 the CDBG Program for the current fair market value.
25 Thus, not -- no longer being held to those Federal

1 standards.

2 COUNCILMEMBER KAHO`OHALAHALA: Okay. I guess,
3 Chair, you know, this dilemma is that we're gonna move
4 this forward and you still have issues of burials that
5 have not been resolved, and you do not have a Molokai
6 Burial Council in place to resolve this issue. So what
7 happens then?

8 MS. GENTZ: I believe you have the written
9 testimony from Malia Akutagawa. And as she outlines in
10 that written testimony, she is working to develop and --
11 and they have been in contact with the Department of
12 Land and Natural Resources to develop a plan.

13 And in talking with HUD, since Molokai is a
14 low and moderate-income community, that this use of this
15 property as a cultural park, for lack of a -- a better
16 name at this point, is an eligible activity. And there
17 still may be the possibility that -- that the CDBG
18 Program would have to be reimbursed for the current fair
19 market value.

20 COUNCILMEMBER KAHO`OHALAHALA: Okay. In her
21 letter, she says that she's trying to help pull together
22 all of the stakeholders.

23 MS. GENTZ: Uh-huh.

24 COUNCILMEMBER KAHO`OHALAHALA: Which includes
25 Ka -- Ka Hale Pomaikai. So I don't understand how

1 you're -- you're looking at this being the -- the -- the
2 resolution, and, at the same time, saying that we would
3 now remove Ka Hale Pomaikai because it had not been able
4 to fulfill, you know, its use of the property within the
5 time given. And then, now, they're gonna be part of
6 the -- the mitigation of this through a burial treatment
7 plan.

8 MS. GENTZ: I believe the mitigation is to
9 involve Ka Hale Pomaikai as a -- as members of the
10 community in utilizing the property as a cultural park.
11 So the original use of the property, their proposal, Ka
12 Hale Pomaikai's proposal, was the sober living facility.
13 They were not able to move that forward, so the
14 alternate -- what we're looking at as a -- it looked
15 like we would propose a cultural park, and they would be
16 involved in -- in that cultural park, that their members
17 of their community could be involved in the restoration
18 or the activities in the park. And, again, for lack of
19 a better word, the use of the term "park".

20 COUNCILMEMBER KAHO`OHALAHALA: Okay. And then
21 my other question, then, who is the -- the proposed
22 entity, then?

23 MS. GENTZ: At this point in time, that has
24 not been decided.

25 COUNCILMEMBER KAHO`OHALAHALA: Okay. But

1 we're talking about as though it's -- it's already
2 occurred, that there is a move to create a cultural
3 park, of which all of the burial treatments plan will be
4 mitigated, and that Ka Hale Pomaikai would be, you know,
5 a -- a part of that. So you must be talking about some
6 entity. And that's -- that's why I'm a little confused
7 on how you're envisioning that, if you do not already
8 currently envision an entity to take over. Because what
9 we're asking is to have it removed and put somewhere
10 else, but it'll be a cultural park. So can you explain
11 who, why or how this is gonna occur?

12 MS. GENTZ: Well, we're -- the feasibility
13 study is currently being done. And one part of that
14 feasibility study is to identify another entity.

15 COUNCILMEMBER KAHO`OHALAHALA: Okay. So we
16 don't have an entity, but we have an idea, and we're
17 gonna move it ahead to the idea, but we will decide at
18 some point in the future who the entity will be, then?

19 MS. GENTZ: At this point, yes, that is the
20 current status.

21 COUNCILMEMBER KAHO`OHALAHALA: Okay. Okay.
22 I'm -- I'm confused how that's all gonna occur. I mean,
23 if you have a plan and an idea, then you should know who
24 an entity might be eligible for this, and that this
25 Council should be looking at what that's entailing, so

1 we understand fully what we -- we're gonna remove it
2 from one to leave it somewhere out there, but it's gonna
3 become a -- a third thing. So you're leaving me some
4 gaps here that I can't make a connection. And that's my
5 -- that's my problem here. We need to know clearly what
6 it is that you have in mind. And, surely, you must have
7 a -- a -- an entity in mind to have proposed the
8 cultural park as -- as a solution, you know. So --

9 MS. GENTZ: As I stated, we're waiting for the
10 finalization of the feasibility study. So at this
11 point, we have not clearly identified an entity -- an
12 entity.

13 COUNCILMEMBER KAHO`OHALAHALA: Okay. Thank
14 you.

15 CHAIR PONTANILLA: Thank you. Ms. Gentz, one
16 fast question from the Chair. Once the study's
17 completed, can Ka Hale Pomaikai be -- I -- I guess be
18 reconsidered as a recipient to utilize this piece of
19 land?

20 MS. GENTZ: Well, again, HUD would have the
21 question if it was for a sober living facility. And
22 they -- they would question their capacity to develop
23 it. So I would -- you know, I can't speak totally for
24 HUD, but I can(?) imagine that they would support that.

25 CHAIR PONTANILLA: Thank you. Members, any

1 more questions for Ms. Gentz at this time? Member
2 Nishiki?

3 COUNCILMEMBER NISHIKI: You know, Sol tried
4 his best to be sensitive enough to deal with the
5 situation. And I just wanna read from Malia Akutagawa.
6 Members, if you turn to the back portion of her
7 testimony, and it's the third to the last paragraph, the
8 bullet saying, providing (offsite) a cultural curriculum
9 piece of treatment activities for Ka Hale Pomaikai sober
10 living clients that may include understanding one's
11 place in ohana -- English term, "family" -- and
12 community through engendering a sense of kuleana --
13 English terminology, "responsibility" -- to all piko --
14 English term, "connections" -- pikoai -- pikoi -- "head
15 and shoulders," English term -- as the seat of one's
16 ancestors, to the pikoo, or naau -- English terminology,
17 "intestines and intuition" -- that connects us to the
18 present, and to the piko, mai -- English terminology,
19 "reproductive area" -- that reminds us for -- reminds us
20 of our responsibility to our children and generations
21 yet unborn. It is with strong piko that we live
22 responsible lives and embrace all aspects of our ohana
23 and community.

24 You know, that's what I respect whenever
25 members of Molokai come over and -- and -- and speak,

1 Carol. I think it is with real simplistic terms. Other
2 people use all kinds of words and never really
3 understand.

4 This is really simple. You know, in -- in
5 this whole process -- you know, when that lady that
6 works here came and said, you know, the lady was so
7 frustrated that she took off, but I'm still here, and we
8 still wanna keep this circumstance, and she was
9 representing Pomaikai. It was really simple for us to
10 understand.

11 So, you know, I -- I -- I am grateful that you
12 went and talked to this gentleman from Honolulu who
13 represents HUD. And -- and when Bill and Sol questioned
14 you about, do they really know the circumstance.

15 I -- I -- I think, for me, who has led a
16 pretty rough life when I was growing up, you know, it's
17 -- it reminds me of being handcuffed, leg-cuffed,
18 mugged, something in my mouth to keep me from talking.

19 UNIDENTIFIED SPEAKER: Muffle.

20 COUNCILMEMBER NISHIKI: What do you call that?

21 UNIDENTIFIED SPEAKER: Muffle.

22 COUNCILMEMBER KAHO'OHALAHALA: Muzzle.

23 COUNCILMEMBER NISHIKI: Muzzle -- muffle?

24 COUNCIL MEMBERS: Muzzle.

25 COUNCILMEMBER NISHIKI: Muzzle?

1 COUNCILMEMBER VICTORINO: Yeah.

2 COUNCILMEMBER NISHIKI: Straightjacket,
3 seriously, you know. And experienced that kind of --
4 circumstance in my life is like you can't move, you can't
5 explain, nothing.

6 And this was something that this group, from
7 its onset -- and I -- I -- I -- and I don't know if you
8 would agree with me, but when you read about the 20,000
9 that they were given to conduct this -- which was not
10 enough. You mentioned to us how much the County is
11 spending for this survey now. I think what -- was it
12 70,000?

13 MS. GENTZ: I mentioned 70,000. It's actually
14 60,400.

15 COUNCILMEMBER NISHIKI: Whatever, 60,000.

16 MS. GENTZ: Uh-huh.

17 COUNCILMEMBER NISHIKI: You never -- there was
18 not enough in this monies that was given to them. And
19 so from the onset, Mr. Chairman, they -- they could
20 really not complete what they had to do in order to even
21 secure this property, you know.

22 Even more than that, even more than that, even
23 more than that, the person who sold 'em the property had
24 so much aloha for these people for what they were going
25 to do that they gave 'em the price, what, 200,000, and

1 despite that they knew it was worth more than that. You
2 see? That -- that's what real people are all about.

3 And -- and -- and, you know, and Bill and I
4 were kind of whispering to each other, and he was just
5 going -- all, you know, sometimes these are the cold
6 facts of government bureaucracy, you know. You know,
7 and -- and, as I said, Carol, I -- I don't know if
8 you've told 'em the real thing about what I just tried
9 to communicate, that they had no chance, Mr. Chairman.
10 And -- and -- and that's the sad thing about it, you
11 know.

12 Here was a group that was willing to take,
13 again, care of a part of this community that we're --
14 they were sending their people to Maui and they said,
15 hey, you know, these people have -- have job problems or
16 whatever else, and we'd like to take 'em back home
17 because, that way, at least ohana, the family, didn't
18 have to spend money and couldn't come over here, they
19 could be rehabilitated in Molokai. These people were
20 willing to -- to do that. And they were never given
21 that opportunity.

22 I don't know if this is the end of it, Carol,
23 but I -- I -- I feel real awkward in my position in
24 accepting that this is the end, Mr. Chair. And despite
25 that we've exhausted the venue that we did -- I don't

1 know. You know, it's like maybe we should send you or
2 Sol or somebody to try to talk to this gentleman one
3 more time, seriously. It's just not fair.

4 That's all. So --

5 MS. GENTZ: Thank you.

6 COUNCILMEMBER NISHIKI: Yeah.

7 CHAIR PONTANILLA: Thank you, Mr. Nishiki.

8 MS. GENTZ: Excuse me, Chair. I have an
9 additional comment --

10 CHAIR PONTANILLA: Sure.

11 MS. GENTZ: -- if I may.

12 CHAIR PONTANILLA: Ms. -- Ms. Gentz?

13 MS. GENTZ: Another aspect of this is that
14 there is strong community opposition to having this Ke
15 -- Ka Hale Pomaikai on this -- piece of land. And that
16 also -- not because of the organization. The community
17 supports the organization, but not on this land. There
18 is -- the community is very divided on this -- the
19 cultural -- cultural significance of this land.

20 And so that -- you know, to be honest with
21 you, if money was not an issue, if the five-year time
22 period was not an issue, I don't believe -- and this is
23 my personal opinion -- but based on what I have seen and
24 read and heard, is I don't know that they would be
25 successful in -- in using -- utilizing this property for

1 the sober living facility.

2 COUNCILMEMBER NISHIKI: Yeah. Well, I -- I --
3 I -- I only have to depend upon from the people of
4 Molokai, and then I hear you. And maybe you've heard
5 more than me, but I've heard from that one lady that
6 came the last time, and then I read from Malia, who, for
7 me, articulated, in English, that it's still something
8 that they've kinda gotten together. And -- and Malia
9 now, I think, is on the Burial Council, Sol?

10 COUNCILMEMBER KAHO`OHALAHALA: She's -- yeah,
11 she's a --

12 COUNCILMEMBER NISHIKI: So --

13 COUNCILMEMBER KAHO`OHALAHALA: -- chair.

14 COUNCILMEMBER NISHIKI: So, you know, they're
15 trying to reconcile and -- and -- and work on this. But
16 if you say that people that want 'em, I remember you --
17 you -- you telling us that. I think it was -- it may be
18 only because of the burial issue and -- and -- and the
19 iwi. And -- and -- and I think if that was resolved,
20 then I would think that where they were able to use
21 without disturbing iwi or respecting the other aspects
22 of what this study will turn out, I -- I -- I -- I --
23 I -- I -- I -- I think that all of them together were
24 going to be very respectful on how this particular piece
25 of land was going to go.

1 Now, if you tell me -- if you tell me that,
2 when you explain this, that you think that the land
3 itself was just so covered with cultural and -- and --
4 and -- and significant things that nothing could be
5 done, now that's another story. But I don't think that
6 that is the story, Mr. Chairman, that personally,
7 myself, I believe to be what it is.

8 And after all of this, there would be some
9 peaceful reconciliation and -- and -- and -- and talk
10 amongst the -- that community, which is very close.
11 They have their arguments -- and good -- but they know
12 how to come together.

13 Thank you.

14 CHAIR PONTANILLA: Thank you, Mr. Nishiki.
15 Member Baisa?

16 COUNCILMEMBER BAISA: Thank you very much,
17 Chair. Chair, I'm trying to cut to the chase here and,
18 you know, get to what we need to do.

19 My understanding, Ms. Gentz, if I understand
20 correctly, is that they got the property, but they could
21 not do what they wanted to do on the property because
22 they ran into the burial issues; however, they do have
23 the program going in another place?

24 MS. GENTZ: That's correct.

25 COUNCILMEMBER BAISA: So it isn't like they've

1 been denied the opportunity to provide the services;
2 they are providing the services?

