BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

MINUTES

June 17, 2014

Council Chamber

CONVENE: 9:04 a.m.

PRESENT: Councilmember Mike White, Chair
Councilmember G. Riki Hokama, Vice-Chair
Councilmember Gladys C. Baisa, Member (Out 11:53 a.m.)
Councilmember Robert Carroll, Member
Councilmember Elle Cochran, Member (In 9:07 a.m.)
Councilmember Donald G. Couch, Jr., Member
Councilmember Stacy Crivello, Member
Councilmember Don S. Guzman, Member
Councilmember Michael P. Victorino, Member

STAFF: Michele Yoshimura, Legislative Analyst
Tammy Frias, Substituting Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

ADMIN.: Sananda Baz, Budget Director, Office of the Mayor
Mark R. Walker, Deputy Director, Department of Finance
Scott Teruya, Administrator, Real Property Tax Division, Department of Finance (BF-74)
Marcy Martin, Real Property Technical Officer, Real Property Tax Division, Department of Finance (BF-74)
Guy Hironaka, Real Property Manager, Department of Finance (BF-105)
Jeffrey T. Ueoka, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: Tom Croly (BF-74)
Joy K. Bissen, Hokoana LLC (BF-74)
Rosemary Robbins (BF-74)
Marilyn M. Niwao (BF-74)
Bruce Erfer (BF-74)
Additional attendees (5)

PRESS: *Akaku--Maui County Community Television, Inc.*
Melissa Tanji, *The Maui News*

CHAIR WHITE: . . .*(gavel)*. . . Good morning. This Budget and Finance Committee meeting shall come to order, and I would like to start off by welcoming our Committee Vice-Chair, Riki Hokama.

VICE-CHAIR HOKAMA: Chairman.

CHAIR WHITE: Good morning. And Council Chair, Gladys Baisa.

COUNCILMEMBER BAISA: Good morning, Chair.

CHAIR WHITE: Council Vice-Chair, Bob Carroll.

COUNCILMEMBER CARROLL: Good morning, Chair.

CHAIR WHITE: Good morning. And Member Stacy Crivello.

COUNCILMEMBER CRIVELLO: Good morning, Chair.

CHAIR WHITE: Don Couch.

COUNCILMEMBER COUCH: Good morning, Chair.

CHAIR WHITE: Aloha. Don Guzman.

COUNCILMEMBER GUZMAN: Good morning, Chair.

CHAIR WHITE: And Mike Victorino.

COUNCILMEMBER VICTORINO: Aloha and good morning, Chair.

CHAIR WHITE: Good morning. And assisting us this morning is Tammy Frias, our Committee Secretary; and Michele Yoshimura, our Committee Analyst. And joining us this morning from the Administration is Jeffrey Ueoka, our Corp. Counsel; Sandy Baz, our Budget Director --

MR. BAZ: Aloha.

CHAIR WHITE: --and in the back row, we've got Scott Teruya, Mark Walker, and the front, Marcy --thank you --Marcy Martin from the Real Property Tax. Scott has been banished from the back because no wants to share his cold. So with that, Members, we will open up public testimony and we'll take testifiers here in the Chambers and then go to our District Offices in a little bit. And out first testifier this morning. . .well, maybe before we start with the testimony, Members, we have just passed out the bill that I promised that we would provide at today's meeting, and basically as you see in the first section, it says the purpose of this ordinance is to modify the eligibility criteria for the circuit breaker tax and to establish an appeals process for a homeowner who fails to qualify for the credit. Eligibility criteria are primarily modified by, first, limiting the definition of household to include titleholders living on the homeowner property instead of all titleholders; secondly, expanding the definition of "household income" to include nontaxable income; and third, removing the limitation on ownership interest in other real property by members of the household; and four, by establishing a phase-out schedule for the gross building assessed value. And we'll get into a little more details as we, after we hear the testimony, but I just wanted to share with the public that we have made significant changes to the bill, and I believe that it closely reflects the discussions that we had at our meeting a week ago. And again, I would like to especially thank the Committee for their comments last week and for Member Victorino for putting in a bill earlier that started this process along. . .and Mr. Guzman for doing some follow-up research and for the rest of you for your participation and comments last week. So with that the Chair will open public testimony. And our first testifier is Mr. Tom Croly, and he will be followed by Joy Bissen.

. . .BEGIN PUBLIC TESTIMONY. . .

MR. CROLY: Aloha, Chair. Aloha, Committee. We've been doing this for a little while now and you know my feelings on it. I'd like to try to be helpful in your deliberation today. You have a responsibility as the Council to make sure that the people that are eligible and the people that are, this is intended to that it apply to them. But you have a responsibility to every other taxpayer to make sure that the people this was not intended to are not able to avail themselves of what is basically a welfare tax credit to be very blunt about it. First, in order to exclude this program from the people who were trying to, you know, who make too much money but it doesn't show up on their tax forms. We have to look at the way that they account for their money. There's one tax form, a 1040 EZ. That one's simple. It shows you right off, here's how much money I earned and this is my adjusted gross income. If that's all we had to do then the adjusted gross income was the right thing to use, but then we have a 1040A and the 1040A includes things like tax-free dividends and so forth and that's additional income that doesn't get added into your AGI, so we need to make sure that that income is part of what we're accounting for in this program. But then we have the more complicated one, the regular 1040. And I want to explain what happens on a 1040 for the majority of people who have money that they can hide. If you have a business or a Subchapter S or a piece of real estate that you own, you can put down business losses in each of those categories. So you may have had a very high W-2 income, but then you can show losses on a business that you owned that offset that W-2 income and at that point your total income is reduced tremendously. I don't think that's the guy who we're trying to help and for someone who would make the argument that my business has gone down in value so I need help this year, this program's not for businesses, this program is for individuals. So an individual could pay themself a very high salary from their business, let's say $100,000 a year, but then further down show a business loss because that business bought a big truck that year or something like that, had a big expenditure that year and then offset that income and then say, I don't make any income so, therefore I should qualify for this. So there are certain parts of the 1040 that should be added back in that is losses from Subchapter S Corporations, losses from real estate, losses from farm income, and losses from businesses. Keep in mind, there's many people who start up a business that's really just a hobby and they do it as a tax dodge. The business really never makes any real money, but it allows them to write off, sometimes particularly for someone in Hawaii, it might allow them to write off every time they fly off island and they have --

MS. YOSHIMURA: Three minutes.

MR. CROLY: --a $2,000 airline ticket, they're able to write it off on the business as a business loss, so let's make sure those people get excluded. The other key thing that I want to make sure that you put in this is giving the Director some discretion as to how this is administrated and to that end, I would like to see the wording that the Director "may" require tax transcripts or schedules rather than the Director "shall". When we say the Director shall, that means every aunty out there has to figure out how to get that tax transcript and we've already seen that's rather difficult. If we say the Director "may" require this, hopefully the Director will use that discretion to require it in any case where there may be some question as to the numbers that are being reported here.

MS. YOSHIMURA: Four minutes.

MR. CROLY: Finally, I would like you to consider a graduation of the program. Right now, the program is anything over 2 percent of the income with a hard cut at $100,000. I would rather it be 2 percent of the first $50,000 in income, 4 percent of the next $50,000 in income, and 10 percent of any income over $100,000, then there's not a hard cut right at $100,000 and --

CHAIR WHITE: Can you. . .

MR. CROLY: --the person that's earning $75,000 is gonna pay a higher percentage than the person earning 50. It's a little more complicated but I think it makes for a more fair system if you would graduate it that way. Thank you.

CHAIR WHITE: Thank you, Mr. Croly. Members, questions for the testifier? Just for clarification, you made the comment that the things like business losses should be added back in. What you're suggesting, however I believe is that those losses should simply not be in the computation?

MR. CROLY: Well as you make the computation, okay, of total income whatever it includes, if there are business income that should be included, if there are business losses that should not be included as part of the total, or if you're using the line on your 1040 that says total income then add back in the losses that were part of that total income.

CHAIR WHITE: Yeah.

MR. CROLY: Thank you.

CHAIR WHITE: Thank you. Any other questions, Members? Seeing none, thank you very much. And Joy Bissen is our next testifier and she'll be followed by Rosemary Robbins.

MS. BISSEN: Good morning, everybody.

CHAIR WHITE: Good morning.

MS. BISSEN: I wasn't present last week.

CHAIR WHITE: Yeah, pull the microphone down a little bit more.

MS. BISSEN: I wasn't present here last week when you had your meeting, but we were represented. I did catch glimpses of your meeting on the TV, maybe not in the order that it was presented but I got a gist of whatever it was. Thank you very much, all of you, for trying to make the effort to help us get this over with. Recently, well this year, we applied for the tax circuit breaker and we were denied. Our case, I thought was a very unique one and kind of thought that maybe we should have been forgiven for what we. . .for the mistake that we made, but recently we turned out property over as a LLC. In the process, after everything was done, we forgot to apply for a homeowner's exemption and that was a very big and costly mistake, but we sucked it up and we paid the penalty, and we thought that that was lesson enough for us that we had learned something and that you would forgive us for this. But then out came the new circuit breaker rules and rule number one is five consecutive years. We just kind of happen to have had a break right in between of that, but I don't think that we should be punished or denied the circuit breaker because we didn't move from the property, we lived on the property, we maintained it and that we should be forgiven for this. And I don't know if this thing that I'm looking over here includes us but just in case we've always been don't take things for granted. And so I wanted to put it out there to you about our situation. I kind of think it's a unique one, but I want everybody to remember that when you fool around with your property, always remember go file a new homeowner's exemption. Thank you.

CHAIR WHITE: Thank you, Ms. Bissen. Members, any questions for the testifier? Thank you very much for coming down and sharing your thoughts with us today. And our next testifier is Rosemary Robbins.

MS. ROBBINS: Good morning, everybody.

CHAIR WHITE: Good morning.

