

## MINUTES

### FINANCE & ECONOMIC DEVELOPMENT COMMITTEE

January 19, 2023

A meeting of the Finance & Economic Development Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Luke A. Evslin, Chair, at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Thursday, January 19, 2023, at 9:36 a.m., after which the following Members answered the call of the roll:

Honorable Addison Bulosan  
Honorable Bernard P. Carvalho, Jr.  
Honorable Felicia Cowden  
Honorable Bill DeCosta  
Honorable KipuKai Kualii  
Honorable Mel Rapozo  
Honorable Luke A. Evslin

The Committee proceeded on its agenda item as follows:

Bill No. 2891    A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Tax Credit Residential Investor*) **(This item was amended to Bill No. 2891, Draft 1, which was scheduled for public hearing on February 8, 2023)**

Councilmember Kualii moved for approval of Bill No. 2891, seconded by Councilmember Carvalho.

Committee Chair Evslin:            This is the Bill which will give a little more flexibility to the Residential Investor tax class. I want to explain the existing Bill, because it is confusing. But before I do that, we do have a couple of amendments. My hope for the meeting today is to get the amendment on the floor, describe Residential Investor, describe the existing Bill, what it would do, and then describe how our proposed amendment would change the Bill. Because the amendment has comprehensive changes, at that time, I will recess the meeting to give people five (5) minutes to digest the amendment, call the meeting back to order, where we can discuss the amendment, ask questions to the Department of Finance, then at that time, hopefully everything will be clarified for the audience and for us. We will then open up for public testimony on the amendment. Then, we will move on to other amendments and the main Bill. Does that sound good to the Members? I think we might have a couple of amendments coming today. With that said, Councilmember Kualii.

Councilmember Kualii moved to amend Bill No. 2891, as circulated, and as shown in the Floor Amendment which is attached hereto as Attachment 1, seconded by Councilmember Bulosan.

Councilmember Kualii: I will mention the findings and the basic purpose. The Council finds that some relief should be granted for those homes that were either long-term rented or owner-occupied as of September 30<sup>th</sup> of the prior year, but failed to file the proper forms. As for the purpose, the bullet points provide for any newly classified Residential Investor property owner to apply for a tax credit limited to the 2022 tax year. It supports current long-term rentals by providing a tax credit while reminding owners of the process to submit the proper documentation to change tax classifications. The Committee Chair and the Real Property Tax Division can get into more detail.

Committee Chair Evslin: Again, there is a lot here. There is sort of three (3) layers of confusion. The Residential Investor tax class can be confusing, the Bill in front of us can be a little confusing, and the amendment can be confusing, so bear with me. I am going to describe briefly what Residential Investor does, especially for members of the public. The Residential Investor tax rate is intended for homes valued at over one million three hundred thousand dollars (\$1,300,000) that are vacant. Two (2) ways to get out of that rate without this Bill in place, currently, you have to be qualified for Home Exemption. Meaning you have filed your paperwork to get a Home Exemption, then you will be at the Homestead rate out of Residential Investor or file a long-term lease agreement prior to September 30<sup>th</sup>. A number of problems have arisen, which is one, some people do not know about a Home Exemption. They build a house, buy a house, for whatever reason they were not informed by their broker or realtor that they are supposed to file a Home Exemption, so they fall into the Residential Investor tax class without the ability to get out of it. Another issue is properties with long-term rentals, especially in an age where assessments are going up significantly, it is possible, and has happened a number of times, where you have a house that is assessed well under one million three hundred thousand dollars (\$1,300,000) and by the time you get your notice of assessment on December 1<sup>st</sup> that you are in the Residential Investor tax rate, based on the current law it is essentially too late to get out of the rate, it is too late to turn in your lease agreement, so people are getting stuck in the tax class without knowing that they were in the tax class and now it is too late to get out of the tax class. Those are the problems that I see with the existing Residential Investor rate. Bill No. 2891, prior to this amendment, does essentially three (3) things. It changes the definition of Residential Investor slightly, so that homes that are eligible for the Home Exemption, but did not actually qualify for the Home Exemption can get out of Residential Investor. The difference between eligible and qualify—to qualify for the Home Exemption, you have to file your Home Exemption. To be eligible for the Home Exemption, you have to live in your house, have paid Hawai'i State income tax returns, live in the house for two hundred seventy (270) days, and be a Hawai'i resident, so fulfill the requirements for the Home Exemption without actually filing it—that is the small change to the definition of Residential Investor—which opens it up to people who did not file the Home Exemption, now they can appeal, just show they were in the house, and they will be able to successfully appeal their way out of the Residential Investor rate. The other thing that the current Bill does, is it creates a tax credit for 2022. Right now, we are in the 2023 tax year, 2022 is long gone, but people who were in this rate without the ability to get out of it in 2022, this gives them sixty (60) days to show that as of October 1, 2021, that they fulfilled the requirements of the Home Exemption by living in the house or that they had a tenant in there and have a lease agreement to show it—that is basically what the original Bill does. The amendment expands it

significantly, and this is where you all need to bear with me, if anyone is still following at this point. What the amendment does is it expands the sixty-day opportunity to get a tax credit, also to 2023. Right now, the tax credit in the original Bill is just 2022. If you missed your appeal deadline for this last one, currently you are out of luck, the original Bill does not help you, the amendment will help you, in that you can still apply for a credit, it is sort of a second chance. If you missed the appeal deadline, you could still get a credit. It also provides more flexibility for the Home Exemption, so right now, to get a Home Exemption, again, you need that N-11 tax return to show that you are a resident of Hawai'i. One of the problems that has come about, which we have heard in a lot of testimony is that, if you are buying a house here, move into that house in January, live in the house for ten (10) months, you try and apply for a Home Exemption, you are not going to get it, because you do not have a tax return for the previous year. It takes you essentially two (2) years to get a Home Exemption, because you will not have a tax return until the next year. That first year of home ownership, they are living in the house, they are a member of the community, they are stuck in Residential Investor. Just a note where this is an issue, or to highlight why it is an issue, if you own a home, and you long-term rent the house, you can long-term rent that house to someone who just moved here from the mainland, you provide a lease agreement to Real Property Tax Division, you are going to get out of the Residential Investor class. It does not matter if that person just moved here, they do not need the tax return. So, you provide this lease agreement, you get out of Residential Investor, and someone said this in testimony, then they moved into the house, they moved from the mainland into the house, now the house is owner-occupied, the person is living here, now they go to Residential Investor by the current law, because they do not have a N-11. So, it is almost an extra burden for homeowners to show that they have a N-11, where tenants do not have to do that. So, what this does is provide more flexibility to get out of Residential Investor without an N-11. You still need to show that you are a resident of Hawai'i, a driver's license, bills coming to your house, and that you lived in the house for two hundred seventy (270) days a year.

*(Councilmember Bulosan was noted as not present.)*

Committee Chair Evslin: It also changes the requirements that are on a long-term rental agreement. Currently, you need to provide a six-month rental lease to get out of that, every year you need to show the six-month lease again. What happens with a lot of properties on Kaua'i is that they start off with a six-month or a year lease, then they revert from month-to-month after that. If you come in with something that is month-to-month, you are not going to qualify to get out of Residential Investor, so you are going to get stuck, even though you have a tenant that could have been there for twenty (20) years, you are going to get stuck with Residential Investor. So, what this does is provide more flexibility to say, as long as you have a six-month lease to begin with, and you can show there was a six-month lease that reverts to month-to-month and a signed affidavit from the tenant that they are still on the property, then you will be okay getting out of Residential Investor, and it allows you to do this for the credit in 2022 and 2023. It clarifies that the property owner must essentially still own the property to get the tax credit. The tax credit is going to be a refund on your taxes. What we do not want to happen is that someone sold the property in the meantime, now they are applying for a credit, and the Real Property Tax Division is stuck trying to pay this person out. They do not own the house, things have happened. If someone sold the

house in the meantime, they have made a lot of money off of that house, and I do not think it is necessary for us to bend over backwards to then give this person a tax differential for that time period. So, you need to own the house to get a tax credit. That is basically it for the amendment.

*(Councilmember Bulosan was noted as present.)*

Committee Chair Evslin: We have two (2) handouts here, one describes the amendment and another one describes a number of issues, and how the original Bill handles that issue and how the new Bill handles that issue. Both of those will get handed out, we will take a five-minute recess, so you folks can read through the issues, we will call the meeting back to order, and then we can discuss. Is that okay? Chair Rapozo.

Council Chair Rapozo: I know we are far from a caption break, but I would suggest we do the caption break at this time, so we have ten (10) minutes. I have a question, because of the Sunshine Law, this is the first time we are seeing this amendment for all of us. As I look at this amendment, my concern is that Section 2 is being deleted, Section 3 is being deleted, Section 4 is being deleted, and basically, I am not in a position to tell if this is a significant change or not. If it is a significant change to the original Bill, then obviously, it would require another public hearing, but, if possible, I would like to have the County Attorney come up and let us know and I would assume that the County Attorney reviewed this. I do not want to start an intense discussion on an amendment that is not legal, because this really is a new Bill that I am seeing. I just want the County Attorney to let us know if this will require another public hearing.

There being no objections, the rules were suspended.

JENNA TATSEY, Deputy County Attorney: Jenna Tatsey, Deputy County Attorney. We did review this Bill and it is a substantial change like you indicated, which looks at whether the alterations are so substantially different from the Bill that was originally proposed that it amounts to an entirely new proposal, and if so, then it would be declared invalid if it did, not go back for a public hearing. So, to look at that, we look at the notice and the public's opportunity to comment. Like you said, the original publication only covered tax year 2022, I do not believe it included the long-term lease requirements, among other things, so it would be a substantial change, and I would recommend going back to public hearing.

Council Chair Rapozo: May I ask another question? We are in a tough spot because we need to pass this correction. We need to provide the relief. Do you recommend going through with the existing Bill today? That is a policy question. If this goes back to public hearing, this delays this Bill an additional month or maybe even longer. If we pass the Bill as-is, without the significant changes, then we can get the relief out and these people can apply and work on a new Bill, or work on an amendment to the Bill that we eventually pass next week. My concern is getting this out so the affected parties can apply now.

Ms. Tatsey: Yes. I did discuss that with County Attorney  
Matt Bracken.

Councilmember DeCosta: Can you speak a little louder, please?

Ms. Tatsey: Sorry.

Councilmember DeCosta: People cannot hear.

Ms. Tatsey: I did speak with County Attorney Matt  
Bracken yesterday about this, and his recommendation was to go back to the public  
hearing on this.

Committee Chair Evslin: Chair, maybe it is a question also for the  
Department of Finance on their implementation and how it would impact them.

Council Chair Rapozo: Absolutely.

Committee Chair Evslin: Are we okay doing the ten-minute caption  
break now? We can still digest, and we can open it up for their questions now...

Council Chair Rapozo: How many amendments do we have today?

Committee Chair Evslin: This is the only one (1) that I know of.

Council Chair Rapozo: Okay.

Councilmember DeCosta: I want to hear what Reiko has to say first for  
our constituents who are listening, who need the relief. I want Reiko to come up and  
let us know if they can still get the relief or are they going to be pushed back now.

Committee Chair Evslin: My only concern about opening it up with too  
many questions now is without us having a full understanding of the amendment. I am  
hoping everyone can take a chance to really read through it, then we can get to those  
questions with Reiko without opening it up too much.

Council Chair Rapozo: Is your intention to go to public hearing?

Committee Chair Evslin: Yes. We were aware of that going into this, and  
we have talked with the Department of Finance that is the case, and had talked about  
the possibility if it was better to do a new Bill, and we landed on essentially "no." Just  
do this, it pushes back their timeframe a bit.

Council Chair Rapozo: Thank you. The public hearing is the key.

Committee Chair Evslin: It would be a public hearing on February 8<sup>th</sup>.  
Councilmember Cowden.

Councilmember Cowden: I have a process question. There was a substantial change that I wanted to make that did not get put into something, because it would put it back to public hearing, so if we do that, I want to put mine in there too. Then, maybe I can present that today on what that would be. The other process question I have is when we have all these people here, we would still be able to hear their testimonies, because we need them now. What is important to see is still where there are gaps. I can think of at least a couple of significant gaps sitting in the room. To the best of my knowledge without having read it the way you want us to take the break, so I want to make sure we hear those testimonies that are so important. If we do need to push this out, there might be another amendment that would be appropriate for the gaps that are in the room.

Committee Chair Evslin: Certainly, you have the ability to propose amendments after this, whether this amendment fails or passes, you can introduce an amendment and my intention is to take public testimony after everyone has had a chance to digest this a little more. I want to ensure that the public testimony is based on what is in front of us.

Councilmember Cowden: Okay. Then, we would talk about that then, I could put an amendment to this that would go in before the public hearing.

Committee Chair Evslin: You are welcome to introduce an amendment after this passes or fails.

Councilmember Cowden: Okay.

Council Chair Rapozo: I know we are in rules suspension, but I think Councilmember Cowden should check with the County Attorney, because while these substantial changes that are made in this amendment still fit within the realm of the findings and purpose, changes to the Residential Investor threshold amount do not. Just check with the County Attorney.

Councilmember Cowden: Can I ask her now?

Council Chair Rapozo: I would have her review your amendment.

Committee Chair Evslin: If it is okay, we will have a ten-minute break, maybe you can talk with the County Attorney on that ten-minute break, and we can come back with questions. We will recess the meeting for a ten-minute caption break.

There being no objections, the meeting recessed at 9:53 a.m. for a caption break.

The meeting reconvened at 10:11 a.m., and proceeded as follows:

Committee Chair Evslin: At this point, we will suspend the rules. Department of Finance, if you want to come up. Members, at this point, if you have questions for me or the Department of Finance. Councilmember Cowden.

Councilmember Cowden: Do you feel that you have explained this thoroughly enough? Thank you for writing it down. It still is a little confusing.

Committee Chair Evslin: I feel like I explained it perfectly, if that was a question.

Councilmember Cowden: Okay. I will let others go first. I have questions, but I am processing here.

Committee Chair Evslin: The second sheet, which I have not gone over, goes over a bunch of scenarios. Thank you, Reiko, Director of Finance for writing this up. It is too long to go through; I do not want to go through every single scenario. I think what we can say roughly, is that the original Bill addresses a number of situations, what it does not address is the lack of N-11s, it does not address people missing their appeal deadline for 2023, and it does not address the month-to-month issue. What the new Bill does is, we feel like closes every "hole" we could to ensure that if a house was occupied, they have two (2) chances to get out of this through the appeal or through the credit, and allows the N-11s to get out in 2022 and 2023. The one class of people that will not be addressed by this are homes that are vacant, or do not have a long-term lease agreement or someone living in the house, so that does not get addressed by the original Bill or the amendment.

Councilmember Cowden: Okay.

Committee Chair Evslin: Councilmember Cowden.

Councilmember Cowden: When we have houses that are owned by a family, in my mind there are a number of families that actually live here for many generations or a long-time, they have had a shared house, they would still fall in this Residential Investor, right? One member of the family is in there two (2) months out of the year, there is this and that, there is a mix, but they have a home somewhere else. There is nothing in here that would help that property. Would that be correct?

There being no objections, the rules were suspended.

REIKO MATSUYAMA, Director of Finance: Reiko Matsuyama, Director of Finance. I believe the situation that you are explaining, you are correct. It sounds like it would fall into the true intent of Residential Investor.

Councilmember Cowden: If I could ask questions about the intended targets of the true intent of this Residential Investor class. It does not matter if this is a shared home from a large family, we would still be essentially willing to tax that house into sale. The level of taxation is so profound. Very often it taxes it into sale. Is that part of the goal? What is the goal when we have that?

Ms. Matsuyama: I was not around when we created Residential Investor.

Councilmember Cowden: Okay.

Ms. Matsuyama: The tax class itself. I believe the intent was a vacant property, people that are “snowbirds” that come here for six (6) months out of the year, or less, that their house is not up to be contributed to the housing market, so they are going to get this vacant home tax.

Councilmember Cowden: When I am looking at specific examples, we had one where they purchased the house in 1985 for nine hundred thousand dollars (\$900,000), their tax this year will probably be three hundred thirty thousand dollars (\$330,000). They are just the “luck of the draw.” For them, they have a beautiful spot. It is a simple house. That is a policy question more than a Real Property Tax question, but this is something that I would like to address. When I am looking at how I would want to adapt. Am I allowed to ask that? I would like to not see Residential Investor frankly, because I think it creates too many problems. Is that something that would be problematic?

