

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

MINUTES

August 3, 2010

Council Chamber, 8th floor

CONVENE: 1:34 p.m.

PRESENT: Councilmember Joseph Pontanilla, Chair
Councilmember Danny A. Mateo, Vice-Chair
Councilmember Gladys C. Baisa, Member
Councilmember Jo Anne Johnson, Member (in 1:52)
Councilmember Sol P. Kaho`ohalahala, Member (in 2:04)
Councilmember Bill Kauakea Medeiros, Member
Councilmember Michael J. Molina, Member
Councilmember Wayne K. Nishiki, Member
Councilmember Michael P. Victorino, Member (in 1:46)

STAFF: Gayle Revels, Legislative Analyst
Yvette Bouthillier, Committee Secretary

ADMIN.: Helene Kau, Assistant Budget Director, Budget Office, Office of the Mayor
Kalbert L. Young, Director, Department of Finance
Scott Teruya, Administrator, Real Property Tax Division, Department of Finance
Traci Fujita Villarosa, First Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: **Item 72:** Judith Fox
Pam English, Maui Land and Pineapple Co.
Darryl Canady
John Rapacz, Attorney for Puamana Owners Association
Bud Pikrone, Wailea Community Association
Polly Sanders, Owner at Puamana Condos
Dave DeLeon, REALTORS® Association of Maui, Inc.
Thomas Croly
Richard Michaels
Robert Fondiller
Brett Fahnstock, representing Polo Beach Club and Southpointe
at Waiakoa
Others (10)

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PRESS: Akaku: Maui Community Television, Inc.
Claudine San Nicolas, *The Maui News*

CHAIR PONTANILLA: . . .(*gavel*). . . The Budget and Finance Committee meeting is now in session. Today is August 3, 2010, and the time is 1:34 p.m. The Chair would like to introduce the Members that are present this afternoon. I'm sorry. We do have...(*laughs*)...we, we do have our Vice-Chairman of the Council, Member Molina.

COUNCILMEMBER MOLINA: Good afternoon, Chair.

CHAIR PONTANILLA: Good afternoon. And from Upcountry, Member Baisa.

COUNCILMEMBER BAISA: Good afternoon, Chair.

CHAIR PONTANILLA: Good afternoon. And from Hana, the East Maui area --

COUNCILMEMBER MEDEIROS: Aloha and --

CHAIR PONTANILLA: --Member Medeiros.

COUNCILMEMBER MEDEIROS: --good, good afternoon, Chair.

CHAIR PONTANILLA: Good afternoon. From South Maui, Mr. Nishiki. And our Council Chairman and representing Molokai, Mr. Mateo.

VICE-CHAIR MATEO: Good afternoon, Chair.

CHAIR PONTANILLA: Good afternoon. Excused at this time, we do have Members Johnson, Kaho`ohalahala, as well as Member Victorino. Up front supporting the Staff...our supporting Staff, we do have Gayle Revels, our Legislative Analyst, and Yvette Bouthillier, our Committee Secretary. From the Administration, we do have our First Deputy Corporation Counsel, Traci Fujita Villarosa, as well as Director Kalbert Young from the Finance Department, and Scott Teruya, who is our Real Property Tax Administrator, and Helene Kau from the Budget Office.

ITEM NO. 72: REAL PROPERTY TAX LAND CLASSIFICATION (MISC.)

CHAIR PONTANILLA: Members, we do have only one agenda item this afternoon. And we do have several people signed up for public testimony. But before we

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take in public testimony, if every one of us could turn off our cell phone or put it on the silent mode. For those that are providing public testimony this afternoon, you have three minutes to do your public testimony. Chair will give you one minute to conclude. If you can provide us with your name and the organization that you represent, the Chair and Committee Members would appreciate that. With that, the first testifier this afternoon is Judy Fox.

...BEGIN PUBLIC TESTIMONY...

MS. FOX: I'm Judy Fox, and I live at Pacific Shores. I'm not representing them. I'm representing myself, but I wanted to thank the Committee for not only helping me through the last time when I was the first time I've ever testified, but also it appears as though in the, from what I see how you changed that you listened to me and some of the other people and actually attempted to fix the items that we asked you to fix. So, thank you so much for all your help.

CHAIR PONTANILLA: Thank you. Members, any questions for the testifier this afternoon? Seeing none, thank you again, Judy. Next testifier is Pam English.

MS. ENGLISH: Aloha, Chair and Members of the Finance Committee. My name is Pam English, with Maui Land and Pineapple Company. We'd like to offer our support for the revised bill amending Section 3.48.350 of the Maui County Code. I know enforcement of the Tax Code, especially as it relates to condominium units is a very difficult issue. But the amendments proposed provide regulation for managing agents to provide the needed information to the County to place properties in the proper tax classification. Thank you for taking the time to listen to the issue of the constituency and crafting a concise amendment that we believe will lead to proper assessment of real property. Mahalo.

CHAIR PONTANILLA: Thank you. Members, any questions for the testifier? Seeing none, thank you again. Next testifier is Darryl Canady.

MR. CANADY: Good afternoon, Council and Chair. My name is Darryl Canady. I'm a resident of Molokai. And I wish to say thank you for the changes that you have proposed here. They look extremely good as compared to what they were before. And I like the word in here in your Section 3 where you hold the Association of Apartment Owners responsible for doing this, and especially when you add the word 'deliberately' when you provided information so that you don't just provide information and if there's a mistake and you do it honestly, you're not hung by the...(pause)...okay.

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COUNCIL MEMBERS: ...*(Laughter)*...

MR. CANADY: I thank you for that. And let's hope that we can stick to the 'deliberately' word the way it should be addressed. Thank you.

CHAIR PONTANILLA: Thank you. Members, questions for the testifier? Seeing none, thank you for being here. Next testifier is John Rapacz.

MR. RAPACZ: Good afternoon, Mr. Chairman and Committee Members. My name is John Rapacz. I, I'm here today on behalf of the Owner's Association at Puamana, which is a planned development.

The Owner's Association supports the proposed amendments to the bill and to the Code particularly with the actual use provisions for condominiums. However, unfortunately it will not apply to Puamana because it was approved as a planned development back in 1968. Now, I did hand out, or provide testimony, which hopefully you'll have in front of you. In the 60s, condominium was a brand new concept. Many of the older developments did not condominiumize. I can't tell you how many other planned developments there are that are in this situation. More modern planned developments do tend to condominiumize, but what Puamana would be asking for is to be treated similarly to the condominiums. It would be a very simple amendment to the proposal. I, I've given the actual language. And essentially, where the proposed bill says condominium, it would simply say condominium or planned development. In that way, the County could keep track of, have an enforcement mechanism for and, and confirm actual uses and could tax accordingly.

The other reason that Puamana is requesting that amendment is that as some of you may recall--and I think I may have met with all of you by this point but it was some time ago--Puamana has proposed a TVR overlay map in the TVR ordinance that's been in the Land Use Committee. So if that proposal were to be granted and there was a TVR overlay, I would expect that the County would then tax as if it were a hotel. And once again, if the planned development at Puamana were treated as condominiums, then once again you would be looking at actual use even though there was Hotel zoning because the other underlying residential uses are allowed. They aren't all Hotel. There's, you know, long-term rental, and there are owners who come occasionally but are not owner occupants and they are not short-term renters. So, once again in, in fairness, it would be appropriate. And the second reason being that in addition to the TVR overlay map, the Association is considering an alternative way of achieving the same, *same* goal essentially, and that is to seek a Change in Zoning to Hotel in which case they

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would like to be treated similarly to all of the condominiums that are in Hotel-zoned areas and --

MS. REVELS: Three minutes.

MR. RAPACZ: --Hotel-zoned properties. Thank you. And that concludes my testimony.

CHAIR PONTANILLA: Thank you. Members, any questions for Mr. Rapacz at this time? Seeing none, thank you very much.

MR. RAPACZ: Thank you.

CHAIR PONTANILLA: Next testifier is Bud Pikrone.

MR. PIKRONE: Aloha. Good afternoon. My name is Bud Pikrone. I'm here representing the Wailea Community Association. Again, I'd also like to say thank you for making the adjustments to this bill. It has been received well by those I've spoken to, and they've also shown their willingness to work with our Association, an umbrella association, and work with the County and Finance Department in making sure that we get all of the procedures and everything down so that this can be properly enforced for the benefit of everybody. So, again thank you. And I do wanna offer that I hope that the Finance Department and the County does ask us to help them iron out any of the potential issues that they may find as far as enforcement. Thank you.

CHAIR PONTANILLA: Thank you. Members, questions for the testifier at this time? Seeing none, thank you, Bud. Polly Sanders?

MS. SANDERS: ...*(Inaudible)*...

CHAIR PONTANILLA: Yeah. If you could come and just say your name, organization that you represent. That would be good.

MS. SANDERS: Good afternoon. My name is Polly Sanders and I am a homeowner at Puamana. And I have never been here before and I wanted to see how this all went and, and, because I'd like to be more involved. So, but John covered everything for me. If, if anybody has any questions of me, I'd be happy to respond.

CHAIR PONTANILLA: Thank you. Questions for the testifier, Members? Seeing none, thank you. Dave DeLeon?

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MR. DELEON: Good afternoon. Aloha. Dave DeLeon for the REALTORS® Association of Maui here to support the proposed bill as revised. RAM wishes to express its appreciation to Chair Pontanilla for his willingness to revise the original bill and make, take into consideration the concerns raised by the second home condominium owners, the property management companies, the West Maui Taxpayer's Association, and the REALTORS® Association of Maui.

In the short time since the new bill has been made available to the affected community, I've heard nearly universal support for the bill and appreciation for the compromise that it represents. The proposed procedure that is at the heart of this compromise essentially, essentially self policing by the condominium managers and the AOAOs is a new approach to tackling an old problem, and that is property, property owners not properly reporting their, their uses of their property. The industry is in agreement that the property owner should, should be paying the appropriate tax and the County has every right to address this concern. Most managers agree that they're capable of reporting the use of the condominium units on their properties and are willing to do so.

However there are understandable concerns over how this new procedure will work. For instance, what happens when somebody allows the kids to come stay for two weeks without charge? What happens if a property manager fails to, to properly report? And is it, is that property and all the units and all the owners associated with that property now highest and best use forever? Those kinds of questions are outstanding. Clearly the Tax Division would have preferred a simpler highest and best, highest and best use methodology addressing this issue. And clearly the AOAOs would prefer the status quo.

This bill brings us to a middle ground with the, with the methodology yet to be worked out. If the bill is approved as written, RAM would respectfully suggest that this Committee use its power of persuasion to bring these two entities together in the spirit of compromise and cooperation. To the degree practical, the rules and the procedures that operate this new protocol should be worked out in advance in the spirit of cooperation between the County and the property owners so that the rough edges can be chipped away before the new procedure goes into effect. The end result should be the end of widespread tax cheating via a procedure that the industry can live with. Such an effort to work with the effective community, *affected* community by the Finance Department would reflect the compromise and the spirit of the compromise made by Chairman Pontanilla and *hopefully* this Committee with its recommendation to approve this bill. Thank you.

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CHAIR PONTANILLA: Thank you. Members, any questions for the testifier this afternoon? Seeing none, thank you, Dave.

MR. DELEON: Thank you.

CHAIR PONTANILLA: The next testifier is Tom, Thomas Croly.

MR. CROLY: Aloha, Chair. Aloha, Council Members. It's nice to, to hear some agreement on, on an issue and hopefully...*(laughs)*...move it along without too much problem. I am Tom Croly, and I'm here to comment on the proposed tax changes for the classification of condominiums. I support this proposed legislation but feel that the formulation and promulgation of administrative rules will be key to its, its success. And as Dave stated, I think that there needs to be cooperation with the AOAs and the industry to make sure that those rules can be adhered to.

I'd like to make some comments on some of the parts that, that I think those rules could help address. The AOAOs might be left with a liability that they may not want to take on. For example, if they declare that a particular owner's use is one thing and that owner takes issue with it, how is that resolved? It might leave the AOAO in a position of being sued by that owner. So, so that's something that should, should be addressed in the, in the rules.

Item (b)(4) calls for notification of changes of use within 30 days. I think this would be a little too arduous for most of the AOAOs to deal with. As someone who's served on a board, typically these AOAOs meet about once a quarter. So, giving notification within 30 days wouldn't seem reasonable to them. I might suggest that it just be changed to something that would say that they must inform the Director of Finance within the calendar year of the change as part of their annual report, because a change within the year isn't going to change the tax status until the end of the year anyway.

Another issue that, that should be addressed would be condominiumized properties that don't have any kind of AOAO. There certainly are residential condominium properties that would fall under this that there's, they're not represented by an AOAO. So again, it should be addressed in the, in the rules for that.

I would suggest that there be some dating put into this, this ordinance so that it says the *use as of a certain date*. Typically, what the Tax Department depends on is what is the use as of the end of the year. But in order for the AOAOs to report, they're gonna have to pick a date in advance of that to say as of this date, what is,

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what is the particular use in that unit and inform their owners to tell us what their use is as of, whether it be October 31st or November 30th or whatever, something prior to the end of the year.

But I, I do thank the, the Council Chair for this proposal. I think that it's, it's a very good answer to the, the dilemma of proper reporting of the, of the uses. Thank you.

CHAIR PONTANILLA: Thank you. Members, any questions for the testifier? Seeing none, thank you. The last testifier this afternoon that had signed up is Richard Michaels. And if anyone wanna provide public testimony, if you could see the Secretary up front, please do so.

MR. MICHAELS: Aloha, Mr. Chairman, Members of the Committee. I came down here today because I thought this might be controversial and it appears that it isn't. So, I am here to support the language in your bill. I own a condominium at Makena Surf. A few years ago I became aware that a number of people who own condominiums who don't live here were not correctly reporting the use of their condos. And doing a little bit of spot checking, I found that the amount of money that the County was *due* but not getting really could amount to quite a bit, a lot more than, than you would think. And of course this Committee just finished these really horrendous budget choices where you had to decide whether you're gonna raise revenue or, or, or cut services, you know, that's a rock and a hard place when there's a lot of money out there that the County is *legally* without raising anything. And so I just wanted to come down here and say that. And as a condominium owner, I definitely support having associations report every year the use of each of the condos. Thanks.

CHAIR PONTANILLA: Thank you. Members, any questions for the testifier at this time? Seeing none, thank you very much. Chair would like to recognize the presence of Member Johnson.

COUNCILMEMBER JOHNSON: Aloha.

CHAIR PONTANILLA: I was wrong. Mr. Michaels wasn't the last person to sign up for public testimony. We do have Robert Fondiller.

MR. FONDILLER: Good afternoon, Mr. Chairman and Council Members. My name is Bob Fondiller and I live in a condominium in Wailea Point. I apologize for the appearance, but I came straight here from a softball game that ended just a few minutes ago. On behalf of our association of apartment owners, I wanna thank you for hearing us and the other AOAOs in amending the original bill to this

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much more workable version. We fully agree with those who are renting short term. We fully agree *that* those who are renting short term should in fact pay the Hotel and Resort tax, tax rate and *further* agree that the AOAOs must provide honest and accurate information to the County so that the necessary taxes are charged and paid.

Our association has been collecting this information for several years for our own internal reporting purposes, so we see no problem in being able to provide this to the appropriate County office. Unfortunately, we've had little time to properly respond to this, thoroughly to this new draft. But we would like to see a dialogue with the County to come up with an agreement on a workable protocol so that we have answers to some serious questions. Questions like what happens when we allow our children, brothers, sisters, or even friends to use our condos but not in a rental form, just simply allow them to use it. On the draft that we just read, there didn't seem to be an appropriate category for that and we would like to see a category for that.