MS. ROBBINS: Nice to see 100 percent attendance here this morning, got everybody back and on the record. I did come down yesterday afternoon, and one more time the folks on the seventh floor were just wonderful about supplying me the binder and the desk and the chair and sharpened a pencil for me indeed and went back and checked out and indeed Councilman Victorino, he had on November 4th of 2013, he had some address of this in here and so it was a little trip down memory lane for me on that. And then on the 15th of November in 2013, it was addressed here but not 100 percent solved like the rest of life, I guess. So I got everything that was available as of yesterday afternoon and I'm pleased to get this update this morning but I haven't had time to digest it. I would tell the lady who was just up here that indeed some of the recommendation she had are in Councilman Guzman's recommendations that I did get to read, so that's going to be good. And I just would like to say, I haven't seen anything on, that sits in here, it hasn't come in on either my cellphone or the home phone, the rectification of the Finance Director's screen that says that I and a number of other people as my cohorts own properties in other places in Hawaii and other states on the mainland. Scouts honor, so help me god, I have had one home, I'm still in it, I've been in it for 32 years. I've been in the age group and did apply and have received the circuit breaker in the past. So if that doesn't come up somewhere, it needs to. We don't want anything that appears to be other than pono, so and I did appreciate after the break last time that you indeed asked what the training was for the people who were making these decisions, thank you for having caught that that might be part of the thing that needs to be resolved. So thank you much.

CHAIR WHITE: Thank you, Ms. Robbins. Members, questions for the testifier? Seeing none, thank you very much --

MS. ROBBINS: You're welcome.

CHAIR WHITE: --for being here this morning.

MS. ROBBINS: Thank you for all your good work.

CHAIR WHITE: And our next testifier is Marilyn Niwao, and following Ms. Niwao's testimony we will go to the District Offices and if there's anyone else in the Chambers who wishes to provide testimony this morning, please sign up in the lobby so that we know to call your name.

MS. NIWAO: Chair White and Members of the Budget and Finance Committee, my name is Marilyn Niwao. I'm a CPA and an attorney with over 35 years of public accounting experience. I am the vice-chair of the Council on Revenues for the State of Hawaii. I am a past member of the Tax Review Commission and I am also the first vice-president of National Society of Accountants. However, I am speaking currently in my capacity as an individual since I just got notice of the circuit breaker tax yesterday. Regarding the circuit breaker taxes, some of the items of taxation follows five principles. There are five principles of sound tax policy generally recognized from the 1988 conference of lawmakers and academics organized by the National Conference of State Legislators. One, the provision of appropriate revenues where the tax policy assures funds that are available to meet present and future costs of public expenditures. Two, neutrality, minimizing tax consequence impacts on market decisions; this is achieved by having a broad tax base with few exceptions, deductions, or credits and low tax rates. Fairness and equity, a real or perceived differences in taxation of equals undermines public confidence in a tax system. Exemptions or credits that favor the few and undermine equality do not give rise to political unrest if there is consensus that the favored group deserved the preference. You need to have horizontal equity where all taxpayers and same circumstances should bear equal burdens and also vertical equity you should consider that where taxpayer differ in circumstances such as ability to pay, this should be factored into tax rates. The fourth policy is tax laws that are easy and economical to administer. The cost of compliance for taxpayers and cost of collections should be minimized. Accountability, assuring fair and open implementation of the system as intended, including both legislative and administrative policies. I believe that the circuit breaker tax, excuse me, circuit breaker tax break for low income taxpayer should be narrowly defined to avoid abuse and the impression that some are benefiting from the tax credit when they are relatively wealthy when considering their net worth. Household income under the proposed bill does not exceed 100,000 is likely too high a threshold, under this criteria, most Maui households would meet this threshold. If you look at the census data for 2012, average income of families residing together is 82,843 with median income of 62,241.

MS. YOSHIMURA: Three minutes.

MS. NIWAO: Okay. For Section 5, I've had something written. Nontaxable income should include gifts and inheritance, which are nontaxable for Federal income tax purposes. For calculation of circuit breaker tax, the total gross assessed value of the land and building should be used, not the homeowner's gross building assessed value, and the amount of income, we put it by Maui taxpayers may not be totally accurate. And for the fiscal year ended June 30, 2015, the Federal AGI may not be the most useful to determine qualifying individuals who should receive tax breaks because it includes a number of deductions. You might want to consider a restriction on extending the tax break to portion of residence rented to others, such as the case of bed and breakfast, and consider adding an asset-based net worth test since income alone may not be a reliable way to distinguish low-income families from others. Also, you might consider a deferral of tax mechanism whereby to reduce taxes are ultimately repaid when the property is sold.

MS. YOSHIMURA: Four minutes.

MS. NIWAO: Thank you.

CHAIR WHITE: Thank you very much, Ms. Niwao. Hold on just a second in case. . .Members, questions for the testifier? Ms. Baisa, followed by Mr. Victorino.

COUNCILMEMBER BAISA: Yes, thank you very much, Chair. And thank you very much for being here this morning. I really appreciate your coming. Somebody with your background who's very familiar with this would be very helpful to us and I hope you might be able to stay with us in case, Chair, we might need her help later on as we go through, because, you know, this is kind of a specialty and a lot of us don't have that kind of information but I know she does. I'm very interested in your comment of number seven and that was an asset-based net worth test. Can you explain a little bit more about what that means?

MS. NIWAO: I've done taxes for a number of years, and, you know, if you look at some of the people who have lower income, you could see people who have maybe interest income or dividend income are living off interest income and dividend income, not having wages because they don't work, they have enough wealth to basically live off the cash that they have from inheritance or whatever. And to me, income alone, consideration of income alone is not sufficient in order to give a tax break to people who might otherwise have the means to pay real property taxes. So if you consider, you know, their cash liquidities, stocks and bonds, or if their. . .actually a rough net worth or net asset-based test, I think it would, you know, help segregate people who truly deserve the credit versus people who are wealthy and don't need a credit. That's why I say the income test alone, when the interest rates are paying as I talked to my bankers, .005 percent, you're gonna have a lot of people who aren't working, who have enough wealth with very little interest, very low income but they have a lot of wealth behind that income, the interest income or dividend income, and these are the people I'm talking about that probably don't need the circuit breaker tax to help them, you know, with as part of their living expenses. They could afford paying some real property taxes.

COUNCILMEMBER BAISA: Thank you very much. I think that's a relevant piece of information that we haven't really talked about. And I want to also highlight and I think it's a really good statement in your number one, where you talk about household income and the median income of families in Hawaii residing together is 62,241. You know, I think that's such an important number that we don't talk about a lot as to who can afford to pay and who can't. You know, the family making $62,000 is certainly not as, you know, they can't pay as easy as the $100,000 people. So I like your comments and I want to thank you very much.

MS. NIWAO: Yeah, I would like to note that, you know, in the Affordable Care Act, they have the Federal guidelines as far as who gets tax credits and usually it's, for Hawaii, it's somewhere around 52,000 or so, anyone less than that, people with 52,000 for their household income get less of a credit and people above that do not get a credit because they are above the level that you generally view as needing a credit.

COUNCILMEMBER BAISA: Yeah, well thank you very much. You know, we know we have people in Maui who live on small pensions and small SSI, Social Security, and those are the kind of people we trying to help. We certainly are not trying to help rich people avoid taxes. Thank you.

MS. NIWAO: Thank you.

CHAIR WHITE: Mr. Victorino --

COUNCILMEMBER VICTORINO: Thank you.

CHAIR WHITE: --followed by Mr. Guzman and Mr. Couch.

COUNCILMEMBER VICTORINO: Yeah, thank you, Marilyn, for being here and your expertise in this area is greatly appreciated. It does, you know, you brought up some very valid points that we had not looked upon and so I think this helps a little bit more. What I wanted to ask you, you know, on this one, number six, you consider a restriction on extending a tax break to portions of residence rented to others such as B&Bs and TVRs, but you know we already eliminated them from. . .they have their own special category.

MS. NIWAO: Yeah. I, you know, the last time I had originally looked at the tax, circuit breaker tax it was many years ago and at that time people could owning a bed and breakfast claimed the exemption, so I'm not sure whether. . .

COUNCILMEMBER VICTORINO: Yeah, Marilyn, no, no, no problem. I just wanted to point that out to you --

MS. NIWAO: Okay. It has been amended. . .

COUNCILMEMBER VICTORINO: --that we have to have a separate reclassification for them already --

MS. NIWAO: Okay.

COUNCILMEMBER VICTORINO: --and they lost their homeowner's exemption when they went to B&B.

MS. NIWAO: Oh, okay.

COUNCILMEMBER VICTORINO: Okay. So and again I just not to make you, you know, you've done a great job but that one I wanted to point out to you.

MS. NIWAO: Yeah, I just last night I had to put together something.

COUNCILMEMBER VICTORINO: Quickly put this together and thank you. And all of what you put together really is helpful. Thank you, Mr. Chair.

CHAIR WHITE: Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you. Thank you, Marilyn, for being here. Did you happen to take a look at the proposed amendments that I put forth and what is currently now distributed to the Members in regards to the household income? It's quite like a. . .it resembles quite like the asset-based net worth test that you're talking about. So if you have an opportunity, if you could take a look at that and maybe we can come back to you.

MS. NIWAO: You mean this one?

COUNCILMEMBER GUZMAN: Yeah, the one that was just presented.

MS. NIWAO: Yeah, it's talking about the Federal, using the Federal adjusted gross income and Federal income factors, but when I. . .

COUNCILMEMBER GUZMAN: Oh, no, actually the adjusted gross income is deleted.

MS. NIWAO: Right.

COUNCILMEMBER GUZMAN: Okay.

MS. NIWAO: But those are income items, not asset.

COUNCILMEMBER GUZMAN: But you gotta go back further. . .go further down the page and nontaxable income includes but not limited to, and there's a list of. . .Chair, we'll just move on. It's okay. I'll just have her take a look at those. Thank you.

CHAIR WHITE: Okay. Thank you. Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Thank you, Ms. Niwao, for being here and nice to see you again.

MS. NIWAO: Yeah.

COUNCILMEMBER COUCH: You know, you have some really good ideas here and one of them, number seven, you know, asset-based net worth test since income alone may not be a reliable way of distinguishing low-income families from others. Is there a way that a nonaccountant can figure that out real quickly? Because we have folks in the Department that aren't really accountants, they just need to say, you know, they need to look at this number versus this number, yes or no. We don't have the ability or I would say the time to go through and study somebody's full-on tax return, you know what I mean? Is there a quick number to do this or. . .