Ms. Matsuyama: With this Bill that Councilmember Evslin put together, it is like a retrospective Bill. It takes care of tax year 2022 and now with the proposed amendment, it would take care of tax year 2023. Like you said, it closes almost all the loopholes that we can think of based on public testimony, based on what Mike Hubbard has heard through his office, so retrospectively it covers a lot of the people that by definition should not have been in Residential Investor tax class. We are working on something internally to fix the Residential Investor problem going forward on a prospective basis.

Councilmember Cowden: Okay. Those questions, I will wait for another Bill, but I am wanting to definitely have it on the record that I think even our targets might be very problematic in here at the level that it is. It is problematic, these houses are used quite a lot, but I am going to hold my next question.

Ms. Matsuyama: Just for clarity’s sake, 2023 tax rates have not been set yet, so what we are talking about is 2023 credits or tax differentials, we do not really know what that is going to look like yet.

Councilmember Cowden: And that is coming up. That is our responsibility as Council to set those rates. I would like to solve this problem rather than just solve it by changing the rate, which would probably deeply affect the whole budgeting structure. That is like another blunt instrument with all kinds of unintended consequences. I am getting into discussion, so I am going to let others ask questions first.

Committee Chair Evslin: I have a quick follow-up to Councilmember Cowden’s question, whereas, if a family owns a parcel with multiple houses and the parcel is owned by an LLC or a trust, what is their mechanism to possibly get a Home Exemption or get out of Residential Investor rate.

MIKE HUBBARD, Real Property Tax Manager: County of Kaua‘i, Real Property Tax Manager, Department of Finance. For that situation, it does not seem like it was exactly what Councilmember Cowden was saying, but what I think Councilmember Evslin was alluding to was the ability for those family members to

record a 15-year lease or take some form of ownership of the property and convert that into their primary residence instead of shared home.

Ms. Matsuyama: And that law already exists.

Councilmember Cowden: And they would have to then move into that house as the primary residence so it would no longer be a shared residence. They would have to shift the use of the house.

Mr. Hubbard: Correct.

Committee Chair Evslin: To clarify there are certainly a number of examples of family properties, multiple homes on the property, LLC ownership or something, someone in the family does live in one (1) of those houses, the rest are maybe shared at some capacity, so the mechanism already exist regardless of this Bill for them to get them to continue a lease and get a Home Exemption or Commercialized Home Use on that property. Councilmember DeCosta.

Councilmember DeCosta: I want to go back to Councilmember Cowden's scenario. Residential Investor, home unoccupied, they have dual homes in the mainland and Kaua'i, they come back and forth to that home, those are the ones who we want to be in that Residential Investor class, correct?

Ms. Matsuyama: Yes. The scenario is built for those people.

Councilmember DeCosta: Okay.

Ms. Matsuyama: They have a Home Exemption elsewhere.

Councilmember DeCosta: Correct. If they want to have a Home Exemption in Hawai'i, then they need to give up their Home Exemption in Colorado or Montana.

Ms. Matsuyama: That is correct.

Councilmember DeCosta: You cannot have dual residency—it is a Federal law. You cannot be a resident of two (2) different areas, so why would we make it available in Hawai'i.

Committee Chair Evslin: Council Chair Rapozo.

Council Chair Rapozo: Thank you for your work. The first question is whether this amendment as is written, is it doable? Is it workable by the Department of Finance?

Ms. Matsuyama: Yes. I will say that even the original Bill was going to be a lot of work.

Council Chair Rapozo: We are adding a whole new year now.

Ms. Matsuyama: Right. The original Bill was going to be a lot of work, and we told you that it was going to cost us just under a half a million dollars (\$500,000) in tax revenue, so this is opening it for more people. So, also that dollar amount would definitely increase as well. I will say that on behalf of Mike here, he is three (3) positions down in assessments. There are two (2) positions down in collections, which is going to be processing this, so the burden is going to rest on his shoulders.

Council Chair Rapozo: It needs to be done, because obviously people fell through.

Ms. Matsuyama: Yes, we agree with the intent.

Council Chair Rapozo: The only other question I have is a logistical question, and the reason we are here today is because a lot of people were not aware. Their assessments literally took them overnight from Residential to Residential Investor at no fault of their own. They just woke up and "holy moly." How difficult would it be for our County to send out the message in certified mail? I do not want to be here in 2024, I do not know if I will be here, but someone will be here in 2024 trying to fix the ones that did not get the message in 2023. How difficult would it be? I know it comes with a cost, but it is a cost that, to me, we are obligated to pay because it is our obligation. When we do something like this, such a drastic change in tax, I think it is on us to make sure that the taxpayer is aware. How many properties are we looking at?

Mr. Hubbard: Roughly thirty-seven thousand (37,000).

Council Chair Rapozo: Okay. You take thirty-seven thousand (37,000) times two dollars (\$2) or however much is certified mail. I do not know what it costs. Is that something that we could do? That way everyone gets the message and the ones that you do not get the return receipt from, then we know maybe their address is wrong or mistyped. It does not matter. My focus is, we need to make sure every single taxpayer is aware of this type of change.

Ms. Matsuyama: I would be concerned about the cost to go with certified mail. I will also say that we did direct mailers for all new 2023 Residential Investors and those worked. Before we have the 2023 credit included in this Bill, we were relying on them to appeal, then the next Bill No. 2892 was going to cover them. In other words, we had to get them to appeal by the deadline, otherwise they would not have had the credit. Mike's office did direct mailers after the assessment notices went out it said, "You are going to be in this huge tax class difference, so you need to come into our office and appeal." He has received about five hundred (500) Residential Investor appeals for 2023 tax year, so it worked. What I am alluding to is maybe that is not needed. Then, I am going to kick it back to you folks and put the onus on you folks. This is your Bill, and we are going to need your help, because you are the ones that have heard it. I do not know if there can be some kind of blanket response from Council testimony email that says, "Here is the link to the application," or whatever, but we are going to need your help to get the word out as well.

- Council Chair Rapozo: Okay. Would the cost be your concern?
- Ms. Matsuyama: That would be my concern.
- Council Chair Rapozo: How much revenue did Residential Investor generated for the County?
- Ms. Matsuyama: Seventeen million dollars (\$17,000,000).
- Council Chair Rapozo: Thank you. I think that should cover the postage of notice, if you are asking me. It created...let us be real, a windfall, and now we are trying to fix a Bill that affected people that never got the message. I think it really should, for us anyway, prevent this kind of thing from happening. Taking a little bit off of that profits or revenue and putting it towards informing, even if it is on Hō'ike, I am not sure. For me, it is making sure these people know that they are in this tax class that is going to be significantly different and is going to require them to apply. Thank you.
- Committee Chair Evslin: Do you have a follow-up Councilmember DeCosta? Before we hear from Councilmember DeCosta and Vice Chair Kualii'i, I just want to say one thing quickly, which I failed to say in the opening. Part of the reason for the 2023 credit possibility is when Real Property Tax sent out that letter, I think it was a really good letter, it came in its own envelop a couple days after the notice of assessment went out and said, "You are a Residential Investor, if you long-term rent the house or if you are eligible for a Home Exemption by having a N-11 living in the house two hundred seventy (270) days a year, then make sure that you file an appeal." They received five hundred (500) appeals because of it.
- Council Chair Rapozo: How many letters went out versus how many was returned?
- Ms. Matsuyama: One thousand eight hundred (1,800).
- Councilmember Kualii'i: Yes, so not thirty-seven thousand (37,000).
- Mr. Hubbard: Yes, I think so.
- Council Chair Rapozo: One thousand eight hundred (1,800) and five hundred (500) returned.
- Ms. Matsuyama: Granted it went to all new Residential Investors, not necessarily some of them would fall under the intent of Residential Investor and would not have appealed.
- Council Chair Rapozo: Yes, so you have a thirty percent (30%) return. Seventy percent (70%) out there may not have received that letter—that is all I am saying.

Committee Chair Evslin: Just to finish this, but because that letter clearly said appeal if you have a N-11. Presumably there is a lot of people who did not have a N-11. They moved here and lived in the house, but they did not have a tax return yet, because they have not lived in the house for two (2) years, then they did not appeal. Now, what we are doing is after the appeal deadline has passed, potentially amending this Bill to allow for folks on N-11 to get out of Residential Investor, and it seemed like we had to then give them a second chance, those N-11 folks, who had no reason to know to get the appeal to get the tax credit. That was kind of the primary driver of the 2023 credit.

Council Chair Rapozo: Got it, thank you.

Committee Chair Rapozo: Follow-up from Councilmember DeCosta.

Councilmember DeCosta: Chair, you bring up a good financial point, but I need to let our Department of Finance hear this. They are already "swamped" with the work that they had to do, how do you expect them to send out thirty-seven thousand (37,000) certified mailers? Do you have to go to the post office and write each one individually?

Ms. Matsuyama: Honestly, I do not know the process of certified mail.

Councilmember DeCosta: Correct. I have sent out certified mail. You need to go to the post office.

Ms. Matsuyama: We would not send out thirty-seven thousand (37,000).

Councilmember DeCosta: Why? Did you not say you have thirty-seven thousand (37,000) potential Residential Investors?

Ms. Matsuyama: No. Thirty-seven thousand (37,000) is the total number of parcels we have on the island.

Councilmember DeCosta: Okay, so how many do you have?

Ms. Matsuyama: We have two thousand five hundred (2,500) Residential Investors.

Councilmember DeCosta: Do you have someone in the office that can send out two thousand five hundred (2,500) certified mailers? Correct. Here is the "light bulb." You folks run that County building, correct? You put lights on when we want to honor the veterans with green, when we want to honor the YWCA, we light up purple, why do we not put a flashing for the Residential Investors property tax due September 30<sup>th</sup>? You do it for traffic when we are going to "slow your speed down," New Year's, "do not drive drunk." Come on...we owe our community a little bit more and we can do it cheaper. Right there, the County building where everyone passes by. That is my "light bulb" coming on here. Instead of spending a lot of money and hiring another

person that is going to take your tax dollars to pay them to go to the post office to mail out receipt mail. Thank you.

Committee Chair Evslin: Vice Chair Kualii.

Councilmember Kualii: My follow-up was basically on those numbers. The thirty-seven thousand (37,000) was the whole tax universe, but you sent out one thousand eight hundred (1,800) letters, and that was just to new Residential Investors or was it to people that the system bumped up into that category because of the value?

Ms. Matsuyama: Yes. All new 2023 Residential Investors.

Councilmember Kualii: When you said the total Residential Investors was two thousand five hundred (2,500), so the difference of the seven hundred (700) were folks that have been Residential in the past and will continue to be Residential Investors going forward?

Ms. Matsuyama: I believe so.

Councilmember Kualii: So, they are not changing into it, they are already in Residential Investor.

Ms. Matsuyama: Correct.

Councilmember Kualii: If they want to change out of it, then by September 30<sup>th</sup> they have to do their application to go into a different category. The cost to do...because you did one thousand eight hundred (1,800) letters, but the cost to do one thousand eight hundred (1,800) certified mailers, that the Chair suggested, obviously is a lot less than doing thirty-seven thousand (37,000).

Ms. Matsuyama: Yes.

Councilmember Kualii: Your answer was seventeen million dollars (\$17,000,000), so really it is a matter of hiring more people, because I think it is an important function to avoid what happened. The letters have helped, but if only five hundred (500) people responded from one thousand eight hundred (1,800) letters, I am sure you will have a lot more people respond to certified mail because that stands out that this is something really important, it is money to me, maybe they missed the letter, but if it is certified mail, they will see it.

Ms. Matsuyama: Just to state an obvious point, the seventeen million dollars (\$17,000,000) did not come to the Real Property Tax Division.

Councilmember Kualii: Yes, I know, it is to the County. The amount needed to get the job done needs to go to your office, and if it means more staff...obviously, you have to fill the vacancies already existing, but you probably need more people as well, because we are bringing more work. Thank you.

Mr. Hubbard: Mike Hubbard, again. I just wanted to clarify some of the numbers, I just got them via text. There were one thousand three hundred forty-six (1,346) letters that went out and the new 2023 Residential Investor class at this point in time is one thousand seven hundred nine (1,709) properties. That is the total universe, and we did one thousand three hundred forty-six (1,346) letters.

Councilmember Kualii: Are you replacing the one thousand eight hundred (1,800) with one thousand three hundred forty-six (1,346) and you are replacing the two thousand five hundred (2,500) with one thousand seven hundred nine (1,709)?

Mr. Hubbard: Yes.

Councilmember Kualii: Okay, so those are just estimates earlier. Thank you.

Committee Chair Evslin: Councilmember Cowden.

Ms. Matsuyama: Can I say one more thing? Sorry.

Committee Chair Evslin: Yes.

Ms. Matsuyama: Also, in the five hundred (500) number that we gave you with the number of appeals, that is just the number that appealed. There were way more that actually called his office due to the direct mailers.

Councilmember Kualii: Can you repeat that?

Ms. Matsuyama: Five hundred (500) is the number that actually filed an appeal, which was the intent of the letter, but Mike's office did receive a lot more calls because of the direct mailer.

Councilmember Kualii: Did you track that so we could have that number?

Ms. Matsuyama: No.

Mr. Hubbard: No.

Councilmember Kualii: Because they were satisfied and did not need to appeal, or are they waiting for this Bill?

Ms. Matsuyama: They probably could not have appealed, because of the N-11 situation, month-to-month situation, because they would not have been eligible.

Councilmember Kualii: Okay.

Committee Chair Evslin: One quick thing to add. I do not think that this door is opening the door to a flood of new credit applications for 2023 for people who did not appeal. The only open window now for 2023 that did not qualify before, essentially is the N-11 or month-to-month rental folks. I am hopeful it is not a crazy additional flood. I think a number of those N-11 folks already did appeal. They just saw that something was pending at Council, we are going to appeal no matter what. Councilmember Cowden, do you have a question?

Councilmember Cowden: Yes. When I read this, this is one of those changes instead of saying it qualifies when it is about eligibility, so even if they did not appeal, because a lot of people did not appeal and I would say that half this room or more, the majority of this room, I have had phone calls with, conversations with, I brought this up every single week on my radio show. When I see people on the street, I say, "How are you?" And if they look a little defeated, and I know they are a homeowner, I ask, "How are your taxes?" So, there are a lot of people who did not get it. What I got when I am reading this and when we spoke, it is if someone did not appeal, but they should have, there is still hope, right?

Ms. Matsuyama: Absolutely.

Councilmember Cowden: That really matters to me. Other people that I have talked to and tried to get them to come in, the most tragic and heartbreaking of the stories, they are not in here. For the most part, the people whose roots are in this community, the more shame they are to come forward, so it is really hard to get that community to step up. Even if they did not appeal, we can go find them and help them get their money back, right?

Ms. Matsuyama: Yes. The purpose of the original Bill, that would have already been taken care of, because in 2022 we received very few appeals, so we needed to do the credit in order to catch them. That is why 2023 was originally not included, because we were relying on them to appeal. That is why we did the direct mailer and that is why we received so many more in 2023. I would say "yes," to answer your question. Even if they did not appeal, if they missed all the deadlines, they could still come in and get the credit.

Councilmember Cowden: Okay. When I look at this, I thank you for working hard to figure out how if someone just to say it, to make sure I understand it correctly, someone on their September 30<sup>th</sup> time period has not finished filing their N-11 because they are waiting on the tax cycle that is going to go in October, they can somehow get a retroactive piece.

Ms. Matsuyama: Yes, except that they are not getting a Home Exemption with this—that is the one thing. They are going to be at Residential and not at Residential Investor.

Councilmember Cowden: We had a testimony to this effect. If someone's taxes always have to happen at the very end of the window, when I formally had a business, our taxes always went in on October 15<sup>th</sup> even though we figured it out on March 15<sup>th</sup>, it always went in on October 15<sup>th</sup>. That person is self-employed, that person

would never get a Home Exemption, because they are never going to have it ready by the September 30<sup>th</sup> deadline.

Ms. Matsuyama: This issue just recently came up to our office, so we are trying to figure out a way to accommodate that internally without any change in laws or rules.

Councilmember Cowden: Okay.

Committee Chair Evslin: Just to add to that also, all they need to do is file once for a Home Exemption and they are going to get it forever, so hopefully they can accommodate that, maybe allow an application and get fifteen (15) days to get the return in or something, so people know it is a single filing for the Home Exemption.

Councilmember Cowden: I have another question.

Committee Chair Evslin: Sorry, I think Councilmember Carvalho has one and we can come back to you.

Councilmember Carvalho: One quick follow-up from what Reiko said. The concerns I have been hearing are from those that have missed and never had a chance to file. It is clear, and I have heard it again and again, but I want to hear it one more time that they have an opportunity to do it and come back.

Ms. Matsuyama: That is correct.

Councilmember Carvalho: That is the process that is in place, right?