3 MS. GENTZ: That's correct.

4 COUNCILMEMBER BAISA: Okay. Now, comes
5 attorney Malia Akutagawa who, apparently, is Chair of
6 the Burial Council, is trying to salvage this and trying
7 to bring people together to see what can be done. And I
8 notice in her letter that she does refer to if they were
9 able to come up with a plan to take care of the iwi on
10 the property, and to have a proper plan for that, that
11 -- and it could be used for training and cultural
12 purposes. In her letter, she does mention that it could
13 be used as a cultural curriculum place for the clients
14 of Ka Hale Pomaikai. So they would still be involved,
15 if this plan materializes that she's suggesting. So it
16 isn't like they would be cut out of it. So she's trying
17 to bring the people together to salvage, you know, of --
18 the intent of it and to keep the land and use it. But,
19 of course, there's this concern about the iwi on the
20 property.

21 So if we were to take the land back, and then
22 it belongs to the County, but it also is under the
23 jurisdiction of, you know, the CDBG, because it belongs
24 to them, if this plan that Ms. Akutagawa is trying to
25 put together with her -- with the community works, then

1 we would not have to pay back CDBG, if they were to
2 accept the plan?

3 MS. GENTZ: If HUD were to accept the plan,
4 that's correct. If they -- if it is deemed to be an --
5 CDBG-eligible activity, then the County would not have
6 to reimburse the CDBG Program.

7 COUNCILMEMBER BAISA: Correct. Now, if there
8 is no plan that meets the requirements of HUD and CDBG,
9 then the other option, of course, is to pay the fair
10 market value back?

11 MS. GENTZ: That's correct. And in which case
12 -- I mean, if Ka Hale Pomaikai were to pay the fair
13 market value, then they could do whatever they wanted on
14 the property, whatever they were able to do on the
15 property; or if the County paid back the CDBG Program,
16 then the County could choose what to do with the
17 property at that point.

18 COUNCILMEMBER BAISA: Except of the idea of
19 either us or Hale Pomaikai being able to come up with
20 the money to pay back that fair market value is
21 considerable.

22 It seems to me that this attempt to come up
23 with a plan is not a bad idea. Because, you know,
24 Molokai, as Councilmember Nishiki stated, is a very
25 unique community. And I totally agree with him that

1 while they differ, and they have passionate, you know,
2 crusades against whatever is going on, on both sides,
3 they still are brothers and they come together, you
4 know, around things that they believe in. And I think
5 it would be a great solution to the whole thing if we
6 could come up with a plan that the -- they can come up
7 with a solution that the whole community can support.
8 And, of course, we never can say the whole community.
9 The majority of the community.

10 So I think there's some hope here. I think
11 it's outlined pretty well in this letter. So that's
12 where I'm at.

13 CHAIR PONTANILLA: Thank you, Member Baisa.
14 Just a fast question to Ms. Gentz, reality check. If
15 the County don't accept this as a gift, what happens?

16 MS. GENTZ: If the County does not accept it
17 as a gift, and there is not a CDBG-eligible activity
18 happening on the property, then the HUD will issue a
19 demand letter to the County requesting the fair market
20 value. And then the County would choose on whether we
21 would hold Ka Hale Pomaikai accountable for that, per
22 the sub-recipient agreement we have with them.

23 CHAIR PONTANILLA: Thank you. Members, any
24 more questions for Ms. Gentz? Member Medeiros?

25 COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

1 Yeah, Ms. Gentz, as we read, Ka Hale
2 Pomaikai's operating the sober living on another
3 location. But because they didn't complete the
4 requirements in five years, are they getting any CDBG
5 funds to help them operate this sober living facility on
6 another location? How -- how do they operate without
7 money?

8 MS. GENTZ: Well, they did not apply for CDBG
9 funding for the other property. So, no, it's not
10 currently being supported with CDBG funds. I'm not -- I
11 cannot speak to (inaudible) --

12 COUNCILMEMBER MEDEIROS: You don't know how
13 they're operating?

14 MS. GENTZ: Uh-huh.

15 COUNCILMEMBER MEDEIROS: Okay. But even if
16 they did apply, because they couldn't complete their
17 first application, it would be unlikely that CDBG
18 would -- or HUD would approve it, another application.
19 Is -- is that sensible?

20 MS. GENTZ: Right. We would evaluate the --
21 the application based on the -- the -- the -- what
22 they're proposing to do and whether it meets an
23 eligible -- it's an eligible activity, meets a national
24 objective, it's a viable project. And then another
25 aspect of the evaluation project is the capacity of the

1 -- of the organization.

2 So, I mean, I can't say that they would --
3 they're not -- wouldn't be excluded from applying or
4 receiving CDBG funds, but we would look closely at the
5 project to see how viable it is.

6 COUNCILMEMBER MEDEIROS: Okay. Thank you,
7 Ms. Gentz. Mahalo, Mr. Chairman.

8 CHAIR PONTANILLA: Thank you. Members, any
9 more questions for the -- Ms. Gentz. Member
10 Kaho`ohalahala?

11 COUNCILMEMBER KAHO`OHALAHALA: Yeah. Thank
12 you, Chair. And just my last opportunity. You know,
13 when I'm reading what Malia's proposed, plan, all of
14 this is really -- she's indicated here by the
15 parenthesis that this would be done offsite. So the
16 plan is now to acquire this -- this eight or nine acres
17 of -- of land, of which we would put in place this --
18 it's called a cultural landscape. And that perhaps it
19 would allow for the -- the training of different
20 cultural kinds of programs, including archeology as --
21 as another opportunity to train.

22 But what I wanted this body to know, the
23 Committee to know is that when we're dealing with
24 burials and when we know that they're iwi kupuna,
25 burials of those descendants that are Hawaiian or Native

1 Hawaiian to these islands here, that while they're
2 important to Hawaiians, the idea of separating them to
3 -- to think that burials are supposed to be kapu
4 and -- and left in some special place, and -- and not
5 allow for the cultural fabric or the people to be
6 attached to them or to be with them is -- is -- is what
7 I hope is not occurring.

8 Because if you wanted to help an entity like
9 Ka Hale Pomaikai, who's looking at rebuilding within the
10 community, those clients that they believe that need
11 help, and in this case a sober living as a program, that
12 part of their health is to also allow them to be
13 participants in the care of their own iwi.

14 So, you know, in essence, to separate them and
15 take them away from a place that has iwi is almost
16 sending a message that says that, you know, because of
17 the iwi, you know, you're -- this is not a good place
18 for you to be, now you go do your program someplace
19 easy, it's okay to do it there. But reality -- in the
20 reality, the cultural attachment to the people of the
21 iwi is a very, very respectful one. And in that
22 process, you could be helping to heal the same people
23 you're trying to remove from this.

24 So that's why I'm -- I'm trying to make sure
25 that we understand that let's not separate iwi from the

1 people of that culture, because they're one in the same.
2 So if you're gonna work on a program with Malia to
3 develop these things, I hope that the last component of
4 this is an integration of the people into those
5 properties of which the iwi are going to be identified
6 and cared for, reinterred, or put in whatever condition
7 that the cultural landscape calls for. And that Ka Hale
8 Pomaikai should find an appropriate place to integrate
9 themselves in the care of iwi that helps to heal the
10 people they seek to heal, you know.

11 So -- so I wanna leave with that -- that kind
12 of a -- a thought so that we never make the mistake of
13 trying to separate the people who we're trying to help
14 from the same people that they're responsible for caring
15 for. And that's the iwi. So --

16 MS. GENTZ: Thank you.

17 COUNCILMEMBER KAHO`OHALAHALA: And then my
18 last question is, who ultimately, Chair, has the final
19 decisions on this? Is it this -- the Council?

20 CHAIR PONTANILLA: In -- in this matter here
21 in accepting the gifts, yes.

22 COUNCILMEMBER KAHO`OHALAHALA: Okay. So in
23 the very end, we will be the ones to make a decision
24 about where this eight acres or nine acres of land will
25 go?

1 CHAIR PONTANILLA: Ms. Gentz, can you answer
2 that?

3 MS. GENTZ: You -- before you is the decision
4 about accepting the property. HUD will have to accept
5 whatever use is proposed for the property as a
6 CDBG-eligible activity.

7 COUNCILMEMBER KAHO`OHALAHALA: Okay. And is
8 the -- the proposal that Malia has outlined in here, is
9 this an eligible kind of use for that property by HUD?

10 MS. GENTZ: In our discussions with HUD, yes,
11 since Molokai is a low and moderate-income community,
12 there are more broad uses than if it was on the Island
13 of -- of Maui, for example. So in concept, it would be.
14 I mean, they haven't seen this proposal. You know, we
15 haven't made a formal proposal as to -- to HUD as to
16 what the ultimate -- at this point. But, yes, we have
17 been in discussions with them. And a park, again, for
18 lack of a better word, or a cultural landscape would be
19 an acceptable use.

20 COUNCILMEMBER KAHO`OHALAHALA: Okay. And then
21 that still brings to the question, my original thought
22 is, who are we talking about? You know, because if it's
23 part of our responsibility to accept this nine acres of
24 land, it is also a part of our responsibility to be sure
25 that it's going to be managed or used by an entity.

1 And -- and that's what is -- is unclear to -- in my
2 discussion today, is that we seem to be talking about it
3 moving to -- to third base, but we're missing the idea
4 of who is going to be managing this movement to -- to
5 third base. And -- and that confuses me.

6 We should be talking about that whole thing
7 right now and making some decision, we're gonna take the
8 land back, we're gonna identify an entity, these are
9 the -- the programs that are gonna be put in place, and
10 this is what we would accept.

11 MS. GENTZ: I understand that. And due to the
12 circumstances, we haven't -- we haven't been able to
13 finish the feasibility at -- study at this point. And
14 so we don't know who -- exactly what the final entity
15 would be.

16 COUNCILMEMBER KAHO`OHALAHALA: So what will
17 the feasibility process tell you?

18 MS. GENTZ: We requested that they evaluate
19 three different ideas. One was the use of the property
20 for a public facility, like a fire station or some other
21 -- other type activity, leasing it to -- or leasing it
22 to another entity, or using it for, you know -- or other
23 activities that they thought were appropriate. And
24 that's where this cultural landscape is coming from.
25 The idea of a cultural landscape is coming from their

1 evaluation and working with the community, as it
2 currently appears to be the most viable option.

3 COUNCILMEMBER KAHO`OHALAHALA: Okay. And,
4 Chair, we -- we have a deadline to make this decision?

5 CHAIR PONTANILLA: October the 4th.

6 COUNCILMEMBER KAHO`OHALAHALA: October?

7 CHAIR PONTANILLA: Fourth.

8 COUNCILMEMBER KAHO`OHALAHALA: The 4th. Okay.
9 And your feasibility assessment is going to be completed
10 before then?

11 MS. GENTZ: It's gonna be really close. We
12 want to demonstrate to HUD that we're moving forward,
13 so -- with identifying an eligible activity. So that is --
14 those steps would be accepting the property and
15 completing the feas -- feasibility study and -- and
16 presenting a plan to them.

17 COUNCILMEMBER KAHO`OHALAHALA: At which time
18 the Council will make a final decision?

19 MS. GENTZ: Technically speaking, I don't know
20 that we need to come back to you. But, considering the
21 circumstances, we'll certainly -- will present the
22 options to you.

23 COUNCILMEMBER KAHO`OHALAHALA: Okay. So all
24 you want us to do is accept it, and then tell us, "We'll
25 take care of the rest," then?

1 MS. GENTZ: Considering the circumstances, we
2 will not be doing that. We will come back and present
3 the feasibility study to you and present our -- our
4 proposal before we submit it to HUD.

5 COUNCILMEMBER KAHO`OHALAHALA: Because part of
6 our discussion here is that you're bringing in this
7 cultural landscape as a idea. It's a very viable one.
8 So part of our persuasion here is the fact that you're
9 presenting these alternatives of which you're now saying
10 are part of a feasibility. But we would be making a
11 decision, in part, based on your persuasion. And so I'm
12 asking for the complete package, you know. I'm looking
13 for everything. But you're not complete with your
14 feasibility, you wanna move it forward, and then you're
15 gonna assure the Council that, "Just make this decision
16 and we'll try to follow suit as best as we can."

17 So I just wanted to know that we were gonna be
18 dealing with the transfer of the property back to the
19 County and that we're gonna put an entity in place,
20 we're describing, in part, where we think it's gonna be,
21 but we don't at this point have any -- any more
22 information than Malia's letter and your incomplete
23 feasibility study. And it leaves some area of unknown.
24 So that's just my -- my -- my caution at this point. I
25 wish we had all of those pieces in place so that we knew

1 exactly what -- what it is we're transferring the land
2 for, yeah.

3 CHAIR PONTANILLA: Thank you.

4 COUNCILMEMBER KAHO`OHALAHALA: (Inaudible.)

5 CHAIR PONTANILLA: Members, the Chair is gonna
6 stop discussion at this time.

7 COUNCILMEMBER MOLINA: Thank you.

8 Recommendation, Chair?

9 CHAIR PONTANILLA: Chair is gonna make his
10 recommendation. And the Chair's recommendation is to
11 accept the revised proposed resolution "AUTHORIZING THE
12 ACCEPTANCE OF REAL PROPERTY FROM KA HALE POMAİKAI,
13 PURSUANT TO CHAPTER 3.56 AND SECTIONS 3.44.015(C), MAUI
14 COUNTY CODE", and the filing of County Communication No.
15 09-188.

