

MINUTES

BUDGET & FINANCE COMMITTEE March 4, 2009

A meeting of the Budget & Finance Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Councilmember Daryl W. Kaneshiro, Chair, at the Historic County Building, Room 201, Līhu'e, Kaua'i, on Wednesday, March 4, 2009, at 10:36 a.m., after which the following members answered the call of the roll:

Honorable Bill "Kaipo" Asing
Honorable Tim Bynum
Honorable Dickie Chang
Honorable Jay Furfaro
Honorable Daryl W. Kaneshiro
Honorable Lani T. Kawahara
Honorable Derek S. K. Kawakami

Minutes of the February 18, 2009 Budget & Finance Committee Meeting.

Upon motion duly made by Councilmember Kawakami, seconded by Councilmember Bynum, and unanimously carried, the Minutes of the February 18, 2009 Budget & Finance Committee Meeting was approved.

The Committee proceeded on its agenda items as follows and as shown in the following Committee reports which are incorporated herein by reference:

Bill No. 2292 A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A,
KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO
REAL PROPERTY TAX APPEALS
[This item was deferred to September 16, 2009.]

DARYL W. KANESHIRO, Budget & Finance Committee Chair: Thank you. At this time, I would like to have some discussions on this bill unless there's a motion on the floor. So, before I open it up for some discussions, is there anyone in here who wanted to testify on this bill? Mr. Mickens. I will suspend the rules and you can proceed with your testimony.

There being no objections, the rules were suspended.

GLENN MICKENS: Thank you, Daryl, for the record Glenn Mickens. I just have a short testimony about this. It...it could...depending on what you people decide on this bill it could be moot, but I'll go ahead and put it before you now and you can decide whether, you know, you're going to pass it or not. This bill has been on the agenda of the council a good many times and considerable testimony has already been offered as to why the reasons this bill is needed. I will not try to repeat what has been said many times by now. Tax assessment of market value of multitude of properties is an inexact science, as all you guys know. Mistakes will be made. The purpose of this bill, I presume, is to assure that the process for resolving claims of error is a fair one. The evidence from taxpayers who have tried to appeal

their assessments is overwhelming that the existing practices are unjustly one-sided and the tax department wants to keep them that way. This is apparent to the public anyway. The real issue in this bill gets down to whether the members of this council care about providing their constituents and other taxpayers with an even-handed procedure to contest what are believed to be excessive assessments and changing the image that the county now has of supporting what we feel is a stacked system. If you recognize your responsibility to allow Kaua'i taxpayers to have a reasonable process to hear their contentions, you will adopt Bill 2292. That's my testimony. You've heard Mike Dyer many times bring the case before you. I think he's more than...evaluated what's going on. He personally has lost a lot of money going through this appeal process, each year being voted down. So, again I'll wait until you guys go over this bill and hopefully this 2292...the last amendment I got, I presume it's the last one, Daryl, right? Floor amendment January 7th, is that the last one you got?

Mr. Kaneshiro: It's not on the floor yet.

Mr. Mickens: That's...

Ms. Kawahara: So it's not?

Mr. Kaneshiro: No.

Ms. Kawahara: It's not.

Mr. Mickens: Oh.

Mr. Kaneshiro: It hasn't been introduced yet.

Mr. Mickens: Oh, it hasn't been introduced yet.

Mr. Kaneshiro: Remember we talked about this?

Mr. Mickens: Yeah, yeah, yeah, I do, I do.

Mr. Kaneshiro: Where we're proactive, we're trying to get you the amendments previous...before...

Mr. Mickens: Right, but we got a copy of it. I mean the public...

Mr. Kaneshiro: Yes, you do.

Mr. Mickens: ...has been entitled to a copy of it. Well...

Mr. Kaneshiro: Yes, you do.

Mr. Mickens: Whether you pass it or not or it's on the floor, I presume that this is the last one that you got then? Or that...

Mr. Kaneshiro: You can presume that, but you never know. We still have other committee members. Your presumption...you know, is your presumption.

Mr. Mickens: Okay, thank you.

Mr. Kaneshiro: Any questions for Mr. Mickens?

Mr. Mickens: Thank you.

Mr. Kaneshiro: Mr. Furfaro, go ahead.

JAY FURFARO: Yes, thank you. First of all I want to make sure we're all clear. There are two parts to this bill...two parts to this bill. One part is getting the appeal goal down to 10%. Currently it's at 20.

Mr. Mickens: Right.

Mr. Furfaro: The 10% is something that we have had some discussion about, but in a falling market perhaps has some appeal because we're not certain that the tax office can be current with the re-evaluations, although we have hired more staff in there. So that's part one. Part two deals with the actual arbitration procedure...

Mr. Mickens: Yes.

Mr. Furfaro: ...which is something we'll discuss at some point here, but I do want to say that the county attorney's office has advised me that it would be recommended to revisit what I might be recommending as far as the arbitration application according to National Arbitration Rules. Now, the purpose behind this bill, I've said before, is in anticipation of the possibility of the cap being removed not necessarily by this council, but in the overall of the tax bill. The intent is to be able to provide an appeal process if the cap is removed. Those are the...the rationale behind introducing it and as I mentioned earlier the two points are...they need to be very clear. One is getting it down to 10%. The other one is the possibility of re-evaluating the ar...arbitration procedure which may require more dialogue with the county attorney's office.

Mr. Mickens: And in your...in your amendment under this 5A-12.3, bullet point one, you've al...you have mentioned that, right, assessment of the property exceeds by more than 10%, not 20, but 10%. I mean that's what you are...

Mr. Furfaro: You know, last time we spoke about this we were dealing with the generosity of the committee chair.

Mr. Mickens: Yes.

Mr. Furfaro: That has not been on the floor, yet.

Mr. Mickens: Okay.

Mr. Furfaro: So, therefore, it should not be discussed, but I want to make sure we're clear...

Mr. Kaneshiro: Sorry, Mr. Mickens.

Mr. Furfaro: ...there's two parts to this.

Mr. Mickens: Yeah, I got those two parts and I agree with you 100%, Jay, and I hope...I hope it's discussed in this floor amendment that hasn't been brought to you yet, okay?

Mr. Kaneshiro: We'll see today...

Mr. Mickens: Thank you.

Mr. Kaneshiro: ...since this is our committee meeting today.
Bruce.

BRUCE PLEAS: Bruce Pleas for the record and also for the record for the rest of this meeting, all my testimony is my own. I am a resident of Kaua'i. I do not belong to any lobby organization, registered or unregistered. I do not belong to any organizations in the State of Hawai'i or the County of Kaua'i. My first...I stand by what I presented before. Councilmember Kaneshiro, have you read the minutes from the last meeting or do you want me to update a little bit my one concern?

Mr. Kaneshiro: Go ahead, Bruce.

Mr. Pleas: Okay. Now basically...

Mr. Kaneshiro: It's your opportunity to speak, so.

Mr. Pleas: Okay, okay, basically...

Mr. Kaneshiro: You have the floor for three minutes.

Mr. Pleas: My one...my one concern is that when you go before

the...or when I went before the board on an assessment...on assessment is that I was not provided any documentation for background of what the assessor had presented to the board. And what I would like to see in this bill is some wording that requires that when a person comes up to appeal that he gets all the information similar to how we get the information on bills here. I believe it's very important instead of me having to go out and go to the realtor and find out what sold in my neighborhood and try to figure it out myself. I think all the information that's presented to the board should be presented to the people. And I would also like to make a request that any floor amendments that are presented today that I would get a copy of so I would be able to understand them. And also too, if it's up to the chair, committee chair, that we will be able to come back and comment on the floor amendments if...if that is possible. And one point of clarification, Councilmember Furfaro mentioned removal of caps.