MS. NIWAO: You know, you might take a look at other State statutes or Federal statutes having to do with net income like when they look at Medicaid, they look at asset value and all that. So there are other tax, other provisions whereby people look, are looking at the asset of the taxpayer to determine whether they should be qualifying for this break, a tax break. You know, as I said before, usually what you'd like to see from a tax policy point of view is a very broad base where everybody is subject to the tax and a low tax rate, that is the ideal situation. Once you get into this exceptions, like the circuit breaker tax, then it's, it can politically go down, you know, a no-win situation in the future, and it's kind of like if you look at the Hawaii General Excise Tax, you know, they started out with the general excise tax provision and every year some political group came around and you see an exception, exception, exception and now we have this huge GET where we have a whole bunch of exceptions for different groups of people and now they're thinking of, you know, people are considering raising the GET rates. Well, you know, why not get rid of all these exceptions instead of having to, a raise, a tax raise for everyone, and that's the problem that we have in the tax system that there are some who want to have the tax break and politically they lobby for it, and then you end up with a tax system that has all these exceptions for people and then you have to raise the tax rates for everybody else because of the exceptions made.

COUNCILMEMBER COUCH: Okay.

MS. NIWAO: So that's why I mentioned trying to keep the circuit breaker tax narrowly defined.

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

COUNCILMEMBER COCHRAN: Chair?

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Good morning, Chair. Thank you for being here and quite a nice testimony you've handed to us. I'm curious about item four and it's in relation to this National Taxpayer Advocate study and somehow they've figured in that Lahaina and Kahului --

MS. NIWAO: Oh, yes.

COUNCILMEMBER COCHRAN: --most likely to find tax cheats.

MS. NIWAO: Yeah.

COUNCILMEMBER COCHRAN: So I'm just like really.

MS. NIWAO: It was published in the paper and this is a problem. We're using the Federal income definitions and we apparently have a problem nationwide, I mean compared to the nationwide tax payers, that the IRS has identified Lahaina and Kahului where they're most likely to find tax cheats for people don't report all their income or under report their income. So when you using this Federal income tax amounts, you should take into consideration that, you know, you are using a factor that may not be as reliable as you think. You know, as the tax system has become more complicated, people have stopped reporting, you know, because it is very, very complicated now and so people said, hey, it's too much work, you know, I want to get ahead from the next person and all that, and so those two areas, districts have been identified as having the most taxpayers that were noncompliant with their tax reporting.

COUNCILMEMBER COCHRAN: Interesting. Thank you. Thank you, Chair.

CHAIR WHITE: Members, other questions for Ms. Niwao? Ms. Niwao, I've got a couple questions for you. On the asset-based net worth test, I believe it's used when people are applying for various other subsidies, is that. . .

MS. NIWAO: Correct.

CHAIR WHITE: Correct. So there's likely wording out there that we could, we could tap to make that a part of this bill. Is that relatively easy, you think?

MS. NIWAO: I think we can look for something where you can find someone else to piggyback as far as them having a system already of checking net worth. And I'd like to also point out, there's one thing about these tax breaks for the low income and it's, you know, we have the Federal government looking after people who at the low income, they have or in income credits, now they have free insurance, now they have, you know, there's a lot of subsidies for those who are in the low-income bracket, the State also provides for them and the County also provides grants and things for nonprofits to help those in a certain category. And what I've seen, you know, I guess our firm used to do a lot of nonprofit audits in the past, and it seems like there's a duplication or a stacking of benefits to the same group of people, and you have to be very wary of that because after a while it becomes a disincentive to work, you know, it's better for people not to work, because they have more benefits from not working than working, and that's not what we want to try to do, we would like to have everybody working and being productive in the community. So that's my one caution is that, you know, when everybody looks at the same group, there's already a lot of help being given by the Federal and State governments and the County should be aware of that.

CHAIR WHITE: Okay. Thank you. And the other question I had was with respect to disallowing the business losses from being calculated in the total income. What can you share with us regarding that concept?

MS. NIWAO: I think the business losses, it depends upon, you know, who's deducting what, but usually things like depreciation, for example. When you're talking about businesses, they can depreciate or write off many things and same thing with people with the rental properties, they can depreciate the rental properties. And to the extent that it reduces your total income, I think that that is not a noncash type of expense that is incorporated in your Federal income taxes, that shouldn't be considered. So if you are thinking of putting provisions back in for businesses and farms or whatever, the one factor I would say is take out the depreciation and add it back to income to the losses.

CHAIR WHITE: Yeah. I guess it gets back to the question of whether we have accountants in our real property collections area that can make those calculations happen. Mr. Hokama?

VICE-CHAIR HOKAMA: Well, I think we need accountants in our Tax Department. That's no excuse for us not to move appropriate adjustments for it, and that's the Council's role to provide those position and resources if it improves our overall tax situation for all our people. One question I would have for Ms. Niwao and her learned experiences is on number three, 'cause I am very much inclined to agree with that, where you discuss total gross asset value, which also includes the structure besides the land. Would your comments on depreciation also be tied to the ability to depreciate building, the building itself or the structure on the real property? You know, we've talked about the business depreciation.

MS. NIWAO: Yes. The. . .yeah, when you have, you know. . .I'm a tax person so as a tax person I try to reduce the taxes of my clients as much as possible. There are ways to reduce your income and there are ways to reduce your taxes using depreciation. For example, and it may be totally noneconomically based, for example, when a person passes away, you know, you might have a building that's an old building totally depreciated out. When a person passes away, that building, most oftentimes if they're included in the estate of the person, gets stepped up to its fair market value, okay, so it's almost like for, when you pass away and then you give it, the property, or someone inherits it, it's almost like you start over, you know, it's kind of like redoing a, you know, you reset the motion, your heirs inherit the property, they can start taking depreciation using the fair market value of that property rather than the original cost basis, same thing with stock sales, you know, you can have stock, everything is stepped up and it's not really you paid the money for it, at the time you pass away, if it's in your estate, it gets a step up basis for many of these low basis assets, so there are ways to reduce taxes and that's why with the Federal system, Federal income tax system so complicated and there are ways to work around it, I'm just a little, I want the Councilman people, persons to be very careful about what they're doing because there are ways for people like me to work around the system to lower everybody's income taxes and Federal AGI so that what you see is someone who has low income but not necessarily may be poor --

VICE-CHAIR HOKAMA: Okay. I. . .

MS. NIWAO: --or low income.

VICE-CHAIR HOKAMA: Right, right. And I appreciate that. Okay. And so now when I look at your number eight on deferred tax mechanism it makes more sense to me now.

MS. NIWAO: Yeah, because you can't capture all this problems that I'm saying, sometimes if you add in a deferral of taxes whereby the people who are getting the tax breaks, you know, if it goes on generation after generation, you want to have these people keep their property for some reason and you want to help them out, then what you do is you allow for some kind of deferral of the tax whereby if they get a reduction of the property taxes, at the time that the property is finally sold, you know, there's a recapture and you pay the taxes at the time the property is sold. So that may be something that's might provide some fairness in equity in the tax system itself for those who don't get the benefit of the circuit breaker tax.

VICE-CHAIR HOKAMA: Thank you very much for your responses.

CHAIR WHITE: Very helpful. Let me just point out that the reason that the land value was not included in the scaling is because the majority of the reason the circuit breaker was brought into existence was because of land values vastly increasing as neighbors' properties were bought up and at much higher prices and it's not the building value that increases as much as it is the land value. So the focus of the initial, well, the focus of our changes was to look at the building value rather than the land value. You know, your comments about the step up in value are really critical and a very important thing for us to consider. Ms. Baisa, did you have another question? I couldn't tell whether you were raising your hand or not.

COUNCILMEMBER BAISA: Oh, no. I think Ms. Niwao's done a wonderful job. Thank you.

CHAIR WHITE: I agree. Will you be available --

MS. NIWAO: Sure.

CHAIR WHITE: --a little while this morning.

MS. NIWAO: Yes. I'll be here. I'll wait.

CHAIR WHITE: Okay. Great.

MS. NIWAO: Thank you.

CHAIR WHITE: Thank you so much. And we will now go to our District Offices starting in Hana. Dawn, do you have any testifiers this morning?

MS. LONO: Good morning, Chair. This is Dawn Lono at the Hana Office and there is no one waiting to testify.

CHAIR WHITE: Thank you very much. We'll go to Lanai. Denise, do you have testifiers?

MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez on Lanai and there is no one waiting to testify.

CHAIR WHITE: Thank you. And Ella on Molokai, do you have any testifiers?

MS. ALCON: Good morning, Chair. This is Ella Alcon on Molokai and there is no one here waiting to testify.

CHAIR WHITE: Thank you very much. Is there anyone else in the Chambers wishing to testify this morning? Seeing no one coming forward, without objection, the Chair will close public testimony.

COUNCIL MEMBERS: No objections.

CHAIR WHITE: Okay. Public testimony is closed.

...END OF PUBLIC TESTIMONY...

ITEM NO. 74: CIRCUIT BREAKER TAX CREDIT (CC 13-358, CC 14-125)