16 COUNCILMEMBER MOLINA: So move.

17 COUNCILMEMBER BAISA: Second.

18 COUNCILMEMBER VICTORINO: Second.

19 CHAIR PONTANILLA: Okay. Moved by Member
20 Molina, second by Member Baisa. Members, any more
21 discussion?

22 COUNCILMEMBER NISHIKI: Yeah.

23 CHAIR PONTANILLA: Member Nishiki?

24 COUNCILMEMBER NISHIKI: Yeah. Carol, I --
25 I -- I hope that you extended to us the olive branch of

1 coming back to us to set the policy on perhaps what type
2 of use. I think even for us, today, Carol, until that
3 study comes back, we really have no idea, you know. I
4 think, as Gladys said, you know, what was written today
5 by Malia, and, you know, the coming together of this
6 community happens, despite that they may have
7 disagreements, is because they really follow. And --
8 and if you listened to Sol today, you know, basically,
9 how Hawaiians deal with problems. And it's really
10 beautiful. It is really beautiful, you know. Something
11 that we could learn, you know.

12 And -- and so, anyway, please, in the spirit
13 of Malia's letter, in the spirit of allowing us to make
14 that policy decision -- which that's what we're elected
15 to do, set policy -- for this particular parcel, I would
16 please ask you to return to us.

17 Thank you.

18 CHAIR PONTANILLA: Thank you, Mr. Nishiki.
19 Member Molina?

20 COUNCILMEMBER MOLINA: Thank you, Chairman.
21 I'll support your recommendation, obviously, you know, we're
22 caught between a rock and a hard place with this, you know,
23 unfortunate set of circumstances. The -- you know, the
24 burials were found and it's just one of those -- those
25 things that you have to deal with. And -- but, you

1 know, I'm hoping that with the -- Ms. Gentz's efforts
2 and with the study, should this thing move on, that we
3 can find some type of resolution through this whole
4 ordeal.

5 And it's unfortunate the entity that has been
6 providing the treatment for the community, they got
7 caught in this. And they've been doing such a good job
8 for the community. So at this point all we can do is,
9 you know, hope that things work out for the better,
10 Mr. Chairman.

11 So, you know, we can lament all we want and,
12 you know, ask how come this didn't happen and that
13 didn't happen, but it's not gonna solve it, you know.
14 So we just gotta move on. And, hopefully, with --
15 again, with the efforts of Ms. Gentz -- and thank you
16 for enduring a lot, Ms. Gentz. I know it hasn't been
17 easy. You got kinda -- got caught in the wave of
18 things. So, anyway, I just wish you well, you and the
19 Department well, with this whole issue.

20 Thank you, Mr. Chairman.

21 CHAIR PONTANILLA: Thank you. Members, any
22 more discussion? Member Medeiros, followed by Member
23 Kaho`ohalahala.

24 COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.
25 I just wanted to -- maybe two more questions for

1 Ms. Gentz. I -- I just follow up with what Member
2 Kaho`ohalahala said. You know, growing up in a very
3 rural Hawaiian area, when I was very young, burials were
4 still made at home, in the yard. And -- and that was so
5 that it would keep that family member close to the
6 family. The idea of cemeteries is a Western idea. That
7 was brought to the islands. And we still have many
8 burials in Hana and Keanae that are still in the home
9 properties. And that's where the Hawaiian culture wants
10 them to be.

11 So to think that you have to separate somebody
12 from a particular aina because there's burials there is
13 very different from the Hawaiian thinking. And so I
14 just bring that as information. And because we're --
15 not we, but because you had to deal with person, you
16 know, from the Federal Government that is very far away
17 from us and really doesn't understand that kind of
18 thinking, it's hard to convey that to people like that.

19 But I -- I'm glad that, you know, Member
20 Kaho`ohalahala gave some background on that. And I just
21 wanted to add -- add to that.

22 But my second question was, who were the
23 people that decided on the scope of the feasibility
24 study? Did you get input from the community on Molokai?

25 CHAIR PONTANILLA: Ms. Gentz?

1 MS. GENTZ: We didn't get input from -- on the RFP
2 itself. It was a -- a program decision. Although, I
3 did write it pretty broadly in order to allow for the
4 community to present answers. And when we selected a
5 contractor, we selected the contractor who was --
6 presented the proposal to do more -- the most community
7 outreach and community participation.

8 COUNCILMEMBER MEDEIROS: Uh-huh. And -- and
9 is the contractor a local contractor that's familiar
10 with Hawaiian issues in Hawaii, or Hawaiian cultural
11 traditions?

12 MS. GENTZ: The contractor itself, the
13 principal, is not from Hawaii. Although, they have been
14 involved with other projects on Molokai. And they --
15 they subcontracted with a number of individuals on
16 Molokai to do the interviews with community members.
17 And, also, the archeologists were local archeologists as
18 well.

19 COUNCILMEMBER MEDEIROS: Okay. Thank you for
20 that information. Mahalo, Mr. Chairman.

21 CHAIR PONTANILLA: Member Kaho`ohalahala?

22 COUNCILMEMBER KAHO`OHALAHALA: Thank you,
23 Chair. I'm gonna support your recommendation with --
24 with reservations. And I wanna thank Carol for taking
25 her time and following up on our last -- since our last

1 meeting. And I appreciate that you're doing -- I wanted
2 to make sure that we gave every opportunity to the
3 entity, you know, Ka Hale Pomaikai. And as you're
4 moving forward, I wanted to be clear that this is
5 exactly what it is we are in fact doing today. And as I
6 said, I -- I don't know that it's all in place yet. And
7 I'm, at this point, gonna make a decision without me
8 knowing exactly what's gonna be the outcome except that
9 the property will be transferred. So it's with that
10 reservation that -- that, Chair, I'm gonna support it.
11 But I don't wanna diminish the -- the fact that you've
12 done all of this work and you've tried to bring these
13 entities together. And I appreciate that Malia is gonna
14 take another stab at it. I have a lot of confidence in
15 her.

16 So -- so thank you again.

17 CHAIR PONTANILLA: Thank you. Member
18 Victorino?

19 COUNCILMEMBER VICTORINO: Thank you, Chair.
20 And -- and I, too, will support your recommendation.
21 And I wanna thank Carol for all the work. And I would
22 hope that this will, also, with Malia and -- and others
23 in the community, have a chance for healing and --
24 and -- and -- and bringing together. Because all -- all
25 the words, unless people can come together and heal and

1 work together for a common goal, makes it very
2 difficult.

3 And, you know, that makes it where I think
4 maybe sometimes these kinds of stumbling blocks or
5 delays helps us to refocus, if you wanna use -- and --
6 and -- and really get into what we need to do and be
7 pono and find the balance. And that -- that's -- that's
8 maybe where this'll all -- the outcome. None of us know
9 what the outcome.

10 And I also thank you for -- what do you call
11 that? Thank you for committing to come back to this
12 Council once this has come -- once you have the plan
13 in -- in motion, to come back to us to let us know so
14 that we can share the mana'o with that, yeah. So thank
15 you very much.

16 Thank you, Chair.

17 CHAIR PONTANILLA: Thank you. Members, any
18 more discussion? If not, all in favor of the motion,
19 please say "aye".

20 COUNCIL MEMBERS VOICED AYE.

21 CHAIR PONTANILLA: Any oppose? Seeing none,
22 motion is carried with eight ayes; one excused, Member
23 -- Chairman Mateo.

24
25

1 VOTE: AYES: Councilmembers Baisa, Johnson,
2 Kaho`ohalahala, Medeiros, Molina,
3 Nishiki, Victorino, and Chair
4 Pontanilla.
5 NOES: None.
6 ABSTAIN: None.
7 ABSENT: None.
8 EXC.: Vice-Chair Mateo.

9 ACTION: ADOPTION of revised resolution; and FILING of
10 communication by C.R.

11 CHAIR PONTANILLA: At this time the Chair
12 would like to thank Ms. Gentz. I know you answered a
13 lot of tough questions. Because, you know, any -- any
14 Hawaiian issue is -- is dear to our hearts. So, again,
15 thank you very much.

16 Members, Chair is looking at time. I'm gonna
17 take our afternoon recess, and we'll reconvene at 3:05.
18 Meeting is in recess. ...(gavel)...

19 RECESS: 2:55 p.m.

20 RECONVENE: 3:13 p.m.

21 ITEM NO. 38: HOMEOWNER EXEMPTION ENFORCEMENT
22 (C.C. No. 09-225)

23 CHAIR PONTANILLA: ...(gavel)... The Budget
24 and Finance Committee meeting is now reconvened.

25 Members, the next item on the agenda is BF-38,
Homeowner Exemption Enforcement. And the purpose of the
proposed bill is -- is requiring the Direct -- Director
of Finance to reconfirm a property's owners

1 continued qualification for homeowner exemption.

2 Members, I know some testifiers this afternoon
3 testified that there are some concerns regarding the
4 burden on the homeowner to respond to the Director's
5 request, you know, is requiring too much of an effort
6 as written in the proposed bill.

7 So at this time, the Chair would like to call
8 on the Deputy Director, Agnes Hayashi, to provide us
9 with some comments. And I believe that all of you
10 received some -- a memo dated September 1st, 2009, from
11 the Budget Director -- not Budget; Finance Director,
12 Mr. Kalbert Young. Ms. Hayashi?

13 MS. HAYASHI: Thank you. Thank you, Honorable
14 Budget and Finance Committee Chair Pontanilla. And good
15 afternoon, Members of the Budget and Finance Committee.

16 On behalf of the Department of Finance, I
17 thank you for this opportunity to speak on the proposed
18 bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION
19 3.48.450, MAUI COUNTY CODE, RELATING TO REAL PROPERTY
20 TAX HOME EXEMPTIONS".

21 For clarification purposes to previous
22 testimony this afternoon, please know that this proposed
23 bill is drafted by the Council. That the Administration
24 supports its intent, but did not write it.

25 Pursuant to your County Communication No.

1 09-225, just to reiterate what the -- what Chair
2 Pontanilla has mentioned, it is stated that the purpose
3 of this bill is to require the Director of Finance to
4 reconfirm a property owner's continued qualification for
5 the Home Exemption.

6 By way of background, the homeowner exemption
7 is given to owner-occupant residents in the County of
8 Maui. It is a benefit, a gift, if I may, that is
9 granted if you qualify and found eligible. As any
10 qualification requirement, it is appropriate, we
11 believe, that proof of eligibility should be required
12 and should be expected.

13 The Department of Finance recognizes the
14 significant and valuable benefit of the Homeowner's
15 Exemption Program to our taxpayers, and the necessity to
16 have in place, as the Council has -- has recommended, an
17 effective monitoring and enforcement program to ensure
18 that the Homeowner's Exemption Program is, in fact,
19 utilized properly, and the benefits are provided to only
20 those who -- whom it was intended, and have properly
21 qualified for that benefit, in accordance with the Maui
22 County Code.

23 We believe that the intent of this proposed
24 bill is to safeguard the integrity of the Real Property
25 Tax Code in regards to the Homeowner's Exemption

1 program. Therefore, and for this reason, the
2 Administration is in support of the overall concept of
3 this proposed ordinance and concurs that an enforcement
4 measure is justly warranted.

5 The proposed bill before you, as it is
6 written, entails additional measures involving regular
7 and periodic solicitation and verification from
8 taxpayers on the homeowner roles and likely subsequent
9 follow-up and investigation.

10 While we support and concur with the
11 intentions of the proposed ordinance, we do have
12 concerns over our ability to successfully and
13 effectively deploy these specific measures with our
14 current resource levels in the Real Property Tax
15 Division.

16 As the Chair had mentioned, and with his
17 indulgence, there is a prepared testimony that is
18 submitted by the Director of Finance. And this is
19 correspondence dated September 1st, 2009, transmitted
20 this afternoon, just prior to today's meeting. This
21 testimony offers revision to the proposed ordinance,
22 which we believe will achieve the same results with less
23 impact on our current resource structure. And I would
24 like to read this to you.

25 It reads: Dear Chair Pontanilla and Committee

1 Members: This testimony is provided in support of the
2 concept in BF-38, and to offer recommendations to
3 improve the overall concept of safeguarding the benefits
4 of the homeowner classification and homeowner exemption
5 in real property tax.

6 The ordinance proposes to require the
7 Department of Finance, Real Property Tax Division, to
8 institute a process to annually solicit and confirm
9 attestation from taxpayers who are on the homeowner
10 roles. The Administration supports the idea of the
11 ordinance but does have some reservations and concerns
12 over our ability to successfully enforce this process
13 under our current resource structure in the Real
14 Property Tax Division.

15 Since Fiscal Year '07, the homeowner exemption
16 has been 300,000. By far, the most generous exemption
17 of any county in the State of Hawaii. Since Fiscal Year
18 '09, the homeowner tax rate has been \$2 per one thousand
19 dollar of value. By far, the lowest tax rate of any tax
20 rate in any county in the State of Hawaii. When
21 compared to the improved residential tax category rate
22 of \$4.85 per \$1,000 of value, the benefit of the
23 homeowner tax category, an exemption could comparatively
24 be worth at least \$1,305.

25 For Fiscal Year '10, there are currently more

1 than 26,000 homeowner exemptions on record. The
2 homeowner exemption and tax rate are valuable benefits
3 given to owner-occupant residents in the County of Maui,
4 and needs to be safeguarded and enforced so that it is
5 reserved for those who are legally -- legally qualified,
6 and for which the County Code intended.

7 For this reason, the Administration supports
8 the intent of the ordinance.

9 Enforcement and resources are challenges for
10 the RPTD. And this measure would place a process
11 requirement on the Division that will require additional
12 resources to implement.