Similarly, it wasn't clear if in fact a violation does occur what really happens? I mean, one, one mistake and the *entire* association is penalized doesn't seem, you know, totally proper to us. You know, perhaps some kind of three strikes rule or certainly coming down very hard on the *individual* or *individuals* who did not do it properly also seems fair, but not necessarily penalizing folks who did not, not do anything wrong.

I realize that we do not have, can't have a workable meeting if every AOAO on Maui had to be present at the same time. But I do think it's quite feasible to have each AOAO present their concerns and questions to a centralized organization such as the Condo Council of Maui, the CCM. I believe at the last Budget and Finance Meeting on this matter, the CCM expressed a willingness to take this on, and, you know, I certainly think and I think on behalf of most of the people in our condo association, we would see that as very positive. This process will allow all the affected AOAOs to provide their input to CCM and have CCM consolidate this information and present it to the appropriate County office. Then the CCM and County can agree upon a process and procedures that are most clear and efficient for all of the affected entities.

If done properly, I think this process will ensure the County achieves its goal of receiving the proper property tax from all condo owners --

MS. REVELS: Three minutes.

MR. FONDILLER: --who do short term rentals.

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CHAIR PONTANILLA: Thank you.

MR FONDILLER: Thank you.

CHAIR PONTANILLA: Members, any questions for the testifier? Seeing none, thank you very much.

MR. FONDILLER: Thank you.

CHAIR PONTANILLA: Next testifier is Brett Fahnestock.

MR. FAHNESTOCK: Aloha, everybody. And my name is Brett Fahnestock. I represent two, two properties. One is the Polo Beach Club and, and the other is the Southpointe at Waiakoa. And like everybody who spoke here, we're grateful for the changes that have taken place as well. I think we would like to ask that there be time to work out the bugs as time goes on. At a place like the Polo Beach Club, it'll be easy to report the use. I know all the owners and I know how each apartment is used. At a place like Southpointe or probably a place like Kihei Villages where there's a lot more units, it's difficult to know sometimes how every apartment is being used. At Southpointe, for example, there's probably 30 or 40 units that we can't even reach anybody to talk to them about the unit because it might be going back and forth between the bank and an owner. And so we haven't, at Southpointe, even been able to have an annual meeting for two years because we can't get a majority, 50.1 percent, to hold an annual meeting. So, I think that we can report how we think the unit is being used in a pretty accurate manner at a place like Southpointe, but there's gonna be difficulties. The bigger the property, the more challenges there will be. And I'm sure there are other condos that are quite large that will have some challenges as well. But if we have time to work out the problems and to, to do the best we can reporting, I think it'll work out. So, thank you.

CHAIR PONTANILLA: Thank you. Just for your information, this bill is not effective until next July.

MR. FAHNESTOCK: Okay.

CHAIR PONTANILLA: So we have time to, to work out any details from now until then.

MR. FAHNESTOCK: Great. Okay. Thank you.

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CHAIR PONTANILLA: Members, any questions for the testifier. Excuse me. Member Johnson?

COUNCILMEMBER JOHNSON: Yes, I, I just wanted to ask you, because you're...now, are you on the actual board?

MR. FAHNESTOCK: Yes.

COUNCILMEMBER JOHNSON: Okay.

MR. FAHNESTOCK: At Southpointe.

COUNCILMEMBER JOHNSON: Are you president?

MR. FAHNESTOCK: Yes, I am.

COUNCILMEMBER JOHNSON: Alright. Do you have officers and director's liability?

MR. FAHNESTOCK: We do.

COUNCILMEMBER JOHNSON: Okay. So, because I'm not sure, we haven't discussed the ramifications. But if because of your actions in inappropriately notifying the County that there was somebody using their unit and as you state it may have changed hands or whatever--

MR. FAHNESTOCK: Sure.

COUNCILMEMBER JOHNSON: --do you think that is a problem? Or do you think something should be included in the bill where there is some kind of an appeal mechanism or something that would also hold you harmless if you, you know, don't get it right?

MR. FAHNESTOCK: That's probably a pretty good idea is to have some kind of an appeal process that, that an owner could present their, their case that they're using it way different then we've presented. That would be nice to, to see that. It would.

COUNCILMEMBER JOHNSON: But if anybody were to be penalized and let's say they lost their case and they took action against the board, then you would have coverage? That would cover you if you're acting in what you believe to be an honest and, you know, forthright manner?

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MR. FAHNESTOCK: I would think so. And I think that's a nice way to try to approach it is, you know, we're trying to deal with the individuals who are possibly not being honest and the majority of people I feel are. And so that's nice if it goes to a one-on-one type of thing and, and that you, you know...it does come down to basically the County versus, you know, with the AOA kind of in the middle, versus an owner who is potentially not being honest. That's, rather than the overall AOA having to change how everybody's taxed. There . . .*(inaudible)*. . . appeal process and then, and then, you know, things come out of that appeal process. I, I believe the board would be covered. I, I think so.

COUNCILMEMBER JOHNSON: Okay. And then one final question. If, let's say that you turn in this report to the County, would it be your intention as a board to also send to each owner notifying 'em what you actually reported to the County?

MR. FAHNESTOCK: I think, I was thinking about that. Polo Beach is fairly easy. It's 71 units. I know everybody. I was thinking I would send a form to them in, in advance of this and say I see your apartment being used like this. It's pretty clear with all of those owners. I sit in an office that's in the middle of the complex, and I watch people come and go. And I have keys to all the units. I know how they're used. I would send them a form and I would sign it and say I see your apartment being used in this way and ask them to sign it possibly. And then I would have all those on record. I would make a spreadsheet and it would get submitted.

Little bit different with bigger properties like Southpointe. We would be, you know, our manager would know most of them. But we would be doing...it, it would be nice if the owners could reply back. But probably like at a place where there are big properties like Southpointe, in our annual meeting mail out, we will have to possibly start including that. Here's a form. We see your apartment being used as a long term rental or owner occupied. We won't get a lot of 'em back. But, you know, I think if we do our best effort and then we put down how we think it's being used as a, as a board and a manager, the manager of the property, then we've done our best. And some people just aren't going to answer. I mean, they're so against any kind of involvement of any...you know, they won't even pay their maintenance fees or if you tell 'em, you know, to rake their yard or something that...it's just some people are not going to answer. So, we're going to have to fall back on the AOA to give that answer for them.

COUNCILMEMBER JOHNSON: Yeah. I, I really appreciate that because I think too if somewhere an actual posting or certified notification is sent to them --

MR. FAHNESTOCK: Yeah.

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COUNCILMEMBER JOHNSON: --you know, whether or not they choose to respond, I think, you know, it, it may be a good protection. But anyway, I just wanted from *your* perspective to kind of understand how this might work.

MR. FAHNESTOCK: Good. I think it's a great idea. We'll do the best we can, then we turn in our report as to how people are using it as far as the AOA sees it.

COUNCILMEMBER JOHNSON: Okay.

MR. FAHNESTOCK: Right.

COUNCILMEMBER JOHNSON: Thank you very much.

MR. FAHNESTOCK: Thank you too.

CHAIR PONTANILLA: Thank you. Members, any more questions for the testifier? Seeing none, thank you very much. Sir, I can't recognize you. I would love to but at this juncture, I cannot. Thank you.

UNIDENTIFIED SPEAKER: ...*(Inaudible)*...

COUNCIL MEMBERS: ...*(Laughter)*...

CHAIR PONTANILLA: Okay, is there anyone in the gallery that hasn't provided any public testimony at this time that would like to provide public testimony, please come forward? Seeing none, if there's no objections, the Chair would like to close public testimony at this time.

COUNCIL MEMBERS: No objections. (excused: SK)

...END OF PUBLIC TESTIMONY...

CHAIR PONTANILLA: Thank you. Again, Members, today's agenda is BF-72, Real Property Tax Land Classification. Members, we have received a revised proposed bill from Corporation Counsel incorporating changes based on the discussion at our last meeting on this item. The revised bill adds timeshare units as an exception to assigning land classification by zoning or General Plan designation, allows condominium units to remain classified according to the owner's self-certified use provided that the condominium association files an annual report of the actual use of all units in the association and provides a penalty for abuse of the self-certification of the use of this system.

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Again, this morning, this afternoon, we do have the Director of Finance, Mr. Kalbert Young. And if Mr. Young would like to provide some comments?

MR. YOUNG: Thank you, Mr. Chair. Good afternoon, Members. The proposed version of the revised ordinance reflects revisions agreed to and coordinated with the Committee's Staff, the Chair, the Real Property Tax Division, and the Department of Finance to incorporate concerns and issues raised at the last Budget and Finance meeting on that proposed version. It makes revisions also on suggestions that were offered by a number of testifiers that provide some agreement as to workable amendments and compromise. The overall effect of the proposed bill will, while it removes the highest and best use concept from the condominium properties, which was the original intent of the Chair's proposed bill, it does provide a method of enhanced enforcement and tools of capabilities for the Real Property Tax Division to enforce upon truthful declaration of taxing by use for condominium properties.

The Administration feels that the proposed revisions are a good compromise and yet maintain a level of, of benefits to the Real Property Tax Division to enforce the Real Property Tax Code. With that, the Administration urges your support of the proposed version and would like to extend its gratitude to the Chair and to the Committee's Staff for working on the provisions and to incorporate the concepts and issues of the Administration.

With me today is Mr. Scott Teruya, who can discuss any of the technicalities of implementing this ordinance. And we are available for any questions the Committee may have. Thank you, Mr. Chair.

CHAIR PONTANILLA: Thank you. Mr. Teruya, you have any comments to make at this time?

MR. TERUYA: No. Not at this time, Chair.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER VICTORINO: Chair?

CHAIR PONTANILLA: I'm gonna go from my right, right down the line in regards to Q&A. Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you, Chair. I'm interested in the, the, the aspect about the self-regulation and if you, the Finance Department, could work

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along with the AOA's [sic] to be the governing board. I mean, I, obviously the CC&M would be the appeals board if that's the way we go, choose to do it. But would you be able to work with the AOA's, [sic] let them be the self reporting to you folks and you take it from there? Would you feel that would be a good way of doing it? Either one, Scott or...

MR. TERUYA: I think the way we would be doing this is it's basically our current process of status, status quo.

COUNCILMEMBER VICTORINO: Yeah.

MR. TERUYA: And, you know, when there are questions in certain projects or complaints filed by individuals, neighboring condominium owners, et cetera, that we would refer to this list and to do more investigation from that point.

COUNCILMEMBER VICTORINO: Uh-huh.

MR. TERUYA: You know, there are about 25,000 condominium units, not including timeshares. So, already our staff is inundated with paperwork and self declarations every year.

COUNCILMEMBER VICTORINO: Right.

MR. TERUYA: So, of 25,000 condominiums, there's about 16,000 condominium units that have the ability to claim a lower than highest and best use. So, I see that, that amount already shrinking to 16,000 units, possibly at most that we would potentially annually look to this report that's coming from the AOAOs. So, how much more work is it going to be, I'm not sure. How are we going to send this file out to the AOAOs so that we don't see, you know, 276 different ways of reporting this to the Department, because it would be physically strenuous to review a different format by every AOAO. So, we would probably have to come out with that template to, to send out to the AOAOs and possibly receive it back electronically. Because physically on paper is, is not going to be the easiest method to review, review this.

So, yeah. I think we can work on it. I think it's going to be sometime between that learning curve of knowing what we are gonna expect and they, how they report the use back to us. Yes.

COUNCILMEMBER VICTORINO: Well again, this bills would take effect in the tax year starting after July 1, 2011. So, it actually gives some time to work on it. But...Kalbert?

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MR. YOUNG: Actually, Mr. Victorino, the wording of the effective date is, "This ordinance, upon its approval, shall be effective for tax years beginning on or after July 1, 2011".

COUNCILMEMBER VICTORINO: Yeah...(inaudible)...

MR. YOUNG: So, the tax year 2000...July 1, 2011 is being established by certification as of December 31, 2010.

COUNCILMEMBER VICTORINO: Right.

MR. YOUNG: So, the Real Property Tax Division would have to get to work right away on developing the protocols and procedures to establish this reporting before December 31st of this calendar year *in order for it to apply* for the tax year July 1, 2011.

COUNCILMEMBER VICTORINO: And being that this is August of 2010, do you feel this is feasible, Mr. Young? I mean, realistically. I mean, do you think it's a do-able situation? Because, again, and a lot of times we throw things out and then you guys aren't able to accomplish it and then we've just, just made a mess of things. So, do you think it's possible?

MR. YOUNG: In consultation with Mr. Teruya and with, with Chair Pontanilla, we do feel that the Division could utilize and start work on it, on implementing this ordinance right away. As Mr. Teruya just relayed, the actual effect or capabilities that the Division will use this ordinance for is not going to be so definitive that it will rely solely on the, on the reporting of the associations. It's looked at, this ordinance will provide another *tool*. The associations will be incorporated and given the opportunity to provide their reports. But it will not be the *one and only* document that the Division will utilize. So, you know, all the weight of the classification will not be placed on the list.

COUNCILMEMBER VICTORINO: Uh-huh.

MR. YOUNG: So, it will be more important for the Division to develop the actual form that the reporting will, will be required. So, in that way is to make it as easy as possible for the associations, but also as easy as possible for the Real Property Tax Division to get this implemented right away. And so, we are cognizant that there's only about four months left in the calendar year. There are a lot of things that are going, that are going on in conjunction with this particular ordinance, but the Department and the Division is confident that the ordinance is not too

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overbearing to implement and *is* going to be a benefit to both the taxpayer, the association, and the Division.

COUNCILMEMBER VICTORINO: Well, thank you. And I, you know, thank you, Department and Mr. Pontanilla and the Staff for putting this together because again, as I reviewed this, I found it a lot more fair and a lot more workable. I just wanted to know from you folks that *you* felt the same way because you're the ones going to interpret it, not us. And so as long as you guys have, and feel you can, then I can support something of this nature. Thank you, Chair. I appreciate it.

CHAIR PONTANILLA: Thank you. Just for the Department, one of the testifiers indicated that there is a Condominium Counsel Management group that probably, you know, you folks can work with rather than all of the AOA's. Mr. Mateo?

VICE-CHAIR MATEO: Thank you, Mr. Chairman. The last individual who provided testimony to us and the questions from Ms. Johnson referenced an appeals process that is apparently lacking. What, what process is available to the AOA's in the event that the Director determines that there was deliberately providing wrong information or inaccurate information?

MR. TERUYA: The appeals process is an annual process. Shortly after receiving the notices by the Division on March 15th of every year, it's the individual owners of the condominium or the unit or the parcel, however you wanna call it, that has that right to file an appeal based on the classification that's currently on file with the Division. So, the appeals process is basically the notification is your notice that what the Division has on file. So, if you were to challenge that, the appeals process is up to April 9th of every year that you must file as the individual owner of the, of the unit.

VICE-CHAIR MATEO: And on, and, and that, that appeals process is actually a written item that is provided to them?

MR. TERUYA: Yes. Yeah. 3.48.595.

VICE-CHAIR MATEO: Thank you very much. As long as there is a process that is available to them, because in just reviewing the bill itself, when you don't really see a process available in the bill, one has to refer elsewhere. So, you know, I don't know if it would have been easier to just included a reference to the appeals process and cite the other area that it is listed on or, you know, somehow make that particular process available. Because the question becomes for the AOA a

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question of liability. So, that was why I asked. Thank you. Thank you, Mr. Chairman.

CHAIR PONTANILLA: Thank you. Mr. Nishiki?