CHAIR WHITE: Members, let me just go through. . .we've handed out the copy of the draft and I'd like to just go through the draft before opening it up for discussion. Okay. The first changes are on Page 1, and the first, in Section 2, 3.48.595, the title is Generally, and we added 3.48.605.E as applying to appeals, and actually I believe that might be D. Oh, no, no, no. I have D there. Okay. It's okay. And we have noted that, provided for the tax year ending June 30, 2015 appeals to the Board of Review based on Section 3.48.605.D, which is denial of a circuit breaker, shall be filed on or before November 30th of 2014. Remember, we're. . .the deadline for the new application, if you haven't already put one in for this year, is September 15th, the date by which the Department needs to approve or deny is October 31st, so this simply gives the applicant an additional 30 days within which to file an appeal. Next is on Page 2, third paragraph down, 3.48.605, Grounds–Real Property Tax, and that's grounds for an appeal, we've added in the first paragraph where circuit breaker tax credit. . .so it reads, in case of real property tax appeal, no taxpayer shall redeem aggrieved by an assessment nor shall an assessment be lowered or an exemption or circuit breaker tax credit allowed unless there is shown, and then the addition is, D, down below, denial of the circuit breaker tax credit for a homeowner who received the circuit breaker tax credit. . .you know, this is earlier wording, I think. . .you've got another? It's supposed to be denial for which they. . .I don't have the. . .it's not the wording that we had in earlier draft carryover. Okay. We'll come back to that. The next change is in Section 4, same page, and it's in Section 3.48.805, the definition of household has been changed by deleting all property, all titleholders, so household now means, a homeowner, spouse of the homeowner, and any titleholders living on the homeowner property, so that's a significant change to what we had had earlier. The next is we have changed the household income, and basically it's very similar to what Mr. Guzman had provided us last week, but we've taken out adjusted gross income so the definition of household income is as follows: household income means the sum of Federal income, Federal total income for all members of the household as defined by the Internal Revenue Code of the United States 1954, as amended, and all nontaxable income, provided that for tax years ending June 30, 2015, household income means adjusted gross income as defined by the Internal Revenue Service of a household for the year preceding the tax year in which the application for the circuit breaker tax credit is filed. So what this means is, Members, that for this application, this year application, the AGI will remain the qualifier. So it will only be in the next tax year that we will be utilizing the Federal total income and then adding back the nontaxable items that are listed in the following five items, and I won't read off those five items. And then one thing that the Chair added that was not included in our discussion last week was the household income shall exclude business losses, losses from the sale of business property, losses from rental real estate, partnerships, royalties, S Corporations, trust estates, and farming operations. And then the next portion is part of what was included in Mr. Guzman's submittal last week, all income sent forth in the tax return file by household member for the tax return is a joint tax return or an individual tax return, shall be considered household income; provided the household income does not include nonmonetary gifts from private sources or surplus foods or other relief in kind provided by public or private agencies. So the majority of this wording is consistent with the circuit breaker income definition for the City and County of Honolulu, except for the exclusion of business losses that I read off. Further down the page, under circuit breaker tax credit established, the 5,000 limit is still in there. In A, there's a mistake there, I believe -- are you handing that out now -- yeah, it was supposed to have read instead of consecutive, instead of reading, homeowner shall be granted a homeowner exemption on the homeowner property for at least five years, five consecutive years, it should now read. . .and, Members, we'll work off of this draft if you don't mind. So without objection, we will change consecutive to read out of the prior six years, out of the prior six, so it would read, the homeowner has been granted a home exemption on the homeowner property for at least five of the, five out of the prior six tax years.

COUNCILMEMBER VICTORINO: So, Mr. Chair?

CHAIR WHITE: Yes?

COUNCILMEMBER VICTORINO: Just for clarification, this means that in the case that had just been presented to us by the testifier, they miss one year, then they would still qualify --

CHAIR WHITE: Right.

COUNCILMEMBER VICTORINO: --because it's five out of six years.

CHAIR WHITE: Correct.

COUNCILMEMBER VICTORINO: Okay. So now that occurs and they qualify, five out of six years, right, they qualify. If in four years something was to happen again, and I'm just asking this question because this could happen, so in four years the same forgets to apply for homeowner's, where's the clock starting from?

CHAIR WHITE: They would still be covered I believe the way this is worded.

COUNCILMEMBER VICTORINO: No. I don't...I would ask Corporation Counsel on that because I think you're not gonna have that coverage if they get it this one or right now they get it for this year because they missed it, then they got one and in four years they'll be on year five, if I'm correct, and if they skipped it, if they missed it, they made a mistake then bam, they would not qualify. Now, I ask Corporation Counsel, am I wrong in my interpretation or...that's my question, Mr. Chair.

CHAIR WHITE: Sure. Corp. Counsel?

MR. UEOKA: If I understand the scenario correctly it appears that two out of the last six years would be nonhomeowner, so based on Mr. Victorino's scenario, I don't believe the individual would qualify, but I'd have to see it all in writing to make a definitive position.

COUNCILMEMBER VICTORINO: I think this is important to understand on the public's point of view that if you get that reprieve this year --

CHAIR WHITE: Right.

COUNCILMEMBER VICTORINO: --and in four years you forget, I think you're not gonna get reprieved again. Now, hopefully you won't forget, but, you know, I'm saying this is the real world we live in, and so I would like that to be made really clear so if we need to set up an example to just make sure it's clear to all, I want the public to understand that. I like this, thank you, Mr. Chair, I agree wholeheartedly. You know, you need something for someone who makes an honest legitimate mistake, but, you know, how many times is a legitimate mistake a legitimate mistake, I guess, is the question I would have.

CHAIR WHITE: Right. Mr. Guzman.

COUNCILMEMBER GUZMAN: Chair, during my research, 42 of the applicants did not qualify because of the restriction on the five years, and out of the 42, all 42 were either they changed in terms of creating a trust, irrevocable trust, an LLC, or a family partnership. And I believe less than 10 just forgot, but I think that it that it won't happen again, you know, I seriously think it may have been a estate planning errors and applying it to the circuit breaker. So for a person or an applicant to do it twice in a row, they somewhat would deserve not being allowed in or at least there's some malpractice going on in the County. But anyways, just from my research, it would be 42 if this would, if this amendment passes through the category specifically that restricted those applicants, 42 would be admitted in. Thank you.

CHAIR WHITE: Yeah. The other point I'd like to make is that it's unlikely that people are gonna go through this change in trusts or LLCs more than every ten years or something of that sort. The other thing that this amendment allows is if somebody moves into another house. I don't think we want a homeowner who's downsizing and moving into another residence in order to downsize. We don't want them to lose because they weren't there for five consecutive years, so I think that's a, this is a very, it's a very good change and I think it should be. . .

COUNCILMEMBER VICTORINO: Mr. Chair, I didn't want to. . .

CHAIR WHITE: Oh, no, no. I. . .

COUNCILMEMBER VICTORINO: I stirred the pot just because that question was asked to me by somebody the other night, and so that's why I wanted to clarify, you know, you get reprieved once and if you in the next four years you forget again, there's no reprieving, you know, and so again that's all the public has to understand. That's all it was, I wasn't worried about 42 or how many, just so they understand, once every five years, you know, so you better make sure it's year six, seven, or eight that you make a mistake again, that's the only thing I'm saying. Thank you, Mr. Chair.

CHAIR WHITE: Thank you. Mr. Teruya. Marcy?

MS. MARTIN: If you wish to allow the homeowner to downsize, I would change A to read, the homeowner has been granted a home exemption for at least, take out, on the homeowner property.

CHAIR WHITE: Oh, you're right.

COUNCILMEMBER VICTORINO: It's different now.

CHAIR WHITE: Right. Right.

COUNCILMEMBER VICTORINO: That wasn't the question I asked though.

CHAIR WHITE: Yeah. Okay. So take out "on the homeowner property". I think that's a good change. Without objection, we'll make that an amendment.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR WHITE: Staff, you got that? Okay. Moving down to C. C is a deletion, this is the item where any member of the household would be. . .well, the circuit breaker tax credit would be disallowed if the homeowner had multiple properties, so we have removed that requirement in its entirety. And I believe that's a good move with respect to the challenges that we have with hui properties and many people having ownership in other properties without having controlling interest, and so that was the reason for that deletion. And then the next major change is providing a scale by which we approached the loss of the credit in its entirety, so by the time you'd get to $450,000 of building value, you no longer qualify for the credit. And that credit essentially or that $450,000 level is equal to roughly the 90th percentile. Ninetieth percentile of homeowners is at the $447,000 value of building value, I should say. So the change is to read, the amount of the circuit breaker tax credit is based on the homeowner's gross building assessed value and shall be phased out using the following schedule. And the homeowner's. . .then you see the next. . .you see the table showing that if the homeowner's gross building assessed value is up to $400,000, they receive 100 percent of the credit. If their value is between $400,001 and $412,500, they receive 80 percent of the circuit breaker tax credit. If it's between $412,501 and $425,000, they receive 60 percent of the tax credit, and from $425,001 to 437,500 they would receive 40 percent of the credit, and from $437,501 to $450,000, they would receive 20 percent of the credit, and once they cross that threshold and have $450,001 or more, they would receive no credit, they would be disqualified so they receive no credit at all. And then moving down the next change is under Section 7, 3.48.815, application for circuit breaker tax credit. In the first paragraph, you'll see we've deleted January 31st and replaced it with September 15th, which is the new deadline for people who have, and again I have to stress, who have not yet applied for this year. So everyone who has already applied does not need to reapply. And then the next change is under B, the homeowner property shall continue to qualify for the home exemption throughout the succeeding tax year; provided that for the tax year ending June 30, 2015, the homeowner property shall qualify for the home exemption for the entire tax year. And then the last change is on Page 5, item B, the second paragraph, and we're changing. . .well, I'll read it, if the homeowner does not qualify for the circuit breaker tax credit, the Director shall notify the homeowner on or before, and we've deleted March 1st and replaced with April 30th of the preceding tax year. And then the next change is for the tax year ending June 30, 2015, the Director shall notify the homeowner on or before October 31, 2014 and extend the deadline to November 30, 2014, for filing an appeal with the Real Property Tax Board of Review. So that completes a review of the changes that we have included in this draft, so we'll open it up and we can start with Mr. Carroll. Questions for the Department or concerns, Mr. Carroll? Ms. Crivello, if you could. . .

COUNCILMEMBER CRIVELLO: No, I don't have anything right now, Chair.

CHAIR WHITE: Mr. Carroll, comments or concerns?

COUNCILMEMBER CARROLL: . . .*(inaudible)*. . .

CHAIR WHITE: Okay. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And I appreciate all the amendments and I agree with what we have thus far. And so, yeah, at this point, no additionals. Thank you, Chair.

CHAIR WHITE: Okay. Thank you. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. I have two, one question and one potential comment. The first question I have is to Mr. Ueoka. All in here, you know, we're doing the appeals process, I don't see anywhere in here where the Real Property Tax Board has the discretion to in essence waive one of the qualifications, and that's the whole idea was this if somebody doesn't meet the criteria C and it gets denied the whole idea was for the Real Property Tax Board to say, well, that's a special circumstance so they need to have discretion to say even though you don't meet this criteria, we still are going to give you the circuit breaker credit, 'cause that was their concern from the beginning.

MR. UEOKA: Mr. Chair.

CHAIR WHITE: Yeah. Go ahead.

MR. UEOKA: Thank you. Mr. Couch, I believe you're correct. I don't think the appeals board has the authority to waive any of the requirements of the circuit breaker. I believe the appeal process, well, I shouldn't say I believe. . .when I read this, my assumption is that in case there's, I guess, they're not in agreement on the interpretation of, you know, household income, nontaxable income, what is and isn't excluded, and those types of things, they could go to the Board to appeal that and. . .

