

November 9, 2011

MEMO TO: Joseph Pontanilla, Chair  
Budget and Finance Committee

F R O M: Mike White   
Council Member

SUBJECT: **TRANSMITTAL OF LEGISLATIVE PROPOSAL** (BF-70)

The attached legislative proposal pertains to Item 70 on your committee's agenda.

paf:cmn:11-219c

Attachment

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

BILL NO. \_\_\_\_\_ (2011)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48,  
MAUI COUNTY CODE, RELATING TO THE TAX ASSESSMENT OF  
HOMESITES ON PARCELS RECEIVING AGRICULTURAL USE ASSESSMENTS

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

SECTION 1. Purpose. The Council finds that there are significant inequities between homesite values for parcels receiving agricultural use assessments and parcels that do not, despite comparable character, size, and use of the homesite. To correct this imbalance, the methodology used to establish homesite land values should be applied equitably regardless of surrounding or adjacent agricultural use on the parcel.

SECTION 2. Section 3.48.005, Maui County Code, is amended to read as follows:

**3.48.005 Definitions.** Wherever used in this chapter, the following definitions shall apply:

[A.] "Director" means the director of finance of the County or his authorized subordinate.

"Homesite" means those portions of the parcel excluding: (a) the portion in agricultural use, and (b) the portion that consists of unusable or unsuitable land for agricultural use.

[B.] "Property" or "real property" means and includes all land and appurtenances thereof and the buildings, structures, fences, and improvements erected on or affixed to the same, and any fixture which is erected on or affixed to such land, building structures, fences, and improvements, including all machinery and other mechanical or other allied equipment and the foundations thereof, whose use thereof is necessary to the utility of such land, buildings, structures, fences, and improvements, or whose removal therefrom cannot be accomplished without substantial damage to such land, buildings, structures, fences, and improvements, excluding, however, any growing crops.

"Unusable or unsuitable land for agricultural use" means land that is not usable or suitable for any agricultural use, such as gulches. The director shall have discretion to determine what constitutes unusable or unsuitable land for agricultural use."

SECTION 3. Section 3.48.290, Maui County Code, is amended to read as follows:

**3.48.290 Considerations by director.** A. The director [of finance] shall cause the fair market value of all taxable real property to be determined and annually assessed by the market data and cost approaches to value using appropriate systematic methods suitable for mass valuation of properties for taxation purposes, so selected and applied to obtain, as far as possible, uniform and equalized assessments throughout the [county;] County; provided, that the value of land classified and used for agriculture, whether such lands are dedicated [pursuant to] as provided in section 3.48.350 or not, shall, for real property tax purposes, be the value of such land for agricultural use without regard to any value that such land might have for other purposes or uses, or to neighboring land uses, and determined as provided in section 3.48.320[; and provided further that, for real property tax purposes, the value of land leased under Section 207 of the Hawaiian Homes Commission Act, 1920, shall be no value]. In making such determination and assessment, the director shall separately value and assess, within each class established in accordance with section 3.48.305, buildings and all other real property, exclusive of buildings.

B. Where a parcel in the agricultural district has lands that are used for agriculture, or where a parcel has lands that have been dedicated as provided in section 3.48.350, the homesite shall be assessed independently from the lands used for agriculture, as determined by the director. The fair market value of the homesite shall be determined and annually assessed by the market data and cost approaches to value using appropriate systematic methods suitable for mass valuation of properties for taxation purposes, so selected and applied to obtain, as far as possible, uniform and equalized assessments throughout the County.

C. Notwithstanding subsections (A) and (B) above, for real property tax purposes, the value of land leased under section 207 of the Hawaiian Homes Commission Act, 1920, shall be no value."

SECTION 4. Section 3.48.330, Maui County Code, is repealed.

**["3.48.330 Unusable or unsuitable land for agricultural use.** Where lands located within agricultural districts are put to agricultural uses, that portion of such lands not usable or suitable for any agricultural use, whether dedicated pursuant to section 3.48.350 or not, the tax upon such unusable or unsuitable land shall be deferred and shall be payable upon conversion as provided under sections 3.48.290 through 3.48.340."]

SECTION 5. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 6. This ordinance shall take effect for tax years beginning on or after July 1, 2012.

APPROVED AS TO FORM  
AND LEGALITY:

  
ADRIANNE N. HEELY  
Deputy Corporation Counsel  
County of Maui

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