13 In this regard, I believe that the concept and
14 results desired of BF-38 could be more efficiently
15 accomplished with the following revision: Rather than
16 requiring the Real Property Tax Division to annually
17 solicit confirmation and response as homeowners, the
18 County Code should be amended at 3.48.415, to make the
19 homeowner exemption expire after five years from the
20 date of application. Every taxpayer seeking the
21 homeowner exemption would be re -- would be required to
22 apply or reapply for the exemption after five years.
23 This is similar in concept to other government programs
24 like driver's license renewal.

25 The Department of Finance believes that

1 allowing homeowner exemptions to expire after five years
2 is more efficient and cost-effective for enforcing this
3 program. BF-38 would require the Division to process
4 and receive correspondence, investigate discrepancies,
5 process certified mail requests and is, therefore, more
6 rife with opportunity for discrepancies.

7 In contrast, a systematic deadline for
8 automatic expiration of the homeowner exemption is more
9 operationally practical and achieves a higher level of
10 enforcement with minimal increase in Government
11 resources. This approach would be more direct,
12 minimizes causes for delay, and reduces unnecessary back
13 and forth interaction with over 26,000 homeowners.

14 Please consider the suggested revision as a
15 means to improve the intent of BF-38.

16 Sincerely, and it is signed, Kalbert K. Young,
17 Director of Finance.

18 CHAIR PONTANILLA: Thank you, Ms. Hayashi.
19 Any more comments?

20 MS. HAYASHI: I would just like to mention,
21 Chair, that also with me today is the -- is the County
22 Real Property Tax Administrator, Mr. Scott Teruya. And
23 he and I are both available for your -- for any
24 questions that you may have on a technical or
25 operational matter. Thank you.

1 CHAIR PONTANILLA: Thank you. Members, any
2 questions for the Finance Department? Mr. Victorino?

3 COUNCILMEMBER VICTORINO: Yes. Thank you.
4 And thank you, Ms. Hayashi, for -- for bringing forward
5 Mr. Young's suggestion. Now, my -- my question to you
6 is, number one, this, now, we'd have to all reapply, and
7 where -- first of all, where would the five-year -- if
8 we were to accept this -- this idea, make an amendment
9 and accept this idea, when would this five-year for
10 existing homeowners -- would everybody have to start
11 today, like Mr. Fisher was saying, and move on? We
12 going back five years, since I been a homeowner? How
13 does this all work? If you talking five years that
14 we're either required to apply or reapply, when and
15 where and how would this apply?

16 CHAIR PONTANILLA: Ms. Hayashi?

17 MS. HAYASHI: Oh. Thank you, Chair. We were
18 trying to maintain the existing -- existing framework of
19 BF-38.

20 COUNCILMEMBER VICTORINO: Yeah.

21 MS. HAYASHI: So whereas BF-38 is looking at
22 a -- a five-year period --

23 COUNCILMEMBER VICTORINO: Yeah.

24 MS. HAYASHI: -- we were looking at it expiring
25 within five years. And with the -- of course, these are

1 -- these are details that we definitely have to -- to
2 work out. But the idea here is maintaining the structure
3 of the framework and intent of BF-38. Instead of where
4 it would require that the property has -- the property
5 owner has to reconfirm, this would be, instead, an
6 automatic expiration, just like your driver's license.
7 If you think of the driver's license, there is an
8 expiration date. So we would institute the five-year
9 expiration date, say, within that five-year period.

10 And we were looking at -- because this is
11 26,000 on the homeowner roles --

12 COUNCILMEMBER VICTORINO: Uh-huh.

13 MS. HAYASHI: -- we would be looking primarily
14 more at the -- we have a -- we did delineate between
15 people that have -- or the homeowners' class, when they
16 have applied. And we were looking at maybe targeting
17 those from 2 -- prior to 2003. And that would be --
18 that would amount to about 15,000 we'd be looking at
19 first. So these would be the older -- those that
20 applied in the earlier years.

21 COUNCILMEMBER VICTORINO: Prior to 2003?

22 MS. HAYASHI: Yeah.

23 COUNCILMEMBER VICTORINO: So you go all 15,000
24 that had applied prior to 2003? Wouldn't that be --

25 UNIDENTIFIED SPEAKER: (Inaudible.)

1 COUNCILMEMBER VICTORINO: -- a logistical
2 nightmare?

3 MR. TERUYA: Yeah. I can just add to that.
4 It --

5 COUNCILMEMBER VICTORINO: Yeah, please.

6 MR. TERUYA: It really depends on how we wanna
7 approach doing --

8 COUNCILMEMBER VICTORINO: Okay.

9 MR. TERUYA: -- this. I mean, we can do all
10 15,000 in that first year, or we can start staggering
11 it, giving us five years to start implementing the
12 program. With 26,000, if we had five years to do it,
13 with -- maybe, if we could stagger it, 7,000 or 6,000
14 per year, then we'd probably have to do a cut-off as to
15 what years people applied.

16 Looking at our numbers that we had, prior to
17 1988, there was about 5,200 applications. I'm -- I'm
18 just trying to break --

19 COUNCILMEMBER VICTORINO: Yeah, yeah. Okay.

20 MR. TERUYA: -- it down evenly.

21 COUNCILMEMBER VICTORINO: Okay. Thank you.

22 MR. TERUYA: Between '88 and '98, we had
23 another 5,000. Between '98 and 2003, we had another
24 5,000. So if we -- we're given some time to implement
25 it, then we could do it that way. But if the choice was

1 to start it right now and do 15,000, that would be
2 physically a challenge. But it's not like we couldn't
3 do it, but resources would have to be available.

4 COUNCILMEMBER VICTORINO: Oh, okay. And then,
5 'cause, again, I -- I agreed with some of the testifiers
6 that you put the burden on the -- the people that are
7 probably most affected by this, that don't have the
8 means or may not understand the system. And all of a
9 sudden, they lose their homeowner's exemption. And
10 they're the ones that could least afford that. And
11 that's my concern.

12 The intent is good. Again, I think everybody
13 agrees with the intent.

14 I think, Chair Pontanilla, you're right on in
15 making this -- you know, verifying homeownership. I
16 think it's all what we've talked about. Others have
17 talked about that.

18 But how we implement it so that we have the
19 least intrusive, especially for those who most need
20 it is very important. And that's what I'm concerned
21 with. You know, I -- again, I think we all agree with
22 the concept. It's how we implement it and how we don't
23 let people fall through the cracks. Especially our
24 seniors, people that are -- are -- or have special
25 challenges. You know, they applied and all these years

1 they getting it, all of a sudden, now, they gotta redo
2 it, that's a real tough situation for them, you know.

3 Driver's license is a little different, you
4 know. And I hate comparing driver's licenses, but no
5 offense. Driver's license, you gotta do that because
6 you got make sure, A, the person can continue to drive,
7 that they don't have, like mine now, have glasses as a
8 restriction. I never had that before. You know,
9 there's different changes in ourselves.

10 But you talking homeowners. I've lived
11 somewhere for 22 years, same house, 22 years. And now I
12 gotta remember to reapply. I probably will forget, but
13 that's another issue.

14 But, again, that's my concern, Mr. Chair, you
15 know, that -- you know, I see Mr. Young walking in to --
16 to answer my question because he know I was giving some
17 heat already. But I -- I -- I like the idea, I like the
18 concept, but I just wanna make sure we do it as
19 simplistic and as unobtrusive as possible for the people
20 out there that probably would be the most effected. And
21 that's the elderly and some of those that really do have
22 a difficult time.

23 CHAIR PONTANILLA: Thank you, Mr. Victorino.

24 Member Molina?

25 COUNCILMEMBER MOLINA: Thank you, Chairman.

1 First of all, for the record, I appreciate
2 Director Hayashi mentioning this is Council-generated.
3 This is your -- your -- your -- you're the introducer of
4 this bill --

5 CHAIR PONTANILLA: Yes, I am.

6 COUNCILMEMBER MOLINA: -- Mr. Chair? Thank
7 you. I think it's a good direction.

8 If I could ask either Director Young or
9 Director Hayashi if they could share any abuses of the
10 home exemption, homeowner's tax exemption, and if they
11 have any figures as far as what kind of revenues
12 potentially have been lost because of abuse?

13 MR. YOUNG: Mr. Chair?

14 CHAIR PONTANILLA: Mr. Young.

15 MR. YOUNG: I think Mr. Teruya would be more
16 apt to speak to like the operational, what he
17 experiences day to day.

18 I would just say that if -- if Ms. Hayashi
19 read some statement that I prepared earlier, we see what
20 the value actually could be. Because if you are -- if
21 you are a homeowner versus improved residential, just on
22 the \$300,000 example alone, is worth about \$1,300 a
23 year. And if properties are valued, as they typically
24 are, at greater than 300,000, the value only increases.
25 So the incentive, really, is you would want to try and

1 be in the homeowners as possible. And then once you
2 get there, you wouldn't want to get out of it.

3 UNIDENTIFIED SPEAKER: Sure.

4 MR. YOUNG: So although the Division spends
5 some time enforcing, we really don't have a -- as -- as
6 a proactive direct approach to enforcing as should be in
7 order to safeguard and protect the homeowner's
8 exemption.

9 MR. TERUYA: Just some -- some just general
10 statistics. What we've -- have been trying to do since
11 the beginning of this calendar year was to ramp up the
12 efforts in trying to look for the enforcement or
13 compliance. What we've done so far since January --
14 I've got some really general numbers for you -- is we've
15 looked at properties that had mailing address and (inaudible)
16 address as a disconnect, where they didn't match. And
17 that's where -- the first place we started.

18 Of those that had another Hawaii mailing address,
19 not as (inaudible) address, we have found maybe half of
20 them were not in compliance, or did not meet the
21 criteria. And that led to approximately \$74,000 in
22 revenue.

23 Out of the out-of-state properties, we're
24 looking at two to one being not -- no longer allowed the
25 exemption. And that's only a small number. We only did

1 about 36 properties out of state, and we have about 264
2 yet to -- to do work on. I mean, it does take some time
3 to do correspondence and follow up with property owners
4 that are not in the state of Hawaii.

5 So if that trend was to continue, I'm just
6 looking at the number of -- of exemptions that we're
7 having so far, we're looking at about -- about 600
8 properties currently that we've done mailers to already.
9 And if that trend continues, that's gonna -- almost be
10 bringing back a revenue of about \$700,000.

11 COUNCILMEMBER MOLINA: Wow. We're talking some
12 pretty big numbers here potentially, yeah.

13 One more question, Mr. Chairman. You know,
14 how -- how is the -- again, I -- I guess the Department,
15 you're gonna continue with the mail-outs to try and
16 re -- reconfirm people's homeowner's exemption status.
17 And that'll be, again, through the mailing system, or is
18 there something else you would like to consider
19 implementing to, I guess, more -- not to say more
20 accurately find out who qualifies or who doesn't
21 qualify, but is -- do you have some ideas on how to --
22 how you're gonna reconfirm people's homeowner's
23 exemption status, through technology or personnel?

24 MR. TERUYA: Well, what we're trying to do
25 right now is, we've been working with both the County

1 Clerk's Office and the State of Hawaii. We've been
2 trying for the last three years with the State of
3 Hawaii. And just, most recently, with the help of the
4 Mayor's Office, through the Governor's Office, we're
5 starting to get some reply.

6 We still need to test our -- the database as
7 to what information's gonna be go over and come back as
8 a cross-check.

9 Some of the initial problems that we're having
10 is names don't directly match the State database. So
11 even though assess -- assessed number, they're asking
12 for both information, to -- to be exactly matching the
13 database. So we have some issues that were still going
14 on, but we're hoping that information will
15 definitely help us ramp up our efforts in verifying
16 whether or not they filed State resident income tax.

17 COUNCILMEMBER MOLINA: Okay. Thank you,
18 Mr. Teruya. And thank you, Chair. It looks like going
19 in this direction, it might seem the expense or the --
20 the tools that the Department will need will certainly
21 pay off if -- if everything goes -- goes accordingly,
22 yeah. Thank you.

23 CHAIR PONTANILLA: Thank you. And -- and we
24 provided the Real Property Tax Division with two
25 limited-term employees this past budget. And, you know,

1 we are reaping off huge rewards in regards to that
2 particular item.

3 Member Baisa?

4 COUNCILMEMBER BAISA: Thank you very much,
5 Chair.

6 I have an operational question. You know, I
7 get a little nervous when we talk about having your
8 driver's license expire. I had the scary experience
9 once, a few years ago, of pulling my license out for an
10 ID at someplace and them telling me, "Do you realize
11 this is expired," and then the frantic running to the
12 DMV to, you know, get it renewed. Because, you know,
13 we're not in the habit of doing that kind of thing, but
14 it does happen. We all have a life and we get really
15 busy, we overlook. So that's what I'm afraid here,
16 is -- are we going to kick out some kind of notice,
17 maybe six months prior to when the renewal has to be
18 done or the new paperwork has to be submitted, to help
19 people remember? Otherwise, they will forget. And, you
20 know, if they forget, then we're gonna have a whole lot
21 of issues.

22 CHAIR PONTANILLA: Thank you. Director?

23 MR. YOUNG: Yes, Mr. Chair.

24 Ms. Baisa, the -- the thought initially, in
25 the suggestion of having the homeowner's exemption

1 expire at the fifth-year mark, operationally, we would
2 think that, on the assessment cards that are sent out
3 every year, and the bills that are sent out twice a
4 year, that the note -- that the future date of when the
5 exemption would expire would be on every assessment
6 notice and every bill that goes out. So three times a
7 year, but not only in the year prior to the expiration.