Mr. Furfaro: Let's make it clear. I did not mention that. I am not...

Mr. Kaneshiro: He did not say that.

Mr. Furfaro: I just said, let's make sure what I said.

Mr. Kaneshiro: Let's be cautious.

Mr. Furfaro: Okay, what I said is the main bill that has been proposed by the administration suggests the removal of the cap, not Councilman Furfaro.

Mr. Pleas: Okay, okay, but I just wanted some clarification of which caps. There's a lot of caps out there.

Mr. Kaneshiro: We don't need to get into that discussion at this current time.

Mr. Pleas: Okay, okay.

Mr. Kaneshiro: ...because I think the real issue that we have before us is the process of...

Mr. Pleas: Yes.

Mr. Kaneshiro: You know, resolving the issues if there's some discrepancies...

Mr. Pleas: Yes.

Mr. Kaneshiro: ...between the appraised values as could be to the

homeowners.

Mr. Pleas: Okay, thank you.

Mr. Kaneshiro: So I...I don't want to get into any discussion at this point.

Mr. Furfaro: Thank you, Mr. Chair.

Mr. Kaneshiro: Any questions for Bruce?

Mr. Furfaro: You know...Mr. Chair, I think you're dealing with a dangerous precedent if each time we introduce an amendment we take more public testimony. The fact of the matter is nothing has been introduced at this point.

Mr. Kaneshiro: Correct.

Mr. Furfaro: And secondly...

Mr. Kaneshiro: Correct.

Mr. Furfaro: ...our rules allow them six minutes of conservation...conversation.

Mr. Kaneshiro: Absolutely, absolutely.

Mr. Furfaro: So, if they in fact want to come back a second time for their second three minutes...

Mr. Kaneshiro: I have no problem with that.

Mr. Furfaro: That is in our rules.

Mr. Kaneshiro: Anyone else wanted to speak on this item? Go ahead.

MIKE DYER: Chairman Kaneshiro, councilmembers, my name, for the record, is Mike Dyer and I'm representing myself as a frequent appellant. Lowering the threshold for property tax appeals from 20% to 10%, in my opinion, is a fair and reasonable change for the taxpayer. Chapter 5A requires property taxes to be based on fair market value and the assessor's office should be encouraged and in fact obligated to determine fair market value as accurately as possible and I think that Bill 2292 does that. It tightens the margin of error for the assessor's office which I think is reasonable. I'm...this particular point addresses something that was provided to me by...through the kindness of the assessor's office and that is I think one of their arguments is that rather than having the threshold reduced

to 10% on either the land or the building or the improvement provisions, that it should be an aggregated or combined 10%. I would argue that that would be unfair to the taxpayer and would substantially reduce the benefit of lowering the threshold from 20% to 10%. In other words, in the say a typical residence that had a \$250,000 house on a \$250,000 value on the land, to apply the 10% threshold to the aggregate of those two would basically cut the benefit to the...potential benefit to the taxpayer in half. Protecting the rights and interest of the taxpayer should be the main priority of the county council. If the council doesn't protect the rights of the taxpayer, who will? It's been said in regard to this matter that if it isn't broke, don't fix it. This only applies if you look at the current tax appeal process solely from the standpoint of the assessor's office while you ignore the difficulty and the suffering that the taxpayers go through in the appeal process. It's incredibly hard, time consuming and almost always a failure for the taxpayer. So, from our standpoint, it is broke. Thank you.

Mr. Kaneshiro: Any questions? Councilmember Bynum, go ahead.

TIM BYNUM: Yeah, I have questions about the point you just made about aggregate because my understanding is that's current practice. We look at the aggregate amount between and it's not done separately. Is that correct?

Mr. Dyer: I may be mistaken and the question should probably go to someone from the assessor's office, but when I fill out the form, it gives a space for what I think is the va...the value should be on the improvements and a space for what should be the value...value on the land, and I can appeal on either one of them. In many cases because I usually don't have an argument on the building portion because the building portion is set by some procedural rules that are hard to argue, it's actually the market value of the land that's the big swing item and that's what you appeal on basically.

Mr. Bynum: Okay, so the question about current practice better go to the tax department.

Mr. Dyer: I think the tax office is, as I say, I want to thank Steven Hunt and Belma for giving me a chance to see what their...you know, their comments on this bill were and one of their suggestions was that it shouldn't just be on either of the items, it should be on the aggregate. My assumption would be that that means we have been doing it separately on improvements and land, and that's why they're now suggesting to aggregate it.

Mr. Kaneshiro: Okay, any other questions for Mike?

Ms. Kawahara: I have a question.

Mr. Kaneshiro: You have a question for Mike?

Ms. Kawahara: Yeah, I have a question.

Mr. Kaneshiro: Go ahead.

Ms. Kawahara: And just forgive me if it's not appropriate. Protecting...yeah, the council has a right...we have to protect the right of the taxpayer. I agree. My question is, does this in any way and I might not be the one...you might not be the one I need to ask, but you have in your testimony here from February about lowering the threshold by half in this case could have meant a \$2,000 different in tax...difference in tax and what...so the difference on \$2,000 would have...something that would not have come into revenue for the county. Is that what the bill does?

Mr. Dyer: Well yeah.

Ms. Kawahara: Makes changes in...

Mr. Dyer: Potentially. Of course, the assessment is only a part of the process. You know, you guys do control rates ultimately so you can change the formula by changing rates. But, yeah, it could potentially cost the county, but the point is that the law itself says that it should be determined on fair market value, the fair market value. As we've discussed before, the assessor's office has the problem that they have so many assessments to do that they do a mass appraisal. They have to average and their average is, as I understand it, sort of a bell curve kind of a process, and in that bell curve about half of the values are probably right on, about half of them are low. Those people in most cases won't appeal. The others are the ones that are likely to appeal and what we're saying is tighten up that bell curve, let's make the...make it more accurate if possible. And if it isn't accurate, the taxpayers should prevail. You shouldn't be charging them on something that's 20% over the actual market value and actual fact, you shouldn't be charging them for anything that's 10% over, but we...you know, we have to be realistic. It isn't an exact science.

Ms. Kawahara: Okay and the bill itself is just changing the actual appeal process from the 20 to the 10. It doesn't actually change rates or anything else like that.

Mr. Dyer: Yes, it makes it so that you can choose a lower amount in dispute.

Ms. Kawahara: Yeah.

Mr. Dyer: And still walk in the door. If you put in an amount now that's below 20%, you know, it will be rejected on the basis that you've not complied with the law.

Mr. Kaneshiro: Any other questions? Go ahead, Mr. Kawakami.

Mr. Kawakami: Thank you. My question is if the appeal rate drops to 10% and we're taking the aggregate value, you said you're not in favor of that. Would you rather us scratch all the plans and go back to 20% and keep the original?

Ms. Kawahara: I think it was on aggregate.

Mr. Dyer: Well, as I understand it, the way the bill's written right now doesn't address aggregate or not aggregate. The way the procedure is going on right now from my understanding, and again this is something you'd ask the assessor's office, is that we as taxpayers have the option to appeal on improvement cost or land cost or both, presumably. I mean you could go in and say my building costs are too high and my land costs are too high. I would assume (the way they're doing it) you'd have to be 20% high on both of them. I don't know. But again, I'm...I'm always appealing on land values. So this for me would bring buildings into it all of a sudden. All of a sudden the building is a factor and again that would cut in half more...in some...in many cases what the...what you...this threshold would affect.