Ms. Matsuyama: Yes. If you follow this one, because I made it, it is better to me. Basically, if you missed the September 30, 2021 deadline to file your exemption, if you missed your December 31<sup>st</sup> deadline to file your appeal, you would still be able to file within the sixty (60) days of whenever the effective date of this Bill becomes, then you would be able to get a credit, and the credit is the difference between Residential Investor, which you are at and Residential. So, if you are owner-occupant, you would still have to file your Home Exemption application in order for the following year to get from Residential to Homestead.

Committee Chair Evslin: Councilmember Cowden.

Councilmember Cowden: A follow-up to that, I have a question. This is all very complicated. I think it is very complicated for the people in your office to be able to give the right answer. It is certainly very complicated for me to give the right answer. What I am finding is people who work in the real estate industry, they cannot figure it out, property managers cannot figure it out, so because of the lack of flexibility, we are having a lot of people getting caught in a trap, so it seems like we need something bigger going on, a bigger more comprehensive tax bill. This is a fix on a fix of a problem, but this is something we are doing right now. My question, where I have seen examples of is this valuation cap, do I have that term right? If you are in the Homestead class,

what your house is said to be valued at the assessment, do we call it an assessment cap or valuation cap?

Ms. Matsuyama: Assessment cap.

Councilmember Cowden: The assessment cap is held at three percent (3%) increase max, correct?

Ms. Matsuyama: If you have a Home Exemption.

Councilmember Cowden: If you have a Home Exemption. So, if you are an owner-occupant you have this cap, if you have a low-income tenant that is registered with you folks they also have this assessment cap.

Ms. Matsuyama: If they are in the affordable rental program.

Councilmember Cowden: If they are in the affordable rental program.

Ms. Matsuyama: Yes.

Councilmember Cowden: So what we have seen as a problem is that the affordable rental program has numbers that move around based on an algorithm that is two (2) years passed, right? We have this complicated algorithm that decides the threshold of the affordable rental program.

Councilmember DeCosta: Is it set?

Mr. Hubbard: It is set from the Housing Agency based off of the United States Department of Housing and Urban Development (HUD).

Councilmember Cowden: Yes, so maybe the homeowner is not in constant communication and does not understand. So, if they make a mistake and accidentally charge an extra twenty dollars (\$20) one year, they lose the assessment cap, is that correct?

Ms. Matsuyama: That is correct.

Councilmember Cowden: They lose that assessment cap. So, when we are able to do somewhat of a fix, because when they lose that assessment cap, they can even go from essentially a Home Exemption to Residential Investor, they can jump three (3) classes because we are in this really high inflationary period—it is not your fault, and we set the rules, I am not blaming any of this on you, I am just trying to really understand. When we have someone jump that hard and if we look at and we go, “Okay, it is not your fault,” or “you missed this little piece,” thank goodness this is saying no penalties, no interests, “yay,” but what about that assessment cap, can we reset the assessment cap or is that gone for good?

Mr. Hubbard: We cannot reset the assessment cap. They are not participating in affordable rental at that point, it would not meet our rules and regulations for that program.

Councilmember Cowden: So, a twenty-dollar (\$20) mistake might be a permanent problem even if they get their...because their assessment could double easily or more. Is that something that we can fix in another bill? It seems to me that is an incredibly punitive mistake to make.

Ms. Matsuyama: I think what you are talking about is outside the scope of Bill No. 2891, but if they did fall into Residential Investor with Bill No. 2891, they would get to Residential, but to your point, they would still lose again.

Councilmember Cowden: They would have lost. So, if they owned their house for forty (40) years. We have not had an assessment cap for that long, but if they had it since before the assessment cap, houses have doubled or more, houses are doubling in two (2) years, so it can have a very substantial consequence, so that is something that this will not help. I am just trying to understand the parameters because our goal is to be fixing them. That would be my question. Thank you.

Committee Chair Evslin: Councilmember DeCosta.

Councilmember DeCosta: I have a follow-up to what Councilmember Cowden was saying about the cap. Is it a three percent (3%) cap?

Ms. Matsuyama: That is correct.

Councilmember DeCosta: Let us say someone owned their home for ten (10) years, every year it is a three percent (3%) jump, their home is assessed at five hundred thousand dollars (\$500,000), they have not done any improvements to their property, now they are paying thirty percent (30%) more. Over ten (10) years, it is three percent (3%) each year, three (3) times ten (10) is thirty percent (30%), they paid thirty percent (30%) more in taxes, correct? These are local families that live on Kaua'i. Have we thought about reducing the cap?

Ms. Matsuyama: From three percent (3%) to lower?

Councilmember DeCosta: Yes.

Ms. Matsuyama: That is a policy call that would be something that we would have to think about.

Councilmember DeCosta: I am just looking at people in the audience who own homes for twenty-five (25) years, who got a three percent (3%) cap that keeps rising ten (10) or fifteen (15) years of their ownership, and it is that increase in taxes that they are paying, and they did not even improve their property. They should only pay on taxes if they improved the property or built an additional dwelling unit.

Ms. Matsuyama: A property is an investment. You park money in the property. So, you do not buy a property to think that it is going to stay the same value. You want the property to increase.

Councilmember DeCosta: I beg to differ with you, Director of Finance, because it is only an investment if you want to sell it. If you own a property and you want to give it to your children, your children will want to give it to their children, it is something that is a legacy which is passed on.

Ms. Matsuyama: I see your point.

Councilmember DeCosta: So, an investment property, your definition is that we buy to speculate to sell, and that is what we want to deter, those people who are coming to Kaua'i. If my constituents have kids and they want to buy two (2) or three (3) homes, because they have three (3) kids, we should not be taxing that one (1) home as homeowner or owner-occupied and the other two (2) as Residential Investor class.

Committee Chair Evslin: Before we go too far down the line of the assessment cap, it is outside the scope of this Bill and I actually think there is a lot that we could and should be talking about the assessment cap, it does create a lot of issues, so maybe at some other time we can have a presentation on the assessment cap and ask all the questions we want, but if we can stay on track with this Bill. We have public testimony, so I do want to get to that. I am sure questions will arise through the testimony that we will want to ask again.

Council Chair Rapozo: February 8<sup>th</sup> public hearing, tentatively February 15<sup>th</sup> Committee Meeting, February 22<sup>nd</sup> [sic] Council Meeting, if all goes well, we can pass this new Bill and that gives you a lot of time. We need to know to make it work.

Ms. Matsuyama: It definitely does not give a lot of time. We are coming up on budget and the urgency of it was that we wanted to get a good number of what this is going to cost us and embed it into the supplemental budget for Fiscal Year 2023. So, we would be really running up on time.

Council Chair Rapozo: Last question, in your opinion this should capture all of the homeowners that fell through the cracks or are eligible to be back in Residential, this amendment should, in your opinion, pick everyone up.

Ms. Matsuyama: Possibly. This is all that we have heard from.

Council Chair Rapozo: I guess the better question is, has every hole been filled that you know of?

Ms. Matsuyama: There are still people that are not going to read the certified mail or miss the sixty (60) days.

Council Chair Rapozo: Understood.

Ms. Matsuyama: I would say for the loopholes that we have heard, that Mike's office has heard, and that you folks have received testimony on...

Council Chair Rapozo: Is covered.

Ms. Matsuyama: Yes.

Council Chair Rapozo: That is it. Thank you.

Committee Chair Evslin: If I can add one part of that. I would like to say it covers everyone, but there is certainly, again, we have received a lot of the same emails and calls, and I talked to a lot of those people, and there is certainly situations in there that this will not cover—someone building, owns a home with a Home Exemption, and they are building a new home, that home gets an occupancy, you cannot have two (2) Home Exemptions, so there are situations that arise where they are not building a home to be a vacant home, but now they have two (2) homes, and they have Residential Investor on the second home. So, there is a person without a long-term lease agreement as of last year—they are not necessarily going to be addressed either. A lot of emails that have come through are actually vacant homes. I think that Councilmember Cowden alluded to, they come here for two (2) months, and they are gone, clearly those are not addressed in here. Hopefully, ninety-nine percent (99%) of the legitimate concerns are addressed.

Councilmember Cowden: If I could say, I do not think ninety-nine percent (99%) of it is addressed. There are people who are not divorced legally, but they are separated probably for the rest of their lives, they are not divorced because one person is incapacitated, as an example. There are a number of issues like that. Life is complex. That is why I would like to get rid of this class, honestly life is complex, and most of those complexities have to deal with tragedy or something very difficult or they are too sick to be on the island for two hundred seventy-one (271) days—there are a lot of things like that. If we could help eighty percent (80%) of who is caught in the holes, let us help the eighty (80%) percent, and we need to figure out the rest. I do not want to stop the good for waiting for the great. I am really anxious to hear people's stories, then maybe when we are done it will help us know how we can fix enough right now, but what else we need to do. I just want to say for our legacy families that try to get about four (4) more of them out there and they are not here, but our legacy families, if we want to toss them off the island after one hundred fifty (150) years or something like that, I think we need to think about that, but we are not going to be able to address that today, but I think we want to look at that.

Committee Chair Evslin: Thank you. While the rules are still suspended is there anyone in the audience wishing to testify?

JESSICA YOUNG, Council Services Assistant I: We have registered speakers.

Committee Chair Evslin: The Chair has the purview to allow either three (3) minutes, then you can come back for an additional three (3) minutes, or a straight six (6) minutes. So, it depends on how many people are in the audience on

whether we do have a straight six (6) minutes or three (3) minutes. Just a show of hands, how many people want to testify? Okay. With that said, I think you folks can have your full six (6) minutes straight off the bat, but there are a number of people, so you do not need to fill the entire six (6) minutes, feel free to go shorter. Registered speakers.

Ms. Young: First registered speakers, David and Jill Capri, followed by Juliet Souza.

Committee Chair Evslin: Please state your name for the record. You might need to turn the microphone on, if it is not on already. Again, you will have six (6) minutes. The light will turn yellow when you have thirty (30) seconds left, and red when your time is up.

JILL CAPRI: Okay, thank you. My name is Jill Capri.

DAVID CAPRI: David Capri.

Ms. Capri: We would like to thank you for the opportunity to be here and speak to you. Our address is 1241 Malia Street in Kalāheo. David was a commercial fisherman for twenty-eight (28) years, and I was a school teacher for twenty-five (25) years. We spent twenty-eight (28) years apart, most of that time over forty-one (41) years with little time together to make our dreams a reality and one of those was to finally have a home on Kauaʻi. We love Kauaʻi. We respect its people and its *ʻāina*. We have enjoyed every year we have been here. After years of saving, we purchased our property in 2008, began building in 2010, and finished a home in 2012. When we built our home, our intent was to use it as a multi-generational home to share with family and friends, which we have done. We have never received a cent on our property. It has been exclusively used for personal use. You all received a letter that we emailed on November 7, 2022, regarding our dismay of being placed in the Residential Investor category after ten (10) years of being in the Residential category. I think it is important to mention the tax rates. The County's tax rates show that Homestead owners pay three dollars and five cents (\$3.05) per thousand dollars (\$1,000), Residential, six dollars and five cents (\$6.05) per thousand dollars (\$1,000), Residential Investor, nine dollars and forty cents (\$9.40) per thousand dollars (\$1,000), Vacation Rental, nine dollars and eighty-five cents (\$9.85), and Hotel and Resort, ten dollars and eighty-five cents (\$10.85) per thousand dollars (\$1,000). What struck us is how Vacation Rentals, which bring in huge revenues every year were only charged forty-five cents (\$0.45) more than we are being charged. As non-residents, we do not get the benefit of the three percent (3%) cap that you have been speaking of on the property gains, therefore, we pay fair market value on our property. Due to this fact, we were already paying about four (4) times compared to our other properties in our neighborhood with similar values, and our taxes have gone from eight thousand four hundred dollars (\$8,400) a year up to sixteen thousand six hundred dollars (\$16,600). In the Residential Investor category, we pay just forty-five cents (\$0.45) less per thousand dollars (\$1,000) than those homes in the Visitor Designation Area (VDA) zoning, while they make huge incomes renting their homes. If we were making income off of our property, we would accept and agree with this level of tax, but we are not, and this does not seem fair to us. To avoid the Residential

Investor category, the rules state that we would have to rent our homes for at least a year, and that has now changed to six (6) months, which was part of our confusion too by the way, this would make it impossible for us to use our own home. This has been the most perplexing and confusing part to us. If we collected rent, we would then be Residential Investors, I would be making a profit off of our property, but that is not the case. On the 2023 property tax relief program updates, page 2, Residential included, use as a residence, which we are part-time, long-term rental, which we are not, or second home exclusively used by owners, and we fit that category exactly. Before COVID-19, we were here five (5) to six (6) months per year. As we all know life throws us curve balls and COVID-19 were truly trying for everyone. During that time of uncertainty, I also lost my only two (2) brothers, John to Chronic Obstructive Pulmonary Disease (COPD) on December 27, 2019, and my brother Jim to die of cancer on October 2, 2020, as well as my mother from Alzheimer's on December 1, 2021. Due to the fact that we wanted to be with them, we were not allowed to be in our home here more, but the fates did not allow. We understand, we have heard today that we were the intended target for the Residential Investor, but the level of tax above and beyond the Residential category that we were in before seems very exorbitant to us. We are in our retirement years, we did not plan, budget, or expect this additional tax burden, we are asking that we can resume Residential status as we do not believe that we should have ever been placed in that Residential Investor category. With respect and thank you for listening.

Committee Chair Evslin: Thank you for your testimony. Councilmember DeCosta.

Councilmember DeCosta: Do you folks live here five (5) to six (6) months out of the year, or do you live here twelve (12) months out of the year?

Ms. Capri: Five (5) to six (6) months a year.

Councilmember DeCosta: Do you live somewhere else the other five (5) to six (6) months out of the year?

Ms. Capri: We share our time between here and Newport, Oregon.

Mr. Capri: Because I am a commercial fisherman, so I do shipyard and have to go there.

Councilmember DeCosta: You are not a primary resident of Kaua'i.

Ms. Capri: No.

Councilmember DeCosta: Is this your vacation home and you have another residence somewhere else?

Ms. Capri: We consider this our second home, but we have a residence in Newport, Oregon as well.

Councilmember DeCosta: Okay, I just wanted to clarify that you folks are not full-time Kaua'i residents.

Ms. Capri: No, we are not.

Councilmember DeCosta: Thank you.

Committee Chair Evslin: Thank you for your testimony. One point of quick clarification. The six (6) month lease agreement is not changing. The part that is changing in the Bill is that it allows a six-month lease to revert to month-to-month. Currently, since Residential Investor has been in existence, you can get out of it with a six-month lease, it just needed to have continual renewals on a six-month basis. So, it should not apply to yours, but thank you for your testimony.

Ms. Capri: Thank you.

Mr. Capri: Thank you.

Ms. Young: Juliet Souza, followed by Tina Sakamoto.

JULIET SOUZA: *Aloha*, Councilmembers and staff, they do all the work, you know, so I have to make clear. I am here today to beg in actuality for a low rental that I have on Ho'ona Road. I am fortunate enough to have two (2) properties there that have been handed down to me. I have no intention of selling. In fact, realtors have come by and offered me ten thousand dollars (\$10,000) to sell. Where am I going? This is going to be for the kids. They cannot buy anything else on Kaua'i, so I have to hold on to this. Well, in the interim, I have a rental next to my Homestead in the same area, I could have put it into a vacation rental like all of the other people on my street. There are twenty-five (25) homes there, and I am the only long-term resident. I am cleaning my yard, Billy, and they are asking if I am the landscaper, how much do you charge for cleaning this yard? Do you know how embarrassing that is when I tell them this is my yard? Going back to the rental, we have rented this since the hurricane, we had lost the original house that was from my grandparents handed down to my mom and my dad, then it was handed down to me. I am seventy-seven (77) years old. I can go back to my grandfather who was the first sheriff of Kōloa Town, and that was his home there, but we have always rented it out. After the hurricane when mom and I moved into our Homestead, which is the bigger home, and it was just a handshake for rental, there was no lease, you stay as long as you like, there is no rent increase, we are just appreciative that someone else can enjoy this beautiful place that I live in, you know, to have that. Well, the first renters after the hurricane, when this house was beautiful, they wrecked my home, so they left, went to Florida or some place, I did not have a deposit, so I had to "pony-up" this money to fix this place. Well, finally, we got it fixed, but my home got fixed too, so mom and I moved from the little home to our Homestead, which was the bigger house. In the interim I got another rental, and this was from a doctor that requested to rent in this area. Unfortunately, I could not rent it for nine hundred dollars (\$900) anymore, I had to go up, so I was taken off of the long-term code for rental to have a break in the tax. From three dollars and five cents (\$3.05) it went to six dollars and five cents (\$6.05). Now, it is going to go to nine dollars and fifty-five cents (\$9.55) or nine dollars and forty-five cents (\$9.45).