8 But just as your driver's license, you -- you
9 know when it's gonna expire. Today, you can look on the
10 -- on your -- on your driver's license and see if it's,
11 you know, one year or eight years from now. You have
12 that record.

13 The similar thought would be that when we send
14 out the notice and the bills this year, even if your
15 exemption was to expire five years from now, it would
16 state that it expires five years from now. And next
17 year, you would get it and it would show it, you know,
18 four years from then, three years from then after that,
19 et cetera, et cetera, so that we're not doing the -- the
20 thing where, you know, you just notify somebody six
21 months before. And they're -- and they are frantically
22 trying to go and apply, or they weren't aware of what --
23 of -- of it expiring and what is this notice coming in
24 the mail.

25 So, operationally, that would seem more

1 practical. Even for the Division, also, because they
2 wouldn't wanna be doing special mailings. They would
3 wanna take advantage of the notices that they currently
4 send out already.

5 COUNCILMEMBER BAISA: That sounds like a real
6 reasonable idea, but I might give you one suggestion.
7 You remember that we had people who never read about the
8 Circuit Breaker until we made a big to-do out of it. We
9 might wanna print that little notice in a different
10 color or something so that it stands out.

11 You know, it's amazing when there's a lot of
12 writing on some kind of thing that nobody sees it. It's
13 really funny how, you know, things kind of blend into
14 the -- like when you look at the bill, you may not see
15 something unless it point -- it's pointed out to you.
16 Oh, here's that bill again, just pay.

17 So, you know, we might wanna have some special
18 attention called to it. Because we don't wanna be sit
19 here -- sitting here, trying to deal with how we gonna
20 deal with all this trouble that we have now. But it
21 sounds reasonable.

22 Thank you.

23 CHAIR PONTANILLA: Thank you. Members, any
24 more questions for the Department? Member Victorino?

25 COUNCILMEMBER VICTORINO: Yeah. I -- I have

1 one -- actually, I have one more question as far as on
2 -- under Section E, Mr. Chair, you had, "In the event
3 the Director obtains evidence that an individual
4 occupies a home outside of the County for more than 95
5 days of the calendar year, such evidence shall serve as
6 the prima facie proof that individuals do not own and
7 occupy real property." The -- the challenge I have with
8 that -- and it was stated by one of the testifiers --
9 there are -- and there are many elderly and other
10 people, especially, that spend a good time away from
11 home with their children in the mainland, Oahu, another
12 island, even sometime within the island -- or if they
13 got sick and was sent to Hale Makua for rehabilitation
14 which may last three or four months, five months. You
15 know, these -- I -- and, again, I hate to nitpick, but
16 once we put something in here and something like that
17 (inaudible), the consequences now is to -- to redo it,
18 you know. And -- and -- and I'm just afraid.

19 Again, the intent is great. And I -- please,
20 Mr. Chair, I'm not against your intent. I --
21 wholeheartedly, I -- I accept it. But these -- these
22 time little time limits, 95 days, you know, something
23 like that happens, that could really put somebody in
24 jeopardy who really doesn't need any more stress at that
25 point in time.

1 And I know people that do that. They go away
2 for the summer, spend time with the kids in the mainland
3 or Oahu and other places. So -- and more than 95 days.
4 Sometimes four or five months they go.

5 So, again, Mr. Young, what would you suggest
6 to us to make sure that -- I understand the intent. And
7 you gotta put something there, but what would be fair,
8 that we wouldn't get some of these people who don't need
9 this -- don't need this grief caught in that -- in that
10 trap?

11 MR. YOUNG: Yes, Mr. Victorino. Two things,
12 yeah. I believe the -- the calculated number, 95 days,
13 relates to the other sections in the Code that require
14 residency or to determine of residency to be 270 days or
15 more.

16 COUNCILMEMBER VICTORINO: Uh-huh.

17 MR. YOUNG: And I -- I guess, in this section,
18 the distinction is a home versus maybe what you would
19 commonly consider like a house. So the visiting on the
20 mainland thing, you only have one home. You only have
21 one principal residence, wherever that may be. And
22 you -- you know, there's frequently people that, you
23 know, they're snowbirds or whatever they -- they may
24 live in multiple places across the country, but they
25 actually only have one home. And that's the distinction

1 in the County Code. And that's the 270 days versus the
2 95 days, is where do you call your home. You can only
3 have one principal residence in the state of Hawaii,
4 even if you have multiple properties on different
5 islands or in different counties. And that's really the
6 distinction here.

7 It is stated that, you know, you occupy --
8 sorry -- in the event the -- the Director obtains
9 evidence that a individual occupies a home outside the
10 County for more than 95 days. So I think that -- that's
11 the way I read it, as a distinction.

12 COUNCILMEMBER VICTORINO: But I read it
13 differently, a home. It could be in my -- my son's
14 home. That's a home. I'm occupying his home for 120
15 days.

16 And, again, I hate nitpicking, but, I mean,
17 you get a good lawyer, they gonna play the game right
18 down the way I'm playing it right now, and I'll take you
19 up and down, which we don't wanna. So I'm just saying,
20 I understand the intent. And if that's what everybody
21 wants to leave in there, that's fine. But I see some
22 real major flaws in that kind of situation because there
23 are a number of people. I'm not worried about the
24 snowbirds that come here for six months; I'm worried
25 about the people that live here, old-time residents that

1 go away and spend time with their family, actually
2 live in their home. Okay.

3 It says, "Occupy a home outside of the
4 County." What if I'm -- oh, wait a minute, I go to my
5 son's home, which is in Wailuku and I spend six months,
6 and he's still in the County.

7 MR. YOUNG: Uh-huh.

8 COUNCILMEMBER VICTORINO: So, again, I -- I
9 may be making a lot ado for a real small point, but I --
10 I really see that as a challenge. And I -- I believe
11 that could come back to stick us later on. But --

12 MR. YOUNG: Well, and -- and that point is
13 well-taken, Mr. Victorino. I'm only speaking to the
14 proposed amendment in the -- in the ordinance. The --
15 that section in the County Code currently that exists,
16 that's unamended, that is currently codified, in
17 348.450.5(C), at the top of the page, already makes the
18 distinction of that 270 days.

19 And I -- I don't know if Mr. Teruya has any
20 operational issues, if this has ever come up. But the
21 County Code already requires us to determine occupancy
22 to be 270 days.

23 And I would also point out, I think that 270
24 is actually from the Hawaii Revised Statutes for
25 residency. So this -- this ordinance, although we see

1 the 95 days there, if we're gonna change that part, we
2 should also pay attention to the part that's not -- that
3 already exists as codified in the Code, that Part C
4 above.

5 COUNCILMEMBER VICTORINO: Well, then --

6 MR. YOUNG: Yeah.

7 COUNCILMEMBER VICTORINO: That's fine. I
8 mean -- you know, I mean, if we're gonna make it right,
9 let's make it right, right from the beginning. That's
10 all I'm saying. I think that's just a challenge that
11 I -- I don't think we should put upon our residents.
12 You know, that's what I'm trying to say. And again, as
13 I stated right from the get-go, when you walked in,
14 the ones that'll be hurt the most are generally our
15 elderly and less -- you know, our less fortunate people
16 that are gonna be hurt by this.

17 Again, the fat cats and the people who got --
18 they gonna take care of this, they gonna get around
19 this, no matter what. But I wanna make sure that we
20 don't hurt -- no unintended consequences, especially for
21 our seniors and the people who least can afford to have
22 these kinds of situations happen.

23 That's all I got to say to that. Thank you.

24 Thank you, Mr. Young. Thank you, Chair.

25 CHAIR PONTANILLA: Thank you, Chair [sic].

1 And it's not the intent of the Chair to hurt anybody.
2 You know, we've listened to testifiers, they have
3 concerns. The Department has come -- come forward and
4 have concerns in regards to the proposed bill before us.

5 UNIDENTIFIED SPEAKER: Uh-huh.

6 CHAIR PONTANILLA: And, again, you know, we --
7 we -- we gonna take all the criticism, all the good
8 stuff, all the bad stuff. And, hopefully, we -- we --
9 we can come out with a revised bill that is gonna be
10 workable not only for us, but for the people that, you
11 know, gonna be paying these taxes.

12 Mr. Young? Yeah, Mr. Teruya?

13 MR. TERUYA: Thank you, Chair. One of the
14 requests Administration is requesting to consider in
15 Paragraph E is amending the language to identify what
16 shall happen if a violation is committed. Right now,
17 the Code does not state, if a violation is committed,
18 whether or not it's a move-forward issue or we should
19 readjust for taxes for the year that it is in violation.

20 CHAIR PONTANILLA: Thank you. Members, any
21 more questions for the Department? Mr. Kaho`ohalahala?

22 COUNCILMEMBER KAHO`OHALAHALA: Thank you,
23 Chair.

24 Director, as was presented by testimony here,
25 alternatives to this proposed language or this process

1 that's being proposed, to look at the -- the voter
2 registration as one method of trying to find location of
3 registered voters within the County and cross that
4 against your own files for people who have applied for
5 -- for this homeowner's exemption, as an alternative.

6 And I'm trying to think of the second -- one
7 was to look at the voter registration and the other was
8 to look at your current --

9 UNIDENTIFIED SPEAKER: Tax returns.

10 COUNCILMEMBER KAHO`OHALAHALA: Tax returns,
11 yeah. So is -- is that proposed examples of (inaudible)
12 in your view?

13 MR. YOUNG: Well, Mr. Kaho`ohalahala, those
14 are the methods that the Department and the Division
15 have been trying to collaborate with the State, to get
16 access to both of those systems. Because the -- the tax
17 system and the voter registration system are through
18 State databases. And to the extent that we've made some
19 progress, very recently, to have access to those
20 databases, we've been proceeding on that approach and
21 strategy, short of any amendments to that section of the
22 code that we're looking at today, that the Division
23 could utilize those tools as a way to enforce or check
24 on the homeowner's exemption.

25 The issues that we've had related to that,

1 that the Division would have to deal with, though, is we
2 currently don't have people on staff that are
3 investigators of the -- if -- if you may call 'em, that
4 actually that's all they'd do, that they would go and
5 look and police these. Right now, Mr. Teruya is
6 allocating other personnel that's not where -- that's
7 not their primary job to -- to -- to do that. So the
8 level of enforcement is definitely better than it was,
9 you know, three years ago, but it's not where we --
10 where I would characterize it as being where we're
11 actually safeguarding the integrity of the -- of the
12 exemption system.

13 So if we're looking at putting in some
14 requirements in the Code like this ordinance proposes, I
15 -- I think the Administration agrees that it is
16 necessary. It is valuable for taxpayers to ensure that
17 they're paying their fair share and that their fellow
18 taxpayers are paying their fair share. That's the
19 approach that we're looking at.

20 But in -- in overall, in terms of how do we
21 balance the current level of resources, we're not
22 looking at increasing personnel, but we are looking at
23 garnering more levels of efficiencies into increased
24 enforcement without necessarily increasing personnel in
25 Real Property Tax.

1 So the -- the two areas that you mentioned,
2 they're a good intermediate approach and strategy that
3 we have sat on. We think we can get some value out
4 there. This proposed ordinance definitely would give us
5 a little bit more value, but how to get there is the big
6 operational question for us.

7 COUNCILMEMBER KAHO`OHALAHALA: Okay. In -- in
8 the same ordinance we're seeking to amend, we already
9 have two sections that state that registering to vote in
10 the County is one; and then, second, the filing of
11 income tax return is the -- is what we already require.
12 So it would seem to -- to -- to reason that we would
13 just continue along what we already require as -- as a
14 method of -- of cross-checking.

15 MR. YOUNG: Right -- right now, when you come
16 in and apply for the homeowner's exemption --

17 COUNCILMEMBER KAHO`OHALAHALA: Uh-huh.

18 MR. YOUNG: -- the Division does have the
19 authority to ask for those documents as your prima facie
20 proof. The -- I think what this proposed ordinance --
21 and the bigger part of enforcement that we're trying to
22 get to is that point afterwards. After you initially
23 apply, how does the Division validate or confirm, in
24 future years, after your initial application date, that
25 you are, in fact, still the homeowner? And that's the

1 challenging part on the operational side, is to make
2 that contact, do that investigation.

3 COUNCILMEMBER KAHO`OHALAHALA: Okay. Where
4 are you, since you said you're making some headway in
5 terms of -- getting collaboration with the State on --
6 on that?

7 MR. TERUYA: We are at the point where we have
8 created a CD for them to test. And that just happened,
9 literally, last week. Since the Mayor's been working
10 through the Governor's Office, it's moved a lot faster.
11 And now we're getting cooperation from their IT staff.

12 COUNCILMEMBER KAHO`OHALAHALA: Okay. So what
13 is the -- what is the goal, then, in terms of pursuing
14 that -- that particular direction?

15 MR. TERUYA: Well, right now, it's really in
16 their hands to test what -- what -- what we're giving
17 them. And I couldn't give you a certain answer other
18 than they're working on getting it back to us as soon as
19 they can.

20 One of the problems that we're having in this
21 validation of homeowners is the State Department of
22 Health, about five years ago, was no longer required to
23 give the death list to the Real Property Tax Division.
24 Therefore, as people pass away -- obviously, you can't
25 notify us that you passed away. So, you know, getting

1 the voter registration might be the best alternative
2 right now.