COUNCILMEMBER NISHIKI: Thank you. Scott, I think what has occurred so far is real good just because I think when we discuss this, Mr. Chairman, about those that have been honest enough to report exactly what their units were being used for. I think in listening to testimony today, they themselves want to see those that are cheating be upfront and report. The question that I have is you said that there are fines in here for those?

MR. TERUYA: What?

COUNCILMEMBER NISHIKI: I, I'm looking at the ordinance and I'm finding...to see where it is located.

MR. TERUYA: Let me just go a little bit about our current procedure is if there is indication that a unit is not being used or properly reported, we do send out a letter to the owners of the reasons why we, we feel that it is not being reported properly. If it is found that in error the unit is reclassified for that year. Remember, classification is a classification that you are supposed to carryout *throughout* the calendar year, not on a particular day. So, you know, we do have the means to, to reassess and recalculate for taxes for that year. And then the Code has, the Code has the authority to provide fines, I believe. Not sure what section though.

COUNCILMEMBER NISHIKI: What are the fines?

MR. YOUNG: While Mr. Teruya looks for the specific citation for your reference, Mr. Nishiki.

COUNCILMEMBER NISHIKI: Go ahead.

MR. YOUNG: In general, the Code already provides for a penalty for misclassification or basically misreporting the use. And that penalty, in general, is you are *reclassified* to what the appropriate classification should be and in certain instances, the Code already provides for a punitive fine in addition to the reclassification. So, for instance, if you are claiming Homeowner, but you are actually short-term renting it, it's reclassified to what it should have been, which would have been Hotel. So, you no longer have the benefit of Homeowner. But there could also be a punitive penalty for whatever that difference is, a penalty on top of that.

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So, the Code already provides that provision. It's not being amended via this ordinance. It already exists in the County Code. And that is what, how the Division currently applies, not only for condominiums. It doesn't apply only for condominiumized properties. It's for *all* classifications.

COUNCILMEMBER NISHIKI: Okay. Scott, or whomever, I think that in this year's budget, we had provided to you people warm bodies and it had to do with collecting delinquent taxes that were owed to the County. Mr. Chairman, I don't, I don't want to hear them come back to us and say we did not give you enough warm bodies therefore we cannot achieve this process. And I think it is up to us and you to tell us what you can achieve and what you can't. And, and, and why is this? Here lies a bunch of money, I think, that the County can go after. And, and we've got willing participants, meaning these people that at one time we were going to assess differently. And, and so what are the realistic abilities of your Department to, to pursue this with the manpower that you have? And I don't think there's any one of us that is unwilling to give you something even those that sit in the back if we know that we can decrease their taxes because we can now catch those that have caused us to pay more money.

MR. YOUNG: Thank you, Mr. Nishiki. And the Department, and I, I know Mr. Teruya is grateful for the support from the Council for additional personnel to try and increase enforcement. And the two bodies are definitely needed and can go a long way. But as you know, there's, there's *a lot* of enforcement that we're trying to catch up on, or focus on right now. This particular ordinance for condominium enforcement is only one area and frankly was not even discussed during the budget process. The two bodies that you reference when we're talking about, we understood what Council wanted the Department to focus on, and that was the Homeowners' Exemption enforcement, Ag designation enforcement, appeals, and delinquent collections. And the two bodies, I think, will go a long way in those areas. Are they the...I, I'm not sitting here today to tell you that all of those four areas will be totally caught up in a year and you will be, the Council will be totally satisfied and the public will not have any area of complaint going forward with enforcement, because that's not realistic. But I think it will go a long way. My *personal* preference, as I've expressed to you during the budget session was not to ask for warm bodies because we do want to try and increase levels of efficiency within the Division, try and see how much headway we can make in that regards before we add additional bodies. But the two bodies will go a long way immediately in that regards. So, what I am, what I would be asking you for is not to walk away from this meeting believing that the Division has everything within its grasp to enforce on all the four areas I mentioned plus now this condo enforcement. I think the Division has a lot of opportunities to increase

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efficiencies. The tools of the two additional bodies that Council appropriated will further help in those regards. I'm asking instead that the Council show some patience to allow the Division to work out the enforcement areas that it is currently targeting with the tools that the Council has currently given them, and if in a future year we see how the progress has gone, if more can be done, I will be...I will have no problem reporting to the Council that more needs to be done. That the Division was not able to meet all the goals that we had set. I am hopeful though, hopeful that the Division instead will be able to show progress and the Council will be satisfied that continued progress can be made at that point. And that's what I am looking at sitting here before you today. So, for my part as the Director, I am not asking nor am I advocating for additional bodies beyond the two that Council appropriated. At the same time though, I am not guaranteeing that the two bodies is sufficient to fully satisfy the expectations of, of Council or the Department or the Administration.

COUNCILMEMBER NISHIKI: Chair?

CHAIR PONTANILLA: Before you, before you ask that question. I'd just like to clarify the number of bodies. In Year 2010, we appropriated two...I'm sorry. In 2010, we appropriated two LTAs, which we made full-time employees, and we added in 2011 Budget four additional bodies. So, there's a total of six in the Real Property Tax Division at this time.

COUNCILMEMBER NISHIKI: Yes.

CHAIR PONTANILLA: Mr. Nishiki?

COUNCILMEMBER NISHIKI: And, and, and if it was merely crumbs that we're talking about, perhaps I wouldn't be so vocal. But we were told that it is into the millions, not one, not two, not three, tens of millions. And, and, and this is the reason, you know, I think that as we approached and found out this year, I think many of us were very enthusiastic when we see the kind of shortfalls we had in our County budget and the resistance of many of us to increase fees or taxes, Mr. Chairman. And so, it would embarrass me for us not to put utmost energies into this area. And so, Kalbert, as much as I think we all respect you, I think it would be forthcoming in you to assess this in lieu of perhaps not a good year next year also in collections, Mr. Chairman, as we have seen many properties decline in value. And, and it's, it's an area that all of us look at. And, and now we have an area that realistically can give us added revenues. So, I depend upon you, Mr. Chairman and Mr. Young, to give us forthright information that all of us are probably eager to hear on what can be accomplished with haste. Thank you.

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CHAIR PONTANILLA: Thank you. Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. I'm assuming we're looking at the revised bill from Corp. Counsel with the cover letter July 23rd. Is that correct?

CHAIR PONTANILLA: Yes.

COUNCILMEMBER MEDEIROS: Okay. On Page 3, Section C, it, it describes that the community association shall file an annual report and then it goes down in the next lines and even in the next items to describe what would be included. So, Director Young, so the Department will produce these reports to be a standard report consistent of all reporting or is the condominiums gonna produce these reports? I mean as far as the form?

MR. YOUNG: Mr. Medeiros, I think Mr. Teruya already alluded that probably the best and most efficient method given the shortness of time--we're talking about within the next four months of the calendar year--that it would be more efficient if the County was to develop the type of the form. And that could be with coordination with the community or the condo organization or whatever. But the County will designate the method and the form and so that it's all uniform and consistent for all the condo associations.

COUNCILMEMBER MEDEIROS: Okay. I'm glad to hear that because, you know, to, to allow the associations to develop their own forms I don't think would be anything efficient for you folks to look at and have to decide, you know, what, what information is being reported. So, along with the County, right, developing the form to make it standardized, will the associations have some kind of discussion on that or will it be totally the responsibility of the Department to develop that form?

MR. YOUNG: We, we think that definitely the condos association, either, probably not directly but, you know, as was mentioned through their professional organization or whatever, could have some input as to the method of form. A lot of times with these forms too, the Division also provides some form of training or like community outreach systems, and this might be an avenue, you know, another candidate for that depending on how complex it gets. We're not right now thinking that it's a very complex report. So, if it gets to be complex, then training is going to be required.

COUNCILMEMBER MEDEIROS: Right.

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MR. YOUNG: But initially from what we envision it should be pretty simple. And apparently associations have relayed that they already have the reporting information, they already maintain it to some degree. It's just putting it into the County format.

COUNCILMEMBER MEDEIROS: Uh-huh. Okay. Thank you for that. Regarding self policing, I think that's something honorable and commendable, but I think as one of the testifiers alluded to, you'll have people that cooperate and you'll have people that won't cooperate. So, how does the enforcement play on that? Who do use for enforcement, your real property tax assessors?

MR. YOUNG: The real property tax *appraisers*.

COUNCILMEMBER MEDEIROS: Appraisers.

MR. YOUNG: Yeah.

COUNCILMEMBER MEDEIROS: Okay. So they, they would also be charged with the responsibility of the enforcement of this?

MR. YOUNG: Well, real property tax appraisers currently are the "enforcers".

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. YOUNG: So nothing really will change. This is just another area of enforcement that they currently already enforce on. The amendments to this part of the Code though will give them a little bit more capabilities and a little bit more tools from which to stand on in terms of that enforcement. But it doesn't add, it doesn't add any more enforcement then they currently are already doing.

COUNCILMEMBER MEDEIROS: Okay. Alright. Then on Page 4, Item 3, the statement that the association is, well, let me, let me go to the beginning of that three. The Director of Finance may classify all of the parcels in a condominium association at their highest and best use if there is evidence that the association deliberately providing inaccurate information in its annual report, and it goes on. So, who determines if the report is inaccurate, your appraisers again through their I guess inspections of the properties?

MR. YOUNG: I believe this particular section would likely apply if in the course of again investigation and enforcement from the appraisers --

COUNCILMEMBER MEDEIROS: Uh-huh.

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MR. YOUNG: --one of the tools of enforcement will be to rely on evidence. These reports, the appraiser would hope to rely on the report as evidence. But if this report reveals contradictory information, it, the appraiser, of course, will have very little reliance or can place very little reliance on this report.

COUNCILMEMBER MEDEIROS: Right.

MR. YOUNG: So that's the method. But again, as I stated earlier, this report is not the sole piece of evidence --

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. YOUNG: --that is used to make the determination of classification. It's, it's merely one of.

COUNCILMEMBER MEDEIROS: Okay. And, and the annual report will reflect what has occurred before that report to determine how the units were used? And if that reports come, comes at the end of that period and is found to be inaccurate, does that mean the entire year reporting period is classified as highest and best use?

MR. YOUNG: Well, it will mean that it will be reclassified to what it should have been.

COUNCILMEMBER MEDEIROS: Okay. And...

MR. YOUNG: And in this particular case, it may not necessarily be highest and best use.

COUNCILMEMBER MEDEIROS: I see.

MR. YOUNG: Yeah.

COUNCILMEMBER MEDEIROS: I see. Okay. And so, is there...if, if it wasn't reported as it was being used, so is there where the Department collects additional taxes or is it, does it go to the following year?

MR. YOUNG: It...

COUNCILMEMBER MEDEIROS: The classification.

MR. TERUYA: Yeah. According to our Code and our current practice is if there's information found that the unit is not properly being reported, that we will recalculate for taxes and bill out as soon as possible --

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COUNCILMEMBER MEDEIROS: Alright.

MR. TERUYA: --for the current year and then moving forward. Yeah.

COUNCILMEMBER MEDEIROS: And, and that's the current practice right now?

MR. TERUYA: Correct.

COUNCILMEMBER MEDEIROS: Okay. Thank you, Department. And I, I think, Mr. Chairman, right, as been said before by other Members, this seems to be a fair way of looking at the taxes for this classification and with this new plan, hopefully the kinks can be gotten out of this system with the help of the property owners and the associations so that it works for them and for the County. Mahalo, Mr. Chairman.

CHAIR PONTANILLA: Thank you. Member Kaho`ohalahala?

COUNCILMEMBER KAHO`OHALAHALA: Yeah. Thank you, Chair. I wanted to ask the Department questions that have to deal with the proposed amendments that were brought in testimony on the planned unit developments as part of the amended language to the current bill. Can you explain what impact that has on, on, on the bill itself and elaborate on what would be the, the outcome of that, that language change?

MR. TERUYA: Well, one of my comments would be is first of all, we don't know how many units are in a planned use development. So, that would be one question is for somebody to identify what units, how many units we're talking about, and then we would probably get a little bit more accurate estimate as what, whether how long it would take. You know secondly, in planned unit development you gotta remember that the underlying zoning in Puamana is Residential. And, you know, under condominium use, Residential is not an option. It's not a classification that you can choose. So, you know, those are some of the question that what are you going to class of 'em, class 'em after if they don't have a home exemption because Residential is not an option when you condominiumize? So, there's some questions that we have as well. It is a good tool to assess if that's what you so choose. So, you know, I think we have some more follow up questions as well and I'll defer to the Director at this point as far as the opinion as to whether to adopt it or not.

MR. YOUNG: Mr. Kaho`ohalahala, actually I, I think in concept to the extent that in concept I, I think it could be agreeable because of the issues related specifically to

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Puamana. This issue...I, I know there's short-term rentals going on there. The legality of whether or not they're actually allowed under the County Code is vague in my mind, but that might be something more appropriate for the Planning Director or that agency that license short-term rentals. From a taxing perspective, it is more important to me that if you are short-term renting it, that the County should be taxing you as a short-term rental. I'm not speaking to whether or not it's actually permitted, though. However...so on that, in that respects, I would be agreeable.

But what I am not clear about in terms of that proposed amendment would be *other than* Puamana, I don't know how many planned developments exist that would be similar in nature as Puamana. If Puamana is the only one, that would be good to know. If there are others, that's what I suspect. And before I would support incorporating that into this ordinance, I would have to know what the overall effect would be, because as Mr. Teruya outlined...I said it before previously, this particular section of the Code is the special treatment for condominiumized properties. Condominiumized properties are given special treatment in the Code different from *all* other properties. So, if you allow for planned unit developments to be included in here, you are now increasing the special treatment to not only condominiums but also to planned unit developments, which are actually different. They're a different animal. They have different uses allowable under the Code compared to condominiums. So, if you're gonna increase that scope, I would have to know how big that scope's gonna get for how many properties and how are we supposed to distinguish between one or the other or what is the advantages or disadvantages to all the other properties that would be inconsistent to how we treat the majority of properties in, in the County.

So, I couldn't speak to whether or not it would be a good one, a good amendment to include that yet. It might be, but I would need more examination and information on that.

COUNCILMEMBER KAHO`OHALAHALA: Okay. Chair, I appreciate that explanation because then it helps to clarify I think, for me, what is being proposed and what is still yet left to be I guess clarified within the law and within the existence of planned unit developments. So, thank you for that clarification.

CHAIR PONTANILLA: Thank you. Member Johnson?

COUNCILMEMBER JOHNSON: I have some questions of Corporation Counsel. Basically in the drafting of this legislation because the statement that was just made about condominium owners being treated differently as property tax payers

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in the County of Maui, has there ever been a challenge in terms of an individual taxpayer's rights being abridged because of how they're receiving different treatment from other individuals simply because of the mechanism or the means by which they hold property?

MS. VILLAROSA: I'm not aware of a pending challenge or, or even a prior challenge in my time. But in this case, they're being given a, I don't wanna say benefit, but it's to their advantage. They're being treated differently to their advantage versus the other, other property classifications.

COUNCILMEMBER JOHNSON: Okay. In, in what respect are they being given the advantage?

MS. VILLAROSA: Well the other, the other property classifications are simply highest and best use. There's no exception to that rule except for the homeowners, but otherwise there's really no exception to the rule. But for condominiums it's based on actual use. So, they get to pick, basically, how they're going to be classified.

COUNCILMEMBER JOHNSON: Okay. So, if you...and this was the issue that we were going through before --

MS. VILLAROSA: Uh-huh.

COUNCILMEMBER JOHNSON: --which is that, you know, you go by zoning, which is the way all property basically is treated. Not just here. It was treated here like that before. Then it shifted due to a Corporation Counsel opinion. But basically throughout the State, am I correct, that zoning governs what you pay in terms of your taxes in, in the jurisdictions that you're aware of?