COUNCILMEMBER COUCH: Right. And I believe our concern was, you know, they may have not met a certain criteria but they really truly are in need of this circuit breaker, so we. . .I believe our discussion was that the Tax Board could say, yeah, you don't meet this criteria but we're still gonna give you the tax _____, they wanted that discretionary power.

MR. UEOKA: I. . .that sounds very complicated. You'd be giving the Board the authority to waive law, which I'm not sure if how that would work.

CHAIR WHITE: If you'd like, we can have Mr. Erfer come up.

COUNCILMEMBER COUCH: Sure.

CHAIR WHITE: He shared with me a situation in which. . .well, I'll let him explain it. But there was a homeowner who had been denied the homeowner exemption and if without objection, we'll bring Mr. Erfer.

COUNCIL MEMBERS: No objections.

CHAIR WHITE: I hope I'm not putting you on the spot.

MR. ERFER: Well, I'm not allowed to speak for the board, I understand.

CHAIR WHITE: No, we understand.

MR. ERFER: I can give you an example. It's. . .the example I gave to Mike, where we actually. . .

COUNCILMEMBER VICTORINO: Mr. Chair, could you make sure he identify himself, please.

MR. ERFER: Oh, I'm sorry. I'm Bruce Erfer, thank you. The example I gave to Mike where we actually did make a change and the, or Council said that we presumably could was an instance where. . .and it had to do with a homeowner exemption that was denied and in this case both the mother and son were on title and presumably they both have to file a residential Hawaii residential income tax to prove that they were full time residents. In this case, the son went off, he was in construction, I believe he went off to Nevada to take a part-time job, which he did for, I believe, three months, ended up filing a Nevada tax income tax return, and because of that and I don't know any more details than that because I don't remember but because of that they were denied and we overturned that, so that's the example.

CHAIR WHITE: Yeah, so the question is whether if they have the ability to do that and we get into a situation where there's a challenge on the calculation of income, then my assumption would be that they have the ability to take further evidence into consideration.

COUNCILMEMBER COUCH: And I'm okay with that. I'm not sure that they actually had the ability to do that. That's interesting. . .I would like to hear from Mr. Ueoka. I'm fine. If they can do that, that's exactly what we're looking for, is to say, you know what, yeah.

CHAIR WHITE: Ms. Baisa, did you have...

COUNCILMEMBER COUCH: Oh, no. I was gonna ask Mr. Ueoka.

CHAIR WHITE: Oh, I'm sorry. Mr. Ueoka.

MR. UEOKA: I don't advise the Real Property Tax Review Board. I don't know their rules intricately. I can't say when I read this circuit breaker section and I don't see anything that allows, that would allow the Board in a clear-cut fashion to waive one of the circuit breaker requirements though and grant the circuit breaker tax credit, just from reading what I have in front of me right now.

CHAIR WHITE: I guess the question is, is there anything that we would need to put in there to allow for them to further be provided further information and thereby reach a different conclusion?

MR. UEOKA: If I understand your question correctly, Mr. White, you're asking what additional information would be needed in order for a waiver to be granted?

CHAIR WHITE: No, I think if somebody is going to appeal, they're gonna be appealing because they disagree with the determination of either income or value or something of that sort. So I'm asking, what we might be able to put in to provide for that eventuality and for the Board to be in a position to after further reviewing the details to make a determination whether they qualify or not?

MR. UEOKA: I think for those types of matters, the determination of household income and that type of thing or even, you know, whether someone's, you know, fits into the definition of. . .or someone is part of the household according to the definition, those types of things could be appealed to the Board and the Board would look at them based on the facts presented and they could make a ruling on that, but if there was a clear-cut thing where, let's say the sum of Federal, well, after June 30, 2015, the sum of Federal total income for all members of the household was greater than whatever was allowed in the bill and everyone agreed on that, there's no way the Board, or I shouldn't say no way, as far as I understand the Board can't say, yeah, we acknowledge and you acknowledge that you're over the allowed household income but we waived that for you and we're gonna grant you the circuit breaker tax credit anyway. I don't think that situation could occur.

CHAIR WHITE: No, I understand that. Yes, Mr. Couch.

COUNCILMEMBER COUCH: And I guess the follow up, my biggest concern is the value of the house. For some reason, you know, 50 years ago they inherited the house, let's say on a beachfront, which has happened quite a bit in my district, and the folks have lived in the house for all these years and maybe they've done a couple of additions and there's 30 people on the title, but they're the ones living in the house and they're the ones that, you know, they're making ends meet, but the house value went way over because of where it is and the neighborhood went way over the $450,000 and so they're booted out of the circuit breaker, but yet they aren't making enough to pay for the taxes and they have to sell the house. That would be a situation where I would think that the Real Property Tax Board says, oh, yeah, you're right, you've got all this but your income is so low that, you know, we would love to have you stay there, but because it's a family place, it's been in the family for hundreds of years or whatever, they should be able to say, yeah, they're over the dollar amount on the house but that's just through no circumstances of their own. That's the biggest place where I would see you would have that issue is the dollar value of the house because of it's a long time family house that's been there either Upcountry or wherever that's been in the family for a long, long time and now they're on a fixed income, retirement, social security and can't afford to pay that taxes.

CHAIR WHITE: Ms. Baisa, you had a question?

COUNCILMEMBER BAISA: Well, it says, going back to whether or not the Board can give, you know, exceptions or whatever, in our draft on Page 5, it says the director shall determine if the homeowner qualifies or not. And I think at some point there was a discussion about "may" or "shall", and I can't remember who said it. But if this review board looks at this and really wants to make some kind of an exception, if they make a recommendation to the Director, does the Director, then, have the discretionary power?

CHAIR WHITE: Corp. Counsel?

MR. UEOKA: I would say that the Director would still need to stay within the boundaries of this document and if they meet the requirements they qualify, if they don't, they don't.

COUNCILMEMBER BAISA: So "may" is not possible, it has to be "shall"?

MR. UEOKA: Yeah, I think you should leave it as shall, 'cause you want the Director to make a determination, like he can't leave it. If it was may, he might not make a determination.

COUNCILMEMBER BAISA: I know what you're saying. The frustration here is we're trying to find a way to take care of unusual circumstances and I think we all agree that who we're trying to protect are the people that really need this help. That was the whole reason for this whole circuit breaker thing was how do we help people that through no fault on their own but because they've inherited or because they're not wealthy or whatever fortunes, you know, have put them where they are, needs some kind of assistance so that they do not lose family property or wind up homeless, and I don't see that there's any discretion in here because it's pretty, pretty clear-cut who qualifies, who doesn't and I don't think we've found the magic bullet yet. We're still. . .we need to look some more.

CHAIR WHITE: And your. . .Ms. Baisa, the recommendation to change "shall" to "may" was made on the bottom of Page 4.

COUNCILMEMBER BAISA: Okay. Bottom of Page 4.

CHAIR WHITE: I think that was a good suggestion that the Director may require.

COUNCILMEMBER BAISA: So there we go, that's where a discretion comes in.

CHAIR WHITE: Right.

COUNCILMEMBER BAISA: But it's a "shall", not a "may".

CHAIR WHITE: Right.

COUNCILMEMBER VICTORINO: Mr. Chair?

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Yeah, I have an additional question for Mr. Ueoka. And I know you not familiar with every department, but the Board of Water Supply for the longest time only had advisory powers after it was changed over from a semiautonomous, and they don't -- I don't know, you wanna keep Mr. Erfer standing there or you have comments -- okay, I'll hold back because I have a definitive question in this area, because we did make changes subsequent to give adjudication power to the Board of Water Supply, and so do we have to do by ordinance or something of that nature or by Charter or whatever, so I'd like to. . .but let Mr. Erfer go and then I'll chime in afterwards.

CHAIR WHITE: Thank you.

MR. ERFER: I have a few comments on your proposed ordinance if I may make them at this time. I know it's out of. . .but there's, they're real specific because there are problems here, contrasting dates.

CHAIR WHITE: Okay.

MR. ERFER: You want me to go later?

CHAIR WHITE: Well, we're about 10 minutes from taking a morning break and we'll have you go over them with Staff and. . .'cause I think those. . .if we got conflicting dates, we want to correct those.

MR. ERFER: Okay.

CHAIR WHITE: Do you have any comments on the. . .

MR. ERFER: Well the only comment I'd make on Councilmember Couch's thought on the property tax and I'm sorry, on the value of the building, and Scott, if you could you just shake your head yes or no to agree with what I'm saying. The building value does not go up or down based on other sales. That's correct, yeah. It's the land value that goes up and down, so the building actually is depreciated, so the older the building is the lower the value it's going to be. So I'm not sure the example that you used whatever really come into play.

COUNCILMEMBER VICTORINO: Mr. Chair, just so that we're. . .I know you want to take the break. . .

CHAIR WHITE: Oh, no, no. We're not on the break yet. I was just stating that during the break we'll go over the. . .

COUNCILMEMBER VICTORINO: Well, that's why I'd like on during the break, like what we did with the Department of Water Supply, the Board of Water Supply, and gave them adjudication powers to overturn the Director's decisions when it came to water meters and other issues which had a direct effect on a homeowner being able to build or change, and we gave them that adjudication power, that because at that point they were only advisory so we changed that. I know the Tax Review Board has more power than that than just adjudication; however, is there, and again, because we went through this with yesterday about Charter, being Charter, set up by the Charter or set up by ordinance, you know, there's all these different things. So if Corporation Counsel maybe during the break could get some of those answers for us, because that would be maybe where I would take this if we can give them that, if that's what we want then we need to give it to them so they have that adjudication power to say, oh, all of this was okay; however, because the Director or the Department said this wasn't, we disagree and this is why, and they can overturn that decision, that's all I'm asking.

CHAIR WHITE: Well, I think, you know, many of these concerns that are being brought up are very valid and I think the level of comfort with making sure that these, that no one is taking an undo advantage of us are reduced significantly if we were to implement the asset-based, you know, net worth and if we were to look at a deferral, because if somebody can't handle the taxes I can understand that, but at some point it may be appropriate to have, you know, that, the tax deferral in place in those situations where the next owner would be responsible for paying those taxes so. Ms. Baisa.