3 MR. YOUNG: So to be clear,
4 Mr. Kaho`ohalahala, what we're -- that process and that
5 integration with the State, all that does for the County
6 is to validate information on our system. We're not
7 querying the State databases. We merely ask the State a
8 question, for this particular taxpayer, this is the
9 record that we have as their residence, as their
10 address, for -- and for the State to validate that that
11 matches their system.

12 So right now, we're -- you -- you know, all we
13 have is a validation system. It's -- that's a very
14 different enforcement measure or tool than a query
15 system. And we're not -- the -- the -- the difficulty
16 all these years has been we have desired to get to the
17 query system because that's definitely the most flexible
18 for the County. That's not what has been worked out.
19 So we are currently in the validation mode.

20 COUNCILMEMBER KAHO`OHALAHALA: What at the
21 State level prevents them from participating?

22 MR. YOUNG: I guess I would -- initially,
23 there was an Attorney General's Opinion that the
24 State -- the State statutes, Hawaii Revised Statutes,
25 does not require the State to share information with the

1 counties. There is a State statute that requires the
2 counties to share information with the State, but it's
3 not reciprocal in that nature. So, I guess, maybe, the
4 philosophical opinion of the State departments has been
5 in -- to safeguard their -- integrity of their
6 information, their databases, they restrict or are not
7 comfortable with this open query system with the
8 counties. So the happy medium that we've reached is
9 this validation approach.

10 COUNCILMEMBER KAHO`OHALAHALA: Okay. It -- it
11 just seems like a -- a simple fix, really, in terms of
12 we're not asking them for any information, as you were
13 saying, but, mainly, querying and just getting
14 verification from them about whether or not a person is
15 actually at that location.

16 But, anyway, I'm just trying to understand
17 where, at which level of government, you know, we can
18 apply some input to perhaps get some support from the
19 State Legislature to look at this particular issue. And
20 then where we are in our ordinances to try and make sure
21 that we can, you know -- I know we can be more strict in
22 that regard, but -- but I -- I think the -- the question
23 is, before us, what this amendment will do for those
24 that aren't gonna be, you know -- or those that are
25 gonna fall between the cracks, I guess. And so -- okay.

1 Thank you, Chair. I -- I --

2 CHAIR PONTANILLA: Thank you. Yeah, you know,
3 I kinda understand the plight of the Finance Department.
4 This has been going on for years, in trying to verify
5 homeowners. And, you know, as Scott Teruya has
6 mentioned, you know, only of late that we started to get
7 cooperation from the State of Hawaii.

8 Member Johnson?

9 COUNCILMEMBER JOHNSON: Yes. And I apologize
10 for missing some of the conversation. But one of the
11 things that was passed at the State Legislature a while
12 ago -- because we were trying to identify through GET
13 and TAT, through the payment of those taxes -- there was
14 legislation that was passed. And I believe that they
15 are required to provide that information to the counties
16 because there was, I -- I believe, an override of the
17 Governor's veto on that piece of legislation.

18 But where they're, I guess, holding you up now
19 is, I guess, Privacy Act, or whatever. So --

20 MR. YOUNG: It's the -- Ms. Johnson, it's,
21 actually, what, I guess, we would define as the
22 requirement to provide us information.

23 COUNCILMEMBER JOHNSON: Yeah.

24 MR. YOUNG: Yeah. It's that -- it's that
25 we're not -- when we think it's provide us information,

1 you know, we would hope that it means we get to query.

2 COUNCILMEMBER JOHNSON: Yeah.

3 MR. YOUNG: But --

4 COUNCILMEMBER JOHNSON: Yeah, I know.

5 MR. YOUNG: But validating our question or
6 information, I guess, is the --

7 COUNCILMEMBER JOHNSON: I -- I know.

8 Semantics.

9 MR. YOUNG: Yes.

10 COUNCILMEMBER JOHNSON: The -- you know,
11 just -- just using some of the statistics, I guess, in
12 -- in your transmittal of September 1st, if I look at
13 the 26,000 homeowner exemptions on record, that comes up
14 to thirty -- yeah, almost \$34 million, I guess. Because
15 you're looking at the homeowner tax category, an
16 exemption at the rate that you've calculated, about
17 \$1,305 per property. So that's about \$34 million, is
18 that correct?

19 MR. YOUNG: It -- yeah, it would -- that would
20 probably be on the low end. Because --

21 COUNCILMEMBER JOHNSON: On the low end?

22 MR. YOUNG: On the low end. That's the
23 minimum. Because there -- there's some -- if properties
24 are valued at less than two hundred -- less than
25 \$300,000, they would get the minimum tax.

1 COUNCILMEMBER JOHNSON: Okay.

2 MR. YOUNG: But if they're above that, you
3 know, it would be more. So -- and we're not saying that
4 26,000 homeowners' parcels are not -- not due the
5 homeowners.

6 COUNCILMEMBER JOHNSON: Uh-huh.

7 MR. YOUNG: We have no idea of knowing if
8 there's any portion of those twenty six thousands
9 that are -- that are receiving the homeowner's exemption
10 and they shouldn't be.

11 COUNCILMEMBER JOHNSON: Yeah.

12 MR. YOUNG: We would have to believe that
13 there are -- there are a portion. We just don't know
14 how big that portion really is.

15 COUNCILMEMBER JOHNSON: Yeah. And -- and, you
16 know, my question would be, when you send out, every
17 year, you know, your reminders, and when you send out
18 your tax -- I guess it would be the tax information,
19 usually, I think, don't you just mail out that little
20 card?

21 MR. YOUNG: You -- you get the card once a
22 year.

23 COUNCILMEMBER JOHNSON: Uh-huh.

24 MR. YOUNG: Around February 20th.

25 COUNCILMEMBER JOHNSON: And then you get your

1 bill?

2 MR. YOUNG: March 20th.

3 COUNCILMEMBER JOHNSON: Well, you get --

4 MR. YOUNG: And then you get --

5 COUNCILMEMBER JOHNSON: -- your bill two times
6 a year.

7 MR. YOUNG: And then you get the bill in July, and
8 another bill in January.

9 COUNCILMEMBER JOHNSON: Okay. 'Cause what --
10 I'm trying to think of the easiest way, you know, to do
11 this, and kind of back it out to make less work for you.
12 If you sent out, in at least one of those statements,
13 maybe even in two, just a little flyer. Because if,
14 initially, a person signs an affidavit attesting to the
15 fact that they are a homeowner entitled to the
16 exemption, and you put a little note in there, and you
17 tell them, okay, look, we are continuing this on the
18 premise that you -- your affidavit that's on file with
19 whatever -- you know, you just do it once, and you file
20 that affidavit, that it's accurate.

21 If we find out that you are no longer entitled
22 to the homeowner exemption, then, if you make it
23 punitive -- that you're sending 'em out a continuous
24 reminder, couple times a year, saying you need to
25 contact our office immediately if you are no longer in

1 this category, then, that way, it kind of backs it out.
2 So what they're gonna be doing is they're gonna be
3 potentially hit with fines or some kind of punishment if
4 they fail to notify you.

5 So, I mean, that's one suggestion to kind of
6 look at avoiding some of the unintended consequences of
7 what we're dealing with here. 'Cause, Mr. Chair, I have
8 -- I -- I do -- I know for a fact that you're gonna have
9 some people that will not respond for a variety of
10 reasons.

11 Do you -- do you guys have any comments about
12 how that might play out?

13 MR. YOUNG: Well, currently, on the Assessment
14 Notice cards that are sent out once a year, there is a
15 statement on there that you are legally required under
16 the County Code to notify -- notify the Department of
17 any changes in your status, specifically on the
18 homeowner's exemption and your homeowner -- and their
19 property classification.

20 COUNCILMEMBER JOHNSON: Okay. Do you list --

21 MR. YOUNG: We already -- we already notify
22 them in that regards.

23 COUNCILMEMBER JOHNSON: Do you list what the
24 punishments are, or the consequences?

25 MR. YOUNG: No. I -- I --

1 COUNCILMEMBER JOHNSON: You know, and I'm just
2 making a helpful suggestion, that if you did it -- and --
3 and not everybody reads their card real -- you know,
4 they just look at what they owe, they don't read all the
5 fine print. My suggestion would be, within the actual
6 bill that you send out, if you're sending a bill for a
7 tax payment, just put a little green slip, or a red
8 slip, or a pink slip, or whatever it is, something
9 that's gonna catch their eye, and say, this is the
10 chapter, this is the code, failure to comply could
11 result in. I -- I tell you, that gets people's
12 attention when they know that there's some kind of
13 punishment attached to it. So that's another way to
14 address it.

15 But, anyway, thank you, Mr. Chair.

16 CHAIR PONTANILLA: Thank you. Hopefully, we
17 don't go that far.

18 Members, just to give you some idea, just
19 comparing, you know, the different home values here on
20 Maui. If you are a homeowner with a \$300,000 home, you
21 get \$300,000 exemption. And -- and, of course, your
22 minimum tax is \$150. That's what you pay. If you own a
23 half-million-dollar home, with a \$300,000 exemption,
24 your tax base is \$400. And then if you own a
25 one-million-dollar home, with a \$300,000 exemption, your

1 bill is \$1,400.

2 So that's -- I'm looking at this data. It's
3 comparing to the different counties. City and County of
4 Honolulu, the minimum tax is, actually, \$752, you know.
5 Big difference. And City and Count -- County of Hawaii,
6 \$1,110. And then County of Kauai, you know, \$965;
7 that's for a home \$300,000. So, you know, there --
8 there is a big difference in -- in tax assessments for
9 the different counties.

10 Members, any more questions for the
11 Department? Mr. Nishiki --

12 COUNCILMEMBER NISHIKI: Yeah.

13 CHAIR PONTANILLA: -- followed by Member
14 Medeiros.

15 COUNCILMEMBER NISHIKI: Scott, did you mention
16 to us that, so far, you've done 600 inquiries, and, out
17 of that, you referenced \$700,000 as something that you
18 collected that you would not have?

19 MR. TERUYA: Yes. Well, the statement I made
20 was we -- we -- we sent out 600 letters.

21 COUNCILMEMBER NISHIKI: Okay. And the letters
22 stated?

23 MR. TERUYA: To certify that you are the
24 homeowner --

25 COUNCILMEMBER NISHIKI: Okay.

1 MR. TERUYA: -- by providing the County a copy
2 of a certification from the State of Hawaii Taxation --

3 COUNCILMEMBER NISHIKI: Right.

4 MR. TERUYA: -- that you file a certified -- I
5 mean, a resident income tax.

6 COUNCILMEMBER NISHIKI: Okay.

7 MR. TERUYA: And what we're finding from the
8 out-of-state owners is, two-to-one, they do not provide
9 it. It -- they do not have it.

10 COUNCILMEMBER NISHIKI: Okay.

11 MR. TERUYA: And, therefore, we're -- we're
12 rejecting their exemption claim.

13 COUNCILMEMBER NISHIKI: Okay.

14 MR. TERUYA: And that's one of the questions I
15 have, is we should have language in Paragraph E to
16 identify what do we do. Do we -- is it a move-forward
17 disallowance, or do we readjust for taxes during the
18 current year?

19 COUNCILMEMBER NISHIKI: Right. Okay. So
20 then, out of this 600, you were able, because they didn't
21 prove it that you were now collecting 700,000 more?

22 MR. TERUYA: Well, that is our projection
23 should the numbers follow the same trend.

24 COUNCILMEMBER NISHIKI: Right.

25 MR. TERUYA: So far what we've done is, within

1 the State of Hawaii, we've done about half. We've done
2 about 69 out of -- and there's still 87 left. And the
3 -- that actual number is 74,000. The out-of-state, we
4 sent out about 300, we only had 36 back so far. So it
5 takes a lot more effort to get responses for the
6 out-of-state.

7 COUNCILMEMBER NISHIKI: Right.

8 MR. TERUYA: So of the 36 that we've done,
9 we've disallowed 24, and that's already \$72,000. So
10 there's 264 more out-of-state residents that we need to
11 follow up on. And like I said, if the trend was to
12 continue that two out of three out-of-state is
13 disqualified, and one of two within the state is
14 disqualified, our projection is that it's about 659,000,
15 should that trend continue. And it may or may not.

16 COUNCILMEMBER NISHIKI: Right.

17 MR. TERUYA: Yeah.

18 COUNCILMEMBER NISHIKI: And that -- that
19 700,000, or in that vicinity, represented how many that
20 now are not getting the exemption? What did that match
21 up to?

22 MR. TERUYA: Well, our percentage of -- of
23 disallowed is -- I mean -- yeah.

24 COUNCILMEMBER NISHIKI: You must have been
25 able because of that --

1 MR. TERUYA: Yeah. It was -- if it's one or
2 two, yeah. So it'd be 150 out of the 600 and --

3 COUNCILMEMBER NISHIKI: Hundred fifty would have
4 equaled to -- out of the 600, to our collection of another
5 three-quarter million dollars. That's substantial,
6 Mr. Chairman. And -- and -- and -- and that's getting
7 the job done.

8 So, you know, if that is what is happening, to
9 give them an additional worker or two, to me, is worth
10 it. And if that essentially would help not having
11 people fall through the cracks. And they can determine
12 how they're going to do that.

13 My question is, Scott, if that person now
14 misses the boat -- because, you know, as some people had
15 some concerns, they miss the boat -- and so now they
16 don't get that exemption, I guess the following year,
17 they would see that their tax went up, greatly. I'm
18 just trying to, you know, play what would naturally
19 occur. Then if that person catches it -- they --
20 they -- they would have to then, you know. Then they
21 would -- now, for the year that they lost it, there is
22 no ability for them to get a credit or anything?

