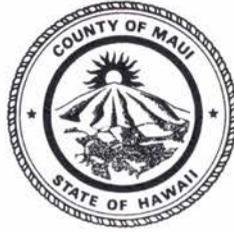


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April 17, 2015

MEMO TO: Riki Hokama, Chair
Budget and Finance Committee

FROM : Jeffrey Ueoka, Deputy Corporation Counsel *JU*

SUBJECT: **FISCAL YEAR ("FY") 2016 BUDGET** (CC-6) (BF-1)

We are in receipt of your memorandum dated April 13, 2015, posing the following questions:

1. Can the Plan Review, Permit Processing, and Inspection Revolving Fund (Section 16.26B.108.2.1, Maui County Code) be used to fund an equivalent personnel in the Department of Water Supply to facilitate the Department's requirement of building permit reviews?

Section 16.26B.108.2.1, Maui County Code, states that the Plan Review, Permit Processing, and Inspection Revolving Fund ("Fund"), "may be expended for salaries, training, contracts, rent payments, fixtures, material, supplies, and equipment that facilitate plan review and for payment of overtime for plan checking, permit processing, and inspections." We are unaware of any restriction that limits the use of the Fund to a specific department. A cursory review of the Revised Charter of the County of Maui (1983), as amended ("Charter"), does not appear to place a restriction on the Department of Water Supply ("DWS") from having its personnel paid through the Fund, however, Section 8.11.7 implies that the DWS should be "self-supporting". In the event the Council chooses to not treat the "self-supporting" language contained in the Charter as a restriction on the DWS, the Council may elect to fund an equivalent personnel in the DWS to facilitate the Department's requirement of building permit reviews. We would like to emphasize that use of the Fund, in

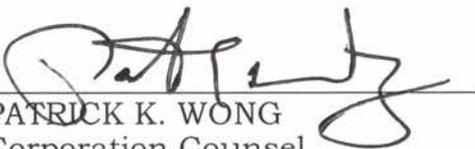
Riki Hokama, Chair
April 17, 2015
Page 2

regards to salary and not overtime, is restricted to activities, "that facilitate plan review[.]"

2. Can funds from the Open Space, Natural Resources, Cultural Resources, and Scenic Views Preservation Fund be used to acquire the Kula Community Center property and Waiakoa (Kula) Gym?

Due to the request for an expedited response, we were unable to review the legislative history of the Open Space, Natural Resources, Cultural Resources, and Scenic Views Preservation Fund ("Fund"), and our response is limited to a plain language reading of the Revised Charter of the County of Maui (1983), as amended, provision creating the Fund and the Maui County Code ("MCC") sections pertaining to the Fund. A broad reading of the purposes for which the Fund may be used would allow for a purchase of the Kula Community Center Property and the Waiakoa (Kula) Gym. Section 3.88.020(A)(7), MCC, sets forth as a purpose of the fund, "[i]mproving disabled and public access to, and enjoyment of, public land, open space, and recreational facilities." While these facilities are both currently privately owned, both could be seen as public facilities as they have been open to, and utilized by, the public for many years. Furthermore, the purchase of these facilities could be seen as increasing public access to, and therefore increasing enjoyment of, public recreational facilities. However, as previously stated this is a broad interpretation of the Code, and the more conservative approach would be to utilize another source to fund these purchases.

APPROVED FOR TRANSMITTAL:



PATRICK K. WONG
Corporation Counsel

cc: Alan M. Arakawa, Mayor
Sananda K. Baz, Budget Director
David Taylor, Director of Department of Water Supply
Butch Ka'ala Buenconsejo, Director of Department of Parks and Recreation