

**COUNCIL OF THE COUNTY OF MAUI**  
**BUDGET AND FINANCE COMMITTEE**

December 20, 2005

**Committee**  
**Report No.**

05-172

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 August 2, 2005 and December 5, 2005, makes reference to County Communication No. 05-229, from the Director of Finance, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 3.48.670, MAUI COUNTY CODE, PERTAINING TO REAL PROPERTY TAX".

The purpose of the proposed bill is to amend the interest rate earned by taxpayers who prevail on their real property tax appeals, from 8 percent to a rate determined by the Director of Finance, based on the average rate of return on County investments during the previous Fiscal Year (FY).

At its meeting of August 2, 2005, your Committee met with the Deputy Director of Finance; the Administrator, Real Property Tax Division, Department of Finance; and the First Deputy Corporation Counsel.

There was no public testimony.

The Deputy Director of Finance stated that under the current law, taxpayers who prevail on their appeals to the Tax Appeals Court are entitled to interest on their award at a rate of 8 percent per year from the date of each payment into the litigation claims account. In contrast, the average rate of return on County investments for FY 2004 was approximately 2 percent. He further stated that the type of investments that the County can make is restricted by the State.

Your Committee asked whether the majority of these cases involve the average real property owner. The Deputy Director of Finance stated that the majority of cases that come before the Tax Appeals Court involve larger properties, such as hotels.

Your Committee expressed concern that the proposed bill empowers the Director of Finance with the authority to determine the rate of interest, rather than setting the rate according to a pre-established formula. Your Committee also was concerned that the

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interest rate would be rounded to the nearest percent rather than quarter percent, and would be based on the previous FY rather than the calendar year.

Your Committee deliberated extensively about the fairness of establishing a fixed interest rate at the date of the taxpayer's payment into the litigated claims account because the Tax Appeals Court could take years before rendering a decision.

Your Committee deferred consideration of the matter pending further discussion.

By correspondence dated September 26, 2005, the Chair of your Committee requested that the Department of the Corporation Counsel revise the proposed bill to establish an interest rate based on the average rate of return earned on County investments during the previous calendar year, rounded down to the nearest quarter percent; delete the language "to be determined by the director"; and make other nonsubstantive changes.

By correspondence dated October 7, 2005, the Department of the Corporation Counsel transmitted a revised proposed bill incorporating the proposed revisions recommended by the Chair of your Committee.

At its meeting of December 5, 2005, your Committee met with the Director of Finance; the Deputy Director of Finance; the Administrator, Real Property Tax Division, Department of Finance; and the First Deputy Corporation Counsel.

There was no public testimony.

The Director of Finance stated that the revised proposed bill provides a fair method of determining the interest rate paid to taxpayers who prevail on their appeals.

Your Committee voted to recommend passage of the revised proposed bill on first reading and filing of the communication.

Your Budget and Finance Committee **RECOMMENDS** the following:

1. That Bill No. \_\_\_\_\_ (2005), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 3.48.670, MAUI COUNTY CODE, PERTAINING TO REAL

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PROPERTY TAX”, be PASSED ON FIRST READING and be  
ORDERED TO PRINT; and

2. That County Communication No. 05-229 be FILED.

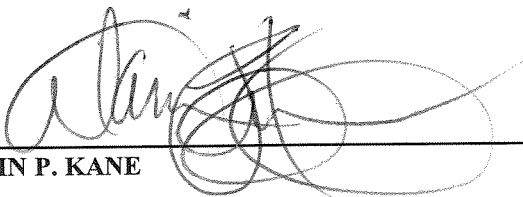
Adoption of this report is respectfully requested.

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CHARMAINE TAVARES Member

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JO ANNE JOHNSON Member

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2005)

A BILL FOR AN ORDINANCE AMENDING SECTION 3.48.670,  
MAUI COUNTY CODE, PERTAINING TO REAL PROPERTY TAX

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

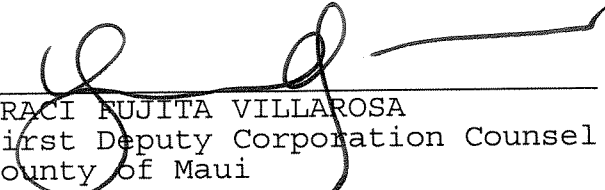
SECTION 1. Section 3.48.670, Maui County Code, is amended by amending subsection A to read as follows:

"A. The tax paid upon the amount of any assessment, actually in dispute and in excess of that admitted by the taxpayer, and covered by an appeal to the tax appeal court duly taken, shall, pending the final determination of the appeal, be paid by the director into the litigated claims account. If the final determination is in whole or in part in favor of the appealing taxpayer, the director shall repay [to him] the taxpayer out of the account, or if investment of the account should result in a deficit therein, out of the general fund of the [county,] County, the amount of the tax paid upon the amount held by the court to have been excessive or nontaxable, together with interest at [the rate of eight percent a year from the date of each payment into the litigated claims account, the interest to be paid from the general fund of the county.] a rate based on the average rate of return earned on County investments during the previous calendar year, rounded down to the nearest quarter percent. Interest shall be calculated from the date of each payment into the litigated claims account. The balance, if any, of the payment made by the appealing taxpayer, or the whole of the payment, in case the decision is wholly in favor of the assessor, shall, upon the final determination become a realization of the general fund."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material or the underscoring.

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:



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TRACI FUJITA VILLAROSA  
First Deputy Corporation Counsel  
County of Maui

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