Mr. Kaneshiro: We'll get some clarification from the administration on that issue. Any other questions for Mike? Thank you.

Mr. Dyer: Thank you.

Ms. Kawahara: Thank you.

Mr. Kaneshiro: Anyone else wanted to testify on this before I bring the administration up? If not, Mr. Hunt.

STEVE HUNT, Real Property Assessment: Council Chair, councilmembers, thank you. For the record my name is Steve Hunt and I'm with the real property assessment office.

Mr. Kaneshiro: Thank you. One of the questions I have for you is that Mr. Dyer pointed out the problem that if...if we do an aggregate...but my thinking, I'm just saying thinking from just my level is that if we drop it from 20% to 10%, the land value itself could already go 10% over and they can already appeal that. Is that true? Or...

Mr. Hunt: Right.

Mr. Kaneshiro: How does...maybe you can...

Mr. Hunt: Share.

Mr. Kaneshiro: ...shed some light on this.

Mr. Hunt: Right. Right now the appeal process is 20% on either component.

Mr. Kaneshiro: On either?

Mr. Hunt: Correct. So, if you had a \$500,000 land assessment and you felt it was worth \$350,000, which met the 20% rule, you were okay with the building value and the building value maybe was a very nice home and the total between land and building was over a million, you may not meet the threshold of 20% on the total property value, but you've met it on the land component, which is your complaint, just the appeal.

Mr. Kaneshiro: Okay.

Mr. Hunt: So what...what...

Mr. Furfaro: Could I get some clarification on your question?

Mr. Kaneshiro: Yeah.

Mr. Furfaro: So does that mean just very clearly that they can appeal on the land...

Mr. Hunt: Yes.

Mr. Furfaro: ...only? They can, right?

Mr. Hunt: Correct.

Mr. Furfaro: That's how I understand it.

Mr. Hunt: Yeah. And just to clarify Mike Dyer's comments earlier, if in his scenario if he had a \$250,000 lot and a \$250,000 home and he wanted to appeal 10% on just the land value, now you're cutting it to a 5% appeal threshold on the total value, which is getting really tight. I mean it's tight enough for us as it is and we want to make sure that the total assessed value of the property, land and building together, is within that 10% margin. Sure.

Mr. Kaneshiro: Exceeds the 10% level.

Mr. Hunt: Well, we'd like to be below it. We're shooting for, you know, 95-100%, but there are outliers, as he mentioned. It is a bell curve and we can't...you know, there...the factors that are involved in buying real estate are not always rational either. So there's...there's high sales, there's low sales that are

distress sales, and we're trying to determine what a typical buyer would pay for a property.

Mr. Kaneshiro: Okay. Mr. Bynum.

Mr. Bynum: I didn't... well, I thought our current practice was that it was aggregate. You had to be 20% over aggregate. So you're clarifying that that's not the case and so my concern is if...if we make it aggregate and I think that's being proposed, right, so we lower it 10%, but it really doesn't, you know...by changing our current practice, it makes it less likely that people would meet that threshold. Isn't that correct?

Mr. Hunt: Possibly because we're not talking 10% thresholds. We're talking on the total value. Now we're talking less than 10%.

Mr. Bynum: It just...I...I'd have to do the math and each circumstance would be somewhat different, but it's kind of like the intent of moving it from 20 to 10 is to make it...to lower the threshold for when an appeal is accepted. And if we give that but then make it aggregate, that's like giving some and taking back some, right?

Mr. Hunt: It's...it's a big...it's a bigger issue when the values are skewed to one component or the other that could be correct. I think when it's an even distribution, it's, you know, it's not going to be as big an issue. In particular this is very difficult for doing condominium projects because we have raw land sales to assess the...the land component and we have a cost system that we can come up with a cost component and I've run a few numbers on some of the higher end sales such as Whalers Cove and Puu Poa and Hale Awapuhi in Kiahuna and if we use land sales and a cost approach, our ratios would be somewhere in the 25% to 40% of what market value is. And what that means is you have raw land, but to get entitled land you're putting in...you're spending in part dedication, environmental impact fees, providing employee housing, affordable housing, often expanding off-site water road system. All these costs that have to be sort of allocated and it's really it's an allocation issue. We have a market value. We know what the total property is worth, but based on our system of market value land and costing improvements, the two together won't come near what all those off-site development cost and amenities, tennis courts, pools, things like that that roll up into the total package and if an appellant were able to come and pick apart saying, you can't justify a \$300,000 land site under my \$1.5 million or \$1.7 million condo based on cost or you can't justify \$700 a square foot construction for my condominium. I've got the market sales that say this is what it's worth, but component-wise, I'm going to get picked apart, and that's why we don't want...we want the total value to be the emphasis here. And if I'm off by 10%, certainly we're going to look at sharpening our pencils and moving the total back.

Mr. Bynum: Okay, I'm following what you're saying and...but

those are circumstances unique to condominiums.

Mr. Hunt: More unique, yes.

Mr. Bynum: More unique.

Mr. Hunt: But it's...it's a...like you say it's a fluid market and building costs go up and down, you know contractors' prices, material prices. You know our cost one year may drop one year, up one year. I mean, it's...it's always a moving target and we're looking at the bottom line, what they're selling for and how to distribute that. And if we're sort of...you know, if we're getting that right but we're being tasked with having, you know, a 10% margin on either component, the total may not be right anymore.

Mr. Bynum: Right and the example you just gave...you know I understand the complexities of say Kiahuna with all of those other provisions and requirements that were calculated. That doesn't take away from what I said earlier though that if the intent is that we're deciding that 20% is too high a threshold. If our assessment is 18% off, a person should still be able to appeal. I mean that's the decision before us...

Mr. Hunt: Right.

Mr. Bynum: ...if we want to lower the threshold. And so if we're going to lower the threshold but then change our policy about aggregate, we could...and that's to have a net effect the same, right?

Mr. Hunt: And the answer I've got for that is if the 10% aggregate is looked at but an appellant wants to look at a reallocation, that a new appeal process would be involved to say, eh, the distribution between my land and building is not correct, but I agree with the total number. It still gives you a method if you think your land is too high, we'll put more value in the building. But we're shooting for the total...we're shooting for the total value.

Mr. Bynum: Right, right. So you're not disagreeing with my point that there are circumstances where we could lower the threshold to 10%, but if we change the policy to aggregate, it's going to be a wash in essence. I know it will be different at every parcel, right, depending on that allocation, but...So, because when I had the aggregate explained to me initially, I thought that any amendment to that would be a clarification of current practice and that's not what I'm hearing here today.

Mr. Hunt: The...I don't know at what point the term property was challenged individually, but I know there is case law and it became common practice to appeal the 20% margin on either component. In...

Mr. Bynum: So you understand my point that if we lower the threshold to 10, but then change our current practice, it could have the net effect of remaining 20 for some properties.

Mr. Hunt: For vacant land, it's not an issue.

Mr. Bynum: Right.

Mr. Hunt: It's the total property value anyway.

Mr. Bynum: Right.

Mr. Hunt: So now we're only dealing with improved properties.

Mr. Bynum: Right.

Mr. Hunt: Condominiums is a more particular problem of its own because of all the things that go into it.

Mr. Bynum: Right.

Mr. Hunt: So, I guess we're dealing with primarily residential, maybe commercial, resort type properties and having that total value to me in aggregate still makes sense, but I don't know if there's a way to prohibit just a fraction of the assessment, whether it be condos or...

Mr. Bynum: Is our...isn't...how many appeals are we getting on those kind of condominiums?