COUNCILMEMBER BAISA: Just one more quick thing I want to throw in the mix, because it was brought up and I think it's relevant, and that was the $100,000 income limit that Ms. Niwao brought up. I think that's something we need to look at. Thank you.

CHAIR WHITE: Do you have thoughts as to --

COUNCILMEMBER BAISA: Well, I liked --

CHAIR WHITE: --where we should go?

COUNCILMEMBER BAISA: --her idea about what we consider average household income in Hawaii. I don't think a lot of our families are making $100,000.

CHAIR WHITE: Okay. Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. When you called on me the first time, it was really difficult because I had problems with everything, so it's hard just to go over there and say pick out something. But trying to be concise in something, saying something over here, we have so much conflicting information that we receive. We just had, we see that older homes depreciate, right. Do they? I mean, that was one of our understands, it's a land. Alright, I build an Arisumi house, a three bedroom house a while back, hollow tiles, cement driveway, really nice house for $21,000, my tax bill now is about 300,000. Now that does not sound like depreciation to me. I know a lot of people out there that are in that same situation, and it's this type of information that we have that really it concerns me because our object over here and I'm sure every Council member agrees that we want to protect those that need protecting, and to structure it to where it is really pinned down to where those that make the decisions have to go by a very strict criteria is gonna be very difficult to reach our goal. I would hope that somewhere that they have the discretion to go over there and make exemptions, like he said specific exemption, the person was out-of-state, so we have somewhere in there that where they have the discretion, the County has the discretion to look at something and say, yes, it doesn't meet the criteria, but because this is a special circumstance that we can still give them the 2 percent, because it's obvious that they do not have the income even though the home is valuable and reaches perhaps beyond that they can, we can do something about and serve these people. And I realize this is not, I'm not giving a solution because I don't know how we could even word that to where it would be fair, and I realize people are gonna tell, well, you can be arbitrary and it could be unfair too, but something needs to be looked at to where we can, we have some flexibility in determining who gets our circuit breaker tax exemption, and I would hope that we could think and there could be something inside there and we discussed that our attorney over there a little while ago that there is nothing in there, that we could put something inside there, some sort of a appeal process that would be almost immediate so we wouldn't, that person wouldn't have to wait a year before he came back after a denial. And I'll try to work out something --

CHAIR WHITE: Yeah, the Chair's. . .

COUNCILMEMBER CARROLL: --I've been trying to scratch over here and get some wording out and I haven't been successful yet.

CHAIR WHITE: Well, the Chair is very interested in having an appeal process. It's the matter of figuring out exactly how to structure that.

COUNCILMEMBER CARROLL: And my concern is that the appeal process, it needs to be quick or otherwise they'll lose a year. Right now, the appeal process is not real timely and off in many cases.

CHAIR WHITE: Well, they've gotten much more timely in the last year or so.

COUNCILMEMBER CARROLL: Thank you, Chair.

CHAIR WHITE: Thank you. Mr. Hokama.

VICE-CHAIR HOKAMA: Well, I would recommend that we all read the Code or, and the ordinance regarding the structure of the Real Property Tax Appeal Board, then I think we'll be a lot more informed and know already the parameters of what they are authorized to do. They already have some great flexibility under the ordinance, so I would say, I would hope we would approach. . .we're looking at this type of taxation from a point of how to assist our property owners and our residents to comply and qualify for what we're trying to provide, the relief, instead of trying to figure out every little special scenario and how to make an excuse to exempt out. It just befuddles me how we want to approach this. I think we going about it the wrong way. I think Ms. Niwao gave a very simplified rationale that we should look at the total base and look at how we might want to approach taxation, and exemptions should be minimal and for me that's, I would be leaving that in fairness in application. For me, Chairman, I think the main things that we need to do regarding assisting those that really need our relief is, first, having the Director making those determinations. I think there may be some flexibility in how he reaches that determination and what documentation and proof to qualify to receive that exemption, okay. Then if a special circumstance does come, that's why we have an appeals board that just deals with this specific real property tax component, in the Board of Variances and Appeals it was all zoning and that's all by Charter. So I would say, you know, let us be aware of and know what is already in the Code and what is allowed to these various boards that we confirm to sit on, members to sit on. For me, Chairman, you know, there's not much time to deal with this current deadlines, and so I'm quite appreciative and supportive to take care of this year's deadline requirements to let our people apply and qualify by the September 15 deadline, but I'm not satisfied and I don't have a problem adding in already languages that can go into effect for the following year, especially regarding how we're gonna look at income. I don't have a problem going into total asset calculations and I don't have a problem calculating structure with the land and determining value and appropriate taxation amounts. I would agree with some of the Members, I think maybe a combined total income of $60,000 is a doable number. I have my concerns with the sliding scale, the scale. I understand Mr. Guzman and your attempt regarding that unique component, but in general like we did with Agricultural zoning and sliding scales, I'm not a true proponent of sliding scales. I like clear-cut, black and white lines. It's easier to administer, it's easier to enforce. So, for me, that's where I'm coming from and then, Chairman, again I would ask that the, you know, on what we wouldn't include in the income, I think that needs to be included in this year's calculations. And so if that can be part of the current year's requirements, I can be in support of that. The one thing that is interesting and it wasn't clear in the legislation and then maybe we can have discussion with it further is whether denial of the circuit breaker and again I know the practice, but to me when I read the proposal it's not clear that you must be required to receive the homeowner's exemption, I want that in. I think that's critical to be in. If you want the circuit breaker...

CHAIR WHITE: What section are you referring to?

VICE-CHAIR HOKAMA: .605, Grounds - Real Property Tax, you have D, denial of the circuit breaker tax credit for a homeowner who received the circuit tax break. To me, we just, I have no problem making it a requirement that if you want to qualify for the circuit breaker you have to have that homeowner's exemption. And I don't have a problem with it being in the ordinance very clearly. And I don't have a problem stating it more than once because again there seems to be a need of greater education on the County's part in letting our residents know truly what is the law. And if it is, like I said, I think we need to maybe repeat it because it needs to be very clear what it takes to get the circuit breaker. That's all I have at this point, Chairman, thank you.

CHAIR WHITE: Okay. Mr. Couch.

COUNCILMEMBER COUCH: . . .*(inaudible)*. . .

CHAIR WHITE: Oh, I thought you. . .

COUNCILMEMBER COUCH: No.

CHAIR WHITE: I thought you had your hand up.

COUNCILMEMBER COUCH: No.

CHAIR WHITE: Ms. Baisa, anything?

COUNCILMEMBER BAISA: No, Chair. I think that there's some stuff you want to work on during the break and I'm ready for that. Thank you.

CHAIR WHITE: Okay. Mr.. . .

MR. TERUYA: Thank you, Chair. On Page 5 of the document in paragraph B, I see that you've made an amendment to change March 1st to April 30th, and I would prefer that it remain March 1st because the appeal deadline is April 30th, so. . .I mean April 9th, sorry, so that would be after the date. Oh, I would also let this body know that one of the reasons why we're here today is because we passed an ordinance a year back for things that have kicked people out and that's the reason why we're back here giving consideration, but on Page 3, when you start adding back social security benefits, et cetera, I have a feeling of the 591 that we already excluded, I think most of the program would be diminished. Just by looking at past returns, the people who we feel that are currently in need of it are probably the people who are not going to qualify anymore, so I'll just let that the body know that when we talk about the consequences, some of the add-backs may kick people out so just to be aware.

CHAIR WHITE: Mr. Couch.

COUNCILMEMBER COUCH: Can you repeat that again where you say some of the add-backs are going to kick more people out of getting a circuit breaker exemption as opposed to. . .yeah, I'm not quite sure what he meant by that.

MS. MARTIN: In reviewing tax returns at the current applicants, typically everyone has $20,000 in social security income. Many married couples have income higher than that and that will be added back.

CHAIR WHITE: So not necessarily kicks them out, it just increases their tax liability.

COUNCILMEMBER COUCH: But he's saying that if we put this criteria in there, more people will be denied the circuit breaker tax.

MS. MARTIN: Twenty thousand dollars in income will reduce your credit by $400, and we have a lot of credits less than $400.

COUNCILMEMBER COUCH: Oh, oh, so you're gonna use that to determine how much of a credit they get and if we add that back in then they won't get as much of a credit as they normally would if we used, if we didn't have that in there, is that what you're saying?

MS. MARTIN: Correct. There's about 170 people that have credits of $500 or less.

COUNCILMEMBER VICTORINO: This get confusing now. I thought I knew where I wanted to go with this. Mr. Chair, I think we need some break.

CHAIR WHITE: Yeah, with that we're gonna take a break until ten minutes to 11. We're in recess. . . .*(gavel)*. . .

RECESS: 10:36 a.m.

RECONVENE: 11:00 a.m.

CHAIR WHITE: . . .*(gavel)*. . . This meeting of the Budget and Finance Committee shall come back to order. Members, we've had some very good discussion and the Chair's intent is to pass something out today that gives the Director and the Department and the public a good sense of what we are doing to make this system fairer. The Chair's intent is to come back to you at a later date with the definitions of income and so forth. So for the purposes of moving forward, the Chair's intent is to leave the definition of household income at the AGI. If you want to use total income or something of that sort then there's a not a whole lot of difference there, but I think we've got to have a lot more discussion about the add-backs and the impact of those add-backs. I would like to have more thorough review on whether or not it's appropriate to deduct or disallow, I should say, the various business losses, and I also believe that we have a responsibility to the taxpayers to look at an asset-based calculation of net worth as of one of the criteria, and I believe it's also appropriate to establish to some or at least to take a solid look at whether a tax deferral process is appropriate to apply to these. So these are all things that we don't need to have done today. The things that we need to have done today are providing clear direction regarding the cap at 5,000, the income cap at which stands at 100,000, there's been some discussion about whether that should move. We need to provide direction on the building value limits and we need to provide, I'm sure there's others that I'm missing, but appeals. Anyway, I think you know more or less the direction I'm going. Mr. Hokama?