MR. TERUYA: Yeah. It's, it's generally zoning because that establishes what is the ability to use. But you also have special rights where you get a Conditional Use Permit.

COUNCILMEMBER JOHNSON: Uh-huh.

MR. TERUYA: You know, even bed and breakfast and TVR's are now a different classification. So, even though you have limitation by zoning, a special right of a Special Use Permit, Conditional Use Permit, may exceed that of zoning, therefore that would be the exception.

COUNCILMEMBER JOHNSON: Okay, under Hawaii Revised Statutes, which basically lays out Condominium Property Regime, horizontal regime, how is that,

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you know, dovetailing into this particular issue? Has it been checked for consistency as to what the authority of an AOA is? What the liability, you know, all of the things governing that particular chapter under HRS?

MS. VILLAROSA: Well...

CHAIR PONTANILLA: Corporation Counsel?

MS. VILLAROSA: They would have, I mean it would, the property would have to qualify under Hawaii Revised Statutes. I'm not, I guess I'm not clear about what the question is.

COUNCILMEMBER JOHNSON: Well, basically condominium property regime is layed out in the State statutes that gives and grants certain authorities. It lays out how a board will govern. It lays out certain parameters, rights. You know, it's a form of ownership. But I just wanna make sure that what we're doing is defensible under the law.

MS. VILLAROSA: It's...

COUNCILMEMBER JOHNSON: 'Cause I think there's well, you know, and, and, and I have some issues with individual taxpayer rights.

MS. VILLAROSA: Uh-huh. Well, you know, definitely there...once you, once you implement the law there's things that come up that you hadn't thought of before. But in this case, once the property qualifies as a condominium, then, then these provisions kick in. So, I don't think these provisions would *change* State law. It doesn't try to affect the, I don't know, the, the definition I guess you could say. It's not, it doesn't affect the definition of what a condominium is or how to qualify for a condominium. It's just once, once you fall within that, that category then you're classified accordingly for real property tax purposes.

COUNCILMEMBER JOHNSON: Okay. I've gone through all the condominium classes --

MS. VILLAROSA: Uh-huh.

COUNCILMEMBER JOHNSON: --you know, *ad nauseum*. I've served on a condominium association board. And basically, from my understanding, there are certain things that a condominium association can function in as in certain capacities. If under State statute it says that a condominium association or board of directors shall do and shall have the authority to do certain things under

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condominium property regime, I, what I'm asking you is does that mean that they have the authority to interact as an agent now on behalf of the individual owner if it's not in their by-laws and governing documents and *to give* information to the government that may be contrary to the *truth or fact*.

MS. VILLAROSA: Uh-huh. Uh-huh.

COUNCILMEMBER JOHNSON: That's what --

MS. VILLAROSA: I don't, I don't...

COUNCILMEMBER JOHNSON: --that's what I'm raising.

MS. VILLAROSA: I don't know the answer to that.

COUNCILMEMBER JOHNSON: Well, I think we should before we go *further* because this is a *problem*. And I, I, I want to let you know that under an appeal process, the way I'm reading this, and I just had this handed out, I appeal as an individual. And yet the statute, or the way that it's been drafted, I feel my rights are being abridged as an individual taxpayer. My, my taxes are owed from me as an individual. The minute that a *board* or an *association* gets in the middle of *my rights* in any way, shape, or form, *that is a problem*. And I think we're opening ourselves up to litigation because of that, because of inaccurate information. It could be the way this is drafted. The information may actually be of benefit to the County, because it doesn't say whether it's detrimental tax wise. It just simply says the information is inaccurate. So if you report you have people that are doing short-term rentals, which would put 'em in a different classification, but they're really Homeowner, they're violating that statute. Should everybody be penalized when the County is actually benefitting? I'm, I'm really disappointed that I live in a condominium. I know what goes on in a condominium. I know we're not supposed to have serial communications or anything else *but* I have a problem when you don't ask the people that are actually *in these situations*. And when you don't...I mean, there are some really wonderful condominium attorneys that understand condominium property regime that would be happy to meet with you and that's what I'm gonna request, Mr. Chair. 'Cause right now the form that this is in...number one, the tax appeal process. Now the individual owner has to get in this queue, pay a fee to appeal his taxes. He's gotta stand with the 450 other people, but he has to *pay the tax*. *He has to pay the tax*. And we are running what three and a half years behind. I don't know. Maybe we're catching up. But there are some serious problems with this, because I as an individual taxpayer to the County of Maui, my rights, in my view, through this kind of legislation, I did not give away my rights to my condominium association. And

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albeit it's a really good mechanism for trying to police, I cannot have someone intercede in between *me* and the County by giving *you* information that may be contrary to the truth, and then the burden is placed on *me* as the taxpayer to go and fight this out either through tax appeal court or through tax appeals. I have to pay. I have to do all these other things.

MS. VILLAROSA: I mean, the information that's provided in that report is just the start of an investigation. So, the Department still has to follow through with conducting a proper investigation in order to, you know, to make the correction if, if there is going to be a correction. So, it's not like it's just this report and then that's it, they're gonna act on it and then all of a sudden the taxpayer has to appeal in order to change that. There still has to be a thorough investigation by the Department.

COUNCILMEMBER JOHNSON: But that's the way it's being presented. And there is no definition of any appeal process laid out in this draft ordinance.

MS. VILLAROSA: No. The appeal process is in a separate, separate section because it applies to all appeals.

COUNCILMEMBER JOHNSON: And that's where my problem is, because the appeal mechanism. You are asking an entity, an association of apartment owners.

MS VILLAROSA: Uh-huh.

COUNCILMEMBER JOHNSON: You're asking an entity to report. And then *now*, me as a taxpayer, I turn in my report. Let's say it is inconsistent.

MS. VILLAROSA: Uh-huh.

COUNCILMEMBER JOHNSON: And let's say that my neighbor, I don't get along with him and he says well, I know that they've got people in there. I know that they're using their apartment differently. All of a sudden now he's gonna tell that to whoever it is, the County, whatever. All of a sudden I'm in a situation where now the burden of proof is on me. Granted, you know, if I'm using it as a homeowner, yeah, I should be able to provide evidence that I am using it as a homeowner. But you have an entity that is *not* in a contractual arrangement, that did not sign up with the County to pay those *taxes*, and now they're intervening in the middle of this entire process. So, now you're creating another layer where the taxpayer is now at the bottom of the rung.

MS. VILLAROSA: Uh-huh.

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COUNCILMEMBER JOHNSON: And *that's* my problem. If you had an appeal process laid out that was different for condominiums, I think that's appropriate because they're not being treated the *same* as every other taxpayer. So *you're* saying that you have to use the same appeal mechanism as every other taxpayer, but you're treated differently. So, I, you know, I have some other problems like with CPRs on agricultural land. That's another issue. That's condominium property regime, it's on ag land. What do you do there? If you're treating all people where condominium property regime has been filed.

So, I, I just, you know, I, I have problems with the planned unit development, also Napili Hau is a planned unit development with individual dwellings. So, I'm sorry to be so vocal...*(laughs)*...but, you know, if I don't raise these issues now at this juncture, I think we're gonna do something that is gonna have really...not the outcome that we would choose. 'Cause I'll be one of the first people to challenge this.

CHAIR PONTANILLA: Thank you. Member Baisa?

COUNCILMEMBER BAISA: Well, I'm not sure I remember my question.

COUNCIL MEMBERS: ...*(Laughter)*...

COUNCILMEMBER BAISA: ...*(Laughs)*... But anyway, I did want to take us back a little bit to the testimony that was given earlier today. We received a number of suggestions and concerns by, from Mr. Croly, and one of them that he raised, and obviously we've been kind of talking about this here for a while, is the issue of liability of the AOA if they're the ones who make the declaration. And how are they going to deal with that. And there was a little bit of talk about insurance and whatever and then a reference to administrative rules that would clarify things. I'm interested in knowing how those administrative rules get done, what is the process, and how long does it take?

CHAIR PONTANILLA: Department?

MR. YOUNG: Well generally, administrative rules, which are...the authority and timeline is prescribed by statute, the Department is going to draft up, or the Division will draft up administrative rules as a draft on how it feels is most appropriate to implement this ordinance. Then there is an advertising for public hearing notice. I think the notice is required. It's something like 30 days published in a newspaper of general circulation four consecutive weeks, you know, the standard language. The date of which is established for public hearing,

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which is somewhat similar to this format where people can show up to testify, provide suggestions, recommendations of which the Department can take into consideration. Revisions, if any result to the proposed draft, are formulated and then sent to Corporation Counsel for construction. Well, I...the draft rules are also actually drawn up, actually drawn up by the Corporation Counsel. So, revisions are made via the Corporation Counsel. There is, I think there's a publication again for the adoption of the finalized rules, which I believe is like 14 days. And then after that the rules have to be approved by the Department Director and the Mayor, and then forwarded after, after that point, it's then forwarded on to the County Clerk for recordation and enrollment. The entire process...if you just did it as I just explained it to you, the process alone I think cannot feasibly take anything less than 60 days, I believe, because of the advertising requirements, the hearing requirements, the deadline posting and such. So, if you think about it, 60 days from the time...even if Council was to move on this today, pass first and second reading, you know, we're talking about mid September. Then you count 60 days forward from that on the most expedient, it'd be pushed right up into sometime right around late November, December. So, you know, we do need the Council's decision on this *soon* now so that we can put into place the items that need to move forward, and one of which is the rules.

COUNCILMEMBER BAISA: Thank you very much for that explanation. I think it's really important that when we talk about these things, we know what we're talking about and how long it takes, and that it is a transparent process during which the public will have adequate notice to come and offer suggestions or comments while it's being formulated.

Another thing that I wanted to ask about where, that he had brought up was the notification for use changes within 30 days. Is that practical? You know, 30 days is pretty quick for an AOA to catch and report. And what happens if they miss it?

MR. TERUYA: I don't think the AOA 30 days is critical right now. The 30 day notification is basically what the owner is required to do --

COUNCILMEMBER BAISA: Uh-huh.

MR. TERUYA: --to us, which in the existing Code as to whether it actually applies, I'm not so sure about that. But, you know, as far as the AOA, if there was, if it's longer, it's longer. I, I don't, I wouldn't have a problem with that. I think the bottom line is prior to the end of the year that we're notified of something that is of importance. I realize AOAs don't meet, you know, all, often but I think one

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of the recommendations was prior to the end, which is the annual requirement. So, I wouldn't have a problem with that either, so.

COUNCILMEMBER BAISA: That leads me right next to the next question, and that is there's no specific date upon which the declared use is in place. Say, for instance, if I have a condo and I'm converting my property from Hotel use to Apartment use maybe in September, but prior to that it was Hotel, and from Hotel to Apartment in September. And, you know, it was a Hotel and I'm going to change it to Apartment in September. For the purposes of the upcoming tax year, the report should reflect the use at the end of the year. But the ordinance only states that the report must be submitted by December 1st. How, how do we do this? Can we have a cutoff date and say maybe by October 31st, all the actual use has to be reported going forward? Otherwise, it's kind of where do you draw the line?

MR. TERUYA: Yeah. This is a hard one because you, you know, you're classified for the use that happens throughout the calendar year.

COUNCILMEMBER BAISA: Right.

MR. TERUYA: Right. But by the end of the calendar year, if you notify us, you need to notify us so we can get the notice for the following calendar year.

COUNCILMEMBER BAISA: Right.

MR. TERUYA: So, I don't think there's a perfect cutoff other than being notified as soon as possible so we can make the applicable changes for the following calendar year, which is assessment year.

COUNCILMEMBER BAISA: So, if it changes in the mid year, it's not such a big thing as long as you --

MR. TERUYA: Well...

COUNCILMEMBER BAISA: --do it by the end of the year?

MR. TERUYA: Yeah. Either way we're gonna, we're gonna reassess if there is notification. 'Cause we still need to follow up. You know, I think that's a good point that needs to be brought up is that this is just a report. Yeah, we're not gonna use the report to, to, to change somebody's classification. There's a process of mail out and notification to the owner that there has been evidence that such might occur and that is the follow up that we get to the owner. Now if the owner does not respond, now that's the next question. What do you do? Right?

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Right, right now, we're trying to, we're trying to notify as much owners as you can and we let them know in that letter it be clear that a non-response by a certain date, it maybe, it will change. You'll probably get a notice, and anytime you get a notice you have the right to appeal as well.

So, there is notification to the owners. The way we envisioned it, it wasn't a sole report. That it would be a standalone issue that we would change somebody's classification. So that is not how we intend to carry it out if passed.

COUNCILMEMBER BAISA: We've done a lot of discussion about appeals. At this time, how are we doing on processing appeals?

MR. TERUYA: It's, it's labor intensive to say the least.

COUNCILMEMBER BAISA: I'm sure it is.

MR. TERUYA: You know, we have in the past heard maybe...or we only had the need to process 350 appeals in three, four, five months. Right now, we're doing 350 to 400 per month. The board meets twice a month and Traci can tell you they're trying to hear 165 to 200 cases a day per hearing. Now, you know, as, as much as they can. And you think, it's hard on the board.

COUNCILMEMBER BAISA: I know.

MR. TERUYA: It's hard on the sole board secretary. It's hard on the Division. 'Cause the appraisers, that's not their only job that they do. They still gotta annually assess building pickups, ag assessments, condo surveys. It's...there's a lot of work.

COUNCILMEMBER BAISA: You know, we talked about this --

MR. TERUYA: So...

COUNCILMEMBER BAISA: --*ad nauseum* during the budget. And we, there was a suggestion thrown, thrown out about maybe having some kind of a person who would do something like triage and, you know, talk to people that were coming in to file an appeal and ask them do you understand what's involved here and, you know, these are the rules, and you probably aren't going to get...because most of the appeals, I understand, go in favor of the County. Is that correct?

MR. TERUYA: Yes.

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COUNCILMEMBER BAISA: Has any, has there been any opportunity to look at something like that?

MR. TERUYA: Well, the current practice is anybody filling an appeal, the clerk has referred each appellant or the taxpayer to speak to the appraiser first so they understand first what was used to, to establish the assessment. Now, whether you like it or not, they, they may not care. Yeah. It's just the point of, of their, their right to appeal. But we try every effort. Every appellant we try to tell them that this...speak to the appraiser. Understand what established the assessment, and at that point if you still feel that you must file then that is within your right, yeah.

COUNCILMEMBER BAISA: Okay. So, when they put their money down and then they get in line and you do the best you can to get through it. And this might add, add to the line.

Last point I wanted to ask you was what are we gonna do about the people that are not represented by AOAOs?

MR. YOUNG: I believe there's a section in the proposed ordinance that it doesn't solely rely on the report of the AOA. You could have...

COUNCILMEMBER BAISA: Can, can you tell me where that is?

MR. YOUNG: Yeah. I'm looking at...it's on Page 2.

COUNCILMEMBER BAISA: Uh-huh.

MR. YOUNG: Top of the page. I think it's that Section B, carryover from the previous page.

COUNCILMEMBER BAISA: Yeah.

MR. YOUNG: That part, you know, filed in the Office of the Assistant Registrar of the Land Court. So, if you're looking at the properties that...and the issue actually is if you have condominiumized property that you're claiming cannot be short-term rented.

COUNCILMEMBER BAISA: Uh-huh.

MR. YOUNG: That, there's limits on the highest and best use concept doesn't apply, and the reason is that your association or your condominiumized regime doesn't allow for that, those types of uses other than ag or other than residential. And you can

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evidence that by...one way is having a recorded, somehow recorded or some document that reflects that that the Division could then honor or take as evidence. And that's what we wanted to anticipate and contemplate, because not every condo will have an association.