Mr. Hunt: I don't have those numbers. I would have to look.

Mr. Bynum: Isn't typically the largest appeals happening on ag subdivisions?

Mr. Hunt: On ag land in particular.

Mr. Bynum: So that's a different animal than Kiahuna or...

Mr. Hunt: Right.

Mr. Kaneshiro: You...I have a...I have a question, Steve.

Mr. Hunt: Yes.

Mr. Kaneshiro: You have a number on those kind of particular

appeals where they would appeal more the land than the building.

Mr. Hunt: I provided earlier and I don't know if you have a copy of the...this graph here that shows the breakout by land and by type, and it's a summary over...over a five-year period. But you can see from the chart the agricultural lands are the primary appeal followed by residential lands. So it's primarily land appeals that we're talking about and as Mike testified too, the...you know the systematic costing of the buildings and improvements doesn't seem to be as much of an issue. It's more the land and the benchmarking and the models that were chosen to value those particular neighborhoods that comes into contention.

Mr. Kaneshiro: The real problem is because not necessarily on the assessed values because of the real property tax break on ag land.

Mr. Hunt: Well, in particular with the ag.

Mr. Kaneshiro: Yeah.

Mr. Hunt: And that's been...you know I've discussed with some of you before, but it's been a paradigm shift where before we used to have very, very low ag land values because they're really...the farm dwellings and the CPR-ing hadn't really been discovered and as that has taken effect, the values have risen so much that they're assessed in relation to their residential counterparts virtually the same, yet the ag rate is still much higher than the residential rate, provided they don't live there and then they're homestead and it's...you know, taken care of. But for second homes or vacant land that hasn't been dedicated, having a high value and a high tax rate has become somewhat problematic.

Mr. Kaneshiro: Okay, any other questions for Steve? Anyone else?
Mr. Furfaro, go ahead.

Mr. Furfaro: So, Steve, you are...you are saying that possibly the best benefit for us to be allowing reasonable and fair assessments, we should first fix the land component.

Mr. Hunt: That's...we do that annually. I mean we are looking at...and fortunately we've had a bunch of sales in '06 and '07 to set those values. The number of sales are starting to decline and we're now looking towards listing prices as setting ceilings and every year we go through and try and determine what is most appropriate.

Mr. Furfaro: So if this bill really addressed unimproved land, unimproved CPRs, unimproved ag, unimproved open, unimproved residential, that would be a fair approach to let these property owners appeal property at 10%.

Mr. Hunt: You...you mean just vacant lands?

Mr. Furfaro: Yes.

Mr. Hunt: I would say that would be fair.

Mr. Furfaro: Since the largest number of the appeals seem to be on land undeveloped and it makes more sense in terms that if they could appeal on land only, these are lands undeveloped that don't necessarily have the demand on public services because nobody's living on it.

Mr. Hunt: Correct.

Mr. Furfaro: Thank you, Mr. Chair.

Mr. Kaneshiro: Okay, any other questions for Steve? You have a...

BELMA BARIS, Deputy Director of Finance: Good morning.

Mr. Kaneshiro: ...comment or you wanted to make?

Mr. Bynum: Good morning, Belma.

Mr. Kaneshiro: Just introduce yourself, Belma.

Ms. Baris: Belma Baris, Deputy Director of Finance. There was a question regarding how many number of land appeals were from 2004 to 2008. We had 1,590 as compared to buildings 775...775.

Mr. Furfaro: (Inaudible) so twice the appeal rate.

Mr. Bynum: Is that 1500 vacant land? Or...

Mr. Kaneshiro: No, just the land.

Mr. Furfaro: Just land.

Ms. Baris: No, it's combination.

Mr. Bynum: Just the land portion.

Mr. Kaneshiro: So you had how much again, just the land portion?

Ms. Baris: The land is 1,590.

Mr. Kaneshiro: Okay.

Ms. Baris: And buildings 775.

Mr. Kaneshiro: And basically this would be with land that already has a building on. Is that correct?

Ms. Baris: Right, yeah, and...

Mr. Furfaro: Or vacant.

Ms. Baris: Oh.

Mr. Furfaro: Or vacant.

Mr. Hunt: Yeah, it could be either. It could be...you could be appealing specifically just the land even though you have a building on it. Again with the 20% right now you can appeal an improved or an unimproved under the 20%.

Mr. Kaneshiro: Okay. What I wanted to find out is basically the land that has a building on, right, how many appeals did we have? That's what I'm trying to find out. Not only on vacant land. Vacant land is handled by vacant land anyway. So if it's over 20%, they're going to appeal it. But I'm saying like in comparison with what Mr. Dyer has made that sometimes his home value or building value is this amount and the land value is this amount, which is 20% higher. You know, how many of that do we really have? Or do we have a number for that?

Mr. Hunt: We do not have a number on that. We would have to run a job.

Mr. Kaneshiro: Okay. That's...that's what...

Ms. Baris: We can provide you with that.

Mr. Kaneshiro: ...I was trying...I was trying to see really how many of those kind of appeals we've had and looking forward...as we move forward and have some discussion about the aggregates and so forth. But...but I heard you say where on the condo side and so forth, you know, there is some big discrepancies as how to resolve those issues, so that I've heard. But I was trying to get some idea just on Mr. Dyer's testimony that he made. Okay, any more questions?

Mr. Hunt: It's...the market is always in flux, so it's a matter of what's happening in the land values and what's happening in the construction cost industry and they're together. And they move sometimes in the same direction, sometimes, you know, opposite or, you know, inversely. So, for us to monitor that or...it's very difficult to be as accurate as we'd like to be and again it's a...it's an

inexact science and you know we're doing the best we have with the information available, and the aggregate gives us some margin to say, hey, you know, if you've got at least a 10% gripe on the total value, we'd love to hear you and we'd, you know...we'd like to take care of it.

Mr. Kaneshiro: I have one more question unless you do have one,
Mr. Bynum.

Mr. Bynum: Just very quick.

Mr. Kaneshiro: Okay, go ahead, Mr. Bynum.

Mr. Bynum: The numbers you gave were between what time
period?

Ms. Baris: 2004 to 2008.

Mr. Bynum: So a four-year period.

Ms. Baris: Four...well, five.

Mr. Bynum: Five years.

Mr. Kaneshiro: Five years, okay, okay. One more question for you
then. So as you have more reliable appraisers and more staff, you would probably
find the circumstances with Mr. Strong not as apparent. Is that correct because
you'll be able to come up to par to doing appraisals and assessments? Or...

Mr. Hunt: We're always fine-tuning and going through, you
know, area by area as well, trying to bring some consistency, you know...

Mr. Kaneshiro: Right.

Mr. Hunt: ...not just to zone appraisers but to the total
assessment process.

Mr. Kaneshiro: Yeah, because I can see that happening if you're
not right on top, you know, of different districts and so forth, but as you get to that
point, I mean you know, it's going to be...well, I can say very...pretty accurate.

Mr. Hunt: It's, you know, to use an analogy, it's...you know if
you had a...had bought stock and you owned Dow, the Index, before January or
December 31, that's when we make the assessment. What we've seen since, you
know, it's not quite mirroring it, but you know it's two thousand points down on the
Dow. They're going to get their assessment notices in March and things have even
moved since our date of value and we're continually tracking it and because

it's...the market doesn't move as well. There are gaps when you don't get sales for three and months or area/neighborhoods where you won't get any sale for the year and you sort of have to monitor the whole base to see what's going on, and that's part of the challenge in our...in our accuracy.

Mr. Kaneshiro: All right. Any other questions? Mr. Furfaro, go ahead.