Councilmember Cowden: Nine dollars and forty cents (\$9.40).

Ms. Souza: Nine dollars and forty cents (\$9.40) to be precise. The house has not changed. The neighborhood has changed. The house in front of me has sold for four million dollars (\$4,000,000) recently. This is how I get assessed. My land has not grown. My house has not changed. Why do I have to get changed on my taxes? I am never going to sell. This is going to be for the family. This is all that they are going to have. When I received that tax letter, I guess it was the second one that was given, the first announcement was put in the back of the trash announcement of the amounts that you are going to pay for your trash—it was back there. Who reads that? I just tossed it; I am going to pay for it anyway for the garbage bin. Then, I got another letter, and I had three (3) weeks to answer that and put in an appeal for appealing my taxes. To me, I am old, I am an old-school person, with all the technology that we have in software computers, why can these letters not be generated and sent out in a timely fashion? Right, Billy?

Councilmember DeCosta: Email.

Ms. Souza: We cannot put it on the County building only, because I live in Kukui'ula, so you have to bring it down to Kukui'ula. Put it on that "shaka" sign I hate to see in Kōloa, but that is another story. So, with that, I do not have a prepared speech like this young lady had, but I have lived here all my life, and I have no intention of moving anywhere, of selling any, it is for the family to enjoy. Thank you very much.

Committee Chair Evslin: Thank you for your testimony.

Councilmember DeCosta: I have a clarifying question.

Committee Chair Evslin: Councilmember DeCosta.

Councilmember DeCosta: I had a hard time understanding your testimony. Did you say you were living on the property in one (1) house, and you had an affordable rental agreement in the other house, but the houses are on the same property?

Ms. Souza: No. They are two (2) separate.

Councilmember DeCosta: They are next to each other.

Ms. Souza: Right.

Councilmember DeCosta: But they are two (2) separate properties.

Ms. Souza: Yes, two (2) parcels.

Councilmember DeCosta: That is why you cannot qualify. I believe our Director of Finance, if she had the same property and the two (2) homes were on it, you would be able to qualify for that homeowner's rate, but now you cannot. Would it pass

the Resident Investor rate from six dollars and five cents (\$6.05) to the Residential Investor rate...Resident homeowner versus Residential Investor rate from six dollars and five cents (\$6.05) to nine dollars and forty cents (\$9.40)? Is it going to go that high? Is that correct Director of Finance? Did you follow her case?

Committee Chair Evslin: We will hold questions until after. Let us get through the testimony, and then we can address those questions.

Councilmember DeCosta: I want Ms. Souza to understand why her rate is jumping that much.

Committee Chair Evslin: Thank you for your testimony. We will ask the Department of Finance questions after we get through everyone. Thank you, Ms. Souza for your testimony.

Ms. Souza: Alright, thank you.

Committee Chair Evslin: Next registered speaker.

Ms. Young: Tina Sakamoto, followed by Chipper Wichman.

TINA SAKAMOTO: *Aloha* and good morning, Council Chair, Committee Chair, Vice Chair, Councilmembers, and staff. My name is Tina Sakamoto, and I am testifying on Bill No. 2891, which seems to be a band-aid approach because of the Residential Investor classification, but this Bill does allow a reclassification, but the Bill itself is was fraught with a lot of problems, a lack of clarity, and I think this was brought up at the December 14<sup>th</sup> public hearing. One testifier says, "Bill No. 2891 seems an attempt to correct a default in Chapter 5A, Kaua'i County Code 1987, as amended, relating to Real Property Tax that was caused by the passage of Ordinance No. 1130. However, Bill No. 2891 does not go far enough to protect all newly classified Residential Investor property owners who have erroneously been assigned the new classification." Another testifier said, "If a homeowner is entitled to the lower rate, the County should not make the process complicated." Now, I agree with both of those testimonies. I think the County Council should review with intense conviction. Bill No. 2891 does provide some tax relief, but it needs further refinement. There are loopholes, there is lack of clarity. In the prior testifier's case, the issue was going from the long-term rental program, and trying to comply with the rents allowed there, but for three (3) years the rents went down. So, the rents went down that this person could charge, where are they going to make the money to support that property? The owner is subsidizing the County to try to have a long-term rental. Going out of that long-term rental program, lost the tax cap of three percent (3%), went into Residential, and now Residential Investor. The intent of the property was to keep it a long-term affordable rental, and that failed—that needs looking into. One of my suggestions might be to thoroughly vet a Bill before you enact it, because testimony is going to show you what is wrong with it, or what is good with it. Maybe the vetting should be of people who have that expertise in the Bill subject-matter. If fully vetted, we probably would not have the tax exemptions like the safe room exemption, or the automatic fire suppression system exemption, who is that helping? Just a few. It is a tax exemption you are giving out, but it is not producing affordable housing, which is one of your goals, it is just addressing

the few that probably would have already done that, because they are going to get a break on their insurance. Therefore, if that was vetted, it probably would not have passed, so the advisory committee would be an asset. It may take more time, but I think the cost-savings in the long run would benefit the Council and probably not cause as many headaches or tax burdens that we are facing now. Some of the suggestions were clarifying the definition, looking over the long-term rental program, creating software, not necessarily staffing increase, but software, having a worksheet at the Real Property Tax Division, so when you go in and want to apply for a Home Exemption, they look through the papers, they punch out the numbers, but you do not know, did they transpose it? Is it wrong? They do not give you a receipt to say, "Yes, you are qualified, or you do not, because of this." So, there is some outreach that could have been done at neighborhood centers to inform the public. There are other issues that are going to affect this Bill and hearing public testimony, I think will help you make better choices, because the band-aid approach is not healing that festering wound. Thank you.

Committee Chair Evslin: Next registered speaker.

Ms. Young: Chipper Wichman, followed by Randy Finlay.

CHIPPER WICHMAN: *Aloha*, everyone. Chipper Wichman. I am here to talk a little bit about our story. Like aunty, I do not have a prepared one, because I only found out about this last night. I am the fifth generation in our family to live in Hā'ena. Our home that we live in is a multi-generational home. We have three (3) houses on our property, and I want to say also that I am here speaking on behalf of my cousin whose property is right next door to us, and the home that we live in was acquired initially by my *tutu* lady, my grandma, in the early 1940s. She bought it from Phillip Palama. It was a share in the Hui Ku'ai 'Aina O Hā'ena, the Hā'ena Hui, which owned all of the *ahupua'a* of Hā'ena from 1875 until 1967. At the end of 1967 when the *hui* was partitioned, the Fifth Circuit Court created fee-simple ownership of the lots in Hā'ena. There was about twenty-seven (27) original land commission awards, *kuleana* lands from the 1850s, but then the partition created one hundred fifty (150) lots in Hā'ena; most of them were Residential lots, a couple of them are *mauka* lots. The value at the time of the fee-simple ownership of the deed for our property in 1967 was two thousand four hundred fifty dollars (\$2,450). I guess you could call that the cost basis. Councilmember DeCosta, I want to thank you with your discussion with the Director of Finance, because ours is a legacy property, it is not an investment, we are not parking money in this as an investment to be sold. Our goal has always been to keep this property in our family. My *tutu* lady was wise enough that she was able to acquire properties adjacent to her home for her three (3) sons. When she passed in 1987, it was a very sad day for me, I was in Resident, and she was super kind to me because I was a *kolohe* kid, but she let me have exclusive use of one (1) of the three (3) homes on that property starting in 1977. We got to raise our kids out there. In fact, they had to extend the school bus line when they started going to Hanalei School. The day she passed a very handsome, young policeman showed up to certify the death, which is today our Chair of our Council here. It has been a long time. So, when she passed she left it to my parents and we contemplated what is the best way to keep this in our family, because by then property values were going up, it was no longer worth two thousand four hundred fifty dollars (\$2,450). We contemplated that and we got legal advice, and we created an LLC for the four (4) children, my three (3) siblings and myself. We created

an LLC structure, so if one (1) of us wanted to sell, we could not sell it on the market, we had to sell to each other to keep it in the family. That property has three (3) homes. It has been a primary residence for one (1) person in our family at least since *tutu* got it in the 1940s. That was my primary residence for almost thirty (30) years, it was not until they asked me to become the Chief Executive Officer (CEO) of National Tropical Botanical Gardens, because we could not commute from Hā'ena to Kalāheo, it was too much, so we bought a home in Kalāheo. That has our Homestead exemption, that has become our primary residence, I am about to retire at the end of this year, so I am contemplating how I am going to try and fix this. But my brother, that is his primary residence there, he lives in one (1) of the houses for the last thirty (30) years, since the 1992 hurricane. We fall into this Residential Investor category, and we are being pinched on the other side too, which is the property values have gone up, to no fault of our own. Just like what aunty was saying, except worse. Our property value went up from two million two hundred ninety-six thousand dollars (\$2,296,000) last year to seven million six hundred three thousand dollars (\$7,603,000), three hundred percent (300%) overnight. So, even if we had Homestead classification for our property, it would be twenty-three thousand dollars (\$23,000). I do not know if any of you folks saw the video Councilmember DeCosta did during the pandemic about shooting the duck and chopping his wood, we need to get tough Kaua'i, we can survive—that is what we want to do in Hā'ena. There are a lot of local families out there—we want to survive. You cannot survive out there if you are paying twenty-three thousand dollars (\$23,000) in property tax, because your land value, so this cap has to be tied in too. You folks need to do something to protect us, because we are being priced right out of our legacy properties. I give you folks “kudos” for trying to fix this. I see the yellow light coming on, so I am almost *pau*. It is complicated, you are trying to fix it, all of your fixes are not going to help me, and we need to fix this thing with the escalating value, because we are getting killed even if we have Homestead classification, we are getting killed in the taxes. Thank you for more fixes. Maybe we will have another chance to amend it. I was going to suggest, the language in paragraph four (4), Section “D” of the old one.

Committee Chair Evslin: Your time is up, but if you could wrap that up really quickly.

Mr. Wichman: Very quick. You need to insert the clause, with the are not section, it says, “...and are not being rented on a long-term basis...” then, a new clause, “...and are not generational properties that have been owned by the same families for more than one (1) generation or twenty-five (25) consecutive years.” That is going to protect us *kama'āina* folks. Thank you for your patience.

Committee Chair Evslin: Next registered speaker.

*(Council Chair Rapozo was noted as not present.)*

Ms. Young: Randy Finlay, followed by Melissa Egusa.

RANDY FINLAY: Should I wait for Council Chair to come back?

Committee Chair Evslin: It is okay. Thank you.

Mr. Finlay: Randy Finlay. Good morning, Council and staff. I have a prepared statement here, but there has been so much ground covered and so much progress being made with the Bill and the amendment that some of this might be already taken care of. As residents and property taxpayers for forty (40) years, as well as owners of long-term rentals for over twenty (20) years, and in light of the current tax ordinances, we have some comments that apply to all taxpayers, so I am trying to make it about us. I want to quote first from Bill No. 2891. It signifies property owners to long-term rent, that is the category I am talking about. Taxing occupied homes at the higher Residential Investor class is counter to the purpose that was trying to be accomplished here. This Bill remedies some of the over-taxing for 2022, and I was encouraging it to include 2023, which it looks like the amendment is covering that issue. One thing we wanted to bring up was the tax appeal deadline. When your property tax statement comes out in early December, you have until the end of December to appeal.

*(Council Chair Rapozo was noted as present.)*

Mr. Finlay: That is three (3) weeks over the holidays—we did not even get the mail. Can that appeal process be lengthened to the end of January or March or something like that, so you have more time to respond? With regards to the Residential Investor class, we understand the intent here is to encourage owner-occupancy or long-term rental; however, the rules essentially make every owner liable for the higher tax, and owners must annually supply leases or other paperwork to obtain the lower tax rate resulting in a deluge of documents being submitted to the Real Property Tax Division. Practically every long-term lease must be submitted to the tax office annually with several County forms. This criteria should be made more manageable for the owners who are trying to provide long-term rentals, as well as the County staff that must review each long-term rental submittal. Currently, a compliant owner that misses too short of a deadline is forced to pay an egregious tax rate and must raise the rent or convert to a vacation rental. So, these higher taxes are going to come out forcing the rents to go up. What we are asking here is to recommend that Residential rate classification for long-term rentals be submitted annually, not annually, but a homeowner Homestead Exemption, you have a one-time submittal, as a long-term rental, can we do the same thing? A one-time submittal instead of an annual process of paperwork? Then, in closing, we would like to say that the tax assessment rate of increase? We have been hearing some conversations about that today. With regard to the methodology by which properties are assessed, there needs to be a cap on the percentage a property assessed value can increase. Currently, that exists for a Homestead property, apparently at three percent (3%), but perhaps, also for long-term rental properties. Over the past year the real estate market has been highly volatile resulting in some long-term owners of long-term rentals experiencing over fifty percent (50%) increase in assessed value for 2023. So, we have had some properties go up in value and converted into Residential Investor, and we have to decide if we are going to keep these as long-term rentals or go ahead and convert them into vacation rental, or just sell the properties. It is putting the “squeeze” on owners of long-term rentals who want to provide long-term rentals. We recommend a cap on assessment increases for long-term rentals as well as Homestead rentals. Thank you very much for your time. Are there any questions?

Committee Chair Evslin: Thank you, Mr. Finlay. Are there any clarifying questions from the Members? Thank you for your testimony.

Mr. Finlay: Thank you very much for your time.

Committee Chair Evslin: Melissa Egusa.

MELISSA EGUSA: Good morning, Councilmembers, Council Chair, and of course staff, and we all know staff does the hard work. I want to thank you all for the opportunity to present to you in person. My sweetheart and I bought this home, and we closed escrow June 3, 2022. I have been a resident of Kaua'i since 2000. Eighteen (18) years had a Homestead on my house at 4028 'Ōma'o Road. When my husband passed away, six (6) years later I met this wonderful man, and we bought this house together. He is also widowed from O'ahu. He moved from O'ahu to come to little tiny Kaua'i so we could be together. We bought this home with the understanding from our title company, the real estate company, the mortgage company, our taxes were going to be three thousand seven hundred dollars (\$3,700) a year. We knew there would be a slight increase because we did pay more for the house than the previous owners had done. What we were not informed of is the previous owner who had only been there eighteen (18) months had been reassessed as Residential Investor. All of a sudden, we get a note from our mortgage company in August, our new tax was going to be over thirteen thousand dollars (\$13,000), and being that we are seniors, and we are working hard to keep things going. We are volunteers on the island, we do not work outside our home. This is a real shock. We had no clue this was happening. We had no clue about the nine dollar and forty-five cents (\$9.45) per thousand dollars (\$1,000) tax. We are used to paying for my house on 'Ōma'o Road about one thousand eight hundred dollars (\$1,800) a year. So, we called the tax assessment office and was told there is no appeal available. Pretty much, too bad, so sad. Come file your Homestead papers, you can have it for the next year, which we have done. In the meantime, we are completely different, we are not a third-generation person like Mr. Wichman. I do not have property next door or down the block that I am renting. It is just the two (2) of us trying to spend our "golden years," our "silver years" together. We are really hoping...we sort of "fell into the cracks" of everything. Our Director of Finance is very efficient. They notified people. We did not get any notification, because the house was not ours when that happened. The people we bought from most likely did not think about it, because they had the house for sale, and I believe they are living in Līhu'e now. We have sort of fallen into a gap in this whole process. I do not want to call it a flaw, but there is an issue there that was not addressed. I have not heard anyone's story quite like mine. I am hoping we can get this to work. We have our Homestead for the next tax year, I think that should be retroactive to this tax year. Any questions I can answer?

Councilmember DeCosta: I have a question.

Ms. Egusa: Yes, Councilmember DeCosta.

Councilmember DeCosta: I am sorry about your late husband. I am happy you found a friend. You own your house in 'Ōma'o, I live in 'Ōma'o, we are neighbors, actually.