COUNCILMEMBER BAISA: Right.

MR. YOUNG: But again, this is only one item, one measure of evidence that the Division can use to support the taxpayer's claim. And so, whatever that document may be, it may not have to solely be the annual list filed by the association. So, the Department and the Division recognize that in, in terms of these revisions that just provide something that shows the support of that.

COUNCILMEMBER BAISA: I, I hear what you're saying, but I don't see it in writing. So, you know, I get a little wary of interpretations that are not written because what happens is we get new players and then we get new interpretations. But I understand what you're saying. Thank you.

CHAIR PONTANILLA: Thank you, Member Baisa. And in regards to assessment, we've also been working with the Real Property Tax people in regards to on their assessment cards that are mailed out, one of the things that we're thinking about or probably we'll do will include the year as far as, you know, when the assessment was done. So that gives a clear idea that although, you know, you receive your card today, your assessment may have been done one year, 12 months back. So that gives you an idea, you know, 12 months back your assessment must, you know, might have been really high that now you're receiving this real property tax assessment card. So, that, that's one thing that was brought up in a meeting that, you know, we thought was a good idea to, to include that date.

COUNCILMEMBER BAISA: I think that might be very helpful because, you know, when we look at our property tax bills, we're trying to figure out are they looking at the same property I am? And a lot of it is because it's not, they're not looking at it today.

CHAIR PONTANILLA: Exactly.

COUNCILMEMBER BAISA: Yeah. Thank you.

CHAIR PONTANILLA: Thank you. Member Molina?

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COUNCILMEMBER MOLINA: Yeah. Thank you very much, Mr. Chairman. Well, you know, having to go last you get a lot of your questions asked or, or, or answered. But nonetheless, in listening to the discussion did spur me on to ask a couple of questions related to Section 3.48.305, Section C, Subsection No. 3, which was read into the record by Member Medeiros and the enforcement of this. You know, couple of strong words were used in that, and I think one of our testifiers used a colorful expression of the word *deliberately*. If the Finance Director has found that there's *deliberately* providing inaccurate information to the County with regards to the annual report. And also the reclassification and reassessment of any parcel, any condominium association found to be in *violation*. So, those are some pretty strong words that have been inserted into this ordinance. And my question to the Department, if you did say it already, there are penalties? Like, for example, if we do our, file our income tax returns to the IRS and if it's found to be inaccurate or we're *deliberately* violating the law, we do subject ourselves to penalties in the eyes of the Federal government or State government. So, what are those penalties if there are any? And I know you have the appeals process. But if an AOA or whomever loses their appeal then what are they subject to in terms of penalties, if there are any?

MR. TERUYA: Well, there are two different penalties. I mean, losing an appeal is not, not a penalty, you know. There's no penalty for losing an appeal. But as far as misrepresentation, the Code in 3.48.072 talks about violation for falsification and misrepresentation. Then it talks about in 3.48.085 the violation penalty of a misdemeanor under this Chapter for which no punishment is otherwise prescribed shall be fined no more than \$1,000 or imprisoned for more, not more than one year or both.

COUNCILMEMBER MOLINA: Uh-huh. So, the fine of a thousand dollars, is that enough to send a strong message? I mean, you know, you know, Mr. Nishiki said that we don't have any crumbs out there. And I agree. There's a lot of, a smorgasbord of revenue that is owed to this County and, and, you know, there's some dishonesty out there in terms of reporting. So in your opinion, is this proposal, does it have the teeth to send the message out to, you know, for us to help recoup this revenue and to send a message to those who are not being honest with the government to, I guess, deter them from committing these types of actions?

MR. TERUYA: I'm not sure if that's for me to say.

COUNCILMEMBER MOLINA: Yeah.

MR. TERUYA: But I can just tell you that...

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COUNCILMEMBER MOLINA: It's, it's a start anyway, I guess. Yeah.

MR. TERUYA: I can just tell you that for every \$500,000 for getting a lower classification of Apartment versus Hotel, that's gotta be at least 16...17...\$18,000. So...

COUNCILMEMBER MOLINA: And, and in terms of your investigative process, what are the red flags you, you will be looking at. I mean, this, this will not be solely just complain driven I presume, right? You, with the people that we have...we've given you the resources to hire these additional bodies, your real property tax appraisers I guess are there...what are the red flags they will be looking for? And again, without trying to divulge too much trade secrets. If, if you plan to, but I presume this will not only be complaint driven. These individuals that we have given you for your use I, they're gonna go out and investigate as well without having to do, I guess having to do so just only on complaints. Am I correct? You'll be looking for red flags?

MR. TERUYA: We catch a lot during the appeal process. There's so much people appeal in condominiums but when you go and inspect the property, somebody has to let you in. And a lot of times it's the management agent.

COUNCILMEMBER MOLINA: Uh-huh.

MR. TERUYA: So, that's a good tip already. Number two is primarily it's complaints.

COUNCILMEMBER MOLINA: Uh-huh.

MR. TERUYA: The, it's, there's enough complaints for somebody to just work on complaints, 'cause there's enough of the 26,000 condominium owners looking over their neighbor.

COUNCILMEMBER MOLINA: Uh-huh.

MR. TERUYA: So, there's enough work for just, to, to go inspect complaints. Okay.

COUNCILMEMBER MOLINA: Okay. Thank you for making that clarification. And I wanna thank the Department and thank you, Mr. Teruya, and I thank you, Mr. Director, for being honest with us. You know, we, we cannot fully tell yet if the objectives will be reached, which was the intent of the Council appropriating those two additional bodies for you to I guess reach the goals of getting the revenue that's out there that could certainly help this County in terms of our

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budgetary concerns. So, thank you for your honesty, Mr. Director. And Chair, you know, I'm done. And I guess if everybody else is done with their questions, I'm ready for your recommendation. Thank you.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER VICTORINO: Chair?

CHAIR PONTANILLA: Members, any more questions?

COUNCILMEMBER VICTORINO: Yeah.

CHAIR PONTANILLA: Mr. Victorino?

COUNCILMEMBER VICTORINO: Yeah. I wanted to ask a question in regards to since the subject matter about being treated differently as a condominium and the issue that was brought up earlier. And I wanted to know, for example, agricultural in your guy's Division. How do you now classify agriculture? You know, because I think the difference in someone, they're saying you're treating 'em differently, we may be treating the *methodology* that is different, but we, each one is different because if you're a commercial, if you're a condominium, you're agriculture, they're all treated differently as far as inspections and how you, you rate 'em as that. So, Mr. Teruya, give me a quick example of what *now* exists as agriculture.

MR. TERUYA: Agriculture properties, unless you have a home exemption, you're classified as Agriculture.

COUNCILMEMBER VICTORINO: Because of the zoning, right?

MR. TERUYA: Yes.

COUNCILMEMBER VICTORINO: Okay.

MR. TERUYA: Yeah.

COUNCILMEMBER VICTORINO: And commercial?

MR. TERUYA: Commercial, you're classified as Commercial regardless of what you do. If you have a home on it, which lot of homes in Wailuku --

COUNCILMEMBER VICTORINO: Uh-huh.

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MR. TERUYA: --are zoned Commercial but used for their home, unless they have a home exemption they're paying Commercial rates. They don't get the luxury of choosing Residential just because it's used for a home.

COUNCILMEMBER VICTORINO: Uh-huh.

MR. TERUYA: So, that's the inequity that we talk about --

COUNCILMEMBER VICTORINO: That, that one classification?

MR. TERUYA: --when you have Condominium. Yeah.

COUNCILMEMBER VICTORINO: Uh-huh.

MR. TERUYA: So, if you have Hotel-zoned property --

COUNCILMEMBER VICTORINO: Uh-huh.

MR. TERUYA: --and you rent it long term, you're paying Hotel rates 'cause that's what your zoning is. You have, you have ability to, to do a lesser use, but you don't have the ability to claim a lower rate. The only time you get to do that is when you condominiumize it.

COUNCILMEMBER VICTORINO: When you condominiumize. Okay. I just wanted clarification on that, because the, the issue was brought up and I wanted it perfectly clear to the public and to myself what that really meant as far as being treated differently, yeah. The other, the last question I have, and, and unless others have questions, I guess I too would be ready for your recommendation, Mr. Chair. The appeals process that you guys gave us here on 3.48.595, that's the appeal process that you, you deal with right? And so basically if you treated everybody no matter what now, condominium, timeshare, I don't care what, agriculture, this is the appeal process. There's no difference as far as the appeal process no matter what classification that you're talking about right, Mr. Teruya?

MR. TERUYA: Yes, there's only one appeal process in the Real Property Tax Code.

COUNCILMEMBER VICTORINO: Okay. And *all* of these appeals...oh, well when somebody, and I think I heard this but I just wanted this, this clear, how are most people, how are most people caught because they're not doing the right, they're not using the right classification? How does a lot of that occur?

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MR. TERUYA: Most people are caught via complaint from their neighbors.

COUNCILMEMBER VICTORINO: Complaint. Okay. And that, that's what I was driving to because this will, you know, because we are looking at an AOA [*sic*], the AOA [*sic*] is just one other method like another complaint-driven group that would have the same right as anybody else as far as lodging one complaint. Isn't that correct, Mr. Teruya?

MR. TERUYA: Yeah.

COUNCILMEMBER VICTORINO: Okay. Thank you. Thank you, Mr. Chair.

CHAIR PONTANILLA: Member Kaho`ohalahala?

COUNCILMEMBER KAHO`OHALAHALA: Yeah. Thank you, Chair. Member Johnson brought up an issue concerning Ag lands. So if an agricultural lot is now condominiumized, what does that mean in terms of property tax designation?

MR. TERUYA: Once the property is condominiumized and you have Agricultural zoning --

COUNCILMEMBER KAHO`OHALAHALA: Uh-huh.

MR. TERUYA: --Agriculture is not an option. You have only the options of Homeowner, Apartment, Commercial, Hotel-Resort, Commercialized Residential, or Timeshare. And only Timeshares are only if you are subject to the 5.14 E from the Hawaii Revised Statutes.

COUNCILMEMBER KAHO`OHALAHALA: So in other words, we're changing the, the zoning then just by the condominiumization?

MR. TERUYA: For tax purposes, right.

COUNCILMEMBER KAHO`OHALAHALA: For...

MR. TERUYA: Yeah. Not, we're not changing the zoning.

COUNCILMEMBER KAHO`OHALAHALA: But...

MR. TERUYA: We're just changing the way you are classified for tax purposes.

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COUNCILMEMBER KAHO`OHALAHALA: Okay, that, that, that leaves a lot of questions in my mind if you're only going to tax them at that, that kind of zoning. And then what would be then the, the zoning that the, the property owner would claim? So, in other words, they gonna keep the, the Ag zoning but they would be classified as a hotel? So, now we're gonna say hotel is an allowable use in an ag zone?

MR. TERUYA: If, if you're *allowed* to do short-term rental in the ag district, yes.

CHAIR PONTANILLA: TVRs.

MR. TERUYA: It's not a tax issue, it's a use issue, yeah. If you are able to do short-term rental in ag, then yes. Yeah.

COUNCILMEMBER KAHO`OHALAHALA: Okay.

MR. TERUYA: That would be like bed and breakfast, transient vacation rentals, which are less than six months in nature to our part of the Code. Now, we're not saying you're transient, which is to our part of the Code any occupancy of less than six months is considered hotel-resort to the Code. Yeah.

COUNCILMEMBER KAHO`OHALAHALA: Okay. That just, there's, it just raises other flags now for me. That we're looking at two different functions here, one that only looks at assessments but the other is actual use, zoning, and we're kind of blurring that line between what they actually are. So, I, I am concerned with that.

MR. TERUYA: Mr. Kaho`ohalahala, we've, we've previously stated on other appearances here that there, there is a distinction and it's not always congruent between the Tax Code, Chapter 3 and the Zoning Code, whatever, Title 19, you know, and other sections, even, even the water use designation of ag versus what we consider ag in the Tax Code versus what the Zoning Ordinance says for ag. It's not always congruent. This is *one* example where if you condominiumize *any* type of property, whether it be Ag, Residential, Hotel-Resort zoned property, there is an effect in the Tax Code that's. . .because we don't treat all property the same condos are treated differently from all other parcels in the Tax Code. You have that distinction within the Tax Code itself. But also, just by the very nature, you have that conflict between the Tax Code and the Zoning Code. So, in terms of the ag issue, they, when you condominiumize ag, we're *only* talking about what the tax classification, i.e. the tax rate will be on that ag property. We're not talking about what is *permissible* for it to be used for because Condo does allow in the Tax Code to be used for short-term. There is a short-term component there.

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But if your Ag zone doesn't allow it, you know, we're, you, you can't, you can't use it just because the Tax Code allows it. It's still inherent in the Zoning Code. So, I just wanna make sure, you know, everybody's clear. We're only talking about the *tax* purposes here.

CHAIR PONTANILLA: Thank you. Member Johnson?

COUNCILMEMBER JOHNSON: And it's true if you have a CPR that you can get two Homeowner Exemptions on one ag lot, is that correct?

MR. TERUYA: Well, one ag parcel can be condominiumized.

COUNCILMEMBER JOHNSON: Uh-huh.

MR. TERUYA: And each condominium, according to the Code, a condominium unit shall be treated separately and separately assessed and can have their own exemption, yes.

COUNCILMEMBER JOHNSON: Right. So, conceivably on one ag lot, you've got people that are receiving condominium treatment and therefore could file for two Homeowner Exemptions on one tax map key. So I, I, I, you know, I'm just stating the obvious.

UNIDENTIFIED SPEAKER: . . .*(Inaudible)*. . .

COUNCILMEMBER JOHNSON: Yeah, well. Mr. Chair, I have a question with regard to the section of the, I guess this would be on Page 3 on Section C. And I wanna find out what the Department would think. If we put condominium association, and this is on C, it says, "When property is subdivided into condominium units, each condominium association," and if I added in or any entity who is the filer of a condominium property regime, would that cover the ag lots as well?

MR. YOUNG: I, I, I would assume so, Ms. Johnson, but I would have to defer to the, to our attorney, actually. In my laymen's understanding, I think they would be all inclusive.

COUNCILMEMBER JOHNSON: Okay. And that would cover the situation where there is no AOA. Traci, do you think that would?

MS. VILLAROSA: I'm just not certain.

COUNCILMEMBER JOHNSON: Okay.

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MS. VILLAROSA: I don't know.

COUNCILMEMBER JOHNSON: Okay. As far as the number three on the second page of four, Page 4, the Director of Finance may classify all of the parcels in a condominium association that at their highest and best use if there is evidence that the association, association. . .and because deliberately is so subjective, if we put in like a percentage, if more than 30 percent of the units are underreported, you know, like in other words if the classification that is being reported is less than what it should have been, can we put in a percentage, let's say that, you know, it's 20 percent, 30 percent of the units are reported in a classification less than what it would have been, is that possible?

I'm trying to ask now, Mr. Chair, so that I can get the answers --

CHAIR PONTANILLA: Yeah.

COUNCILMEMBER JOHNSON: --and know whether I can make these amendments.

MR. YOUNG: Mr. Chair, I don't think the Department or the Division has any objections. I would defer to you and your Staff, because I think this particular section was brought out in our meeting discussion in the amendments.

CHAIR PONTANILLA: Thank you. And I think one testifier had a question or a concern regarding that particular item, violation and, and he was looking more like three strikes and you're out type.

COUNCILMEMBER JOHNSON: Yeah. And I, I would...