VICE-CHAIR HOKAMA: Chairman, I would agree. I think we need to pass out something today. I can support that. I think we need to let the property owners that, homeowner property owner's a clearer direction and, of course, whatever adjustments sufficient time to, for us, for the County to put out the appropriate and responsible, educational components to let our homeowners know what would be the qualifications. I would just say that I hope we remember that part of a tax system is, of course, having the taxpayers have confidence in the tax system. And for me, everyone that puts in appeal has a special situation. You miss a deadline, I know there's a special situation, something else happened, there's a special situation. But I'm not in favor of appeals, I think it is sufficient the way it is in the Code, I think we need to ensure integrity and confidence in the tax system. If it needs to be changed it needs to be done through the ordinance, not by a appointed board. For one, I'm more concerned about those that qualified, that did an appeal, what happens to their confidence level and then the worst thing that can happen is this County be stuck in circuit court on all of those your aggrieved property owners who didn't get that break. So there's a lot more at stake than just appeals for special situations, because everybody has a special situation, Chairman.

CHAIR WHITE: Right.

VICE-CHAIR HOKAMA: So I would ask the Committee to consider those factors because that's all we need is a system that the majority loses confidence in and then we're headed down again the wrong way. So I would say that I'm in agreement with you, you know, I'm happy to pass out what we can for this appeals application, and I think there's more opportunity for us in next year to work on those other components that you've just brought up. But I have no problem if the Committee wishes to lower the combined income number, and I think Ms. Niwao gave us some good educational numbers in a spectrum, like I said, I can support 60,000. Thank you.

CHAIR WHITE: Ms. Baisa.

COUNCILMEMBER BAISA: Chair, when we talk about keeping the AGI, the understanding is that this is temporary.

CHAIR WHITE: Correct.

COUNCILMEMBER BAISA: Okay. Based on temporary, I can live with it, but I don't think it's a way we want to go long term. Thank you.

CHAIR WHITE: Yeah. I would agree. Mr. Couch, actually, Mr. Guzman had his hand up first, followed by Mr. Couch.

COUNCILMEMBER GUZMAN: Thank you, Chair. I'm also in agreement in terms of trying to at least pass out some form of a stop measure, gap stop measurement in terms of this circuit breaker as originally proposed in my amendments. If we just stick with the amending the various titleholders and deleting that section, and also expanding the five years to five years within six years, you're gonna get at least 197 new applicants that would be allowed into the circuit breaker. If we look at my definition in combination with your definition, it's unsure as to whether if applied, how many people would be excluded, so as I said before, it would probably be best if we studied that more thoroughly and apply it for next tax year. In regards to the cap, the household income not to exceed 100,000, I would propose that we just leave it as is for now at 100,000, because if we go lesser than 100,000, I'm unsure as to how many people we would then kick out that were already approved. According to my data of household income that exceeds 100,000, there were only 15 applicants that exceeded 100,000. And so I did not reverse the analysis and go less than 100,000, so I have no idea as to how many people this would affect if we went down to 60,000. Other than that, I'm in agreement with the proposals. The. . .in terms of the appeal process, I would agree with Mr. Hokama. I think that we need to allow the Board to do their job under their ordinances and have us thoroughly study their duties and what they do on an appeals board. The other issue I have is the graduated system that you have. I'm in support of a graduated system, but I did not enter into discussion in terms of the way you proposed it, Chair, and I did have conversations earlier on, I think about three weeks ago with Bruce Erfer, and my understanding was quite, a little bit different in terms of how this graduated system would work, and if this, if I can have the opportunity to at least bring Mr. Erfer up just to confirm in terms of what this application would subsequently result in. I would appreciate it.

CHAIR WHITE: Yeah, Mr. Erfer, if you could please come forward. Just to give the Committee an idea of where I'm coming from, what I would like to do is just have your comments and then I would like to come back with a clean bill with just removing the stuff that we're not going to consider today, so that we're all working off the same page. And so we need to break pretty quickly so we can do that. But Mr. Erfer, please.

MR. ERFER: Yeah, quite quickly, the issue was if you limit it to $100,000, the person who makes the next dollar is out and we call that the cliff, and the idea was to eliminate the cliff in some manner and one manner was to graduate the income beyond 100,000 or up to 100,000 in a similar manner that the building value is proposed in here. The problem that we discovered with that is you might end up with a person getting 80 percent from the income and 80 percent from the building and it creates something that nobody is gonna understand. You'd have to multiply the two 80 percents together, and then they'd end up with 64 percent, which would be mathematically okay but it's very difficult to explain to the taxpayer. So an alternative proposal that I made was to, I believe, to use the 2 percent up to 100,000 and then use 6 percent from a hundred to a hundred and a quarter, so that we don't eliminate people, and the 6 percent adds up quite quickly, so it would just allow those who are a little bit over $100,000 to still be included in the circuit breaker subsidy.

CHAIR WHITE: Were you referring to the income cap or the property value cap?

COUNCILMEMBER GUZMAN: The property value cap.

MR. ERFER: Oh.

COUNCILMEMBER GUZMAN: Yeah, if you could...

CHAIR WHITE: Yeah, so he was asking...

COUNCILMEMBER GUZMAN: But thank you for the...

MR. ERFER: I'm sorry. The property value graduation, I mean, it's proposed is basically what I had proposed earlier. Again, I'm not the one to tell you it should be 450 or 400 or 350, but that type of graduation I think is proper.

COUNCILMEMBER GUZMAN: Okay. But that in combination with just a straight 100,000 cap would not cause the, I guess, the multiplication issues that you're talking about.

MR. ERFER: No, as long as they were not percentages for the income and percentages for the building value, we would eliminate that.

COUNCILMEMBER GUZMAN: Okay. Very good, so I'm satisfied. Thank you, Chair.

CHAIR WHITE: Thank you. Thank you, Mr. Erfer. Mr. Couch.

COUNCILMEMBER COUCH: Thank you and I'm fine with your comments. I would like to see the appeal but not a discretionary appeal. The appeal as you have it written down right now is fine for this version.

CHAIR WHITE: Another option would be to have the Director create rules to deal with it.

COUNCILMEMBER COUCH: Correct.

CHAIR WHITE: So, Mr. Teruya, if you could. . .you had mentioned a possibility of allowing the Director to make rules. Could you explain?

MR. TERUYA: Okay. Currently the circuit breaker ordinance does have rules that apply to the circuit breaker ordinance, so I believe the Director does have discretion to create rules, so maybe in the rules, we might be able to update some of the things that we are talking about in that process of rules. So I'm not sure how this body would feel if the Real Property Tax Division could adopt or generate the rules somewhat in line with what you guys were talking about that would assist in the process, not sure.

COUNCILMEMBER COUCH: My only concern with that would be that process is a long process because there has to be public hearing. They have to do the rules, then they have to do the public hearing. So it would be longer, I would think, than getting this at this point.

MR. TERUYA: In my experience, it's been a lot faster.

COUNCILMEMBER COUCH: Oh, yeah.

MR. TERUYA: Yeah.

COUNCILMEMBER COUCH: But I'm talking about if we pass this out today and then it goes to the next couple of Council meetings, would you have your rules before then?

MR. TERUYA: Well, we would have to advertise for about a month or so, have the public hearing and as a result of that come back, but I think the rules are a place where you can put language in there where you. . .it doesn't have to specifically be in the ordinance but maybe it's the process of how you determine certain things --

COUNCILMEMBER COUCH: Okay.

MR. TERUYA: --can be explained in the rules. It's just an offer to the Council.

COUNCILMEMBER COUCH: And the other thing, Mr. Chair, is for your future adjustments, the table values of the building assessed value, I liked the table, the different percentages. I would only encourage and we'll pass out something at. . .before this meeting ends so that you can take a look and the Members can take a look, instead of having actual dollar values there, having a percentage of the median income, median value of the house. So, you know, I'll pass out.

CHAIR WHITE: That's the way we drafted it and it looks so confusing that we felt we were better off going back to an actual dollar value and at some point we'll. . .

COUNCILMEMBER COUCH: Yeah, let's just take a look at it, because if we keep it actual dollar value, in three years, the next Council is gonna have to say, well, that dollar value's a little too low, so we have to, yeah.

CHAIR WHITE: And we can consider whether that should be increased by an inflationary number or increased at the rate that home values, average home values increased.

COUNCILMEMBER COUCH: Right. So I'm just trying to prevent having this discussion every year if at all possible.

CHAIR WHITE: Right.

COUNCILMEMBER COUCH: So at some time, probably during when you're doing your break we'll pass out that, just an article that talks about that versus...

CHAIR WHITE: Okay. That's fine.

COUNCILMEMBER COUCH: Thanks.

CHAIR WHITE: We will stand in recess. How much time do you think you will need? Oh, we'll need to confer so be back in 25 minutes. Well, let's say 20. Recess. . . .*(gavel)*. . .

RECESS: 11:16 a.m.

RECONVENE: 11:43 a.m.

CHAIR WHITE: . . .*(gavel)*. . . This meeting of the Budget and Finance Committee will come back to order. Members, Staff is passing out the draft that we will be working off of and the main change is the deletion of Section 5 regarding the income calculations. So the existing wording on adjusted gross income being the basis of the calculation, which is currently in the Code will remain as such. The Chair's intent is to come back after working with Staff and hopefully Ms. Niwao to come up with a broader focus which would incorporate not just income but assets as well. So with that, Members, please take a look at the draft that's been handed out. We have left intact the wording regarding the appeals. And with regard to Mr. Teruya's comments about rule making, the existing ordinance already allows for them to make rules so we need not add anything for that. So let's just go page by page. Any concerns with the changes noted on Page 1, regarding the appeal?

VICE-CHAIR HOKAMA: Chairman?

CHAIR WHITE: Yes.

VICE-CHAIR HOKAMA: I believe Mr. Erfer had one comment about dates and. . .

CHAIR WHITE: Oh.

VICE-CHAIR HOKAMA: Did we catch the dates? 'Cause I think Mr. Erfer made a good point on the dates.

CHAIR WHITE: Yeah. Michele confirms that those dates have been changed.

VICE-CHAIR HOKAMA: Thank you, Chairman.

CHAIR WHITE: Okay. The next item, and it's not properly shown on the draft, I note, is D. We've changed the wording there, so the last part of D should be underlined. So it should read, denial of the circuit breaker tax credit for which the taxpayer is entitled and for which the taxpayer has qualified. Then the next. . .

COUNCILMEMBER VICTORINO: Underlined all the way.

CHAIR WHITE: Yeah, it's underlined all the way 'cause that's all an addition. And then any concerns with that, Members? Seeing none, next is the household means a homeowner, spouse of the homeowner, and any titleholders living on the homeowner property. I don't recall any of you having concerns with that.