- Ms. Egusa: I lived at 4028 'Ōma'o Road.
- Councilmember DeCosta: Is that your home? Then you and your newfound friend bought a second home together.
- Ms. Egusa: I sold my house on 'Ōma'o Road to put my part of the money toward the new home.
- Councilmember DeCosta: Do you own one (1) home on Kaua'i?
- Ms. Egusa: We only own one (1) home on Kaua'i. My sweetheart does have a home on O'ahu, but he has long-term renters that have been there for thirty (30) years.
- Councilmember DeCosta: Thank you.
- Ms. Egusa: That was his mother's house.
- Councilmember DeCosta: Thank you for that clarification.
- Council Chair Rapozo: Thank you for being here today. Can you give me a timeline again, when did you purchase the home?
- Ms. Egusa: We closed the escrow June 3, 2022, and we got the note from the mortgage company in August that the tax was going to be from three thousand seven hundred dollars (\$3,700) up to thirteen thousand five hundred twenty-eight dollars (\$13,528) and some change.
- Council Chair Rapozo: So, the prior owner, as far as you know did not have the Residential Investor.
- Ms. Egusa: When I look at their tax online, the people who built the house who was there for fourteen (14) years were Residential Investor. The people we bought from only had the house for eighteen (18) months and were paying tax as a...I mean the first people were Homestead, the people we bought from were paying Homestead tax, then the house was reassessed for this current tax year to Residential Investor, and I looked online and their bill was going to Arizona.
- Council Chair Rapozo: Interesting.
- Ms. Egusa: I do not know exactly what their arrangements were, but I know the woman was here on Kaua'i.
- Council Chair Rapozo: Did you request an appeal and was told that you could not?
- Ms. Egusa: Right.
- Council Chair Rapozo: When was that? In August.

Ms. Egusa: I called in August and a very nice woman Renee at the tax office told me there was nothing we could do. We just had to pay that money and come down and file for our Homestead Exemption, which we did.

Council Chair Rapozo: And wait a whole year.

Ms. Egusa: And wait another year.

Council Chair Rapozo: You would be basically paying that high tax for one-year before you could get your classification changed.

Ms. Egusa: Yes.

Committee Chair Evslin: I have a clarifying question to you. You said you closed June 3, 2022, then two (2) months later you got your tax bill at the Residential Investor.

Ms. Egusa: We did not even get a bill. The mortgage company contacted us.

Committee Chair Evslin: My understanding is on June 3<sup>rd</sup> or when you were looking at the house in May or so, because the notice of assessment had gone out the previous year, I believe online, the tax rate should have shown Residential Investor, and you should have been informed through whoever was helping with your mortgage that that was the rate. I guess it is a question we can ask from Department of Finance later. So, you are saying when you folks did your due diligence purchasing the house, everyone was telling you your rate would be Homestead at that time.

Ms. Egusa: We would be Homestead. Mainly because I had been Homestead for eighteen (18) years on Kaua'i and Roy had been on O'ahu with a brief journey in Washington when his late wife was not well and passed away there.

Committee Chair Evslin: Okay.

Ms. Egusa: So, we are in a unique situation. I do not think that when the Bill was put together and trying to make sure that the house was occupied one way or another, they thought about people selling and staying on the island.

Committee Chair Evslin: I do not want to get into too much discussion here. We will talk about your situation.

Council Chair Rapozo: I just want to get one more clarification. You said that the prior owner who had a Homestead Exemption...

Ms. Egusa: The original owner of the home that was there for fourteen (14) years had a Homestead.

Council Chair Rapozo: But the people you bought it from were there for eighteen (18) months, but you said the tax bill was sent to Arizona.

Ms. Egusa: It must have been sent to Arizona from what I could see online.

Council Chair Rapozo: Okay, if we could just get staff here to get your contact information, because I want to look into that. If someone from Arizona is getting a Homestead Exemption...

Ms. Egusa: If I have a copy of that...

Committee Chair Evslin: We can talk about it after, and we will talk about it more if we have questions too.

Council Chair Rapozo: Yes, I do not want to discuss all of that in public, I want to be able to investigate, find out why, then...

Committee Chair Evslin: Thank you so much for your testimony, Ms. Egusa.

Ms. Egusa: Thank you.

Committee Chair Evslin: Next registered speaker.

Ms. Young: I have no further registered speakers.

Committee Chair Evslin: Is there anyone on Zoom wishing to testify? No. While the rules are still suspended, we will call the Department of Finance back. I think we have more questions for you folks.

Councilmember Cowden: There were more people who wanted to testify. They just did not hear you. Are there any more people who would like to testify?

Committee Chair Evslin: Okay, sorry.

ROBERT ZELKOVSKY: *Aloha*, Councilmembers and good morning. My name is Robert Zelkovsky and I thank you all for what you do. It has been several years since I have been at a live meeting, and it is certainly different than watching it on television. My main reason for giving testimony today is to try to prevent other landlords and tenants who are in the HUD process to get into a similar situation. I have maintained a HUD rental in Kapa'a for sixteen (16) years. I rented to my former chiropractic receptionist. She is currently ninety-two (92) years old. I have lived in the house for twenty (20) years before that, so for sixteen (16) years I have been a part of the HUD process. In May or June, I filled out the renewal for the HUD. September or October, I did the County property tax. Every year it is "yes, yes, yes, yes, yes." Last year, for the first time asked for maximum rent from HUD, and because of that I pay the gas, water, power, and trash, and so forth, filled out the form in May for the HUD, it was approved, later in the year filled out the County tax, sent it in, a month later got

a letter saying that it has been turned down, that I exceeded the County threshold. The County threshold is one thousand six hundred forty-one dollars (\$1,641) and I was receiving one thousand six hundred seventy dollars (\$1,670), so my property tax was doubled and at the same time my assessment was resumed by two hundred thousand dollars (\$200,000). Essentially, a three and a half (3½) times County property tax boost. It is certainly a property that...my tenant is ninety-two (92) years old. A year and a half (1½) ago broke a leg. Six (6) months later broke a second leg. She is up and walking again, she is probably going to outlive me. So, I would really like to see this situation not happen to other landlords and tenants. I had a call to HUD last week, and I asked if there is any way that I can amend my May application and be under the County threshold? They said, "Yes, you can do that. Just email it in." I have a couple of calls into Real Property Division, and we just keep missing each other to see if I can amend my September application also, so I do not know if that is possible—that is where I am at.

Committee Chair Evslin: Are there any clarifying questions? Chair Rapozo.

Council Chair Rapozo: How many dollars did your rent HUD money dollars go down?

Mr. Zelkovsky: No, the HUD money did not go down. The money that I received is twenty-nine dollars (\$29) higher than the County threshold for receiving the long-term affordable.

Council Chair Rapozo: Okay, yes, I got it. Thank you.

Mr. Zelkovsky: I was assured by the Real Property Division that next year is one thousand eight hundred dollars (\$1,800), but I will make sure to look at both papers while I am filling them out next year.

Council Chair Rapozo: Thank you.

Councilmember Cowden: And you did lose your assessment cap that is why it jumped.

Mr. Zelkovsky: Yes, I lost the assessment cap. It is a house that I bought for sixty-five thousand dollars (\$65,000). Do you remember that?

Councilmember Bulosan: No.

Mr. Zelkovsky: Thank you.

Committee Chair Evslin: Is there anyone else in the audience wishing to testify for the first time? Donna.

DONNA APISA: Thank you. My name is Donna Apisa. I am with Oceanfront Realty. Many of you know me. We do a lot of property management. I formed a company in 1985, so I have lived here for more than forty (40) years. I

consider it my home. I feel *kama'āina*, I know I am not, and all due respect there, but I truly do care and respect the Hawaiian culture, I know that we are guests here. I know you folks have a big job in front of you. You are never going to please everyone. I think it is a big step forward that you have made it as long as it has been a six-month rental and then month-to-month that was a big improvement, so thank you for that. I guess in my mind, and you do not have to answer this, but I am curious if the purpose here is to increase revenue or try to find an equity of taxation or a combination, I mean, what is the purpose of this? I do not know, I am sure you folks are aware of the property values, but you all know we have tremendous appreciation in the last few years, and I know the threshold is going to be lowered from one million three hundred thousand dollars (\$1,300,000) to one million dollars (\$1,000,000) and that is getting to be a normal average price of house in Kaua'i right now. You might find a house for six hundred thousand dollars (\$600,000), I do not know if you would find anything for less than that. Eight hundred thousand dollars (\$800,000) is kind of the norm. I see it leveling off, but I do not see it continuing to climb, but I do not see substantial drops. I do not really have any answers. I just wanted to appear. I know I have written a couple of letters. One situation might not pertain to this, but while I have everyone's ear, I would like to get this on the floor. I understand taxing properties at their highest and best use, I understand that that is real estate, but a particular parcel of land here is about two thousand (2,000) acres and it truly is ranched, it has cattle on it, it was Grove Farm land. So, at the top of the mountain is a radio tower and their assessment went from Agriculture to Industrial, even though majority of that is truly Agriculture, but it is bordered with a mountain. It is going to force the land for Agriculture to go up, and that same thing is happening with long-term. It is an unintended consequence, but as property taxes go up substantially or unexpectedly, we hear from owners and saying our taxes went up, we need to raise the rent, and there is no housing available already, so that is one unintended consequence that is happening. But the same thing here with this particular Agriculture parcel, now it is truly Agriculture land, and we want to encourage Agriculture, but because of one (1) radio tower at the top of the mountain, which I am told is an encroachment. There is zero (0) rent to the owner on it, and now he is switched from Agriculture to Industrial. Like I said, I know you are more here on the Residential Investor thing, but I just wanted to point another little glitch in the law out. That is all. I probably have a lot more to say.

Committee Chair Evslin: Are there any questions from the Members?  
Councilmember Cowden.

*(Councilmember Kualii was noted as not present.)*

Councilmember Cowden: I have a clarifying question. I hope this is alright. You have run a real estate company that deals with all different kinds of levels, typically, housing, mostly housing, maybe not entirely, and you have been Chair of the Planning Commission. Are you saying, I feel like I am hearing you say, you struggle to figure out our tax policy when you are selling land that is still not very evident? You gave an example of the cell tower, but in the other pieces are you saying it is complicated? How does it feel as a realtor when you are selling the property, are you able to guide people successfully around this Residential Investor? Since you are a property manager, are you able to help keep people awake and aware that we might double in property values?

Ms. Apisa: No. I think it is complex. I know some of you think it is complex and hopefully it will get made simpler. Like I said, I do not want to say criticize, but I want to be positive, that is my approach to life, I look for answers, we look for solutions, so I do not really have them, but yes, I think it is complex. I would hope that we could come up with something simpler. I guess I got involved with taxes this year, because we hear from so many owners. Like I said, again, I do not know the purpose of it, is it revenue? Is it equity? A combination?

Councilmember Cowden: As a property manager, are you getting training from the County? Are you getting a heads up, because I know you manage a lot of properties?

Ms. Apisa: No. I do not know how it happened, but not only myself, but other realtors, other people were blindsided by the new Residential Investor classification. I did not know about it until the tax bill came out. Then, it was like, "Oh, there is a new classification." Somehow, it could be very beneficial to have better communication. I do not know if a certified letter is the answer, because I know that is a big deal to send out certified letters. I just know from the administrative standpoint it is a big deal to have to send out that many certified letters. I do not know what the answer is, but maybe even just a website that is dedicated to taxes or something. It is kind of complex to find what you are looking for, because it is there, but it is such a big thing, and you have to find the right section. Somehow, to come up with clarity would be very beneficial.

Councilmember Cowden: Thank you.

Committee Chair Evslin: Thank you for your testimony. I do want to add, you were the first to bring to our attention the month-to-month issue. The fact that all these are reverting to month-to-month leases. When you said you do not offer solutions, you actually did, you are the main part of the reason why we amended the Bill to allow the month-to-month, so I appreciate your testimony on that.

Ms. Apisa: Thank you. It was written, so thank you for acknowledging that, and maybe I will try to be more attentive and responsive.

Committee Chair Evslin: Testimony works, so we do listen and try to react to it. Councilmember DeCosta.

Councilmember DeCosta: Since Councilmember Evslin brought something to your attention, I want to bring something to your attention. It is not a clarifying question, but I am going to follow Councilmember Evslin's lead. You were very conscientious about the word *kama'āina*. I want you to know that *kama'āina* does not mean that you have to be born and raised here. *Kama'āina* means you have a heart of passion for the culture and the tradition of Kaua'i, and you just by your demeanor today, you have that *kama'āina* in you. Thank you very much.

Ms. Apisa: I am very emotional for Hawaiian culture.

Councilmember DeCosta: I can tell.

Ms. Apisa:

Thank you.

Committee Chair Evslin: Thank you, Donna. Is there anyone else in the audience wishing to testify? Sorry, you already testified and unfortunately by law I cannot give any member of the public more opportunity to testify than other members, so you had six (6) minutes, which I believe you did use your six (6) minutes but thank you. While the rules are still suspended, we are going to call the Administration back for the six hundred (600) questions I am sure we now have. Members, are there any further questions for the Department of Finance? Councilmember DeCosta.

Councilmember DeCosta: We cannot make spot laws to help certain people. I am very sympathetic to Chipper Wichman's situation, but if we make a spot bill, like a legacy bill for people like Chipper, and for many other families on Kaua'i, does that legacy of generational families include Alexander & Baldwin, the Knudsens, the Robinsons, and Grove Farm, would those large landowners also fall into those generational families since they have been here during the plantation era?

Ms. Matsuyama: I am not sure. I would have to go back and research it. It would obviously depend on how it is written.

*(Councilmember Kualii was noted as present.)*

Councilmember DeCosta: What I am afraid of and what I do not want to see is when they go out on a limb and create a bill, because it is easy to make bills and not see the unintended consequences—it is what we are seeing here. I am hoping we do not do something to spot-check certain families in Hā'ena or throughout Kaua'i, then it opens up this "can of worms" where all large landowners who bought land a long time ago now qualify to pay very minimal tax, then our County runs out of tax dollars. We do not want to raise taxes, but we do not want to lose money from taxes either, so that is something we all need to think about here.

Committee Chair Evslin: Councilmember Cowden.

Councilmember Cowden: I have a follow-up on that. Are you familiar with Maui's *'āina kūpuna* law they have? They have an ordinance to try and help generational families hold on to their land with a different classification. Typically, those are families not corporations, many are trusts, and things to that effect. I have looked at that one and trying to look at how we can adapt that somewhere. I appreciate that we have the Home Preservation, and for the sake of the audience, you can explain the Home Preservation, but *'āina kūpuna* that is another pathway that could possibly go in that direction. Maybe start with Home Preservation. I am not sure if that would help.

Committee Chair Evslin: If I could just interject. I think maybe at some point soon, we have another update from you folks on all of our tax classes, and all of the alternates for relief, because I just worry about opening the door too much in this conversation. Home Preservation exemption is a great exemption, but off-topic from this Residential Investor.

- Councilmember Cowden: Alright. Okay.
- Committee Chair Evslin: Are there any further questions?
- Councilmember DeCosta: Will you get that information from the question I asked? Email.
- Ms. Matsuyama: I would probably need to see how it is written, then give you an answer.
- Committee Chair Evslin: I have some questions to clarify with Ms. Egusa. For her situation, what it sounds like, her property closed in June, the previous owner, absentee, the online search would have said Residential Investor at that point, right?
- Ms. Matsuyama: Yes. Based on the October 1, 2021, assessment date.
- Committee Chair Evslin: Okay. I think this is an issue we have discussed before, when a property sells, they get stuck with the previous owner's rate for a year or even slightly longer, and it is certainly unfortunate. The hope is that, when that is identified that is in some way negotiated into the sale price in some sense, but it is certainly an issue that we have discussed. Are there any other questions?
- Councilmember Cowden: Ms. Souza's and Dr. Zelkovsky's situation, these changes should fix their problems, right? Because they were basically...when I think about his, maybe not hers, yes, right? Ms. Souza would be fixed.
- Ms. Matsuyama: She would get two (2) Residential.
- Councilmember Cowden: Yes. Not everyone has spoken, but if people belong in Residential, they might not get Homestead right away, but then people could shift from Residential Investor, because this is testimony that we have received, so if I could just ask, people who have bought a brand-new house that has never been lived in before, and somehow it starts at Residential Investor when they are clearly residents. At best, they could at least go to Residential, then go to Homestead in a year, right? We can pull it back, because if they live here full-time, and they just did not check a box, and it is because of the price of the house because they did not check the Homestead exemption, they live in the house, and it has never been a rental. It has always been their brand-new home, they move into it, and they live here—it seems like they should have Residential.
- Ms. Matsuyama: Maybe I am not following your scenario. A brand-new house like it was just built.
- Councilmember Cowden: Just built.

Ms. Matsuyama: Okay. If it was just built, before there is a building on it, before there is a dwelling on it, it is going to be Residential. It is never going to be Residential Investor if there is no dwelling on the property.

Councilmember Cowden: But we have had several houses from people who do live here, and they buy a house, or they build a house, has never had anyone in there, and they live here, it is going into Residential Investor—that is how they are being taxed. It seems like this Bill should address that, because they will be able to show that it is not Residential, it has never been an empty house, and these are people who live here, have kids in school full-time, pay their bills here, have a driver's license—that house, they can correct it. They should be able to correct that.