CHAIR PONTANILLA: And put in a percentage...yeah.

COUNCILMEMBER JOHNSON: I would put in a percentage. And then the final question I have is that because we're referring to two separate appeal processes, the Department is describing one, which is an informal basis where they're going to send out a notification of some sort to that individual who will then, you know, either challenge it or not respond or whatever. Is there another appropriate section where we could put into this draft ordinance that informal, you know, that in other words, the Department I realize ordinarily this would be part of admin rules, but because we're drafting this I wanna make sure that the person doesn't fall into a category, you know, if they're for whatever reason if they're very unpopular in their condominium association. I don't wanna have people have their rights abridged. But if we put in something that just states that a certified

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letter return receipt requested will be mailed to any person, I don't know if that's currently the procedure, but in any, in any event could we put something in that states very clearly what that process is prior to actual assignment of the tax classification?

MR. YOUNG: Ms. Johnson, I, I think the exact language probably would have to be discussed more thoroughly with Corp., between Corporation Counsel and the Division, because the process as Mr. Teruya outlined is already the established procedure for *all* classifications, not only for condos. So, there's already a process, procedure, and protocol that's in place. So, I, my preference would be whatever language the Council adds in that regards would respect and not alter the existing process, procedure, and protocol.

COUNCILMEMBER JOHNSON: So that it's consistent with what we currently utilize as the process?

MR. YOUNG: Correct.

COUNCILMEMBER JOHNSON: And that would be prior to the actual assignment of the tax classification? Is that, am I understanding that part of it correctly?

MR. YOUNG: Right.

COUNCILMEMBER JOHNSON: Okay.

MS. VILLAROSA: Perhaps like there could be a more general statement about that the Department will conduct an investigation or, you know, something more general. But there is a process that they go through that is set out in the Administrative Rules, but we could add language in the, in the ordinance so that it's clear that there is something that happens. You know, just because the Department gets notice either from the, the report or some complaint, there is a process that the Department goes through before an actual change is made to the classification.

COUNCILMEMBER JOHNSON: Okay.

MS. VILLAROSA: So, we can come up with something general maybe.

COUNCILMEMBER JOHNSON: Yeah. And Mr. Chair, I would request that, that that be included because I really, you know, it, it is a concern to me and then, you know, other issues having to do with the AOA. I, I don't *mind*, you know, the release. I'm not defrauding anybody of any information. I think the majority of taxpayers are not. But on the off chance that someone, as was stated, would not

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respond, we have many Japanese owners that simply, they can't read English very well. They're overseas. They just make it a policy of never responding to much of anything including changes to the by-laws and governing documents. So, that's very difficult. Well I'm, I'm gonna propose some amendments then if you intend to go forward with this. I will just make those amendments and if Corporation Counsel wants to wordsmith it to make it read better at first reading, I, I will make those amendments though today. At least those two and then a request for the other.

CHAIR PONTANILLA: Thank you. Members, any more questions before the Chair makes his recommendation? Member Baisa?

COUNCILMEMBER BAISA: Just one last one. On Page 4 of this bill where it talks about classified, like classifications for units, we have homeowner, apartment, commercial, hotel and resort, commercialized residential, what happened to ag?

MR. TERUYA: Ag was never a classification when you condominiumize. It has never been part of...

COUNCILMEMBER BAISA: So, even though you, you split ag into condominiums, it's, it can't be ag anymore? Okay.

CHAIR PONTANILLA: Thank you. Members, at this time, the Chair's recommendation is for passage of the revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 3.48.150, MAUI COUNTY CODE, RELATING TO ASSESSMENT OF REAL PROPERTY--GENERALLY, SECTION 3.48.305, MAUI COUNTY CODE, RELATING TO REAL PROPERTY TAX LAND CLASSIFICATION AND AMENDING SECTION 18.16.320, MAUI COUNTY CODE, RELATING TO PARKS AND PLAYGROUND" and filing of the communication.

VICE-CHAIR MATEO: Mr. Chairman, I move for the approval of the revised proposed bill as you have so stated, including the filing of the communication.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER VICTORINO: Mr. Chair, I second the motion.

CHAIR PONTANILLA: Okay, it's been moved by Member Mateo, seconded by Member Victorino. Is there any more discussion? Member Johnson?

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COUNCILMEMBER JOHNSON: Yes, Mr. Chair, on Page 3, Section C in the middle of the page, I move to add the language. . .it's in C. . .and this would be language added right after the word "condominium association"--which is underlined--I would insert the following: a condominium association or any entity filing a condominium property regime. . .and then it will continue on shall.

CHAIR PONTANILLA: Motion being made by Member Johnson. Any second?

COUNCILMEMBER VICTORINO: Second --

COUNCILMEMBER KAHO'OHALAHALA: Second.

COUNCILMEMBER VICTORINO: --for discussion purposes.

CHAIR PONTANILLA: Second by Member Victorino. Members, any discussion? Member Johnson?

COUNCILMEMBER JOHNSON: Yeah. I just wanted again to insert that if Corporation Counsel can just double check this. I'd rather put it in now and then if they need to wordsmith it, but I think that that would take care of also our agricultural type lands.

CHAIR PONTANILLA: Okay. Thank you. Members, any more discussion regarding that amendment?

NOTE: Pause.

CHAIR PONTANILLA: All in favor of the amendment please say aye.

COUNCIL MEMBERS: Aye.

CHAIR PONTANILLA: Any opposed? Seeing none, motion is carried. Nine ayes, zero noes.

VOTE: AYES: Chair Pontanilla, Vice-Chair Mateo, and Councilmembers Baisa, Johnson, Kaho'ohalahala, Medeiros, Molina, Nishiki, and Victorino.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

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MOTION CARRIED.

ACTION: APPROVE amendment to main motion.

CHAIR PONTANILLA: Members, any more discussion? Member Johnson?

COUNCILMEMBER JOHNSON: Okay. This is on Page 4, Item 3 in the middle of the page beginning, "The Director of Finance may classify all of the parcels in a condominium association at their highest and best use if there is evidence that the association..."--and this is the part that I'm going to change--"...that the association underreported at least 30 percent of the units in that development in its annual report".

CHAIR PONTANILLA: That's it?

COUNCILMEMBER JOHNSON: Yeah, you know, so I'm just...what I'm trying to do, Mr. Chair, is just, you know, include that so that there's a threshold.

COUNCILMEMBER VICTORINO: I second that for discussion...*(inaudible)*...

CHAIR PONTANILLA: Okay, it's been moved by Member Johnson, second by Member Victorino. Any discussion?

COUNCILMEMBER VICTORINO: Mr. Chair?

COUNCILMEMBER JOHNSON: Yeah.

COUNCILMEMBER VICTORINO: Okay. Go ahead.

CHAIR PONTANILLA: Member Johnson?

COUNCILMEMBER JOHNSON: Yeah. And, and, you know, it may not be really beautiful wording...*(laughs)*...but I think that if we have a threshold that is not subject to, I guess interpretation and whether it was deliberate or not. If you're gonna include under reporting of 30 percent or more of your units, then there's something that's really not right. And then, you know, I, I think that they, they can appeal it as well through the appeal mechanism, but that, that would be my reason for including that.

COUNCILMEMBER VICTORINO: Mr. Chair?

CHAIR PONTANILLA: Member Victorino?

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COUNCILMEMBER VICTORINO: Yeah. And I'd like to ask the Department, you know, for such, for such thing, for putting something like a percentage of, you know, again, is that workable? I mean, I, I, I have a difficult time trying to, trying to comprehend this percentage because 30 percent of 100 units, 30 percent of two units, 'cause condominiums can change in numbers dependent of, right? So, my question to you is, one, is that a workable situation? And two, who would determine that? Because the AOA [*sic*] is reporting it now, who's gonna squeal on the AOA, the condominium owners? Well, they're gonna end up getting...the next condominium? So...I mean, I don't know how this would be enforced but...Mr. Teruya?

CHAIR PONTANILLA: Department?

MR. TERUYA: Yeah. Mr. Victorino, that's a good point that you raise. This particular section was actually the crux of the benefit for this ordinance actually in that it, it, it gave a lot...it took into consideration a lot of the statements that testifiers at the *previous* meetings made that the association had the information and was agreeable to provide it in the means of increasing enforcement. I'm not sure how we would...we don't, we don't want to enforce or police the report. The intent was that the report would provide capabilities to the Division, not add additional work to verify the report. So, there's that thing. So, the, your point that you raise is a good one. I was also thinking that 30 percent, if that percentage is open for discussion, 30 percent seems rather high, because the, the premise should be that everyone is truthful and reporting correctly. So, there should be 100 percent --

UNIDENTIFIED SPEAKER: Yeah.

UNIDENTIFIED SPEAKER: Yeah.

MR. TERUYA: --compliance. If we're trying to make --

COUNCILMEMBER VICTORINO: Yeah.

MR. TERUYA: --leeway for associations to, you know, make errors, that...yeah, that's okay, and if we're trying to give them, you know, that it were, that they're not deliberately trying to enforce...I mean deliberately trying to mislead. But 30 percent would seem to me rather generous, because if you're talking about 100 unit condominium, 30 percent is like 30 properties --

COUNCILMEMBER VICTORINO: Uh-huh.

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MR. TERUYA: --out of 100. If you're talking about a 500 unit condominium, you know, you're, you're allowing for 150 units to be under reported. I'm not, I don't know what the appropriate percentage should be, but just on the initial 30 percent, I guess, would seem rather high to me.

COUNCILMEMBER VICTORINO: Okay. And, and I thank you, Department, because again that's, you know, I think what Mr., what the Chair had intended was, you know, the deliberate part no percentage. If, you know, if, you know, I took it as that everybody's gonna be right and if there is anything, even one, I mean, you'd have to appeal it. Now you've given 'em a chance to make 30 percent. And I agree with you. And then again, who's going to verify that report is *correct*? So, I mean, you know, you can play the game whichever way you want to, but I, I, I have to agree with you. I prefer it just leave it is or it says 100 percent and, you know, that's the way it is. Thirty percent plays a game that doesn't want, I don't think we want it. That wasn't the intent of this. And again, who's gonna verify that amount when you are the one making the report? The other condo? The owners? I mean I, I find that gonna be very difficult to, to, to work with numbers like that. So, I, I, I cannot support that at this time the way it's, the way it's presented. But anyhow, we'll wait to see what other Members have to say.

CHAIR PONTANILLA: Okay.

COUNCILMEMBER VICTORINO: Thank you, Chair.

CHAIR PONTANILLA: Thank you. Members, any more discussion? Member Johnson?

COUNCILMEMBER JOHNSON: Yeah. And, you know, it's equally difficult to prove intent as far as deliberate. How are you going to prove deliberate? If you have *one* condominium unit in a 200 or 300 unit complex, it's a subjective thing, which I think basically I don't think it's fair, because it may *look* as though...look, you know, you saw those people. Right now, I can tell you that there are people, if you look at your governing by-laws and your documents and you look at people that may or may not be familiar with the terms of rental, all of those things, somebody makes a mistake. I've had people, you know, already say that oh my gosh, I put down that I was doing short-term rentals but that was just because I had somebody come for, you know, less than six months. And it happened to be a relative. So, you get into that situation. But if a certain percentage, I think, shows intent to me. If you're gonna do, it could be 10 percent. I think that deliberate is too subjective as far as I'm concerned. So, I'm willing to withdraw the motion, remake it at a lower percentage to at least, you know, at least establish too because this part of the ordinance does not say that it has to be to the detriment of

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the County. It just says you make an error. So, what if you classify, you, you're putting down that the people are best and highest use that's a classification *higher* because they don't respond? So, you know, I, I wait for other comments for people that if they're willing to put a lower percentage in with also the statement that it is to the detriment of the County. 'Cause that should be in there.

CHAIR PONTANILLA: Thank you. And I think our Administrator, Mr. Teruya, had indicated, you know, although it says deliberately but, you know, they're still thorough investigation that will be done to ensure that what is being reported is true. You know, not to say that, you know, the AOAOs will just do that. We heard the testimony this afternoon and, you know, all of the testimony supported the ordinance that is being proposed with the existing language. So...and the comments that Mr. Teruya had made in regards to, you know, we, we not there to really bang the AOAOs. We'll do our own research in regards to what's being reported, if it's true or not. So, Mr. Teruya, can you reiterate that particular area?

MR. TERUYA: I guess, what, well all I mentioned was this is clearly just a report. This is just another tool that we will use that when we come across inconsistencies that we would look to this report to see if there's any information that leads us to believe that this unit is being short-term rented. I will give you an example.

We are currently, where the owner attests that it is used for apartment long-term rental, there's numerous reports, a number of claims from residents that are adjacent next door that believe that the unit is being rented. So far as to provide me information with who the rental agent is. Then I look to the report and it, it claims that the unit is being used for short-term rental by the managing agent or the AOA. We would then send out a notice to the owner that states that we have information that makes us believe that the, your unit is being used as a short-term rental unit. Please validate if this is not true. And most of the time if they are using it for short-term rental, most people will call and say yes, I did not know I had to report. There are times that you get a non-response, which believes that you are correct...*(laughs)*... So, you know, at that point. . .in the letter it states that if we do not hear from you within 30 days or so forth that your unit will be reclassified and reassessed. At the time that your unit is reclassified and reassessed, you are sent an amended notice which recalculates for taxes. You have, within 30 days of that notice, to file an appeal. So, that is the process. You still have a right to, to state your facts before the Board of Review if you believe you have been. . .it's, it's incorrect. So, that is the process that's laid forth and that we currently administer by the Division, and I believe we have never been strong handed in the sense that, you know, we just will change anybody's classification. I think there's more work to be done then to be going after every

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violator other than we have enough proof in hand to go to Court and state for the record what our facts are.

CHAIR PONTANILLA: Thank you. Member Johnson?

COUNCILMEMBER JOHNSON: Mr. Chair, I'm gonna withdraw my motion.

CHAIR PONTANILLA: Okay. Mr. Victorino, can you withdraw your second?

COUNCILMEMBER VICTORINO: Oh. Oh, I withdraw my second. I'm sorry.

CHAIR PONTANILLA: Okay. Thank you.

COUNCILMEMBER JOHNSON: I'm gonna make a different motion that doesn't include the percentage that's in the same section, and I'm gonna correct the part of, that is has to be, you know, about the classification has to be to the detriment of the County. But anyway I'm gonna say that the Director of Finance may classify all of the parcels in a condominium association at their highest and best use if there is concrete--add the word "concrete"--evidence that the association is deliberately providing information in its annual report that would lower the tax classification of the units.

COUNCILMEMBER VICTORINO: I can second that for discussion.

CHAIR PONTANILLA: Motion by Member Johnson, second by Member Victorino. Members, any discussion? Member Johnson?

COUNCILMEMBER JOHNSON: Yeah. And the only reason I'm trying to put in that if they're doing it to our benefit, then you may not wanna bust 'em. But, if they're doing it to our detriment and actually putting people in a lower classification, then they're required to be...I think that's appropriate. Because if you're trying to catch people because they're breaking the law, then I personally feel that that, you know, that's the circumstance that you're trying to prevent.

CHAIR PONTANILLA: Okay. Member Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. I, I just wanted to ask being that this section, you know, was written after the meeting of the minds of those that were involved in this, what, what was the reason and purpose to use the word deliberately? And the reason I ask that is without that word, it would just say is providing inaccurate information. And as Mr. Teruya said, if you folks get complaints or information, you folks are gonna research it anyway, and so you're

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gonna determine if that, the information was inaccurate. Deliberate means you're trying to prove somebody's state of mind. I mean, unless we can read somebody's mind, that'd be difficult to do. For me, I think just removing deliberately and just saying inaccurate information will get the same results during the investigation and evidence given.