Mr. Furfaro: Yes, under our current tax practices with the cap, how is it interpreted as if someone has a file for the cap of 2% (I'm only talking about the 2% cap), the next year regardless of what happened to their property value, they still pay the 2% increase.

Ms. Baris: Yes.

Mr. Hunt: It...well...depends on when they went into the cap program.

Mr. Furfaro: No, but from previous years, they still pay...

Mr. Hunt: What it is...it's...it's...you're now getting negative credits, if you will. You had credits towards the difference between what your assessed value was at the cap and where it is today. And they look at the taxes, where they would be and there are situations where it's going down from the previous year, but it hasn't reached the floor of where it started, so you're still paying 2% even though the value went down for one year. That's correct.

Mr. Furfaro: So I just want to clarify. You could find yourself and see that's what people need to understand, that the 2%... the benefit of that 2% or CIP is the fact that your tax is predictable and it is based on the fact that most of those people that have primary homes and they're in residential primary home categories that have filed for that 2% may not care about their appeal because the tax is predictable. But the people that are in agriculture activities, vacant land, undeveloped residential land and so forth, you know this process is more fair to them. And I think you'll see that a lot of your appeals have dropped based on the fact that a cap exists for primary homes. Now, could you tell me if we dropped it to 10% and your concern is it only gives a window of 5% on either component, as a council, what would it take us to get more accuracy? Is it hiring more appraisers? Is it contracting work out? Because, you know, when we talk 20%, you know, 20% of a \$500,000 tax bill is the possibility that someone would pay a hundred thousand dollars more in taxes based on whatever the rate is. That is a pretty big window. I think you...I mean if I ran a business that I said, oh, you got a 20% margin for your payroll or your insurance expenses or your electrical cost, why that's pretty substantial. Most businesses give you a window of about 5%. I think we have a responsibility and I appreciate all the work that's being done, but what would it take for us to survey a larger group of houses, same area, same category, same type

to make sure that the estimates that we apply are more accurate. See, that's the dilemma for the council.

Mr. Hunt: Sure. There is no absolute right and wrong in value. There are opinions of value and...and that's the bottom line. I mean that's...

Mr. Furfaro: Yeah.

Mr. Hunt: We could lower our thresholds. Instead of shooting for a higher sales to assessment ratio of 90:95, we'll shoot for 80:85. That moves the whole bell curve down. It gives away a lot of value, but it keeps a lot of appeals out. I don't think that's what we want to do. So we tend to try and keep our accuracy where we believe fits the most, if you will, in statistical within one or two standard deviations of the mean and those that are the outliers, on the up side we deal through the appeal process or even a vetting process. A lot of times we recognize mistakes before an appeal has even been filed and we...you know we settle some in advance of having to file a formal appeal.

Mr. Furfaro: Right. You know, Steve, I think you know me long enough with your time back here on the council that sometimes I ask these questions not because I'm supporting it, but I want the public to understand what the difficulties are here, and from what I see right now with the fact that there are caps in place, whether it changes to a consumer price index or so forth on residential homes, the reality is the bigger problem will continue on raw land, I think. That's my opinion. Because those that have primary residence status, the benefit they're getting is their tax is predictable. For that matter, even the piece that the Chair introduced, which is the income cap, the circuit breaker, for older residents that are in the retirement framework and have limited income, you know, they're still protected because it's predictable. Now, you said something earlier to Mr. Bynum. When we do develop a condominium, a multiple use building, the developer does pay...originally he pays a park dedication fee, he pays for public sidewalks, he pays for things that the Planning Commission puts on as a condition of approving that permit.

Mr. Hunt: Right.

Mr. Furfaro: But what I'm hearing from you, when they put those particulars in place and they're actually a cost of that unit, it is more difficult for the county to justify those costs which obviously were passed onto the unit cost, but it's more difficult to justify that in your ongoing appraisals. Is that what you're saying?

Mr. Hunt: It...it's...it's difficult because often they were projects that may not have had to contribute to those causes that are older projects. But the ones that are being developed now do and they're looking at those costs that have elevated...elevated the cost of older projects as well.

Mr. Furfaro: Right.

Mr. Hunt: So it's good to capture those in value because it's what the people are actually paying for. To capture that in value, we have to look at the total price of what's being paid and it's really...it's an allocation issue: how much should go to the land, how much should go to the building to get market value. If we apply the same cost approach that we've been using on buildings, which is the reproduction cost less depreciation for a building and the market value based on comps of the land and put the two together, we will not come close to capturing market value for those units.

Mr. Furfaro: So I can see how it skewed the comparisons.

Mr. Hunt: Yeah, and just to let you know in...in...in the past, and I'd like to get this out in the public as well because there are going to be some people looking at their new assessment saying, what happened, in the past we've use what was called a building extraction, and the former appraiser who handled the condominiums had taken all the current land sales, basically valued the condominium master, the underlying site based on comps and then allocated based on their percentage of interest in the land, and those values ranged from \$30,000/\$40,000 a unit to maybe on the high side \$80,000 a unit, \$70,000 a unit, somewhere in that range maybe. And when you get a \$1 million or \$1.5 million sale and you've got an \$80,000 land value, it puts a whole lot of value on the buildings. Now, I tried in an attempt early on when I came on to do a land extraction which does the opposite. Those that have the ocean front sites within the project versus a garden view near the road. They're the identical condos, should be costed the same, let's see what the land values come out. Well, some of the ocean front ones we were getting nine-hundred, a million-dollar land values which didn't make sense because you can't purchase that land either. So, I went to a system that O'ahu has been employing which has an allocation depending on how high they're stacked, the ones that are single floor was a 40% allocation, ones that had two floors was 35 and three and four floors which is primarily what we have in condos (we have a few taller ones, but) they would be allocated at 30%. So in other words, if you had a million-dollar sale, it would generate a \$300,000 site value/land value and a \$700,000 building value. Neither one of those components can probably be justified by either the cost of the improvements. If I do a replacement cost less depreciation, I'm not going to get \$700 a square foot in some cases, nor can I go and show land comps out there to give me a \$300,000 site value for a condo. But it's hard to argue that this is the value people are paying for. So, I've gone to this allocation so when people get their new assessments, they're going to see a lot more value shifted to the land, which actually has a dollar per thousand lower tax rate. And if we go to the next phase of RPI which has a 3:1 allocation on the tax rates, you want to see more value in the land because those who have...this building extraction with huge building values would be penalized.

Mr. Furfaro: Are you only doing that with condominium apartment-type?

Mr. Hunt: I've gone through condominiums and time-shares together.

Mr. Furfaro: Okay. So it's...what you're...what you're applying is very unique to those building types.

Mr. Hunt: Correct.

Mr. Furfaro: Thank you.

Ms. Baris: I...I'd like to comment on the 2% cap. I'd like to cite an example. If you purchased your property in 2007 when the price was high and then you filed for that cap, PHU cap, and then in 2009 your value is 50% less or 40%, our system will find which tax is more favorable to the taxpayer. If the 2% cap is better than the reduced value by 40% or 50%, it would reset to whichever is the lower tax.

Mr. Furfaro: Okay, I'd be very cautious with that comment because the finance department has told this council the whole reason you want to remove the cap is because you don't do that. Now you're coming to us and said you're applying that.

Ms. Baris: No, but it's just...

Mr. Furfaro: I understand what you're saying...

Ms. Baris: You know, yeah, I'm just citing that as a...

Mr. Furfaro: But what I'm saying is one of the reasons you've talked about removing the cap is because you don't adjust the property in a falling market, but you just told me you do.

