

COUNCIL OF THE COUNTY OF MAUI
BUDGET AND FINANCE COMMITTEE

April 15, 2016

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Budget and Finance Committee, having met on February 17, 2015, March 9, 2015, December 15, 2015, and February 29, 2016, makes reference to County Communication 11-227, from Councilmember Mike White, relating to the disparity of real property assessments for agricultural versus non-agricultural lands, including the matter of an investigative group as permitted under Section 92-2.5, Hawaii Revised Statutes.

Your Committee notes the Council's Budget and Finance Committee (2011-2013 Council term) met on September 20, 2011, October 4, 2011, November 4, 2011, November 15, 2011, November 17, 2011, November 22, 2011, December 3, 2011, January 11, 2012 (Lahaina), January 13, 2012 (Lanai), January 24, 2012 (Hana), January 25, 2012 (Kihei), January 26, 2012 (Molokai), January 30, 2012 (Makawao), January 31, 2012, February 14, 2012, April 16, 2012, and December 4, 2012.

Your Committee further notes the Council's Budget and Finance Committee (2013-2015 Council term) met on December 2, 2014.

At its meeting of October 4, 2011, the Committee formed a temporary investigative group to make findings and recommendations on policies relating to the apparent disparity of real property assessments for lands put to agricultural use versus non-agricultural use.

The temporary investigative group was composed of Councilmembers Gladys C. Baisa, Riki Hokama, Michael P. Victorino, and Mike White. Councilmember White served as the Chair.

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Following eight meetings in October 2011 and one meeting in November 2011, the temporary investigative group issued its report. The report included findings and recommendations on: (1) valuation of homesites on parcels with agricultural use; and (2) agricultural dedications.

The Committee received the temporary investigative group's report at its meeting of November 4, 2011.

The temporary investigative group found significant inequities between homesite values in residential districts, as compared to homesite values for parcels receiving agricultural use assessments, despite comparable character, size, and use.

The temporary investigative group made note of the following administrative rule: Rule 4(c), "Rules and Regulations of the Director of Finance relating to the Assessment of Agricultural Lands and the Imposition of the Deferred Tax under Section 3.48.325, Maui County Code" (1981). The rule provides: "When lands within the agricultural district are not put to any agricultural use, including any portion of the land being used as a homesite, such lands shall be assessed at their highest and best use based upon comparable values of similar lands being put to similar uses as reflected in the market."

Representatives from the Real Property Tax Division, Department of Finance, noted the rule has not been implemented since its promulgation in 1981, and would cause numerous complaints if implemented today. The representatives said the Department prefers the rule be codified before its implementation.

Currently, if a parcel in the Agricultural District has both an active agricultural use and a homesite, the entire land value receives a discounted tax treatment. The temporary investigative group found the agricultural tax benefit should be limited to the portion of the parcel in active agricultural use, and the County's assessment practices should be refined accordingly.

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Your Committee notes the building value on a homesite is currently taxed at market value. The focus of reform is on the land value.

With respect to agricultural dedications, the temporary investigative group found one way to encourage agricultural use is by providing tax incentives for such use; however, the current system of assessing agricultural parcels has proven to be a weak tool for preserving agricultural land and open space, and properties claiming an agricultural use assessment are not uniformly being used for agricultural purposes. The temporary investigative group found a system requiring owners to dedicate their land for agricultural use to receive tax benefits associated with agricultural use is appropriate, and made recommendations for an updated system for dedications and assessments.

Among other things, the temporary investigative group noted agriculture is classified into one of four types – pasture, diversified agriculture, sugar, and pineapple – using per-acre valuations based on a 1967 soils classification study.

On November 9, 2011, Councilmember White transmitted a proposed bill addressing the first component of the temporary investigative group’s report, entitled “A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, RELATING TO THE TAX ASSESSMENT OF HOMESITES ON PARCELS RECEIVING AGRICULTURAL USE ASSESSMENTS.” The purpose of this Homesite Bill is to correct inequities between homesite values for parcels that receive agricultural use assessments and those that do not, despite comparable character, size, and use.

The Homesite Bill would accomplish this correction by determining the fair market value of the homesite for lands in the Agricultural District that are used for agriculture or lands dedicated pursuant to Section 3.48.305, Maui County Code. The “homesite” was defined as those portions of the parcel excluding the portion in agricultural use and the portion consisting of unusable or unsuitable land for agricultural use.

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Following receipt of the Homesite Bill, the Committee met 14 times throughout the County in 2011 and 2012 to obtain additional public input.

At the Committee meeting of April 16, 2012, the Vice-Chair of the Committee transmitted a proposed bill addressing both agricultural dedications and homesites, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, RELATING TO REAL PROPERTY TAX AGRICULTURAL CLASSIFICATION." The purpose of this Dedication and Homesite Bill is to amend Chapter 3.48, Maui County Code, as it relates to the dedication of real property for agricultural use and the real property tax valuation of the homesite portion of parcels receiving agricultural use assessments.

The Dedication and Homesite Bill would provide incentives for dedicating land for a specific agricultural use by creating tiered discounts from fair market value assessments for longer periods of dedication. Land dedicated for five years would receive a 50 percent discount; land dedicated for 10 years would receive an 80 percent discount; and land dedicated for 20 years would be assessed at rates established in the budget ordinance, but in no event would the discount be less than the discount for a 10-year dedication.

The Dedication and Homesite Bill established a process for qualifying land to receive the agricultural dedication and a safety net of events that would trigger cancellation of the dedication without penalty when warranted. It also provided that the homesite would be assessed independently from the portion of the parcel in agricultural use.

Based on the committee deliberations and public input, your Committee received four revised Dedication and Homesite Bills from the Department of the Corporation Counsel.

Your Committee notes it received substantial testimony in opposition to the proposed bills throughout their various iterations from members of the agricultural community, recently including a community-based agricultural working group.

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The agricultural working group favored updating agricultural use values and granting agricultural use assessments through qualified agricultural inspectors. The agricultural working group also favored an update to existing dedication provisions to provide further incentives for dedicating agricultural lands.

At your Committee's reconvened meeting of March 10, 2016, the Vice-Chair of your Committee submitted a revised Homesite Bill, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, RELATING TO REAL PROPERTY TAX AGRICULTURAL CLASSIFICATION," which would eliminate the requirements for an agricultural dedication to qualify for an agricultural use assessment. The revised Homesite Bill would also codify and expand upon the Department of Finance's rule relating to homesites and set a minimum homesite size of 6,000 square feet.

Your Committee notes it was unable to agree on any proposal to adjust the valuation of homesites to achieve greater parity with other homesites in the County or to update the agricultural dedication system.

Your Committee suggested the Department of Finance implement existing administrative rules and Maui County Code provisions relating to agricultural lands.

Your Committee notes a commitment by a member of your Committee, who stated he would reintroduce the homesite bill if the communication was filed.

Your Committee voted 9-0 to recommend filing of the communication. Committee Chair Hokama, Vice-Chair White, and members Baisa, Carroll, Cochran, Couch, Crivello, Guzman, and Victorino voted "aye."

Your Budget and Finance Committee **RECOMMENDS** that County Communication 11-227 be FILED.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.



RIKI HOKAMA, Chair

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