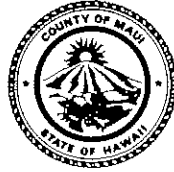


CHARMAINE TAVARES
Mayor



BRIAN T. MOTO
Corporation Counsel

DEPARTMENT OF THE CORPORATION COUNSEL
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June 30, 2009

MEMORANDUM

T O: Jo Anne Johnson, Chair
Economic Development, Agriculture, and Recreation
Committee

F R O M: Jeffrey T. Ueoka *Jeffrey Ueoka*
Deputy Corporation Counsel

SUBJECT: WAIVING CERTAIN PARK DEDICATION REQUIREMENTS FOR THE
LOKAHI KUHUA SUBDIVISION (LAHAINA) (EAR-1)

This memorandum is in response to the question posed in your memorandum, dated June 12, 2009, asking whether the Lokahi Kuhua Subdivision ("Subdivision") would qualify for an exemption from park dedication requirements pursuant to Section 18.16.320(I)(5), Maui County Code, if all of the units in the Subdivision qualified as residential workforce housing units under Section 2.96.020, Maui County Code.¹

The Subdivision was granted final subdivision approval on September 23, 2005. In a memorandum, dated September 13, 2005, from Glenn T. Correa, Director of the Department of Parks and Recreation, to the Development Services Administration, Director Correa stated:

In compliance with section 18.16.320 of the Maui County

¹ Section 18.16.320(I)(5), Maui County Code, states:

Subdivisions in which one hundred per cent of the lots or units resulting from the subdivision qualify as residential workforce housing units, as defined in section 2.96.020 of this code, shall be exempt from this section.

Jo Anne Johnson, Chair
Economic Development, Agriculture, and Recreation
Committee
June 30, 2009
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Code, the applicant has proposed a privately owned and maintained park as well as a cash contribution of \$2,133.12. Our Department has agreed to the proposal and is recommending final approval of the subject subdivision.

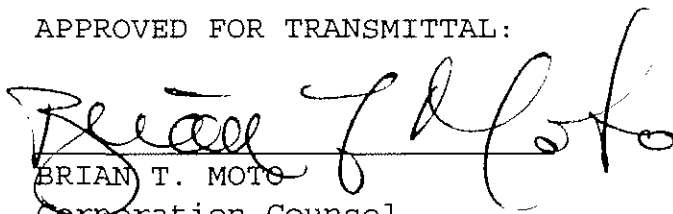
Final subdivision approval was granted prior to the effective date of Ordinance No. 3512 (2007), which added section 18.16.320(I)(5), Maui County Code. In passing Ordinance No. 3512 (2007), Council did not retroactively apply any of the Ordinance's provisions, such as the exemption described in section 18.16.320(I)(5), Maui County Code. Rather, Council made Ordinance No. 3512 (2007) effective thirty days from its approval, or January 26, 2008.²

Therefore, even if all of the lots or units within the Subdivision qualified as residential workforce housing units under section 2.96.020, Maui County Code, the Subdivision, having been approved under County subdivision ordinances extant at that time, would not qualify for the exemption provided under section 18.16.320(I)(5), Maui County Code.

JTU:lk

cc: Tamara Horcajo, Director, Department of Parks and Recreation
Milton Arakawa, Director, Department of Public Works
Ralph Nagamine, Development Services Administration
David A. Galazin, Deputy Corporation Counsel
Webpage

APPROVED FOR TRANSMITTAL:


BRIAN T. MOTO
Corporation Counsel
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² See Section 12, Ordinance No. 3512 (2007); Certification of Ordinance No. 3512 (2007) by County Clerk.