23 MR. TERUYA: Well -- well, first of all, once
24 you receive your tax bill, there is no recourse.

25 COUNCILMEMBER NISHIKI: Okay.

1 MR. TERUYA: In order to appeal your
2 assessment or your -- basically, your assessment, it's
3 at the time you receive your notice --

4 COUNCILMEMBER NISHIKI: Right.

5 MR. TERUYA: -- which is March 15th. And you
6 have until April 9th to file the appeal if you felt that
7 you did not receive an exemption you're entitled to.
8 That is your recourse.

9 All exemptions must be filed prior to the
10 beginning of the calendar year, which is the assessment
11 year, which is, you know, December 31st. So unless they
12 have a good case as to why we didn't either receive it
13 or they were denied it, really, their only opportunity
14 to file the people appeal is during the -- during that
15 appeal period.

16 COUNCILMEMBER NISHIKI: Right.

17 MR. TERUYA: Once you receive your bill, it's
18 -- certification has already been done.

19 COUNCILMEMBER NISHIKI: Yeah.

20 MR. TERUYA: Tax returns are set. So --

21 COUNCILMEMBER NISHIKI: Yeah.

22 MR. TERUYA: -- yeah, that's -- that's too
23 late of a --

24 COUNCILMEMBER NISHIKI: Yeah.

25 MR. TERUYA: -- period.

1 COUNCILMEMBER NISHIKI: And -- and,
2 Mr. Chairman, nothing's perfect. And I think they're
3 trying -- we're trying to get it as perfect as we can.
4 But if -- when that process -- I think -- the -- the
5 one-year process, because that's when they're gonna
6 catch it, occurs, I think we would be able to then hear
7 from those that felt burnt and make an assessment, based
8 on that, whether or not they've tried their utmost to
9 try to get it done.

10 But, for me, when I look at 26,000 -- 23,000
11 taxpayers and -- and I made that division of 600 into
12 that, and -- and based on the rate that they're
13 collecting it, it -- it equates to about two and-a-half
14 million dollars, plus, and that's substantial. So, you
15 know, whatever else they can to -- to not let anybody
16 fall through the cracks, I think, is good.

17 But I think this shows us, Council Members,
18 that a lot of us are paying to subsidize these people
19 that should not be getting that tax assessment. And
20 that, to me, is something that we've talked about, but
21 we're finally doing something about it.

22 So I don't know. You know, it's not perfect,
23 but at least we're -- we're moving in the right
24 direction, as far as I'm concerned. Yeah. We're -- a
25 lot of us are subsidizing these people, seriously.

1 CHAIR PONTANILLA: Yeah, we are.

2 COUNCILMEMBER NISHIKI: Yeah. So I think,
3 overall, if people that see that, and see these kinds of
4 results initially, they're gonna be happy that these
5 guys are really doing the job now. And -- and we should
6 thank them.

7 So, anyway, that's my little say on that.

8 CHAIR PONTANILLA: Thank you. Member
9 Medeiros?

10 COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.
11 Just following up on some -- my colleague from
12 Wailuku kinda asked what I was interested in asking, but
13 I just wanna go a little further. And maybe Corp.
14 Counsel can answer this. At 3.48.450, it -- it says
15 "principal home," but then, throughout the rest of the
16 ordinance, it just says "home." And, normally, if
17 "home" is referring to "principal home," then, when you
18 first use "principal home," you put "home" in
19 parenthesis so that henceforth that be identified at
20 principal home. In the definitions, they do not define
21 "principal home" or "home." They just identify
22 "director," "property" and "real property."

23 So maybe for Corp. Counsel, do you find it
24 that "home" can be interpreted as many other things,
25 like Member Victorino brought up?

1 CHAIR PONTANILLA: Corporation Counsel?

2 COUNCILMEMBER MEDEIROS: Staying in his son's
3 home? Because it never -- it doesn't say "principal
4 home" after the initial use of principal home. And it
5 doesn't put it in parenthesis to indicate "home" will
6 now mean "principal home."

7 MS. VILLAROSA: Well, it's hard to say what
8 people might argue, but, normally, if it -- if it's
9 referenced that way in the beginning of a section,
10 usually, it means the same thing throughout, unless it's
11 -- unless it's specifically or clearly, you know -- you
12 can get from the context that it means something else.

13 COUNCILMEMBER MEDEIROS: Well, that's what I
14 mean. It's not referenced as "home." It says,
15 "principal home."

16 MS. VILLAROSA: Right.

17 COUNCILMEMBER MEDEIROS: But then after that,
18 throughout --

19 MS. VILLAROSA: Right.

20 COUNCILMEMBER MEDEIROS: -- the ordinance, it
21 just says "home."

22 MS. VILLAROSA: Yeah. I -- I -- I think
23 sometimes it -- it just gets too wordy to keep referring
24 to "principal home," "principal home," and if you're
25 referring to it a lot. But there's also a --

1 COUNCILMEMBER MEDEIROS: Well, that's why I
2 said --

3 MS. VILLAROSA: -- (inaudible) section --

4 COUNCILMEMBER MEDEIROS: Yeah.

5 MS. VILLAROSA: -- that defines "home."

6 COUNCILMEMBER MEDEIROS: Oh, there is?

7 MS. VILLAROSA: Yeah.

8 COUNCILMEMBER MEDEIROS: In the definitions?

9 MS. VILLAROSA: Yeah. No. It's in Section
10 470.

11 COUNCILMEMBER MEDEIROS: Oh, okay. I -- I --
12 I looked at a different section in this ordinance area.
13 Under definitions, I didn't see "home." So they do
14 define "home" as "principal home?"

15 MS. VILLAROSA: Right.

16 COUNCILMEMBER MEDEIROS: Okay. Then my next
17 question in following up about "home," is the ordinance,
18 as identified by the Director, talks about 275 calendar
19 years [sic] occupying a home, or if you're away from
20 your home for 95 days, in a home, that then you would
21 not qualify. How do we address military away from home?
22 Do they still qualify for the home exemption? Okay.
23 Because, up in Section (C)(3), it says, if a person is
24 stationed in our County with military orders that
25 becomes their home. So is it con -- also in the other

1 direction, if they're stationed in Afghanistan, that
2 that becomes their home?

3 MR. YOUNG: We -- we are still giving -- if
4 they have -- if they have deployment orders. In fact --
5 yeah, in fact, several years ago, the Council approved
6 the exemption for -- we don't even charge them if they
7 have deployed for -- you know, for deployment action.
8 So if they're homeowners in the County of Maui and
9 they're deployed for -- forward action, they -- they can
10 actually apply for no tax bill.

11 COUNCILMEMBER MEDEIROS: Huh. Okay. But
12 that -- that -- you're talking about deployment into
13 combat areas, right?

14 MR. YOUNG: Yes.

15 COUNCILMEMBER MEDEIROS: You're not just -- so
16 what about military that's under military orders that's
17 stationed in Italy?

18 MR. YOUNG: Well, in -- as far as I know, in
19 the County of Maui, there's -- there's no military base.
20 So there's -- if you are -- if you are in the military,
21 you're likely a reservist, or there are a few active
22 duty that are stationed here in one of the --

23 COUNCILMEMBER MEDEIROS: Correct.

24 MR. YOUNG: I'm not sure what the vernacular
25 is. But if you are deployed, away from Maui, but you

1 own your home here --

2 COUNCILMEMBER MEDEIROS: Right.

3 MR. YOUNG: -- that is considered a forward
4 deployment, you can apply under the County Code for the
5 exemption.

6 COUNCILMEMBER MEDEIROS: Okay. Thank you for
7 that explanation.

8 In your letter, Director, about your
9 recommendations, you -- you recommended exempting --
10 expiring the exemption after five years. So -- and we
11 -- and there was a considerable discussion about, you
12 know, noticing and -- and how do the people know and --
13 and are reminded. And you explained that. And Member
14 Johnson offered some recommendations. But have -- what
15 happens within -- under your recommendation, if it's
16 accepted by the Chair and this Committee to accept your
17 recommendation, what happens during the five years if
18 the applicant no longer qualifies? How do you know that
19 they're no longer -- not should -- should not have their
20 exemption?

21 MR. YOUNG: Uh-huh.

22 COUNCILMEMBER MEDEIROS: And they don't notify
23 you.

24 MR. YOUNG: Right. So the current County Code
25 provisions, one, require people receiving an exemption,

1 that they no longer qualify during the course of a
2 year --

3 COUNCILMEMBER MEDEIROS: Uh-huh.

4 MR. YOUNG: By Code, they are required to
5 notify the County within 30 days. That part of the Code
6 will not change.

7 COUNCILMEMBER MEDEIROS: Okay.

8 MR. YOUNG: So that provision still exists.

9 COUNCILMEMBER MEDEIROS: And so that would
10 apply to a five-year kind of period, too, that you're
11 recommending?

12 MR. YOUNG: My -- my request for the five-year
13 expiration isn't necessarily to increase the punitive
14 nature of the homeowner's exemption compliance. It was
15 to address the balance between what the proposed
16 ordinance sought to create, which was a proactive
17 measure of sending out and soliciting feedback from
18 26,000 --

19 COUNCILMEMBER MEDEIROS: Right.

20 MR. YOUNG: -- roles. That would put a --
21 an -- an amount of burden on the existing resources in
22 the Real Property Tax Division. One of which that I
23 would fear would be that they would require additional
24 personnel.

25 So my thought on the suggestion for the

1 five-year expiration was to achieve the same bottom line
2 goal as the proposed ordinance while minimizing the need
3 for increased personnel. And -- and it would seem that
4 it would -- if -- if you have the five-year expiration,
5 you would get to the same point where people would have
6 to be -- would have to recertify or re-attest their
7 qualification for the homeowner's exemption.

8 But it wouldn't -- it -- it wouldn't unduly
9 create a proactive measure on the part of Division to
10 actually have to send out mailers every year, re -- log
11 and catalog correspondence. If people didn't respond to
12 their initial mailer, the proposed ordinance requires
13 them to send out certified mail.

14 COUNCILMEMBER MEDEIROS: Uh-huh.

15 MR. YOUNG: And then if they don't respond to
16 the certified mail, they're automatically off of the
17 role.

18 COUNCILMEMBER MEDEIROS: Yeah.

19 MR. YOUNG: And that would trigger this -- a
20 lot more discrepancies, in my mind, where people coming
21 in and saying, you know, I -- I either responded to you
22 or I didn't get it, or what is this notification about.

23 COUNCILMEMBER MEDEIROS: Uh-huh.

24 MR. YOUNG: And then we would have to dedicate
25 personnel to follow up on an inquiry on a year-to-year

1 basis, rather than if you just made it everybody knows
2 it ex -- you can apply, you can expire it in five years.
3 And by the way, I'm not wedded to the five years. If
4 you wanted to make it seven years or --

5 COUNCILMEMBER MEDEIROS: (Inaudible).

6 MR. YOUNG: -- three years, or eight years, you
7 know, the point is that it's a systematic -- at the time
8 of application, similar to the driver's license, people
9 know it's gonna expire. You know, I get this exemption
10 for five years, eight years, whatever it is, in advance.
11 I -- I know that at some point, I'm gonna have to
12 reapply. I know I will have to reapply.

13 In the case of -- as you mentioned, like how
14 would we enforce, if somebody was to no longer qualify
15 during that five-year period.

16 COUNCILMEMBER MEDEIROS: Right.

17 MR. YOUNG: Just as we currently do now, we do
18 have staff that if they may come across some peculiarity
19 that would lend it to believe -- lend them to believe
20 that this particular person doesn't -- no longer
21 qualifies for the homeowner's exemption, they can
22 institute the process to with -- to rescind the
23 exemption, if there is prima facie proof.

24 COUNCILMEMBER MEDEIROS: Right.

25 MR. YOUNG: That provision doesn't change as a

1 result of this proposed ordinance. I don't envision
2 that that would change even if you made the homeowner's
3 exemption expire in five years. It's just that, again,
4 we wouldn't -- we currently do not have people scouting
5 the roles in Real Property Tax looking for infractions.

6 COUNCILMEMBER MEDEIROS: Uh-huh.

7 MR. YOUNG: We -- it -- it would be great if
8 we could get to that point, like the State does, with
9 investigators. But, again, I'm not interested in
10 increasing the -- the amount of employees we have in the
11 Department of Finance at this point.

12 COUNCILMEMBER MEDEIROS: Right.

13 MR. YOUNG: So that was my overall point of
14 suggesting the five-year amendment, amendment to the
15 five-year --

16 COUNCILMEMBER MEDEIROS: Right.

17 MR. YOUNG: -- expiration.

18 COUNCILMEMBER MEDEIROS: Yeah. And thank you,
19 Director, for that explanation. And -- and, you know,
20 I -- I like that idea because it puts less burden on
21 your existing resources. So I think that's a good idea.
22 And I think that's workable under, you know, what
23 resources you currently have. So I -- I think that's a
24 good idea.

25 Let -- let me just go back again to, you know,

1 when you occupy a home for 95 days away from home, or
2 occupy a home outside of the County. So how does that
3 apply to someone working outside of our County? Like I
4 know in Hana, we used to have a lot of people that
5 worked, what they called, down under, at Guam and (inaudible)
6 and all of that, they would work for a year at a time
7 before they came home. So how would that affect workers
8 beyond the period mentioned being away from home and
9 living someplace else in order to work?