Ms. Baris: No, but we are not in that situation yet. So, for this 2009 you will see some...

Mr. Hunt: It really relates to the point at which you got into the program at this point. If you were a capped property owner from 2004 and your value has gone up, up, up and is in the process of falling, it may be at the '04 or '05 level and you're still paying what you were or 2% more, once it crosses that threshold and your new calculated taxes become lower than your proposed cap plus the 2%, you pay the lower tax.

Mr. Furfaro: Yes, I understand that. I understand what she

said. What I want to make sure you folks have said in the past is that's one of the reasons you don't do that, you want to remove the cap.

Mr. Kaneshiro: Okay, I...

Mr. Furfaro: Because you didn't have the benefit and Mr. Chair, I want to apologize, but that question did not come from me. That question came from finance.

Mr. Kaneshiro: All right.

Mr. Furfaro: And we're off the subject.

Mr. Kaneshiro: I want to get back on the subject of how we can resolve this issue that is on the agenda. So, at this point, Lani, you had a question you wanted to ask the administration?

Ms. Kawahara: Yes.

Mr. Kaneshiro: Go ahead.

Ms. Kawahara: Just for my education, is there a concern or do we need to be concerned if we change ours to 10%, while all the others are still at...would be at 20% exempting Honolulu. Do...we need...is that a concern there or is it just we're just different?

Mr. Hunt: It could possibly concern only in the micromanagement of the...of the assessment database. What it's going to require to meet, you know, lower thresholds and keep your sales assessment ratios that low is...is moving lots and neighborhoods that were once joined together for ease of assessment into separate neighborhoods and starting to look at comps for those particular areas. Right now, a typical neighborhood could be anywhere from 60 to 600 parcels and the 600-parcel one would probably go closer back down to 40 to 60 or 80 if you start breaking out some of those.

Ms. Kawahara: Okay, okay, so I don't have to worry about uniformity for the most part for you guys.

Mr. Hunt: Yeah. No, it's a uniform process now. It's just a matter of the reliability of the data for that particular neighborhood and tightening up those thresholds.

Ms. Kawahara: Okay, great, thank you.

Mr. Kaneshiro: Any other questions for the administration?
Mr. Bynum.

Mr. Bynum: First of all, given the current situation where we do have caps in place...I'm glad this came up because I'm...I have a concern that...and the way you just explained it I understand that community members are going to see their assessments go down but in some circumstances their tax bill's still going to go up by 2%, right? And I think we might have a lot of people not understanding...

Mr. Furfaro: Mr. Chair, I thought that we terminated the discussion. It is not an agenda item.

Mr. Kaneshiro: I think we should focus back on the appeals process unless the question is in relationship to the appeal process.

Mr. Bynum: Well it is if I...

Mr. Kaneshiro: ...at this point.

Mr. Bynum: ...if I got there.

Mr. Kaneshiro: Because what I find as a Chair, we're getting into discussion as a reasoning for no cap and for cap. That's what I'm observing, so. If it is in relationship to an appeal process that we're discussing now on the floor, I will allow it. Do you have a question?

Mr. Bynum: Mr. Chair, it is in relationship to the appeal process if I can get to the question.

Mr. Kaneshiro: Okay. Well, please...

Mr. Bynum: And we've...may, may I speak?

Mr. Kaneshiro: Please do. Well, you know...

Mr. Bynum: We have discussed caps now for 10 minutes and...

Mr. Kaneshiro: And I already put a stop to that, okay? So, what I'm saying, if you have a question in relationship (inaudible), let's get to the question.

Mr. Bynum: So we do have a circumstance where people's assessment could come down but their tax bill will still go up. Will that result in them trying to file an appeal?

Mr. Hunt: We often get people trying to file appeals when they get their tax bills and there's a gap between...We set our assessments as of

January 1 of the year. The Notice of Assessment gets mailed on March 15. They have up until April 10, I believe, to file a formal appeal. If no appeals are filed by that time, we usually don't hear from taxpayers until they get their bill, which comes out in July, payable in August. And often they don't realize the...there's sometimes a disjunct between assessment and bill depending on if there's been a change in status: ag land that was dedicated, no longer dedicated, all of a sudden they get a big bill; loss of exemption went to a different category. In this case as you're speaking about the cap, you know my assessment went down, I thought it was going to go down and I got a higher tax bill. Cannot appeal taxes. You can only appeal the assessments.

Mr. Bynum: Right, so there's a possibility that we're going to have citizens that misunderstand the operation of the cap and file appeals or want to file appeals because all they see is their assessment went down and their tax bill went up.

Mr. Hunt: Right.

Mr. Bynum: And they're going to be frustrated because it's not even an appeal-able item. And so I think at some point it's important...it's a concern I've had as the values may be coming down that the tax cap when in an accelerating market keeps the tax bill down but in a falling market until it reaches below that originally capped threshold, your tax bill actually continues to go up and it could impact people filing appeals. And the frustration level of individuals who basically hear the explanation you just gave, well no that's not an appeal-able item because you can only appeal the assessment, and then they need to understand the assessment may have to come down very substantially if they've been capped since 2004 before it's going to have any impact on their tax bill.

Mr. Hunt: That's correct and what they're really getting is a decrease in the credits. The assessment is the current market value and their cap, and the difference between the two is a credit and what we're seeing is a falling in the amount of benefits they're getting, but they're still benefiting even though the values...

Mr. Furfaro: Because it's predictable.

Mr. Hunt: And it's predictable.

Mr. Furfaro: And they took that chance when they signed up for it.

Mr. Bynum: So the...the...the other question is we've been discussing the accuracy of the assessment process and ...and we all know it's not an exact science. And what we're contemplating here is lowering the threshold by which an appeal will be allowed or basically a policy decision that says how much

discrepancy should there be before we engage in what can be a costly kind of system for both sides to do this. And so one of the best ways to reduce the amount of appeals is to increase the accuracy of the assessments. And I know your office...that's your ultimate goal, to be as accurate as humanly possible.

Mr. Hunt: We don't like appeals as much as the appellants don't like the appeals. We try and do our job the best we can. But to the degree that we try and defend value is defending not for that particular parcel, it is for the whole benchmark and the whole neighborhood. Because if we have to lower...excuse me, for uniformity if we have to lower the whole neighborhood then we've given up more than just the value from that one appeal.

Mr. Bynum: And the other...And then my last question has to do...for now has to do with allocation because as you stated, you know, that impacts when the appeal happens particularly if we entertain this aggregate notion. But also when we have a tax bill that's different on land and which we have in some circumstances and we propose to perhaps do that even more, then that allocation is a separate kind of issue that needs to be as accurate as possible and it becomes more critical when there's a difference between the tax on the land value versus the tax on the building value. So...and I hear you saying that you're struggling or you're working on improving that accuracy as well. Is that correct?

Mr. Hunt: You mean the allocation?

Mr. Bynum: Allocation accuracy?

Mr. Hunt: Yeah. That's more of a judgment call is how much...I mean I...I think I've done a pretty good job with the condos this year of determining but I still may have appeals irregardless.

Mr. Bynum: But the real...

Mr. Hunt: I think...

Mr. Bynum: The reall..

Mr. Hunt: Pardon me.

Mr. Bynum: The reallocation you've done on the condos that you just explained to us is likely to actually reduce the tax.

Mr. Hunt: The taxes. That's correct.

Mr. Bynum: Right. So I probably won't get too much complaint with that.

Mr. Hunt: Yeah. But still if someone was used to seeing a \$60,000 land value and they see a \$300,000 or \$400,000 land value, they're going to scratch their heads and I still may get appeals anyhow.