COUNCIL MEMBERS: No.

CHAIR WHITE: Thank you. Next in this section, the new Section 5, circuit breaker tax established, we have changed "five consecutive" to "five out of the prior six tax years" and we have deleted "on the homeowner property", so it should read, the homeowner, or does read, the homeowner has been granted a home exemption for at least five out of the prior six tax years.

COUNCILMEMBER COUCH: Okay.

CHAIR WHITE: Okay. Then on the next item, there was discussion on whether or not that 100,000 should be adjusted. If somebody feels that it is important to modify that, Chair is open to a motion.

COUNCILMEMBER VICTORINO: Mr. Chair.

VICE-CHAIR HOKAMA: Chairman?

CHAIR WHITE: The Chair would only caution that what the Chair has been trying to do is not to change too many things from the prior numbers. So we're doing the graduated scale starting at 400 because 400 was the original number, so the Chair's intent is that or the Chair's preference would be that we leave the 100,000 where it is because there are those out there that are depending on this credit for this year. We're going to be looking at adjusting the income for next year, so the Chair's preference would be to leave it as is for now and then we'll come back and address that when we address the income or the asset-based net worth and so forth unless there's a burning desire to. . .

COUNCIL MEMBERS: No.

COUNCILMEMBER VICTORINO: No, that's fine. That was my question.

CHAIR WHITE: Okay. Then we have deleted in its entirety, C, the requirement or the. . .my words are mixed up, but the. . .that's the disqualifier, if you have any additional properties but we are taking that out in its entirety. Any concerns there?

COUNCIL MEMBERS: No.

CHAIR WHITE: Then the, D, no change there. E, remains the amount of the circuit breaker tax credit is based on the homeowner's gross building value, building assessed value and shall be phased out using the following schedule, and then the schedule follows. There's been discussion about whether that should be just eliminated, but the Chair's feeling is that this buffers the folks that are right at the $400,000 level and it provides some break and easing into the $450,000 building value, which is slightly over the 90 percentile and we've had some discussions about the fact that 90 percentile means that we're only 10 percent of the people in the homeowner category have building values higher than that. And if you're at the top ten percent, the Chair's feeling is it's not necessarily appropriate that you get the credit. Any concerns about that? Okay. Moving on down, September 15th is, replaces January 31st. No, we didn't change anything in B. We have changed under 3.48.820, Administration, to match the suggestion by one of the testifiers. The Director may require each member of the household to provide copies. That's simply so that the Director has the discretion of what he wants to request. And needs to be pointed out that even though this is a "may", one of the mays is that they can ask for any documentation that they feel they're in need of to prove the numbers that are being provided to the Department. Any concerns there? And then the last one is under B on Page 5. We have changed based on Mr. Teruya's suggestion, we changed April 30th back to March 1 on line 3 of B, and then the remainder stays the same. Any concerns, Members? Okay. Well with that the Chair would entertain a motion to pass A Bill for an Ordinance Amending Chapter 3.48, Maui County Code, Relating to Eligibility for the

Circuit Breaker Tax Credit; and allowing the Staff to make technical, nonsubstantive changes; and we don't want to file any of the communications. Correct?

UNIDENTIFIED SPEAKER: No.

CHAIR WHITE: So that leaves it open for us to discuss the amendments that were put forth early that we'll be revisiting.

VICE-CHAIR HOKAMA: I make a motion, Chairman.

COUNCILMEMBER GUZMAN: Second.

CHAIR WHITE: Been moved by Mr. Hokama, seconded by Mr. Guzman. Any further discussion, Members? Mr. Hokama.

VICE-CHAIR HOKAMA: Chairman, I want to thank you for taking the individual Member's comments and trying to work with all of us, and I also want to say thank you to Mr. Guzman for his tremendous due diligence and his total review of a lot of data, but what I think the Committee is pushing out today is very reasonable, doable for this upcoming application period and I think all of us want to continue to make improvements in the succeeding years. So thank you for your efforts.

CHAIR WHITE: Thank you. Seeing no further discussion, all those in favor, please signify by saying "aye".

COUNCIL MEMBERS: Aye.

CHAIR WHITE: Those opposed, say "no". Measure carries with nine ayes, zero noes.

VOTE:	**AYES:**	**Chair White, Vice-Chair Hokama, and Councilmembers Baisa, Carroll, Cochran, Couch, Crivello, Guzman, and Victorino.**
	NOES:	**None.**
	ABSTAIN:	**None.**
	ABSENT:	**None.**
	EXC.:	**None.**

MOTION CARRIED.

ACTION: Recommending FIRST READING of revised bill.

CHAIR WHITE: And thank you very much and thank you to Mr. Erfer, Ms. Niwao, and Mr. Croly for their assistance with this process.

ITEM NO. 105: AUTHORIZING THE TRANSFER OF AN UNENCUMBERED APPROPRIATION WITHIN THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 2014 (CC 14-46)

CHAIR WHITE: And, Members, we do have one other item on the agenda. And I will leave that to Mr. Baz and Mr. Walker to present. I said I will leave it to Mr. Walker and Mr. Baz to present.

MR. BAZ: Good morning, Mr. Chair, Members. Aloha. So before you this morning is a revised resolution, which we presented just the other day, I can get you the exact date, hold on. Basically, this is a resolution Authorizing the Transfer of an Unencumbered Appropriation Balance within the Department of Finance for Fiscal Year 2014 Budget, look at the June 13th version of that. We were able to reduce the amount of the required transfer from the original February transmittal based on actuals as we get close to the end of the year. As you know, Mr. Chair, a resolution is if we're transferring money within the Department, a resolution is the appropriate manner for that transfer, so we proposed this resolution based on a request from the Department of Finance and Mr. Walker, Deputy Director of Finance, is here to answer any questions or make any comments that he should have.

CHAIR WHITE: Okay. Mr. Walker.

MR. WALKER: Thank you, Chair, Committee Members. You should also have a spreadsheet that was provided at the last meeting, that detailed, year-to-date actuals, the estimated amount we need for the remainder of the year, the total, the proposed budget amount we had as of last year, the approved budget and the additional amount we're gonna need now. Does everybody have that?

CHAIR WHITE: Yes.

MR. WALKER: The three areas we're looking at is the telephone system, rentals and facilities, and centralized postage. Starting with the telephone system, actuals in 2013 were 438,000, year-to-date is about 380, we anticipate the need for an additional 60,000 for a total of 440,000 for this fiscal year, which is a little less than we had asked for originally, but about 54,000 more than budgeted. In the original resolution, we sent up in February, we had asked for 95,000, that's been reduced down to 54,000. On rentals and facilities, the actual 2013 was 275,000, year-to-date through the end of May is 237,000, we need an additional 36. . .37,000 really for a total of 273,000. We had proposed 280,000 in our budget request, that had been knocked down to 169,000. We had originally requested 111 in February when the resolution, the revised resolution anticipates a need of about 104,000 for that area. On centralized postage, the '13 actuals, 328,000, year-to-date through the end of May was 284,000. We anticipate the need for another 37,000 for a total of 321,000 for the year. Our proposed budget last year was 300 and that was the budget that was approved, so we're asking for an additional $21,000. June is typically a pretty busy month in the postage because people are mailing stuff out and trying to get contracts signed, et cetera. The actual June 2013 figure was 38,000, so we're right about there in our request for this last month of the year. The total of, again, so the total amount we're asking for is 180,000 down from 227,000. And ready and willing to answer any questions you may have.

CHAIR WHITE: Okay. Thank you. Members, questions for the, either one of the, either the Director or Deputy Director? Mr. Hokama.

VICE-CHAIR HOKAMA: Just quickly, and I understand and I think it's a very reasonable request from the Department, so thank you. Under the electricity, you know, is that from our leased facilities or is that includes even the County owned facilities? Could you give us. . .

MR. BAZ: Yeah, thank you, Mr. Chair. I bought a light and I was thinking had to ask that question as well. Those electricity costs are for the parking lots that we lease. Those, yeah, so it's not for this building, it's not for anything. . .it's for the, it's related to the rentals that we have.

VICE-CHAIR HOKAMA: Okay. So because, you know, we support a lot of our facilities going to the solar panel initiative with Mr. Kobayashi and Mr. McLeod, so, you know, I was looking at some savings, but it's interesting we paying for. . .it's we pay a portion of the total lights in the parking lots of our, on our lease spaces. Isn't, wouldn't that be just be part of the normal CAM?

MR. BAZ: The Real Property Manager is here and he can answer that detailed question as it relates to those costs.

VICE-CHAIR HOKAMA: Thank you.

UNIDENTIFIED SPEAKER: Guy Hironaka.

VICE-CHAIR HOKAMA: Mr. Hironaka, did you hear the question?

MR. HIRONAKA: Yes, I did.

VICE-CHAIR HOKAMA: Okay. Thank you.

MR. HIRONAKA: In response to your question, Mr. Hokama, those are for the municipal parking lots that we have. Most of them are in Lahaina, on Front Street, so that's the electric for the, actually for that and some of our around the parks that we have parking areas that we have to pay for the electricity. So those are not strictly leased 'caused some of them are leased and some of them are owned.

VICE-CHAIR HOKAMA: Okay.

MR. HIRONAKA: So they're not leased facilities, they're actually municipal parking lots.

VICE-CHAIR HOKAMA: Okay. Okay. Thank you for that clarification, you are appreciated. Thank you, Chairman.

CHAIR WHITE: Members, other questions for the Department? Seeing none, Members, we will be discharging this measure at the Council meeting on Friday. So without objection, the Chair would like to defer this matter.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: GCB).

CHAIR WHITE: Okay. Thank you.

UNIDENTIFIED SPEAKER: Thank you.

ACTION: DEFER pending further discussion.

CHAIR WHITE: That brings us to the end of our meeting today. Thank you all very much. We are adjourned. . . .*(gavel)*. . .

ADJOURN: 12:00 p.m.

APPROVED:

MIKE WHITE, Chair
Budget and Finance Committee

bf:min:140617:mb

Transcribed by: Michelle Balala

CERTIFICATE

I, Michelle Balala, 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 the 8th of July, 2014, in Kahului, Hawaii.

Michelle Balala

Michelle Balala