Ms. Matsuyama: If I am hearing you correctly, then I think “yes,” but I am not following your specific situation one hundred percent (100%). But, yes, if they have moved into the house and lived there since the house was built, they should be able to get into Residential. Depending on the timing, they would file their Home Exemption before they move in, as soon as they move into the house and they would never have Residential Investor.

Councilmember Cowden: The problem is that they did not do their paperwork right.

Ms. Matsuyama: Yes.

Councilmember Cowden: We had a County employee family in here, built their house, had been camping on their house, moved into the house, and that started at Residential. There is no question. We employ these people.

Ms. Matsuyama: Right. So, they missed the Home Exemption the first year, but they would be covered in Bill No. 2891. They would have been covered in Bill No. 2891 in the original bill as well.

Councilmember Cowden: That is right. For all these questions that are out there, we are clear, this is going to allow that even if they have to pay that whole amount, they are not going to have a heavy tax, or even any tax for a few years until they mop up the rest of it. If they paid this high tax rate, they are going to be able to mop it up.

Ms. Matsuyama: They would get the credit for the difference between Residential and Residential Investor.

Councilmember Cowden: I gave an example another time where the tax went up to one hundred nine thousand dollars (\$109,000) where this legacy landowner had been renting it out for one hundred dollars (\$100) a month. So, when they are able to show they have had the same family in there for seventy (70) years at one hundred dollars (\$100) a month or less, that should be at least Residential if not low-income long-term. I see from looking at it, they already paid half that. Maybe if they pay more, they are probably going to have a few years, five (5) or six (6) years, where it is “moping up” that overpayment, just so that they know. I just want to make sure that this is

solving something, some of these critical things. What this is saying...of course, I would like to see them not have to pay it, but if this is paid, the main intent of this Bill is to “mop up” in the next number of years without penalty and without interest, if they had to pay this huge amount, they are going to be able to relax, and it is going to go down retroactively, then it will go down further.

Ms. Matsuyama: I do not want to commit to any specific situation without having the detail behind it.

Councilmember Cowden: Okay. These are details I have given before.

Ms. Matsuyama: In general, if you have a long-term tenant on the property as of the valuation dates, if you lived on the property and have not filed a Home Exemption, yes, you would be able to move from Residential Investor to Residential, and you would get this credit, and it would come in the form as a credit—it gets confusing—2022 would be a credit, if you filed an appeal for 2023, it would be handled a little differently, but we are getting into the weeds.

Councilmember Cowden: Okay. I just want to be clear.

Committee Chair Evslin: You referred to it in here, and Reiko certainly referred to it, but to be doubly clear no one is getting a credit based on the Homestead rate. They could have been eligible for a Homestead rate. They live in the house, they do not own any other properties, but because they did not apply for the Homestead rate, they are not getting retroactively a credit based on Homestead, all they are getting is a credit based on Residential. Chair Rapozo.

Council Chair Rapozo: Now I am confused. Ms. Egusa who was living in ‘Ōma‘o with the Homestead rate, she sells that, buys a new place, and gets “whacked” with Residential Investor, which I think...we will investigate, because first of all the realtor or owner should have disclosed that, and the way the dates fall it should have already been a Residential Investor, but you are saying when you looked it up what was provided to you was Homestead, so we will look into that. My question is, now, she applies based on this amendment or this new Bill, can she get Homestead?

Ms. Matsuyama: This Bill does not give anyone Homestead.

Council Chair Rapozo: I mean the retro. Would she have to wait a year in Residential and pay Residential tax rate even though she has been living in that home?

Ms. Matsuyama: That is correct.

Councilmember DeCosta: Can she appeal?

Councilmember Kualii: But not Residential Investor.

Councilmember DeCosta: Can she appeal?

Council Chair Rapozo: No. She is not a Residential Investor—that I know. She is also not Residential, she is Homestead. I guess, my question is...I apologize, I am new to this, I am still trying to learn what was done. So, you are saying, what we are doing today will allow someone to get out of Residential Investor into Residential, but not into Homestead even if they qualify.

Ms. Matsuyama: They did not qualify because they did not apply.

Council Chair Rapozo: Okay.

Ms. Matsuyama: Again, that goes outside the scope of this Bill. We have had this problem for a long time. You do not apply for the Home Exemption, you do not get it. We do not assume that you live there until you tell us.

Committee Chair Evslin: To clarify the Ms. Egusa situation, I believe the reason that she is at Residential Investor and would not qualify on an appeal is because she would have had to been living...in August she is paying the tax bill for the previous year. My understanding is she would have to purchase the house pre-September 30<sup>th</sup> of the previous year. You apply September 30<sup>th</sup> and then you pay August of the next year. Its delay of the tax years.

Ms. Matsuyama: It is the timing.

Council Chair Rapozo: There is definitely something wrong with that picture.

Committee Chair Evslin: Councilmember DeCosta.

Councilmember DeCosta: Her situation is clear, cut, and dry. She still has the right to appeal to our board, correct? Is it up to the board to make that decision whether they will let her go from Residential Investor to Homestead? She still has that right. It will be up to our board to make that decision.

Mr. Hubbard: The appeal periods are closed, so there is no longer an appeal period for 2021, 2022, or 2023. I believe based off of her testimony she said she did come in and file for a Home Exemption and will get the Homestead tax rate. For the 2023 year, that appeal period just closed on December 31<sup>st</sup>. She bought the property June of 2022, which was already set at Residential Investor. She was not an owner on October 1<sup>st</sup>.

Ms. Matsuyama: 2021.

Mr. Hubbard: 2021. Therefore, we assessed the property in its ownership and valuation state, which was Residential Investor. She purchased into that. We are basing it off of the owner at the time. They may have been a Residential Investor. They sold the property that she purchased. I do not believe this Bill provides recourse for that owner or her to be reclassified into Residential.

Committee Chair Evslin: Chair Rapozo.

Council Chair Rapozo: I am going based on her testimony that when she purchased the home the tax was three thousand seven hundred dollars (\$3,700) a month. I am not going to say who, and I am not going to spend the time here, like I said, we will investigate. If the tax was three thousand seven hundred dollars (\$3,700) a year that would not be Residential Investor, I highly doubt that would be Residential Investor.

Ms. Matsuyama: Maybe I need to look at the timing again, but if June 2022, the rates would have just been set, so maybe she is looking at when it actually was Homestead from the previous owner, and the rates were not set on the Residential Investor quite yet, or maybe there was not enough of a lag.

Council Chair Rapozo: No sense doing it here and speculating, we will just look into it, because that just does not seem right.

Ms. Matsuyama: Okay.

Committee Chair Evslin: Councilmember Cowden.

Councilmember Cowden: I want to bring up the Kaua'i Board of Realtors. We really need to actively involve them very directly, because somehow training has to be in there very accurately. What is so burning for me, you have heard me really have passion on this floor a number of times, because I feel like we are clawing our middle class out of stability with our tax policies. Even who has not come, but I asked them to come is young doctor, we have actually had three (3) doctors that are new to the island, we cannot even hold doctors on the island. When they are buying a property and have brand-new baby or whatever are these things, they are at the bitter edge of being able to afford to live here.

Committee Chair Evslin: Councilmember Cowden, is there a question?

Councilmember Cowden: There is. But you folks gave some background too. They are at the bitter edge of being able to do this. Three (3) of those professionals that have come here to work have been shocked and do not know how they are going to be able to afford to keep their house, and should they have come and taken the job. My question is, what outreach goes with the Board of Realtors? How can we make sure to bring them into this, because the type of life change that comes from moving, and what we have is goals to have a workforce here, is there any outreach to the Board of Realtors? Have they had training? Mortgage people, have we reached out to be preventing this? Even with this, how can we make this change happen? What can we do? Because we have a housing crisis for these new residents that move here and are expecting, and they are understanding that they are going to be occupant owners and they are not, so how are we working with the Board of Realtors?

Ms. Matsuyama: We want to focus on outreach more this coming year. We have a meeting with the Kaua'i Board of Realtors set up for February 6<sup>th</sup>. We will be discussing anything and everything, and we are also going to be talking about

making agendas for future meetings, so that all of their members can be onboard. But again, that is their community, they are going to be selling, right? So, what we tell them may not translate to what is actually happening.

Committee Chair Evslin: Also, to be clear, I did do outreach on the original bill with Kaua'i Board of Realtors, and also on the tiers bill. I feel like I go to the Kaua'i Board of Realtors regularly on tax issues. I think that they are working on getting more engaged to the best of their abilities. Council Vice Chair Kualii.

Councilmember Kualii: I need clarification based on what was said just a little while ago. You said that Ms. Egusa would not be eligible by this Bill to file for an appeal to even go down from Residential Investor to Residential. I know they were talking about Homestead that Chair was saying. In essence, if she is responsible to take on the tax from the prior owner, why can she not have the right from the prior owner to file the appeal? Because at a minimum it seems like we should allow her to... and if it takes an additional amendment, it makes sense. You did say everyone has different scenarios, and you have heard about this, and I do not think it is right that she leaves here today without us trying to address that. I think the logic tells me at least, that if she has to assume the tax from the prior owner, she should be able to assume the right to appeal, because like this language it talks about eligible versus qualify, she is absolutely eligible, because she is living in that house as her primary residence. Obviously, going forward, because she did everything she was supposed to do more or less, because within a few months...bought in June, got the letter in August, by the September 30<sup>th</sup> deadline, went in and applied for the Homestead Exemption, and true she is applying for it going forward, but at least to do some kind of mitigation, she should be eligible to participate in this appeal process based on that. I know you have your scheduling. Why would she not based on the Bill as it is currently written?

Ms. Matsuyama: I think we have to put the tax year calendar in our heads. The assessment date that she is missing or that she basically inherited the previous owners tax class was October 1, 2021. So, that was the previous owner. That person would have had to file exemptions or whatever they needed by September 30, 2021. The deadline to appeal if something was wrong would have been December 31, 2021. Then, you go forward and get these bills in August 2022 and February 2023. So, that is the problem. There is this big gap in when the assessment date is, to when the rates are set, to when the bills go out. If she fell into Residential Investor in 2023, this Bill would absolutely apply to her, the proposed amendment to the Bill would apply to her. If she fell in Residential Investor in 2023, she lived there on October 1, 2022, she would absolutely be able to get from Residential Investor to Residential. But I think she had already applied for the Home Exemption, so she is good for 2023.

Councilmember Kualii: So, you are saying this whole chart that you did for 2022 and 2023, you are saying she could have participated in this 2023 part, but she does not need to because she went in and did what she needed to do. But when you show this 2022 part, you just mentioned all those deadlines, and those all apply to her because she took on halfway through from the prior owner, so why can she not participate in the appeal process?

Ms. Matsuyama: Unfortunately, it applied to the prior owner, and now she is getting hit with the bill.

Councilmember Kualii: Which would have applied to the prior owner if the prior owner was still there.

Ms. Matsuyama: Correct.

Councilmember Kualii: I am just saying that since she can take on the liability from the prior owner, why can she not take on the ability to appeal and why can we not make it so?

Ms. Matsuyama: That would be a policy decision.

Councilmember Kualii: Policy decision.

Ms. Matsuyama: That would be a law change, because we would have to open an appeal window for every single sale transaction that occurs on the island, and extend or have a 30-day window, and we do not get notified from the Bureau of Conveyances that a sale occurred until after the fact. I am just putting out the problems that I can see in that.

Councilmember Kualii: We are only talking about Residential Investor to Residential. The same appeal that everyone else has.

Ms. Matsuyama: I would have to look into it more. I think we are talking apples and oranges.

Committee Chair Evslin: It is every rate. If you buy a home that was a vacation rental as of September 30<sup>th</sup> the previous year, you are stuck for the next year paying that Vacation Rental rate, and vice versa, the previous owner, it sounds like "lucked out" buying a home that was owner-occupied getting the Homestead rate for that year. The reason that she could not appeal is because the house was actually vacant as of September 30<sup>th</sup> of the end of the application deadline.

Councilmember Kualii: We are working on this further.

Committee Chair Evslin: Yes. Councilmember DeCosta.

Councilmember DeCosta: I think there is a thing about realtors and disclosure where they have to disclose everything to you. I think your realtor did not disclose everything to you, so that is the route that you should go with Ms. Egusa.

Ms. Egusa: My realtor has been on the island of Kaua'i for thirty (30) years. She is the President of the State of Hawai'i Board of Realtors. She has been here thirty (30) years, and never had something like this happen.

Committee Chair Evslin: Sorry. Thank you. Maybe one thing we can look into is making sure based on the address, making sure that the class rate that

updated as of June 3<sup>rd</sup> of that year, which are things we can double check and get back to you on that. Back to the Bill and amendment. Are there any questions for the Department of Finance? We still have a lot to go. We need to go to final discussion, vote on this, then open it up to further amendments. Are there any further questions? We will call the meeting back to order. Thank you, Department of Finance. Is there any final discussion on the amendment? Chair Rapozo.

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Are we getting to the vote?

Committee Chair Evslin: Yes, on the amendment.

Council Chair Rapozo: First of all, thank you. I think we still have a lot of work to do as far as the overall tax code. I have spoken with Reiko and we will be working on and hopefully getting to a much simpler tax code. We have exemptions. We have classifications. I have only been gone four (4) years, but lord have mercy, I am relearning this stuff. Reiko has agreed that we need to simplify this process. We hear these stories like Ms. Egusa, and it is quite frustrating because even though you file an appeal, you need to follow the law. They cannot go outside of the law. I would love to see the Tax Appeals Board have more flexibility and look at it on a case-by-case basis, so they can put people in the right class. I do not agree with that you basically inherit the tax class from the person you bought the house from, that is just not fair. You live in the home, you should be paying Homestead, period, and we are not set up that way right now. We need to look at that. We need to fix that. There was a lot of discussion today about the long-term rental program. I think Tina hit it on the head, not only Tina, but we are forcing people to get out of the long-term affordable housing program, because of the way we tax. It is not working. The intent was right, but because the rental values are dropping, then you miss it by twenty-nine dollars (\$29) and you end up with a two hundred thousand dollar (\$200,000) increase in your assessment and your tax goes through the roof, and all you were trying to do was a help a low-income family, but no, you got punished because we know better. That has to change. One of my things when I first got back here, I wanted to set up a taskforce and get everyone, all these interested people, but I think we all know the problems, we know what we need to fix, and it is working with the Administration to somehow come up with a tax code that is easy to understand, and more importantly is fair and consistent. It is not right now. One of the questions was, what was the intent? Was this to generate revenue? I have to say, that was part of the intent. I am just saying, anyone that looked at this Bill had to know that we are going to increase revenues by millions of dollars, and that is not a bad thing if you were raising the revenue on properties that were causing impacts in the community and so forth, but when the collateral damage is our local families, then that is not a good thing. By the way, certified letters, there has been a lot of talk about that, I have done one (1) direct mail campaign in my political career, and I only did it once because it was twelve thousand dollars (\$12,000) to send the flyer to every house, but we are not sending a flyer to every house, we are sending a notice to everyone that is in that category, which I think is a couple thousand. You send it to a mail house. You send them the information, they put it together, and they send it out certified, you do not need to deal with that, you do not need to use our County resources,

we pay the house to do it, they get the discounted mail rates. I hate hearing about why we cannot do things—that drives me nuts. You raise seventeen million dollars (\$17,000,000) and we are talking about a little bit of thousands of dollars to go and inform people. No, that is what we need to do, it is not an option, in my opinion. The last thing is, this Council is going to have an opportunity this year, and I shared this with Reiko a while back, we control the tax rates. This Council controls the tax rates, so when we look at our residential Homestead people's taxes are going up because of a three percent (3%) cap, and the law says we can charge up to three percent (3%) cap, but we do the three percent (3%). Your assessments are going up twenty percent (20%) to thirty percent (30%), some cases three hundred percent (300%). You are going to get the three percent (3%) off the assessed value which is humungous. Real simple, this Council, all we do is adjust the tax rates down so that the revenue is neutral. Do all you want. You want to raise this. At the end of the day, the impact to the taxpayer is going to be neutral, and that is how we on this body can offset these kinds of errors, I will not say errors because I think the intentions were good, but we did not understand the collateral damage that was going to happen. We went through this ten (10) years or twelve (12) years ago with the circuit breaker, I do not know how many of you remember that, we passed the circuit breaker bill, so excited, I think we even had a party afterwards because we were going to help the local people, but then people did not know they had to enroll or apply, then they got "wacked" with their tax, and we have to do the same thing we are doing today, we had to do ten (10) years ago. We control tax rates. We should not be generating seventeen million dollars (\$17,000,000) like that. What did we do with that seventeen million dollars (\$17,000,000)? If we have a major project and there was a justification to increase the revenue because we need to...whatever it may be, then that is justified. But when we get to tax rates and look at the projected revenue off of a tax class, and we think it is too high, adjust the tax rates lower, then the impact of the taxpayer will not be as graphic as it is right now—this is powerful, Ms. Egusa's story—I am sure she is one of many that maybe just did not realize and now is faced with...by the way, our staff Allison is amazing, she read my mind, I was going to get these things after the meeting, but she pulled the files for your property. In fact, it was Residential Investor, but your assessment went up five hundred thousand dollars (\$500,000). That Residential Investor threshold is way too low for today's market. It is just above the threshold, so your class went from Residential to the Residential Investor. We have a lot of work to do. Councilmember Evslin, this Bill today with the amendments is really what needs to be done today. I understand it has to go to a public hearing. I can only imagine that the public will support this, because this is what is going to give the relief that is needed right now for our people that got caught in this. Thank you, folks, for your hard work. Thank you, Department of Finance for working with the Council on this. This is just the start. Thank you.