Mr. Bynum: Right and...and that's part of my concern here with both the cap discussion we had and these. The intricacies of the system, you know, may escape the taxpayer who just knows, hey, my bill went up. What's up with that? We're in a down market, my bill went up, right. So...

Mr. Kaneshiro: Any other questions for the administration?
Mr. Furfaro, go ahead.

Mr. Furfaro: Would the administration, because I think...I think there's a lot of confusion about people making their own choices. You know, you can't give them the best of both worlds here. Okay, that's the bottom line. In a time when we're looking to serve the public by lowering the threshold of the assessed value so that they have a right to appeal is what the issue is here. That's the issue here. The issue isn't all this other theoretical stuff, but when I raised the question, the question was about giving this council accurate information about what you're really doing and you know, I'm at the point there's so much confusion here, I'm thinking we need to go back and work on this bill and not even...deferring it to an indefinite time until we got all these answers done. Because the goal of this bill is to let people appeal. The goal as Mr. Bynum said to you guys, if we know you're doing the best you can, but we can't get to the understanding of how do you improve on what you're doing because we have 1,970 people appeal in the last four years on land, 775 appeal on their homes and we're...we're not...we're not sure that the process of this appeal is being understood as being fair and reasonable, fair and reasonable to the people that we represent. So, it seems a lot of new questions have been asked here and perhaps we should just defer until we get some clarity.

Mr. Kaneshiro: Well if that's the desire of the committee, I mean this is why we have the committee meetings, so we can have discussions on these issues, you know, to make it the fairest and most equitable means of being able to appeal.

Mr. Furfaro: Well, Mr. Chair, you know I've been approaching this tax piece in a very methodical way, piece by piece. Assessments, appeal, Kuleana, you know all of those and I think that's the best way because we have a lot of healthy discussion rather than having one new bill. So, I don't think in two weeks based on what I've heard earlier from the county attorney that we'll be ready to have better understanding of these questions that were raised today.

Mr. Kaneshiro: Okay, at this point any other questions before I call for discussions?

Ms. Baris: Maybe something to consider also is a single rate.

That's what they use in the other islands and you know the rate for ag is way high now, yeah.

Mr. Kaneshiro: We understand that, but I'm not going to go there right now. It's a matter of appeals that we're talking about, so. Okay, if not, no more questions for the administration at this point. I see Mr. Pleas raising his hand. I will give you your second three minutes.

Mr. Asing: Let me ask a question of the administration.

Mr. Kaneshiro: Oh, okay, one more question by Chair Asing.

Mr. Asing: You know...you know this...You passed some information to us, yeah, and you want to talk about these I guess assessments and their values and what happened in these cases. You want to discuss this a little bit so that we understand.

Mr. Hunt: Sure.

Mr. Asing: I think the intent of this is to show that many of the appeals don't even reach the Board of Appeals.

Mr. Hunt: That's correct.

Mr. Asing: But are settled...that are settled prior to that.

Mr. Hunt: It is. It's a...it's a vetting process. From the time that the appeal notices are sent out, appraisers begin to start getting phone calls and/or people coming in for face-to-face meetings to discuss the new assessments. Prior to even filing an appeal, if the appraiser has either made a clerical error, whether it be a typo on the land area or building area, double counted something, put it in a wrong neighborhood code, anything that was a clerical error or a gross misjudgment of error, you know the appellant comes in or pre-appellant in this case, the property owner comes and provides some information about the sales in their neighborhood. We weed these out before even having to go to an appeal process and we'd like to do that and in fact, in...between 2004 and 2008 there were 543 voluntary amended notices of assessment. They call them P38s which is the forms that they go on which reduced values without having to go through any formal appeal.

Mr. Furfaro: What was the number of that again, please?

Mr. Hunt: 543.

Mr. Asing: It's in the middle of the paragraph, the 543.

Mr. Hunt: And the...and the total amount of the reduction in value over this time frame was about \$183,000,000.

Mr. Furfaro: I see it.

Mr. Hunt: The good news is essentially we're responding, we're identifying the errors, we're correcting them and it's taking very little time. Appraisers aren't having to write reports for Board of Review, there's not a lot of processing time involving the tax clerks or the account clerks, so they get processed relatively easy. I've provided a sample of some below here. In the first case it was a land that was over valued and this is in 2004, I believe, and a reduction was made of \$64,000. The next case was a building that was a partially complete building and the assessor had looked at the outside but didn't see the inside. I think there was no flooring or cabinets so they went and made a readjusted calculation of how much was complete as of January 1. The next four in a row is an example of a systematic error where it was a condo project that had over valued four of the same type of units. They were addressed and dealt with. Only one person brought it to the attention, but all four got the corrected notices. The next one below that is another change in a building value from an over assessment. They classed it too high and the last one is someone who was entitled to more exemptions than they were given and they made that correction. And these, again, were all done just from personal interface prior to an appeal.

Mr. Furfaro: My compliments.

Mr. Asing: So this is your attempt to say the system is working.

Mr. Hunt: Yes and...

Mr. Asing: There is a system...

Mr. Hunt: ...and explaining the process.

Mr. Asing: ...that is even handled prior to going to the Board of Appeal.

Mr. Hunt: Correct.

Mr. Asing: In the...just the talking process between the taxpayer and the real property tax division appraiser.

Mr. Hunt: Right, and this again is the process. This is the first form of vetting that we make mistakes. If it's not that obvious that a mistake has been made or a judgment error has been made, then they file the appeal and that gets to the next level. Between 2004 and 2008, there were 1903 appeals filed

Mr. Asing: Okay, good, thank you.

Mr. Hunt: And again I've...

Mr. Asing: I don't have any other question.

Mr. Hunt: ...provided some examples of ones that have been stipulated and withdrawn. The S on the far end of the column next to the change tells you the actual amount that was changed.

Mr. Kaneshiro: Thank you.

Mr. Asing: Thank you.

Mr. Kaneshiro: Any questions on this? Mr. Bynum.

Mr. Bynum: Because you went through...you didn't get to the next level, right?

Mr. Hunt: The third level, the Board of Review. I'm getting there.

Mr. Bynum: Yeah, could...I mean I find this really valuable that..

Mr. Kaneshiro: Okay, well...

Mr. Bynum: I've been waiting to hear this for a...

Mr. Kaneshiro: Okay, but he had a question, so it's addressing his question. So at this point, if you want him to continue I think we can allow that. Go ahead.

Mr. Bynum: Thank you. If you can continue.

Mr. Hunt: Sure. The third tier of resolving disputes is the actual Board of Review hearing. From 2004 to 2008 the Board heard and rendered decisions on 1129 cases or slightly less than 60% of the total appeals that were filed at the board and this is because of the vetting process and the stipulations and withdrawals. At the hearing both the assessor and the appellant provide evidence to support their opinions of value. It's a five-member board which consists of members of the public that have been vetted by the administration and confirmed by council and they openly discuss the relevant comparable sales evidence and any physical attributes of the property that have any bearing on value, and at that time they render a decision on the assessed value or loss of exemption if that was the

complaint that was filed. At this point after the decision, either the property owner or the County of Kaua'i if they're unsatisfied with the decision they can file at the Tax Appeal Court, and over the past five years the real property assessment has been successful in defending anywhere from 83% to 95% depending on this five-year span of the disputed land values and 93-100% of the disputed building values and again largely in part to the vetting process of getting out the ones we don't think should be heard. Preparation for Board of Review hearings requires that the appraiser revisit the subject property, they photograph it, they take notes of what is there, if there's any issues with topography or easements or anything they may not have considered, they're looking at it at that point. They also visit all the comparable sites to make that there's no problem with any of those sites and then they prepare a report based on the findings, and it typically takes about five to seven hours to prepare a report for the hearing. So at this point now you've involved a substantial amount of time of the appraisers as well as the support time involved in scheduling the hearings and processing the decisions. And then finally, the final venue is the Tax Appeal Court and this is costly...both from the appellant and the county side, both in time and resources. At this point, you often have attorneys and...will always have attorneys but often have expert witnesses involved as well, so there's a cost sometimes to outside counsel. At Tax Appeal Court for the last five-year period from '04 to '08, the county has been successful at retaining 87-100% of the disputed land values and 63-100% of the disputed building values.