MR. YOUNG: True, Mr. Medeiros. But frankly, the word deliberately was put in there to the benefit of the taxpayer --

COUNCILMEMBER BAISA: Yeah.

MR. YOUNG: --to establish a high threshold so that it's not indiscriminate policing on the part of the County. So, it was a concession on the part of the County to set such a high threshold by making it deliberately. I frankly don't have any problem if you took out deliberately, but if I...looking at it from the perspective of a taxpayer, it kind of softens it to give a lot of discretion on the part of the County.

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. YOUNG: So, I think the same can be achieved because I have a lot of faith in the current rules or procedure that the Division has that the County doesn't pursue these measures or these tactics unless we can sustain in a court of law.

COUNCILMEMBER MEDEIROS: Yeah. Right.

MR. YOUNG: So, I don't, I don't necessarily feel there's anything lost. But although there is a lot of people, you know, commenting on this word deliberately in there, it was *actually* put in for the benefit of the taxpayer not for the benefit of the County.

COUNCILMEMBER MEDEIROS: Yeah. The only problem I have with that is you're trying to determine a state of mind. And how do you do that, you know, unless you know the person's mind. I, I think you achieve the same thing...and, and, and I can appreciate you saying that this was to the benefit of the taxpayer. I can understand that and if that's the reason that that was used, fine. But to me, it, it would achieve the same results because of the process you folks use to determine if there was inaccurate information. So, that's just, you know, for thought since deliberately the word is being brought up a lot.

MR. YOUNG: The...if I may, Mr. Chair?

CHAIR PONTANILLA: Go ahead.

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MR. YOUNG: While I understand the use of the word concrete as *concrete* evidence --

COUNCILMEMBER MEDEIROS: Right.

MR. YOUNG: --I, I, I would have to know --

COUNCILMEMBER MEDEIROS: Right.

MR. YOUNG: --what, what, what would be, what would be an example of concrete evidence? Like how...like the level of threshold that the County would have to meet.

COUNCILMEMBER MEDEIROS: Right.

MR. YOUNG: I don't know if that's a legal term.

COUNCILMEMBER MEDEIROS: Well I just wanna finish up my questioning.

CHAIR PONTANILLA: Oh, okay.

COUNCILMEMBER MEDEIROS: But I can...

CHAIR PONTANILLA: Go ahead and finish up --

COUNCILMEMBER MEDEIROS: Yeah.

CHAIR PONTANILLA: --and then I'll have Member Johnson answer.

COUNCILMEMBER MEDEIROS: I can appreciate that question, because indeed, how do you describe concrete? So, I wouldn't even use that. I, I would just use evidence, you know, how you guys already determine that in your process. Yeah, concrete, I mean really, what does concrete mean when it has to do with evidence? But anyway, thank you, Mr. Chairman.

CHAIR PONTANILLA: Thank you. I thought was cement.

COUNCIL MEMBERS: ...*(Laughter)*...

CHAIR PONTANILLA: But...Member Johnson.

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COUNCILMEMBER JOHNSON: Yeah. Well, I guess concrete is sort of in the same category with deliberately.

MR. YOUNG: Right. Yes.

COUNCILMEMBER JOHNSON: You know. So, I figured I'd just add a little bit more...*(laughs)*...in --

MR. YOUNG: I think we're both...

COUNCILMEMBER JOHNSON: --and really cement things together as far as the ordinance went.

COUNCILMEMBER VICTORINO: There you go.

MR. YOUNG: I think we're, I think we're both trying to preserve the taxpayers right.

COUNCILMEMBER JOHNSON: Yeah.

MR. YOUNG: Yes.

COUNCILMEMBER JOHNSON: And, and that's why I added in concrete, because you'd have to have something. Like if there was an e-mail or if there was a memorandum going out to all the homeowners, for example, that said hey look, you know, we're all agreeing to go into this category. This is what we're reporting even though we *know* you're not in that classification. That, that to me is evidence of wrongdoing. So, that's what I mean. You know, something either through, I guess video tape, a sting operation.

MR. YOUNG: What about an...I'm sorry to speak so casually, Mr. Chair, but for instance an advertising in the newspaper for rent or an advertising on a website to short-term rent.

COUNCILMEMBER JOHNSON: Yes.

MR. YOUNG: Would you consider --

COUNCILMEMBER JOHNSON: Yes.

MR. YOUNG: --that concrete?

COUNCILMEMBER BAISA: Yes.

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MR. YOUNG: Would...

COUNCILMEMBER BAISA: Yes.

MR. YOUNG: From a legal perspective, would that be --

COUNCILMEMBER JOHNSON: It's in writing.

MR. YOUNG: --tantamount to concrete?

CHAIR PONTANILLA: Maybe. Corporation Counsel, please.

MS. VILLAROSA: Mr. Chair, maybe, like maybe try to look at it from a different way and instead of using the word deliberately or trying to say what, what would qualify, why don't we instead say what, what we're *not* trying to get. So...because I know it, it's seems like it's...we're not, we don't wanna include inadvertent errors or mistakes.

COUNCILMEMBER JOHNSON: Yeah.

MS. VILLAROSA: So, maybe if we could just, we could delete the word deliberately and then instead maybe providing inaccurate information and then an except for and put these exceptions, like inadvertent errors, mistakes, you know. Then you're kind of, then you're kind of describing what you, what you're *not* including rather than trying to describe what you're including. 'Cause there's it's, it's so *broad*, this category of what you're trying to include.

COUNCILMEMBER JOHNSON: Well, and, and to me, I, if you're gonna...I agree with the statement made by the Department of Finance though. Deliberately was put in there to raise the bar to keep it at a certain threshold. I don't have a problem just the same way that, you know, concrete evidence means that you actually have something in hand that you could point to that is real clear and there's no disputing it. Because to me, if you send out a memorandum or something telling your homeowners this is what we're gonna do, or if there's minutes of a meeting. I mean, this is wrong doing, and I don't think that's defensible. So, I...if people wanna take out the word concrete, I, I don't care one way or the other. But I just...there's another point that Staff raised too that the last word in my amendment should really be...what did you say, Gayle?

MS. REVELS: Parcel.

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CHAIR PONTANILLA: Parcel.

COUNCILMEMBER JOHNSON: Oh. Okay. Instead of unit, it should be parcel. Yeah, so I'll, I'll just not quibble about the word concrete then. I'll take out concrete as a friendly amendment and insert the word parcel. But I feel better at least. Is that, is that agreeable to the...

CHAIR PONTANILLA: Oh, okay. I'm gonna have Staff read the, the proposed amendment.

COUNCILMEMBER JOHNSON: Okay.

MS. REVELS: Thank you, Mr. Chair. So, Number 3 would now read, "The Director of Finance may classify all of the parcels in a condominium association at their highest and best use if there is evidence that the association is deliberately providing inaccurate information in its annual report that would lower the tax classification of the parcel and may reclassify and reassess any parcel in a condominium association found to be in violation of the owner's certification of actual use".

COUNCILMEMBER VICTORINO: Sounds good to me.

COUNCILMEMBER JOHNSON: Uh-huh.

CHAIR PONTANILLA: Okay. Members, any more discussion regarding the proposed amendment? Member Baisa?

COUNCILMEMBER BAISA: You're probably gonna wanna kill me, but I don't have any problem with the deliberately and all the stuff that's here. But I *do* have a problem with may classify *all* of the parcels at a higher rate. You know, if I was honest in my declaration and somebody else lied or cheated, why should I be penalized? That's not fair. If you're gonna reclassify, you reclassify the guys that cheated not everybody. You know, I went to Catholic school and I hated that if one kid was bad the whole class got punished. I still don't like that.

CHAIR PONTANILLA: Okay. Good. Any more discussion, Members? So, you heard the motion as read by our Legislative Analyst. Mr. Teruya, you have anything to add?

MR. TERUYA: You know, I just have a comment. I, I believe the revisions are accurate I just...when properties are subdivided into condominium units, it's best to speak in terms of unit and not parcel. Parcels are subdivided units, and we're talking

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about...there's many units under a parcel. So, when, when...once we going into Paragraph C, I believe everything should be referenced as a unit.

COUNCILMEMBER JOHNSON: Unit. Okay. So, Mr., Mr. Chair, then, then what they're saying is that keep my word "unit" but then change the other thing, reassess any unit?

MR. TERUYA: That's correct. 'Cause we're talking about a section that's talking about condominiumized units and a parcel is above a unit. There's many units in a parcel and it can't be interchanged.

COUNCILMEMBER JOHNSON: Yeah.

MR. TERUYA: Yeah.

COUNCILMEMBER JOHNSON: Okay.

MR. TERUYA: Subdivided we talk about parcels.

COUNCILMEMBER JOHNSON: Uh-huh.

MR. TERUYA: But when we're talking about Paragraph C, we're dealing with condominiumization and we should be addressing everything as units.

COUNCILMEMBER JOHNSON: So, Mr. Chair, then I'm just gonna restate my motion that the word parcel would then be changed to unit and it would also include the further word down in the--1, 2, 3, 4, 5--6th sentence there instead of parcel it would be substituting the word unit.

CHAIR PONTANILLA: Okay, the Chair's gonna take a short recess. Maybe you can take your afternoon break and we'll reconvene at about four o'clock. So, this meeting is in recess. . . .(*gavel*). . .

RECESS: 3:50 p.m.

RECONVENE: 4:00 p.m.

CHAIR PONTANILLA: . . . (*gavel*). . . Thank you, Members. The Budget and Finance Committee meeting is now reconvened. When we left off, we had an amendment by Member Johnson. We're in discussion.

COUNCILMEMBER JOHNSON: I just wanted to restate my motion --

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CHAIR PONTANILLA: Sure, Member Johnson.

COUNCILMEMBER JOHNSON: --Mr. Chair because there was...yeah. We were kind of going off in different directions, and actually I think, I don't know if Staff, could you read it?

CHAIR PONTANILLA: Okay. Staff --

COUNCILMEMBER JOHNSON: Gayle?

CHAIR PONTANILLA: --please?

COUNCILMEMBER JOHNSON: I think it would help.

MS. REVELS: Mr. Chair, it would now read Number 3, "The Director of Finance may classify all of the units in a condominium association at their highest and best use if there is evidence that the association is deliberately providing inaccurate information in its annual report that would lower the tax classification of the units and may reclassify and reassess any unit in a condominium association found to be in violation of the owner's certification of actual use".

CHAIR PONTANILLA: Thank you. Members, you heard the motion?

COUNCILMEMBER VICTORINO: Do you need another second or that was...

CHAIR PONTANILLA: Oh, no, no, no. That was the motion --

COUNCILMEMBER JOHNSON: No. That was the motion.

CHAIR PONTANILLA: --that you already second.

COUNCILMEMBER VICTORINO: Okay.

CHAIR PONTANILLA: And any more discussion? Member Baisa?

COUNCILMEMBER BAISA: You heard my discussion, Chair. I have a problem with may classify *all* of the parcels in a condominium association. I'm okay with them classifying all everybody that cheated but not everybody. I don't think it's fair.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER VICTORINO: Chair?

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CHAIR PONTANILLA: Member Victorino?

COUNCILMEMBER VICTORINO: Yeah. And, and, and although I agree with Member Baisa, again we have said, you know, that it was deliberate on the AOA *[sic]*. So, I mean, to me punishment comes if *you* let your AOA *[sic]* do that, just like anything else. You're company cheats or whatever, the company's gonna pay the punishment, not just the individuals who cheated. It's up to the AOA *[sic]* to make sure it's correct and they're not...if they're letting it go and deliberately letting go, like the word said deliberate, then I don't have a problem. And it says *may not shall*.

COUNCILMEMBER BAISA: Mr. Chair?

CHAIR PONTANILLA: Thank you. Member Baisa?

COUNCILMEMBER BAISA: I understand what my colleague is saying, but what if I don't *know* that my AOA *[sic]* is submitting a wrong report? Just because I live in that condominium, I have an office filing a report I may not even be aware of what is happening until it's filed. So, I still have a problem with it.

CHAIR PONTANILLA: Thank you. Any more discussion, Members? Member Medeiros?

COUNCILMEMBER MEDEIROS: Just to follow up on Member Baisa's statement there that...and, you know, she's trying to protect those that were, you know, honest about their reporting. But with the AOA *[sic]* making the report, I would think that the AOA *[sic]* would contact the property owner and verify what they're putting on the report is indeed what the property owner wants to be reported. So, I think to just leave it to the AOA *[sic]*, or AOAO, I think you could have problems where the report may be inaccurate. But I think if the AOAO, or AO--yeah, there's a lot of A's and O's in there--that if they do it, confirm what they're reporting with the property owner before submitting the report, I think then we lessen the chances of any inaccuracy. Thank you.

CHAIR PONTANILLA: Thank you. And Chair is just going to make a short comment. And what Mr., our Finance Director had said, you know, the word deliberately actually helps the homeowners on the particular property. So, Members, if there's no more discussion, the Chair is gonna vote on the motion. And...you guys want the motion restated?

COUNCILMEMBER VICTORINO: As amended, right?

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CHAIR PONTANILLA: Okay. Okay. Yeah. The motion to amend, all in favor of the motion please say "aye".

COUNCILMEMBER JOHNSON: Aye.

CHAIR PONTANILLA: Any opposed?

COUNCILMEMBER BAISA: No.

COUNCILMEMBER KAHO'OHALAHALA: No.

CHAIR PONTANILLA: Take a roll call. We'll start with Member Molina.

COUNCILMEMBER MOLINA: Aye with reservations.

CHAIR PONTANILLA: Member Baisa?

COUNCILMEMBER BAISA: No.

CHAIR PONTANILLA: Member Johnson?

COUNCILMEMBER JOHNSON: Aye.

CHAIR PONTANILLA: Member Kaho'ohalahala?

COUNCILMEMBER KAHO'OHALAHALA: No.

CHAIR PONTANILLA: Member Medeiros?

COUNCILMEMBER MEDEIROS: No.

CHAIR PONTANILLA: Member Nishiki?

COUNCILMEMBER NISHIKI: Aye.

CHAIR PONTANILLA: Member Mateo?

VICE-CHAIR MATEO: Aye.

CHAIR PONTANILLA: Member Victorino?

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COUNCILMEMBER VICTORINO: Aye with reservations.

CHAIR PONTANILLA: The Chair votes no, so there's . . .one, two. . .five ayes and four noes. Motion is carried.

| | | |
|--------------|-----------------|--------------------------------------------------------------------------------------|
| VOTE: | AYES: | Vice-Chair Mateo, and Councilmembers Johnson, Molina, Nishiki, and Victorino. |
| | NOES: | Chair Pontanilla, and Councilmembers Baisa, Kaho'ohalahala, and Medeiros. |
| | ABSTAIN: | None. |
| | ABSENT: | None. |
| | EXC.: | None. |

MOTION CARRIED.

ACTION: APPROVE amendment to main motion.

CHAIR PONTANILLA: Back to the main motion as amended. Member Johnson?

COUNCILMEMBER JOHNSON: Yeah. I'm gonna also on that same page following that, I'm making a motion. This is in regard to the discussion we had about when that report shall be in. So Number 4 shall read, "A condominium owner and/or the condominium association shall notify the Director of Finance of any change in a unit's classification no later than the due date of the annual report".

CHAIR PONTANILLA: Is there a second?

COUNCILMEMBER VICTORINO: I'll second the motion for discussion.

CHAIR PONTANILLA: Okay. Thank you. Any discussion?

COUNCILMEMBER BAISA: Can we hear that again?

