

COUNCIL OF THE COUNTY OF MAUI

PARKS AND AGRICULTURE COMMITTEE

October 17, 2003

Committee
Report No.

03-129

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

Chair and Members:

Your Parks and Agriculture Committee, having met on October 2, 2003, makes reference to a Miscellaneous Communication, dated July 21, 2003, from the County Clerk, referring the Draft Self Evaluation & Transition Plan and Facility Report for the County of Maui, Department of Parks and Recreation, dated May 2003 (Draft Report) to your Committee.

Your Committee notes that the Draft Report was initiated as part of a proposed settlement to a complaint that alleges that County parks and recreational facilities do not comply with Federal and State accessibility requirements under the Americans with Disabilities Act (ADA).

Your Committee further notes that the three-volume Draft Report describes the process used to evaluate the Department of Parks and Recreation's activities, provides policy and program recommendations, and presents a transition plan for the modification of facilities.

Your Committee further notes that the ADA is a civil rights legislation, which essentially requires that every single program be made accessible, but not necessarily every single place. The Draft Report prioritizes facilities based on program uniqueness, level of use, geographic distribution, and tourism.

By correspondence dated July 16, 2003, the Department of the Corporation Counsel transmitted a copy of a Federal regulation, 28 CFR Subsection 35.150(d), which sets forth the general requirements of a Transition Plan, and a copy of the County of Maui's 1992 ADA Self-Evaluation Plan.

By correspondence dated September 25, 2003, your Committee's Chair requested that the Department of the Corporation Counsel review as to form and legality a draft bill entitled "A BILL FOR AN ORDINANCE TO CLARIFY AND IMPLEMENT THE COUNTY'S POLICY OF NONDISCRIMINATION ON THE BASIS OF DISABILITY WITH RESPECT TO RECREATIONAL AREA

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REGULATIONS AND THE WAIEHU MUNICIPAL GOLF COURSE". The purpose of the draft bill is to clarify and implement the County's policy of nondiscrimination on the basis of disability with respect to recreational area regulations and the Waiehu Municipal Golf Course.

By correspondence dated September 25, 2003, your Committee's Chair transmitted the same bill to your Committee for its consideration.

By correspondence dated October 2, 2003, the Department of the Corporation Counsel transmitted a draft bill entitled "A BILL FOR AN ORDINANCE TO CLARIFY AND IMPLEMENT THE COUNTY OF MAUI'S POLICY OF NONDISCRIMINATION ON THE BASIS OF DISABILITY WITH RESPECT TO RECREATIONAL AREA REGULATIONS AND THE WAIEHU MUNICIPAL GOLF COURSE". The purpose of the draft bill is to clarify and implement the County's policy of nondiscrimination on the basis of disability with respect to recreational area regulations and the Waiehu Municipal Golf Course. The draft bill incorporated non-substantive revisions for clarification, but was unsigned because the Department advised that the definition of "personal mobility devices" needs to be completed.

At its meeting, your Committee met with the Director of Parks and Recreation, the Deputy Director of Parks and Recreation, the Chief of Planning and Development of the Department of Parks and Recreation, and two Deputy Corporation Counsel.

The Deputy Corporation Counsel involved with the settlement of the complaint that alleges that County parks and recreational facilities do not comply with Federal and State accessibility requirements under the ADA informed your Committee that the Department of Parks and Recreation had requested certain revisions to the Draft Report regarding the priority listing of facilities requiring improvements for compliance with ADA. Since the settlement agreement is not complete and will need to be accepted by the court, the Deputy suggested that your Committee focus on the draft bill as part of the transition plan.

The Deputy Director of Parks and Recreation stated that the Department is changing the way it operates as outlined in the transition plan and supports the draft bill.

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Your Committee requested that the Department of the Corporation Counsel revise the draft bill, approved as to form and legality, by completing the definition for personal mobility device.

Your Committee voted to recommend passage of the revised bill on first reading, and deferred the matter relating to the Draft Report pending further discussion.

Your Committee is in receipt of a proposed bill, approved as to form and legality, by the Department of the Corporation Counsel. The proposed bill defines "personal mobility device" as "a mobility aide belonging to any class of multi-wheeled devices and designed for and used by individuals with disabilities, whether operated manually or by a power supply".

Your Parks and Agriculture Committee RECOMMENDS that Bill No. _____ (2003), attached hereto, entitled "A BILL FOR AN ORDINANCE TO CLARIFY AND IMPLEMENT THE COUNTY OF MAUI'S POLICY OF NONDISCRIMINATION ON THE BASIS OF DISABILITY WITH RESPECT TO RECREATIONAL AREA REGULATIONS AND THE WAIEHU MUNICIPAL GOLF COURSE", be PASSED ON FIRST READING and be ORDERED TO PRINT.

Adoption of this report is respectfully requested.

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JO ANNE JOHNSON Chair

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