Committee Chair Evslin:

Councilmember Cowden.

Councilmember Cowden: I am also going to support it as it is because I know it will help maybe eighty percent (80%) of the problems. I want the eighty percent (80%) to be helped, and I am just grabbing that number, but I would say a lot of it, the vast majority will be fixed. There is certainly enough that need to continue to be fixed. I learned a lot when I voted "yes" when dropping it down to the one million three hundred thousand dollars (\$1,300,000), I figured 6:1 to 7:0, what difference does it

make? Well, it would not have made a difference in the outcome, but it would make a difference in how I feel. We did not anticipate when we dropped that value down to one million three hundred thousand dollars (\$1,300,000) that we would have the COVID-19 situation that would create this huge run on our housing, and all the trillions of dollars added to the money supply that caused this rapid inflation, so we had a convergence of a number of challenges. I did anticipate and stated harshly that my zone, which is Zone 5 where I live, the whole island is my *kuleana*, but I live on the north shore, Anahola to the end of the road, that is where the heaviest amount of this impact has happened. Certainly, Po'ipū, Kōloa, Kalāheo, happened too, but the stated objective was let us target the people who are on what is perceived as a long-term vacation or where they do not really live here, maybe we could turn those into long-term rentals. Well, most of those houses that are hit so hard or that live along the beaches, those are never going to turn into long-term rentals for our residential population workforce. We are trying to limit people buying these places as truly an investment. People will buy properties for millions of dollars to park it, because the market is going bad. So, we had a lot of reasons for doing it. Part of it was, we were going to take two percent (2%) of this money and apply it to having affordable housing. Well, that might be ten (10) years before those people are moving in, so I really feel adamant about being part of fixing our tax policy in a way that is simpler and does not have these unintended consequences. It is better to get a little less money in, than to lose housing for the people who are here. As we pull people out of housing, we lose them from the island. Some of them, we lose them from life. It takes us forever to build these houses. I want to keep people in their houses, so in my Zone 5, I think it was four hundred sixty-seven (467) houses that fell into this category, between the two million dollars (\$2,000,000) and the one million three hundred thousand dollars (\$1,300,000). One of the things I really want to do is get rid of Residential Investor, so we have less problems. Then, at a minimum, bring that minimum threshold back up to reflect this category of people who have deep pockets. If we are going to go after people, it needs to be people who have deep pockets. But, I am also really concerned about our legacy landowners, because what we are going to do is force these properties into being sold for tens of millions of dollars. These people do not want those tens of millions of dollars, they want their home, they want their grandchildren to have the home. These are generational outcomes and a lot of these people who might be losing their land, or people who have helped the community in countless ways. I thank all of you who have come today. I thank all of those who are listening. I thank all of those who are impacted. I am committed to making sure that we are able to reverse the problem.

Committee Chair Evslin:

Discussion, Councilmember DeCosta.

Councilmember DeCosta:

I am a math man. I just did the numbers. I agree with our Chair. If we remove that cap and adjust the tax rate, here we go, are you folks ready for this, and that is why I said lower the cap to one percent (1%) instead of three percent (3%). Do not remove it. Here we go, Finance Director. You bought a home in 1996 for two hundred fifty thousand dollars (\$250,000), you have been paying three percent (3%) tax on that house per year with the cap. That number is about seven thousand five hundred dollars (\$7,500) in improvements per year. Over the lifespan of your house, your assessed value only went up one hundred eighty-seven thousand five hundred dollars (\$187,500) in twenty-six (26) years. If we remove the cap, your assessed value over that time all of a sudden now, that home is worth one million

dollars (\$1,000,000) in Kalāheo twenty-five (25) years later. Now, your assessed value is going to go up by seven hundred fifty thousand dollars (\$750,000), whether you lower the rate down, the person is going to pay higher taxes. We may still need that cap. We might have to lower the cap. If we remove the cap, your family who has been owning a home for twenty (20), thirty (30), or forty (40) years are going to suffer. We need to watch how we “tweak” bills, that is the unintended consequences. I believe we need to fix this problem. I believe in the amendment today, and I believe in this Bill that Councilmember Evslin has introduced, but we will go back and look at this, Chair and Department of Finance, and we are going to fix this. We will fix this. We are smart enough. Do you know how I know we are smart enough? We have you folks in our pockets, and you will help us. We will fix this. That is my stance on that.

Committee Chair Evslin:

Councilmember Carvalho.

Councilmember Carvalho: This is the time to relook at everything. Just how everything was delivered. I am sure there are many more stories out in our community. We can go over all the different ups and downs, but to me, this is a great opportunity, this is a start, we can work close with the Administration. Department of Finance, I know there is a lot of ups and downs there, but I know this and the tax categories, and all the different miscommunication and things happening back and forth, but this is a start—that is how I look at it. I look forward to bringing it back to the table, doing what needs to be done, Chair Rapozo already put it on the table, and we just need to look at it, because it is in our hands as Councilmembers. Administration, yes, we need to work together, but this is where we need to start. After hearing all the different stories, oh my goodness, I cannot believe some of the other things that are happening out there in our community, the uncertainty, the differences, but we are going to make it right, and I feel strongly about that. Thank you, Councilmember Evslin and the team. I think this is a great opportunity.

Committee Chair Evslin:

Councilmember Bulosan.

Councilmember Bulosan: I am in support of this amendment. Thank you to everyone that came out spending half of your day here on Thursday. I know some of these things has affected you greatly. I apologize on how this affected some so negatively. I was not in this seat when the Bill came out, and I was in support of it as a public attendee. I still am in support of it as a public attendee and in support of it as a Councilmember, but obviously there are things that we need to adjust to make this equitable. It makes me think about the challenges of being a Councilmember and doing the work that we do which is oftentimes inheriting the challenges or decisions that were made before, so I own it and we are here. We would not be able to make these things better if you folks did not come out and help us make it better. I really appreciate the suggestions that came up, because there are a lot of great ideas that came out, and I think we will be incorporating such ideas in the future. I encourage us to keep coming together, because the only way we can make this better is if people come and talk story. I will just reiterate; I am in support of this amendment. I am in support of the Bill overall, and I look forward to making better laws that will help us all.

Committee Chair Evslin:

I should stay on track with the amendment, but I am going to go broad here, since we all went broad, and there was a lot of broad

testimony here. Number one, I want to thank staff for their work here. This went from something relatively simple to something huge, and they have done some heroic work quickly to get to this amendment. A huge thank you to the Department of Finance, especially the Real Property Tax Division, because they are the ones who are going to have to be...every element of this requires a lot of work on their part, and they are already understaffed, so I appreciate them being so flexible and willing to try and get everyone out of this class if they can. Thank you to everyone who came to testify, you all brought up a lot of good issues. I think that at some point at a future Committee Meeting, maybe that does not have much on it, we can have another update from Real Property Tax, we have them every so often, going through everything, kind of give us a broader opportunity to discuss a lot of what is going on here. I want to answer some of the things that were raised during the testimony. What is the rationale for the Residential Investor rate? Most of us were not here when the regional Residential Investor rate was passed. For me, I have long supported the Residential Investor rate simply because we have so many vacant homes on Kaua'i. One (1) in five (5) homes are vacant or a Transient Vacation Rental (TVR), maybe around half of those are going to be truly vacant homes, and when we have vacant homes it decays our communities when you have empty houses sitting in communities, the County still has to provide services to these houses even though they are not contributing to the tax base in other ways; police and fire protection, et cetera. In my mind, if you are going to keep it vacant then it should be contributing, in some sense, towards affordable housing elsewhere. I think the tax code is a place where we should be incentivizing long-term rentals. I do not think we should have a rate for a home with a long-term rental paying the same tax rate as a vacant home, so there should be a differential there. With that said, it is important that we do everything we can with the rate to make sure that occupied homes are not falling into that rate, which is the intention of this Bill and the amendment today. On the topic of generational properties, it is something that we have discussed a fair amount with the Department of Finance, and the issue that was said on the floor, Councilmember DeCosta said it, is that every time you start to open the door there we happen to have sixty percent (60%) of the land on Kaua'i, a large portion of the land owned from the same owner for seventy-five (75) to one hundred (100) years [sic] plus, so a lot of the land ends up falling into this category, and a lot of this land is for-profit corporations who own the land, so it is really hard to figure out something that can narrowly target truly inter-generational homeowners on smaller parcels and in some instances larger corporations. As far as the one-time submittal to get out of this rate, the problem is essentially fraud. If someone can get a house and have a long-term rental forever, there is no guarantee that is going to happen. If we are going to have a vacant tax class or some type of vacant...if this changes, if we still want to have a differential between vacant homes and long-term rentals, there is really no way to do it other than having the homeowner have to take a step and come to the County with that lease agreement. We have discussed a fair amount with the Department of Finance. Other ways we can do it, can we look at electricity usage? Can we look at water usage on that property? And the answer kind of always is "no." If you use water usage, someone puts on a sprinkler and gets out of that tax, so it is really going to require that homeowner to come forward with a lease agreement as long as we are going to have a differential rate. The long-term affordable rental program, the last time the rates went down was 2016, so it is not as if the rates are continually going down in that program, they rarely go down in that program, it is based on ninety percent (90%) Area Median Income (AMI) for the island. If there is a recession and AMI goes down, then the rates are going to go

down, but it does not happen very often. The assessment cap is such a huge conversation. It creates all kinds of issues, and I think Robert, I do not think he is here anymore, but his issue is an assessment cap issue. Chipper’s issue in some sense is an assessment cap issue. When you are falling out of it, it is the snap back that hurts. As Councilmember DeCosta said it, it has only been in place since 2016, so right now the differential is not gigantic, but it gets bigger every year. In some ways, it is punitive on new homeowners. If you are buying a house, you are not benefiting from that assessment cap. Whereas, in my mind, instead of the assessment cap, we should be lowering all rates every year, so that the average increase of a home is no more than “x” percent, but instead we hold the Homestead rate essentially steady, long-term homeowners benefit, new homeowners are penalized in some capacity, or those who snap out of the rate. If we start to lower other rates and not the Homestead rate, if we lower them all, Residential is going to become equivalent to Homestead. We are not touching Homestead because it has an assessment cap, we start to lower the rest, and there is no beneficial rate for an owner-occupied house compared to a long-term rental. So, I just think the assessment cap does create a lot of issues and we need to be careful with it. Mid-year rate change, we have talked to the Department of Finance so many times about mid-year rate changes. From everything that we have heard from them, it is just a monstrous burden to try and do a mid-year rate change, or rate change on the sale of a property. I wrecks havoc with our budget and our revenue forecast that requires them to constantly be reassessing properties, it doubles the work or more of their office. So, I wish we could do a mid-year rate change. It does break my heart every time a hear a story like this, but I do not have a good answer on how to do it. All that said, hopefully this amendment helps plug a lot of the holes here, and we still have the rest of the Bill to get through here. That said, is there any other final discussion? Councilmember Cowden.

Councilmember Cowden: Can I just say one thing? AMI is Area Median Income. Am I saying it right? You are using an acronym and mid-year rate change, just in case people could not hear him.

Committee Chair Evslin: Sorry. Roll call vote on the amendment.

The motion to amend Bill No. 2891 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1 was then put, and carried by a vote of:

FOR AMENDMENT:	Bulosan, Carvalho, Cowden, DeCosta, Kuali’i, Rapozo, Evslin	TOTAL – 7,
AGAINST AMENDMENT:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Committee Chair Evslin: Amendment passes. Now, we are on the main motion as amended. Are there further amendments that we want to entertain here? Okay.

Council Chair Rapozo: We are back to the main motion.

Committee Chair Evslin: Yes.

Council Chair Rapozo: Your intent is to send it to public hearing on February 8<sup>th</sup>.

Committee Chair Evslin: Yes. We will take final discussion. Then, at the end of that, we will ask for a motion to refer back to public hearing on February 8<sup>th</sup> and back to the Finance & Economic Development Committee. We will take final discussion first on the main motion as amended. No final discussion there. Can I have a motion to refer to the February 8<sup>th</sup> public hearing, then to the Finance & Economic Development Committee?

Councilmember Kualii moved that a public hearing on Bill No. 2891, as amended herein to Bill No. 2891, Draft 1, be scheduled on February 8, 2023, and that it thereafter be referred to the Finance & Economic Development Committee, seconded by Councilmember Cowden.

Committee Chair Evslin: Roll call vote on the Bill as amended.

The motion to approve Bill No. 2891, Draft 1, that it be ordered to print, that a public hearing thereon be scheduled for February 8, 2023, and that it be referred to the Finance & Economic Development Committee was then put, and carried by the following vote:

FOR MOTION:	Bulosan, Carvalho, Cowden, DeCosta, Kualii, Rapozo, Evslin	TOTAL – 7,
AGAINST MOTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Committee Chair Evslin: The motion passes.

The Committee proceeded on its agenda item, as shown in the following Committee Report, which is incorporated herein by reference:

**CR-FED 2023-01:** on Bill No. 2892      **A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTION 12.7(b) AND ADDING A NEW SECTION 12.15, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES, APPEALS SETTLED BY DIRECTOR (Approved.)**

(Note: Councilmember Kualii was noted as excused during discussion on Bill No. 2892.)

There being no further business, the meeting was adjourned at 12:46 p.m.

Respectfully submitted,



Jessica Young  
Council Services Assistant I

APPROVED at the Committee Meeting held on February 1, 2023:



---

LUKE A. EVSLIN  
Chair, FED Committee

(January 19, 2023)

FLOOR AMENDMENT

Bill No. 2891, A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Tax Credit Residential Investor*)

Introduced by: KIPUKAI KUALI'I, Councilmember (By Request)

1. Amend Bill No. 2891, SECTION 1 as follows:

"SECTION 1. Findings and Purpose. The Council finds that many Residential Investor property owners could have qualified for a lower property tax rate, but did not file the proper forms. The Residential Investor tax class is intended to help incentivize property owners to long-term rent their property. Taxing occupied homes at the higher Residential Investor tax class is counter to the purpose of the tax class and could result in the sale of occupied housing or an increase in rents to pay for the additional tax burden.

The Council finds that some relief should be granted for those homes that were either long-term rented or owner-occupied as of September 30 of the prior year, but failed to file the proper forms.

The purpose of this Ordinance is as follows:

- Provides for any newly classified Residential Investor property owner to apply for a tax credit limited [only] to the 2022 tax year[,] and 2023 tax year, by meeting the requirements provided by Sec. 5A-11.4 (with various exceptions as stated in this Ordinance) or by providing an executed copy of a rental agreement running through October 1 of the prior year, and an "Annual Long-Term Lease Application Verification for the Reclassification of Residential Investor [Properties.]" Properties" (with various exceptions as stated in this Ordinance). Should the Director of Finance determine that a property was eligible for another tax rate classification for the 2022 tax year, 2023 tax year, or both (if applicable), a tax credit of the difference between the amount paid under the Residential Investor tax classification for the prior year and the amount the owner would have paid under the Residential tax class for the prior year shall be applied to the owner's tax year bill for the following tax [year,] (with restrictions as stated in this Ordinance), and all penalties and interest for delinquent payment of the tax differential portion shall be waived.
- Support current long-term rentals by providing a tax credit, while reminding owners of the process to submit the proper documentation to change tax classifications.

Applicants shall have sixty (60) days from the effective date of this Ordinance to apply for this tax credit."