10 MR. YOUNG: Mr. Medeiros, the part that the
11 Department uses -- well, first of all, I would say the
12 270 days versus the 95 days, in practice --

13 COUNCILMEMBER MEDEIROS: Right.

14 MR. YOUNG: -- is very difficult to enforce,
15 okay, first of all. One of the reasons is that you can
16 apply for the homeowner's exemption as long as you apply
17 before December 31st, and you show that you're gonna
18 live in that building or that residence. You're --
19 you're gonna get the homeowner exemption. You don't
20 have to show proof that you've lived there for 270 days.
21 You just are, basically, attesting that you have the
22 intent --

23 COUNCILMEMBER MEDEIROS: Hmm.

24 MR. YOUNG: -- to live there for 270 days.
25 And so that -- it's hard to -- it's hard to prove

1 intent.

2 COUNCILMEMBER MEDEIROS: Right.

3 MR. YOUNG: It's hard for us to investigate
4 intent.

5 COUNCILMEMBER MEDEIROS: Right.

6 MR. YOUNG: So what the Division ends up, in
7 practice, doing is that, as long as you have the
8 demonstrated intent that that is your single -- singular
9 primary residence -- even if you are, again -- you know,
10 you're -- you're going away to work. You know, we take
11 that as, you know, you still maintaining your residence
12 in Maui County.

13 Now, the difference is, prima facie would be
14 if you take a job in the City and County of Honolulu for
15 years at a time --

16 COUNCILMEMBER MEDEIROS: Uh-huh.

17 MR. YOUNG: -- and you own your home on Maui,
18 but, when you get to the city, you purchase another
19 house there, and you apply for the homeowner's exemption
20 in the City and County of Honolulu --

21 COUNCILMEMBER MEDEIROS: Right.

22 MR. YOUNG: -- that would indicate to me that
23 you -- you know, you're trying to -- you gotta pick one,
24 right? There's only one principal residence. You're
25 either a resident of the City and County of Honolulu or

1 you're a resident of the County of Maui. That, to me,
2 is -- would -- would -- that would be prima facie proof
3 that we would -- we should be exhausting or rescinding
4 your exemption.

5 The same thing would be if you went to work in
6 Alaska --

7 COUNCILMEMBER MEDEIROS: Uh-huh.

8 MR. YOUNG: -- and you applied for residency
9 in Alaska, to take advantage of their --

10 COUNCILMEMBER MEDEIROS: (Inaudible.)

11 MR. YOUNG: -- you know, the trust benefit,
12 the same thing would apply. That would be prima facie
13 proof to me that you are no longer a resident of Maui
14 entitled to the homeowner exemption.

15 But the 270 days, the Division has been very
16 flexible because it all is demonstrated (inaudible) in --
17 intent.

18 COUNCILMEMBER MEDEIROS: Okay. Yeah. And --
19 and -- yeah. I was looking at that, too. Ninety five days
20 and then, above, it's 270 days. So I see what you mean.
21 Well, thank you for the explanation, Director.

22 Mahalo, Mr. Chair.

23 CHAIR PONTANILLA: Thank you. Members, we --
24 I -- Chair intent is to bring back this item at -- at
25 our next meeting because of all the comments that were

1 made by the testifiers. And there were, you know,
2 questions that you have for the Department. And we
3 still have one more item that I wanna take care of
4 before the day end. So, Members, without any
5 objections, the Chair would like to recommend deferral
6 of this item.

7 COUNCIL MEMBERS: No objections.

8 CHAIR PONTANILLA: Thank you.

9 COUNCIL MEMBERS: (Laughter.)

10 CHAIR PONTANILLA: Mr. Young, Mr. Teruya,
11 thank you very much. We -- we gonna bring back
16 you guys -- sometime in the future,
20 hopefully within the next several weeks.

21 ACTION: DEFER pending further discussion.

22 CHAIR PONTANILLA: Members, the Chair is gonna
23 call for a five-minute recess. And we'll reconvene at
24 4:25. We do have one more important item that need to
25 be taken care of because it does have some deadlines

1 that we need to meet in regards to tax credit that's
2 gonna be reviewed on September the 10 by the Department
3 of Housing -- by the State of Hawaii Housing Authority.
4 So with that, we'll reconvene at about 4:25. This meeting
5 is in recess.

6 ... (gavel) ...

7 RECESS: 4:21 p.m.

8

9

10 RECONVENE: 4:29 p.m.

11 ITEM NO. 42: AMENDING FY 2010 BUDGET, APPENDIX A,
12 AFFORDABLE HOUSING FUND (IMI IKENA,
13 MOKUHAU APARTMENTS, HALE MAUNALOA, AND NA
HALE O MAUI AFFORDABLE HOUSING PROJECT)
(C.C. No. 09-228.)

14 CHAIR PONTANILLA: ... (gavel) ... The Budget
15 and Finance Committee meeting is now reconvened.

16 Members, the last item on our agenda this
17 afternoon is BF-42 --

18 UNIDENTIFIED SPEAKER: Okay.

19 CHAIR PONTANILLA: -- amending Fiscal Year
20 2010 Budget, Appendix A, Affordable Housing Fund (Imi
21 Ikena, Mokuhau Apartments, Hale Maunaloa, and Na Hale O
22 Maui Affordable Housing Project). Members, you should
23 have all received a revised bill dated August 31st,
24 2009. The purpose of the revised bill is to amend
25 Fiscal Year 2010 Budget, Appendix A, as it pertains to

1 the Affordable Housing Fund by adding provisos for the
2 afford -- following affordable housing projects: Imi
3 Ikena -- Members, if you can turn to Page 30 -- I'm
4 sorry -- letter dated August 31st, 2009, in your binder.
5 Mr. Pablo, in regards to a proviso, "In Section 1, Part
6 II, 0(9), the following concluding clause was inserted
7 in the proviso: "Provided, further, that the \$2,750,000
8 not be disbursed unless DBR Development, LLC has
9 obtained a fee simple interest in the property" in --
10 and appropriate construction financing by June 30th,
11 2010.

12 Members, when we take action on the bill, the
13 Chair would like to amend that proviso.

14 COUNCILMEMBER VICTORINO: Okay.

15 CHAIR PONTANILLA: And you got the amendment
16 before you. So, Members, we'll review the projects that
17 are before us this -- this afternoon. Again, we do have
18 Imi Ikena, Mokuhaui Apartments, Hale Maunaloa, as well as
19 Na Hale O Maui. At this time I'd like to call on Ms. Ridao
20 to provide us with some comments regarding the projects
21 that are before us this afternoon. Ms. Ridao?

22 MS. RIDAO: Thank you, Chair.

23 I don't -- I don't have much to add to what
24 you said. The four projects are the projects that are
25 before you today for funding. And the Department and

1 Administration is recommending funding of these
2 projects. In total, there were six projects
3 recommended, but we have two that will be coming to you
4 at a later date.

5 Imi Ikena is for a loan in the amount of
6 \$2,750,000 to develop a 28-unit apartment -- rental
7 apartment complex in Wailuku. Mokuhaul Apartments is for
8 a purchase by Family Life Center of 16 units at Mokuhaul.
9 And that is a 1.2 million dollar grant. Hale Maunaloa
10 is the ARC of Maui project for the developmentally
11 disabled on Molokai. That is \$150,000 grant. And the
12 Na Hale O Maui deed-restricted buyback interim loan
13 program is a three hundred thousand dollar loan.

14 CHAIR PONTANILLA: Thank you, Ms. Ridao.

15 Members, do you have any questions for the
16 Deputy Director at this time --

17 COUNCILMEMBER VICTORINO: No.

18 CHAIR PONTANILLA: -- regarding these four
19 projects?

20 COUNCILMEMBER VICTORINO: No.

21 CHAIR PONTANILLA: Seeing none, Chair is gonna
22 make his recommendation.

23 COUNCIL MEMBERS: Recommendation.

24 COUNCILMEMBER VICTORINO: Recommendation,

1 please.

2 CHAIR PONTANILLA: The Chair's

3 recommendation --

4 COUNCILMEMBER VICTORINO: (inaudible)

5 CHAIR PONTANILLA: -- is passage of the

6 proposed bill as revised on first reading.

7 COUNCILMEMBER VICTORINO: So moved.

8 COUNCILMEMBER MEDEIROS: Second.

9 CHAIR PONTANILLA: Thank you. Members, any
10 discussion?

11 COUNCILMEMBER VICTORINO: Mr. -- Mr. Chair,
12 when --

13 CHAIR PONTANILLA: Mr. Victorino?

14 COUNCILMEMBER VICTORINO: -- do you want the
15 amendment done?

16 CHAIR PONTANILLA: Yes.

17 COUNCILMEMBER VICTORINO: Can I do that at
18 this time?

19 CHAIR PONTANILLA: At this time, please do so.

20 COUNCILMEMBER VICTORINO: Thank you,
21 Mr. Chair. Mr. Chair, I'd like to amend the Section 1
22 -- bill on Section 1 to read, provided that two --
23 \$2,750,000 be for Imi Ikena Affordable Housing Project
24 loan to DBR Development, LLC, provided further that the
25 \$2,750,000 is not distributed unless DBR Development,

1 LLC has obtained a fee simple interest in the property,
2 and that the loan agreement requirements -- requires
3 that the -- upon permanent financing, the County loan --
4 County's loan be secured by a second mortgage subject to
5 a \$520,000 first mortgage.

6 COUNCILMEMBER NISHIKI: Second.

7 CHAIR PONTANILLA: Moved by Member Victorino,
8 second by Member Nishiki. Members, any more discussion?

9 COUNCILMEMBER MEDEIROS: No.

10 COUNCILMEMBER VICTORINO: Pretty
11 self-explanatory.

12 CHAIR PONTANILLA: Seeing none, all those in
13 favor of the motion, please say "aye".

14 COUNCIL MEMBERS: Aye.

15 CHAIR PONTANILLA: Any opposed? Seeing none,
16 motion is passed. Eight ayes; one excused, Chairman
17 Mateo.

18 VOTE: AYES: Councilmembers Baisa, Johnson, Medeiros,
19 Molina, Nishiki, Victorino, and Chair
 Pontanilla.

20 NOES: None.

21 ABSTAIN: None.

22 ABSENT: None.

23 EXC.: Councilmember Kaho`ohalahala, and
 Vice-Chair Mateo.

24 MOTION CARRIED

25 ACTION: APPROVE amendment to main motion.

 CHAIR PONTANILLA: Okay. Members, going back
to the main motion as amended -- I'm sorry. Two

1 excused, Member Kaho`ohalahala. Okay.

2 Members, going back to the main motion as
3 amended, any more discussion?

4 UNIDENTIFIED SPEAKER: No.

5 CHAIR PONTANILLA: If not, Chair is gonna call
6 for the question. All in favor of the motion, please
7 say "aye".

8 COUNCIL MEMBERS: Aye.

9 CHAIR PONTANILLA: Any opposed? Seeing none,
10 motion is carried. Seven ayes; two excused, Member
11 Mateo and Member Kaho`ohalahala.

12 VOTE: AYES: Councilmembers Baisa, Johnson, Medeiros,
13 Molina, Nishiki, Victorino, and Chair
Pontanilla.

14 NOES: None.

15 ABSTAIN: None.

16 ABSENT: None.

17 EXC.: Councilmember Kaho`ohalahala, and
18 Vice-Chair Mateo.

19 MOTION CARRIED

20 ACTION: FIRST READING of revised bill; and FILING of
21 communication by C.R.

22 CHAIR PONTANILLA: Members, that was the
23 easiest of all three of them.

24 COUNCILMEMBER VICTORINO: You did a great job,
25 Chair.

CHAIR PONTANILLA: Members, if there's no
objection --

1 UNIDENTIFIED SPEAKER: Shh. Shh.

2 CHAIR PONTANILLA: -- it also includes the
3 filing of the County Communication.

4 COUNCILMEMBER MOLINA: No objections.

5 COUNCILMEMBER VICTORINO: No objections.

6 COUNCILMEMBER JOHNSON: No objections.

7 CHAIR PONTANILLA: Thank you. And, again, I
8 just wanna thank Administration for being here this
9 afternoon. Staff, thank you for your support. Members,
10 thank you for enduring this long meeting, again.

11 So with no further discussion, this meeting of
12 September 1st, Budget and Finance Committee meeting, is
13 now adjourned. ... (gavel)...

14 ADJOURN: 4:35 p.m.

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CERTIFICATE

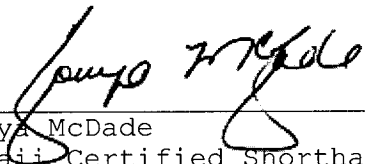
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I, TONYA MCDADE, a Certified Shorthand Reporter of the State of Hawaii, Certified Registered Reporter, Certified Broadcast Captioner, do hereby certify that the electronically-recorded proceedings contained herein were taken by me in machine shorthand and thereafter was reduced to print by means of computer-aided transcription, proofread under my supervision; and the foregoing represents, to the best of my ability, a true and accurate transcript of the electronically-recorded proceedings had in the foregoing matter.

I further certify that I am not an attorney for any of the parties hereto, nor in any way concerned with the cause.

DATED this 28th day of September, 2009.





Tonya McDade
Hawaii Certified Shorthand Reporter #447
Registered Professional Reporter
Certified Realtime Reporter
Certified Broadcast Reporter