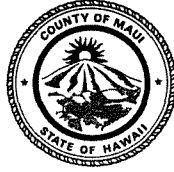


ALAN M. ARAKAWA  
Mayor



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March 11, 2013

**MEMORANDUM**

**TO:** Garrett Evans, Chair, Sub-committee on permits  
Cost of Government Commission

**VIA:** John L. Buck, III Executive Assistant  
Office of the Mayor

**FROM:** Scott K. Hanano, Deputy Corporation Counsel *SKH*

**SUBJECT:** Questions regarding expedited permitting process and use  
of electronic signatures

This memorandum is in response to your letter requesting our Department to provide answers to the following questions:

1. What is required to allow simple building projects an expedited process?
2. Can electronic signatures be used to process permits?

This analysis is limited to responding to these two specific issues and is not based upon addressing any particular factual scenario.

**Short answers:**

1. Simple projects must be clearly defined in all the applicable state and county laws relating to the permitting process. Currently a simple project is not defined in the Hawaii Revised Statutes ("HRS") or the Maui County Code ("MCC").

2. Yes. The Uniform Electronic Transaction Act allows for the use of electronic signatures.

2013-4

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## Discussion

### I. County Permitting Process.

HRS Section 46-1.5(13) empowers the County of Maui to enact ordinances and applicable administrative rules and regulations to regulate the issuance of building, construction, and development related permits. The County, in exercise of this power, has enacted several ordinances.<sup>1</sup> None of these ordinances defines a simple project. None provide for the expedited review for a "simple project".

Priority processing can be mandated by the State. The State has mandated expedited processing of certain types of projects such as renewable energy projects.<sup>2</sup> State mandated processing is done via HRS to ensure uniformity and applicability statewide in all the counties.

Absent mandated priority processing by state statute for "simple projects", the MCC provisions applicable to the permitting process can be amended to define what a "simple project" is and then provide a process for the expedited review and approval of these projects. The County Administrative Rules and Regulations of each reviewing department may have to be revised as well to reflect any changes in the MCC. Any amendments must conform to State law where applicable.

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<sup>1</sup>MCC Sections 16.04B Fire Code; 16.08 Housing Code; 16.16B Electrical Code; 16.20A Plumbing Code; 16.26B Building Code (list not exhaustive).

<sup>2</sup>HRS Section 46-19.4. All agencies shall provide for the priority handling and processing of all county permits required for renewable energy projects.

For purposes of this section, "agencies" means any executive department, independent commission, board, bureau, office or other establishment of a county, or any quasi-public institution that is supported in whole or in part by county funds.

HRS Section 46-19.6 County building permits; incorporation of energy and environmental design building standards in project design; priority processing.

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II. Uniform Electronic Transaction Act.

Most states have adopted a version of the model Uniform Electronic Transaction Act ("UETA") which governs transaction of business electronically.<sup>3</sup> The State of Hawaii has adopted a version of the UETA. HRS Chapter 489E codifies the UETA.<sup>4</sup> The Act provides for the transacting of business in the State via electronic means.

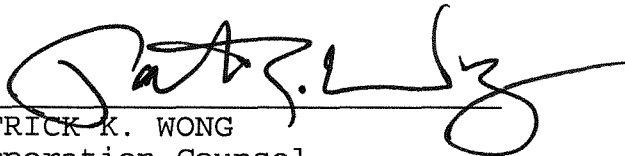
The County does not process any permits via electronic means. A manual review is done of all the applications and supporting documents by each applicable reviewing county department. The County is currently under-going an extensive assessment of its software and hardware to determine the adequacy of current programs and systems to support county functions. The current system and programs allow for a very limited review and processing of permits electronically.

III. Conclusion.

The MCC can be amended to provide for the review and expedited processing of "simple projects". Any amendments must be made by ordinance. With respect to the use of electronic signatures for the approval of permits, HRS Chapter 489E allows for electronic means to conduct business in the County of Maui.

Please do not hesitate to call for further clarification or discussion.

APPROVED FOR TRANSMITTAL:



PATRICK K. WONG  
Corporation Counsel

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xc: Alan M. Arakawa, Mayor  
Keith A. Regan, Managing Director

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<sup>3</sup>UETA as proposed by the National Conference of Commissioners on Uniform State Laws.

<sup>4</sup>HRS Chapter 489E (Uniform Electronic Transaction Act).