2. Amend Bill No. 2891, SECTION 2 as follows:

**Delete the existing** Bill No. 2891, SECTION 2 and add a new Section 2

[“Residential Investor” shall mean a tax rate classification applied to properties that [do not qualify] are not eligible for the [home exemption,] Home Exemption, are improved with a dwelling unit(s), are not vacant land, are not being rented on a long-term basis, and have an assessed value of one million three hundred thousand dollars (\$1,300,000) or more.”]

SECTION 2 to read as follows:

“Residential Investor” shall mean a tax rate classification applied to properties that are not eligible for the Home Exemption (provided that the income tax return as a resident of the State of Hawai‘i requirement pursuant to Section 5A-11.4(a)(2) shall be waived for the 2022 tax year, 2023 tax year, or both (if applicable), if the property owner: has used the property address for Hawai‘i residential tax returns, driver’s license, car and voter registration, bills and correspondence; submits a copy of a valid Hawai‘i Driver’s License or Hawai‘i State ID; and affirms that the property owner has used the property as the property owner’s “principal” home or residence for more than 270 calendar days per year, with the calendar year beginning on the date of assessment, October 1, and ending on September 30 of the following year), are improved with a dwelling unit(s), are not vacant land, are not being rented on a long-term basis, and have an assessed value of one million three hundred thousand dollars (\$1,300,000) or more.”

3. Amend Bill No. 2891, SECTION 3 as follows:

**Delete the existing** Bill No. 2891, SECTION 3 and add a new Section 3

[(e) For the 2022 tax year, any property owner whose property was re-classified as Residential Investor may apply for a tax differential by meeting the requirements provided by Sec. 5A-11.4, other than filing a timely application, or by providing evidence of a long-term rental agreement, such as an executed copy of a rental agreement running through October 1 of the prior year, and an “Annual Long-Term Lease Application Verification for the Reclassification of Residential Investor Properties.” Should the Director of Finance determine that a property was eligible for another tax rate classification for the 2022 tax year, a tax differential of the variance between the amount paid under the Residential Investor tax classification for the prior year and the amount the owner would have paid under the Residential tax class for the prior year shall be applied to the owner’s tax year bill for the following tax year. Furthermore, for eligible owners all penalties and interest for delinquent payment for the 2022 tax year shall be waived. Applicants shall have sixty (60) days from the effective date of Ordinance No. \*\*\* to apply for this tax differential.”]

SECTION 3 to read as follows:

(e) For the 2022 tax year, 2023 tax year, or both (if applicable), any property owner whose property was classified as Residential Investor may apply for a tax differential by meeting the requirements provided by Section 5A-11.4, other than

filing a timely application (provided that the income tax return as a resident of the State of Hawai'i requirement pursuant to Section 5A-11.4(a)(2) shall be waived for the 2022 tax year, 2023 tax year, or both (if applicable), if the property owner: has used the property address for Hawai'i residential tax returns, driver's license, car and voter registration, bills and correspondence; submits a copy of a valid Hawai'i Driver's License or Hawai'i State ID; and affirms that the property owner has used the property as the property owner's "principal" home or residence for more than 270 calendar days per year, with the calendar year beginning on the date of assessment, October 1, and ending on September 30 of the following year), or by providing evidence of a long-term rental agreement, such as an executed copy of a rental agreement running through October 1 of the prior year, and an "Annual Long-Term Lease Application Verification for the Reclassification of Residential Investor Properties."

(1) A long-term rental agreement may include agreements that begin with an initial long-term rental period of six (6) months or longer followed by an automatic month-to-month extension, provided that the property owner submits the rental agreement and an affidavit wherein both the property owner and the tenant affirm that the tenant continues to reside at the property pursuant to the month-to-month portion of the initial rental agreement.

(2) Should the Director of Finance determine that a property was eligible for another tax rate classification for the 2022 tax year, 2023 tax year, or both (if applicable), a tax differential of the variance between the amount paid under the Residential Investor tax classification for the applicable year or years and the amount the property owner would have paid under the Residential tax class for the applicable year or years shall be applied to the property owner's tax bill for the following tax year. The property owner may only receive the tax differential if the property owner remains the owner of record of the property at the time the tax differential would be applied to the property owner's tax bill, provided that the tax differential shall still be applied if the property was only transferred for the purposes set forth in Section 5A-11.4(c)(2)(F).

(3) For eligible property owners, all penalties and interest for delinquent payment of the tax differential portion shall be waived for the 2022 tax year, 2023 tax year, or both (if applicable).

(4) Property owners shall have sixty (60) days from the effective date of Ordinance No. \*\*\* to apply for a tax differential for the 2022 tax year, 2023 tax year, or both (if applicable).

(5) Property owners may apply for a tax differential for the 2022 tax year, 2023 tax year, or both (if applicable), even if they did not timely file a valid appeal for the applicable tax year or years pursuant to Chapter 5A,

Article 12 (Appeals). Alternatively, for property owners who timely filed a valid appeal that remains pending for the applicable tax year or years, the tax differentials created by this Article may be used in resolving the appeal or appeals. Property owners who have received a tax differential for the 2022 tax year, 2023 tax year, or both (if applicable), via the appeal process need not separately apply for a tax year differential pursuant to Sections 5A-3.2(e)(4) and (5).”

4. Amend Bill No. 2891, SECTION 4 as follows:

**Delete the existing** Bill No. 2891, SECTION 4 and add a new Section 4

[(d) For the purposes of this Article, the Residential Investor tax rate classification shall be applied to properties that [do not qualify] are not eligible for the Home Exemption, are improved with a dwelling unit(s), are not vacant land, are not being rented on a long-term basis, and have an assessed value of one million three hundred thousand dollars (\$1,300,000) or more.”]

SECTION 4 to read as follows:

“(d) For the purposes of this Article, the Residential Investor tax rate classification shall be applied to properties that are not eligible for the Home Exemption (provided that the income tax return as a resident of the State of Hawai‘i requirement pursuant to Section 5A-11.4(a)(2) shall be waived for the 2022 tax year, 2023 tax year, or both (if applicable), if the property owner: has used the property address for Hawai‘i residential tax returns, driver’s license, car and voter registration, bills and correspondence; submits a copy of a valid Hawai‘i Driver’s License or Hawai‘i State ID; and affirms that the property owner has used the property as the property owner’s “principal” home or residence for more than 270 calendar days per year, with the calendar year beginning on the date of assessment, October 1, and ending on September 30 of the following year), are improved with a dwelling unit(s), are not vacant land, are not being rented on a long-term basis, and have an assessed value of one million three hundred thousand dollars (\$1,300,000) or more.”

(Material to be deleted is bracketed, new material to be added is underscored.)

V:\AMENDMENTS\2023\DRAFT FA - Bill 2891 Tax Credit Res Inv RPT (1-18-23)(JA CNT)(KK for LE) JA\_jy.docx

Handout #1 to Accompany Bill No. 2891 Floor Amendment (KipuKai Kualii, Councilmember) (By Request)

CHANGES MADE BY BILL NO. 2891	FURTHER CHANGES MADE BY THIS FLOOR AMENDMENT
<ul style="list-style-type: none"> <li>• Creates a 60-day opportunity for eligible property owners to apply for a tax differential for Tax Year 2022, to eventually receive back the difference between what they paid at Residential Investor vs. what they would have paid at Residential.</li> <li>• Penalties and interest waived for eligible owners for Tax Year 2022.</li> <li>• Changes the definition of Residential Investor so that homes that are “eligible” for the Home Exemption but did not “qualify” for the Home Exemption could successfully appeal out of the Residential Investor class and into the Residential tax class. <ul style="list-style-type: none"> <li>○ To “qualify” for a Home Exemption, a homeowner must submit a qualifying application before the September 30 deadline. To be “eligible” for a Home Exemption, the owner does not have to have submitted the application, but must otherwise fit the eligibility criteria: <ul style="list-style-type: none"> <li>▪ affirms that the property owner has used the property as their “principal” home for more than 270 days,</li> <li>▪ has a Hawai‘i N-11 tax return from the prior year,</li> <li>▪ cannot have a Home Exemption for another house, and</li> <li>▪ has a Hawai‘i driver’s license.</li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Expands this same 60-day opportunity to eligible property owners for Tax Year 2023 (property owners whose forms/exemptions were due Sept 30, 2022, assessed notices mailed Dec 1, 2022, appeal deadline Tuesday, Jan 3, 2023 due to Dec 31, 2022 weekend and Monday, Jan 2, 2023 holiday observed).</li> <li>• Penalties and interest waived for eligible owners for both Tax Year 2022, Tax Year 2023, or both (if applicable).</li> <li>• Provides limited flexibility relating to the Home Exemption. <ul style="list-style-type: none"> <li>○ N-11 tax return for prior year waived if owner affirms 271+ calendar days of occupancy and other evidence.</li> <li>○ Appropriate evidence results in a tax differential based on Residential vs. Residential Investor (rate could be based on Homestead in future years if owner timely submits valid Home Exemption with N-11 by the deadline for future years).</li> </ul> </li> <li>• The type of “long-term rental agreement” that will be eligible to keep a property at Residential vs. Residential Investor expanded to allow month-to-month leases if the lease started with a rental period of at least 6 months, with affirmation that that the same long-term tenant remains in place).</li> <li>• Clarifies the Bill’s original intent that: <ul style="list-style-type: none"> <li>○ The owner must still own the property at the time the tax differential is being applied to the property in order to receive the tax differential.</li> <li>○ The tax differential can be used to resolve tax appeals if applicable (for those who timely appealed).</li> <li>○ Penalties and interest are waived for the tax differential portion of an owner’s tax bill (i.e., does not allow complete nonpayment).</li> </ul> </li> </ul>

Handout #2 to Accompany Bill No. 2891 Floor Amendment (KipuKai Kualii, Councilmember) (By Request)

Tax Year	Situation	Issue	Original Bill	Proposed Amendment
2022 Exemption Deadline: Sept 30, 2021 Appeal Deadline: Dec 31, 2022 Payment Deadlines: Aug 20, 2022 Feb 20, 2023	Owner-Occupant without Home Exemption	Owner-Occupant failed to realize they had been categorized as Residential.	Apply for tax differential w/in 60 days.	Apply for tax differential w/in 60 days.
	Owner-Occupant without Home Exemption	Owner-Occupant was not eligible for Home Exemption due to 2021 N-11.	Not addressed.	Apply for tax differential w/in 60 days.
	Long-term tenant occupies home	Property was occupied by a long-term tenant. Owner missed the Sept 30 deadline.	Apply for tax differential w/in 60 days.	Apply for tax differential w/in 60 days.
	Long-term tenant only on MTM lease	Property was occupied by a long-term tenant where original 6-month lease had expired.	Not addressed.	Apply for tax differential w/in 60 days.
	Part-Time Resident or Vacant Home	Value grew to >\$1.3M.	Not addressed.	Not addressed. This is within the true purpose and intent of Res Investor.
2023 Exemption Deadline: Sept 30, 2022 Appeal Deadline: Jan 3, 2023 Payment Deadlines: Aug 20, 2023 Feb 20, 2024  (Tax rates not yet set)	Owner-Occupant without Home Exemption	Owner-Occupant failed to realize they had been categorized as Residential.	Not addressed. Were sent a direct mailer to appeal (handled through 2892).	Apply for tax differential w/in 60 days.
	Owner-Occupant without Home Exemption	Owner-Occupant was not eligible for Home Exemption due to 2021 N-11.	Not addressed.	Apply for tax differential w/in 60 days.
	Long-term tenant occupies home	Property was occupied by a long-term tenant. Owner missed the Sept 30 deadline.	Not addressed. Were sent a direct mailer to appeal (handled through 2892).	Apply for tax differential w/in 60 days.

Handout #2 to Accompany Bill No. 2891 Floor Amendment (KipuKai Kualii, Councilmember) (By Request)

<u>2023 continued</u>	<u>Situation</u>	<u>Issue</u>	<u>Original Bill</u>	<u>Proposed Amendment</u>
	Long-term tenant only on MTM lease	Property was occupied by a long-term tenant where original 6-month lease had expired.	Not addressed.	Apply for tax differential w/in 60 days.
	Part-Time Resident or Vacant Home	Value grew to >\$1.3M.	Not addressed.	Not addressed. This is within the true purpose and intent of Res Investor.
<p>2024 New bill is being worked on by Finance to resolve all Residential Investor issues on a prospective basis.</p>				

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A,  
KAUA'I COUNTY CODE 1987, AS AMENDED,  
RELATING TO REAL PROPERTY TAX**

---

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII:

SECTION 1. Findings and Purpose. The Council finds that many Residential Investor property owners could have qualified for a lower property tax rate, but did not file the proper forms. The Residential Investor tax class is intended to help incentivize property owners to long-term rent their property. Taxing occupied homes at the higher Residential Investor tax class is counter to the purpose of the tax class and could result in the sale of occupied housing or an increase in rents to pay for the additional tax burden.

The Council finds that some relief should be granted for those homes that were either long-term rented or owner-occupied as of September 30 of the prior year, but failed to file the proper forms.

The purpose of this Bill is as follows:

- Provides for any newly classified Residential Investor property owner to apply for a tax credit limited only to the 2022 tax year, by meeting the requirements provided by Sec. 5A-11.4 or by providing an executed copy of a rental agreement running through October 1 of the prior year, and an "Annual Long-Term Lease Application Verification for the Reclassification of Residential Investor Properties." Should the Director of Finance determine that a property was eligible for another tax rate classification for the 2022 tax year, a tax credit of the difference between the amount paid under the Residential Investor tax classification for the prior year and the amount the owner would have paid under the Residential tax class for the prior year shall be applied to the owner's tax year bill for the following tax year, and all penalties and interest for delinquent payment shall be waived.
- Support current long-term rentals by providing a tax credit, while reminding owners of the process to submit the proper documentation to change tax classifications.

Applicants shall have sixty (60) days from the effective date of this Ordinance to apply for this tax credit.

SECTION 2. Chapter 5A, Section 5A-1.1, Kaua'i County Code 1987, as amended, is hereby amended in part by amending the definition of "Residential Investor" to read as follows:

"Residential Investor" shall mean a tax rate classification applied to properties that [do not qualify] are not eligible for the [home exemption,] Home Exemption, are improved with a dwelling unit(s), are not vacant land, are not being rented on a long-term basis, and have an assessed value of one million three hundred thousand dollars (\$1,300,000) or more."

SECTION 3. Chapter 5A, Section 5A-3.2, Kaua'i County Code 1987, as amended, is hereby amended in part to add a new 5A-3.2(e) to read as follows:

"(e) For the 2022 tax year, any property owner whose property was re-classified as Residential Investor may apply for a tax differential by meeting the requirements provided by Sec. 5A-11.4, other than filing a timely application, or by providing evidence of a long-term rental agreement, such as an executed copy of a rental agreement running through October 1 of the prior year, and an "Annual Long-Term Lease Application Verification for the Reclassification of Residential Investor Properties." Should the Director of Finance determine that a property was eligible for another tax rate classification for the 2022 tax year, a tax differential of the variance between the amount paid under the Residential Investor tax classification for the prior year and the amount the owner would have paid under the Residential tax class for the prior year shall be applied to the owner's tax year bill for the following tax year. Furthermore, for eligible owners all penalties and interest for delinquent payment for the 2022 tax year shall be waived. Applicants shall have sixty (60) days from the effective date of Ordinance No. \*\*\* to apply for this tax differential."

SECTION 4. Chapter 5A, Section 5A-6.4(d), Kaua'i County Code 1987, as amended, is hereby amended to read as follows:

"(d) For the purposes of this Article, the Residential Investor tax rate classification shall be applied to properties that [do not qualify] are not eligible for the Home Exemption, are improved with a dwelling unit(s), are not vacant land, are not being rented on a long-term basis, and have an assessed value of one million three hundred thousand dollars (\$1,300,000) or more."

SECTION 5. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

SECTION 6. Ordinance material to be repealed is bracketed. New Ordinance material is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the brackets, bracketed material, and underscoring shall not be included.

SECTION 7. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the designated Ordinance number of this Ordinance shall be substituted for the \*\*\* placeholders.

SECTION 8. This Ordinance shall take effect upon approval, terminate on September 30, 2023, and shall not supersede Ordinance No. 1130 and Ordinance No. 1132.

Introduced by:



LUKE A. EVSLIN



MASON K. CHOCK

DATE OF INTRODUCTION:

**November 16, 2022**

Līhu'e, Kaua'i, Hawai'i

V:\BILLS\2020-2022 TERM\Tax Credit Res Inv (MB 11-7-22) (LE MC) cnt-lc.docx

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2891, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on November 16, 2022, by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL - 7,
AGAINST PASSAGE:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Lihu'e, Hawaii  
November 17, 2022



Jade K. Fountain-Tanigawa  
County Clerk, County of Kaua'i