COUNCILMEMBER JOHNSON: Yeah.

CHAIR PONTANILLA: Okay. Staff, can you read the motion?

MS. REVELS: Yes, Mr. Chair. So in Number 4, the motion would strike the last phrase "within 30 days of that change" and insert the words "no later than the due date of the annual report".

COUNCILMEMBER JOHNSON: Right.

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CHAIR PONTANILLA: Thank you.

COUNCILMEMBER JOHNSON: And, and I'm also including, "a condominium owner *and/or* the condominium association". So that's just the only other change, and it's based on what we were talking about.

CHAIR PONTANILLA: Okay. Discussion? Member Kaho`ohalahala, followed by Member Nishiki.

COUNCILMEMBER KAHO`OHALAHALA: You know, I, I'm just trying to understand, you know, in the current language, it at least moves this as quickly as possible. By waiting 'til the very end, it creates, I think, a potential log jam where, you know, I've put it off, put it off even though it happened for me very early on, I don't have to worry until the, it's absolutely required. So, I would just think that we would want them to declare this and, and do this as soon as possible. So, if they know that they're changing then they have 30 days in which to report this, and that would seem to me to be more efficient than waiting until the end, you know. So...

CHAIR PONTANILLA: Thank you. Member Nishiki?

COUNCILMEMBER NISHIKI: Yeah. I, I wanted to hear from Administration what your thoughts are because of the same feeling that I had with Sol.

MR. YOUNG: Mr. Nishiki, Mr. Teruya and I, we're reviewing because I thought that the 30 days was consistent with other reporting requirements for other purposes in the County Code.

COUNCILMEMBER NISHIKI: Okay.

MR. YOUNG: So, in the section that I'm looking at is in 3.48.425. I'll read it for the record. This has to deal specifically with exemptions though. Any person that has been allowed an exemption under Section 3.48.450 through 465 including 475 through 558, et cetera, has a duty to report to the assessor within 30 days after he ceases to qualify for such an exemption --

COUNCILMEMBER NISHIKI: Okay.

MR. YOUNG: --for one of but not limited to the following reasons. And it provides the, the reasons, one of 'em being a change in the facts previously reported as occurred concerning the occupation, use, or renting of the premises, buildings or

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other improvements thereon. And, so one, I would ask that the consideration be given that the time period for reporting be consistent throughout the Code. So, therefore I guess I'm saying --

COUNCILMEMBER NISHIKI: Don't do it.

MR. YOUNG: --I, I *prefer* the 30 days. But also, so in thinking of how this will be applied in terms of the, the recalculation of the assessment, if you wait 'til the report is submitted, which, you know, could be December 1st or whenever, you're talking about going back and assessing people or, or correcting their taxes could be *far* previous to when it actually occurred. So, the taxpayer may actually get a larger bill because of the delay in terms of the notification. So, those are the items that I would ask for consideration. That's the reason why it should be *timely* that the reporting should occur. And I think waiting to report once a year is far too long. If you, if the Council does think that it should be less than a year but more than 30 days, I ask for your consideration in terms of look at it from the perspective of consistency throughout the Code.

COUNCILMEMBER NISHIKI: Thank you. Mr. Chairman, I won't be supporting the amendment. Thank you.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER JOHNSON: Mr. Chair?

CHAIR PONTANILLA: Member Medeiros?

COUNCILMEMBER JOHNSON: Mr. Chair, I withdraw the motion and I'm gonna restate if Mr. Victorino will withdraw his second.

COUNCILMEMBER VICTORINO: I withdraw the second.

COUNCILMEMBER JOHNSON: Okay. I am gonna...

CHAIR PONTANILLA: Before you start...

COUNCILMEMBER JOHNSON: Oh, sorry.

CHAIR PONTANILLA: I, I recognized Mr. Medeiros --

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

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CHAIR PONTANILLA: --the floor.

COUNCILMEMBER MEDEIROS: Yeah. I'm, I know my colleague has withdrawn that motion, but I just wanted to ask the Department on the reporting period, which is an annual report, that's a calendar year or fiscal year?

MR. YOUNG: It'll be a calendar year because the report is due I believe December 1st. So, it's for every month prior to that --

COUNCILMEMBER MEDEIROS: Right.

MR. YOUNG: --reporting period.

COUNCILMEMBER MEDEIROS: So starting in January? Right?

MR. YOUNG: Correct.

COUNCILMEMBER MEDEIROS: So, I agree with them even though the motion has been withdrawn that yeah, it'd be a long distance and time to do the correct thing if it, something was done to reclassify in January and then you don't change it until the annual report. So, thank you for that opportunity, Chair.

CHAIR PONTANILLA: Thank you. Member Johnson.

COUNCILMEMBER JOHNSON: Yeah. And all I'm gonna do then is add in, or...the following word in that sentence for a condominium owner and/or the condominium association. That's all I'm adding in.

COUNCILMEMBER VICTORINO: Second, Mr. Chair, for discussion.

CHAIR PONTANILLA: Okay. Thank you. Staff, can you read the motion?

MS. REVELS: Yes, Mr. Chair. Number 4 would now read, "A condominium owner and/or the condominium association shall notify the Director of Finance of any change in a unit's classification within 30 days of that change".

CHAIR PONTANILLA: Thank you. It's been moved by Member Johnson, second by Member Victorino. Any discussion?

MR. YOUNG: Mr. Chair?

CHAIR PONTANILLA: Mr. Young?

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MR. YOUNG: Should the language actually be reflective to mirror that amendment which was made on the previous page at Part C where it said condominium association or any entity filing a condominium property regime.

COUNCILMEMBER JOHNSON: Yeah. Yeah.

CHAIR PONTANILLA: Member Johnson?

COUNCILMEMBER JOHNSON: Yes. That should be.

CHAIR PONTANILLA: Okay. We'll --

COUNCILMEMBER JOHNSON: So, I...

CHAIR PONTANILLA: --we'll make it consistent.

COUNCILMEMBER JOHNSON: Yes. I, it needs to be consistent. I forgot that. You know, so it would be any entity filing a CPR.

CHAIR PONTANILLA: Okay. Yeah. Corporation Counsel?

MS. VILLAROSA: Mr. Chair, I was just...I don't know if that should be done in a separate motion, but I was just looking at Section 3 also refers to the condominium association.

CHAIR PONTANILLA: Okay. Can we take...we'll take --

COUNCILMEMBER JOHNSON: A short break.

CHAIR PONTANILLA: --Number 4 first, and then come back to Number 3. So, Members, you heard the motion to amend on Number 4, a condominium owner and/or the condominium association and so forth.

COUNCILMEMBER JOHNSON: Or, or any other entity --

CHAIR PONTANILLA: Right.

COUNCILMEMBER JOHNSON: --right, following a CPR.

CHAIR PONTANILLA: I'm sorry. Yeah. Like the previous one. Members, any more discussion?

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COUNCILMEMBER VICTORINO: No.

CHAIR PONTANILLA: Okay. All in favor of the motion please say "aye".

COUNCIL MEMBERS: Aye.

CHAIR PONTANILLA: Motion is carried, nine ayes, zero noes.

| | | |
|--------------|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| VOTE: | AYES: | Chair Pontanilla, Vice-Chair Mateo, and Councilmembers Baisa, Johnson, Kaho'ohalahala, Medeiros, Molina, Nishiki, and Victorino. |
| | NOES: | None. |
| | ABSTAIN: | None. |
| | ABSENT: | None. |
| | EXC.: | None. |

MOTION CARRIED.

ACTION: APPROVE amendment to main motion.

CHAIR PONTANILLA: Member Johnson, you wanna take care of Number 3?

COUNCILMEMBER JOHNSON: Yeah. Number 3.

CHAIR PONTANILLA: Number 3 is fine?

MS. FUJITA VILLAROSA: Mr. Chair, I just checked with the Department. They said it's okay as is --

COUNCILMEMBER JOHNSON: Oh, it is okay.

MS. FUJITA VILLAROSA: --for number, for number three.

COUNCILMEMBER JOHNSON: Okay. All right. That's, that's fine then. And I had one final addition and because I wanna get this prior to first reading I checked with Staff and I really need to make this motion now. This would be add, adding a new Number 5 to this section just following the one that we just finished. And my motion would be to include the following language in Number 5, "The Director must have an investigation prior to any classification change".

COUNCILMEMBER VICTORINO: Second for discussion purposes.

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CHAIR PONTANILLA: Okay. There's a motion, and Staff can you read the motion?

MS. REVELS: Yes, Mr. Chair. The motion is to add a new Number 5 that would read, "The Director must have an investigation prior to any classification change".

CHAIR PONTANILLA: Thank you. Members, any more discussion on that? Member Molina?

COUNCILMEMBER MOLINA: Can I get comment from the Department, please?

CHAIR PONTANILLA: Thank you. Department?

MR. TERUYA: I don't have any comments to that other than it is current practice and I believe it is a courtesy to the taxpayer in advance of making any change that we would so change their assessment. So, I think it's current practice that we do send out notification of some information that we've gathered other than the certification and it, it wouldn't be a wrinkle in our process as it is.

CHAIR PONTANILLA: Thank you. Member Kaho`ohalahala?

COUNCILMEMBER KAHO`OHALAHALA: No, that was my, my question.

CHAIR PONTANILLA: Okay. Members, any more questions to the motion by Member Johnson and seconded by Member Victorino? All in favor of the motion please say "aye".

COUNCILMEMBER JOHNSON: Aye.

CHAIR PONTANILLA: Any opposed?

COUNCIL MEMBERS: No.

CHAIR PONTANILLA: Okay. Motion dies. One aye, eight noes. Motion dies.

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MS. VILLAROSA: Uh-huh.

COUNCILMEMBER JOHNSON: You know, my rights should be the same as anyone else's. And all I'm asking you is *what* is there that gives the County the right to *now*, you know, go ahead and in essence what they're doing is their basing my tax rate based on the actions of another entity that has *nothing* whatever to do --

MS. VILLAROSA: Uh-huh.

COUNCILMEMBER JOHNSON: --with *my actions*.

MS. VILLAROSA: Yeah. I, I don't think that that's...

COUNCILMEMBER JOHNSON: Or lack of it.

MS. VILLAROSA: Yeah.

COUNCILMEMBER JOHNSON: You know, maybe I'm in the hospital. Maybe I can't respond.

MS. VILLAROSA: Right. Right. Yeah, I don't think that that is what's going to happen though. I mean it's...

COUNCILMEMBER JOHNSON: Well, you know we're drafting law. This is the *law*. Unintended consequences.

MS. VILLAROSA: Uh-huh.

MR. YOUNG: Ms. Johnson, I, I should also point out that this, actually if you think through it, this is tantamount also to complaints filed by neighbors. So, although that's not specifically and explicitly stated in the Code, the, the Division treats them similarly the same way. I mean, you, you get a complaint about other condo owners from neighbors, that in and of itself is not used to change the classifications. It's one, investigated, two, communicated through the process for reply. The County Code does require that any *change* in classification is the duty of the taxpayer. So, if the Division and the County is contacting you of, that we have evidence or inquiry that suggests that classification change was warranted and you did not so inform the County, the Code allows for the authority to change it, but we contact. It's, again, it's part of the rules to contact, to do the investigation. This particular section requiring the association to report would be tantamount to a complaint from the neighbors. We have, we have, we receive

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complaints from neighbors all the time. It's not explicitly provided for in the Code, but it *is* an evidence or something that spurs an investigation. So, I just want, you know, to alleviate your concerns to that degree, because that process currently exists right now.

COUNCILMEMBER JOHNSON: And, and so, let's say my association fails to respond for whatever reason, what is your answer there? Let's say they don't send an annual report. They refuse to respond because they think it's whatever, it's not legal. *Now, what do you do?*

MR. YOUNG: Well, we also...our only, our communication, the *Code* also requires communication from the owners themselves. Owners, the owners *themselves* are required to declare their actual use. The association report that's stated here supplements that.

COUNCILMEMBER JOHNSON: I understand...

MR. YOUNG: We're not, we're not changing that other part of the Code.

COUNCILMEMBER JOHNSON: I, I understand that. But you are now requiring an entity that has no relationship with the County whatsoever except to file a report. *You* are asking an entity to now *file a report* basically that puts me in whatever position I'm in, any inaccuracy, anything, failure to report, I now am *held accountable* as the taxpayer for the actions of an entity where *my* relationship is *directly* with the County. It's *not* through my homeowner's association. *I'm the taxpayer*. What do you do? When you give me that answer...*(laughs)*...then I might support this bill. But I don't think you can give me the answer.

CHAIR PONTANILLA: Okay.

COUNCILMEMBER JOHNSON: Because I still believe what you're doing is *illegal*. It's not...it's violating my individual rights. It's violating my civil rights. And I am, Mr. Chair, I'm just, I'm *not* gonna support this because it is *not* defensible in a Court of law despite what Corporation Counsel says.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER JOHNSON: Despite what the Department says.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER JOHNSON: I'm not buying it.

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CHAIR PONTANILLA: The Chair is gonna call for the question. All in favor of the motion as amended please say “aye”.

COUNCIL MEMBERS: Aye.

CHAIR PONTANILLA: Any noes?

COUNCILMEMBER JOHNSON: No.

CHAIR PONTANILLA: We’re gonna go roll call. Member Molina?

COUNCILMEMBER MOLINA: Aye.

CHAIR PONTANILLA: Member Baisa?

COUNCILMEMBER BAISA: No.

CHAIR PONTANILLA: Member Johnson?

COUNCILMEMBER JOHNSON: No.

CHAIR PONTANILLA: Member Kaho`ohalahala?

COUNCILMEMBER KAHO`OHALAHALA: Aye.

CHAIR PONTANILLA: Member Medeiros?

COUNCILMEMBER MEDEIROS: Aye.

CHAIR PONTANILLA: Member Nishiki?

COUNCILMEMBER NISHIKI: Aye.

CHAIR PONTANILLA: Member Mateo?

VICE-CHAIR MATEO: Aye.

CHAIR PONTANILLA: Member Victorino?

COUNCILMEMBER VICTORINO: Aye.

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CHAIR PONTANILLA: The Chair votes aye. Motion is carried, seven ayes, two noes, Members Baisa and Johnson.

VOTE: **AYES:** **Chair Pontanilla, Vice-Chair Mateo, and Councilmembers Kaho'ohalahala, Medeiros, Molina, Nishiki, and Victorino.**
 NOES: **Councilmembers Baisa, and Johnson.**
ABSTAIN: **None.**
ABSENT: **None.**
 EXC.: **None.**

MOTION CARRIED.

ACTION: FIRST READING of revised bill and FILING of communication.

CHAIR PONTANILLA: Members, I know this was a long afternoon, and I, I think we have a legislation here that will support not only the County of Maui, but also the condominium owners here in Maui County. So, I thank you very much for being here this afternoon. Thank you, Administration. Thank you, Traci, Kalbert, as well as Scott, and Ms. Kau. And thank you, Staff. This meeting of the Budget and Finance Committee meeting is now adjourned. . . .(gavel). . .

ADJOURN: 4:25 p.m.

APPROVED:



JOSEPH PONTANILLA, Chair
Budget and Finance Committee

bf.min:100803:krr

Transcribed by: Kekai Robinson

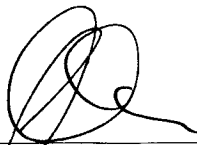
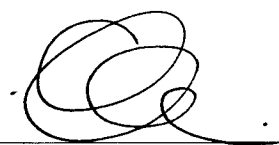
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CERTIFICATE

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

DATED this 25th day of August 2010, Wailuku, Maui, Hawaii.

Kekai Robinson