Mr. Kaneshiro: Okay. Any other questions?

Mr. Bynum: Yeah.

Mr. Kaneshiro: Go ahead.

Mr. Bynum: So just to get this clear in my own mind, first point of contact somebody calls us and says, hey this bill doesn't look right. They haven't filed an appeal, they just want to talk story. And in 543 instances the county said, you know you're right, let's adjust that, and so there was no appeal filed; it was just talk story. And another level is somebody files an appeal, but you don't go to the board, you talk story, right. You say, hey, let's and in about half of those cases people say, yeah, County you're right and you resolved it that way. They just said, I'm not going to appeal because you've convinced me that your assessment was close enough and in roughly another half, the county agreed to a stipulated change and said, you know what, I think you're right, we're not going to a Board of Appeal, we're going to adjust your bill, right? Have I got this right so far?

Mr. Hunt: Other...other than bill. It's assessment notices. Bills are taxes.

Mr. Bynum: Thank you very much. So, and then when you went to...actually went to the Board, there's a...you know, then it actually goes to the Board. So prior to this, it's not like people are...it's falling on deaf ears. You're

dialoguing with people, you're engaging with them and resolving a significant number of the cases before it ever goes to any kind of formal review.

Mr. Hunt: That's correct.

Mr. Bynum: Okay. I think that's really helpful information. Thank you.

Mr. Kaneshiro: Any other question by committee members? If not, thank you, Steve. At this time I see Mr. Pleas waving his hands. So, Mr. Pleas, I will give you your second three minutes to have some testimony.

Mr. Pleas: Bruce Pleas for the record. As discussion has gone on all different areas with associated issues with the appeals and all that, my plea to the councilmembers is this bill presently only changes 10%...20% to 10%. That is all this bill does. All the discussion we have may constitute substantial changes. So what I'm going to ask this council is to proceed on this bill on the 20% to 10% only. Pass this on and see if you can pass it or if you want to pass it. On all the other ideas, problems, discussions that have been brought up, bring forward separate bills to address those. Let's not just throw this away to change this document. I really support...this one, that microphone died.. I support this bill as it is forward...as it goes forward and I think it's important this goes forward. Let's not just chuck this to put more additions onto it to confuse everything. Let's bring separate issues forward on separate bills to address what has been brought before you. That includes suggestion and the other suggestions from the public. So, I hope this just doesn't die here because I think just one word changing a bill and then have it thrown away because you want to add many more amendments to it, let's just bring the amendments up later. Thank you.

Mr. Kaneshiro: Thank you. Any questions for Mr. Pleas?

Mr. Furfaro: I have.

Mr. Kaneshiro: Mr. Furfaro, go ahead.

Mr. Furfaro: Thank you. You said it yourself the fact of the matter is to make this work there might have to be some substantial changes. I mean to make even the 10% because there's all this miscommunication on you know the aggregate, you know the variance approach to condominiums, you know. Maybe this bill comes back first addresses land. But I want to make sure you understand, I've said it before, Bruce, twice or three times, my approach on this is methodical. We have to do a piece by piece so we have good dialogue. On the other hand I said I'm the only councilmember here that had the fortitude to put this thing forward so we can have some still real dialogue that deals with the urgency for the administration to address our concerns of which today we got an example. They've taken about a third of those and really got them corrected and that's appreciated.

And so it's not falling on deaf ears – somebody used that term earlier. The introduction of the bill applies some urgency to fixing our other pieces but yet it's clear to me we need some more clarity because there is not an interpretation on the building, the improvement, the land. You know, what is this covering? So, I just want to share that with you, not in a question form but just to answer your questions. That was a statement I'd like to make. Thank you.

Mr. Kaneshiro: Thank you, any questions for Bruce? If not, thank you. Anyone else wanted to come back and speak on this before I call the meeting back to order to have some discussions with our committee members. Mike?

Mr. Dyer: Mike Dyer for the record. I'm...based on what Councilperson Furfaro just said, I'm going to pass. I was going to respond to what Steve Hunt had said, but I think I'm going to leave that alone. I assume that's going to be discussed at another time. Thank you.

Mr. Kaneshiro: Okay. Any questions for Mike? If not, thank you, Mike. Anyone else? If not I would like to call the meeting back to order and open this up for discussion.

There being no one else wishing to testify, the meeting was called back to order, and proceeded as follows:

Mr. Kaneshiro: Members, do we have any discussions on this before we decide or make some movements on this bill? Mr. Bynum, go ahead.

Mr. Bynum: I think Mr. Pleas is accurate that the bill before us calls for changing the criteria from 20% to 10%. It was proposed some time last year and you know, I think the intent of that is to make it...is to make a policy choice that says it's easier to file an appeal, that 20% is too great of a change for us to not give people access to an appeal system, which we just learned doesn't always end up in a formal appeal that it triggers a discussion and a resolution prior to anything, you know, formally being appealed. I'm supportive of changing the 10%. Now there's these other potential amendments been discussed which haven't been introduced. I, you know...I'd like to see us move on this bill as it's...and if people are going to introduce amendments, introduce them, but I'd hate to say, well, let's just defer it indefinitely which maintains everything as it is now for who knows how long. We have bills on...in this binder here that have been deferred pending something for years and so, you know I don't know in what mechanism it takes or do we...people introduce the amendments and we deal with it, but I think we should proceed with this bill and at least address the 10% change because that's just my opinion.

Mr. Kaneshiro: Thank you and again, it's for discussion purposes, so I'll open it up again to other members. Mr. Furfaro.

Mr. Furfaro: Yeah, I just want to remind everybody when I'm talking about the deferral and what might require some substantial change to this bill, I just want to remind everybody this bill is not about implementing it by March 15, which is the next...this bill is for implementation in 2010. I hope that clarifies that...that particular piece.

Mr. Kaneshiro: Any other further discussion on this bill. If not, we would have to make a decision here, members, committee members, if we want to again defer this bill for a period of time and currently the bill that is in place will still be in effect. As Mr. Furfaro pointed out, this bill will not take effect until, I believe, 20...where are we today? 2000...2011 actually. So, correct because if we did something now, this would take effect 2010. We are already in 2009.

Mr. Furfaro: I...I...I want to correct myself. I was making reference to the tax bills of 2010.

Mr. Kaneshiro: Oh, okay, so I think, you know, we need to take that into consideration also. So, members, any further comments or discussions on this bill? Mr. Asing?

Mr. Asing: Yes, I guess I feel differently and one of the reasons you have the information that you have here is I met with the tax department yesterday to find out exactly what they do. And when I made the statement earlier in our committee meetings regarding the system is working, it's not a broken system. Now, when we make reference to accuracy, we need more accuracy, you know accuracy this...that...that statement of accuracy is a...is a tough statement. I mean, you know, this is judgment. That's what it is. It's a judgment issue. You can take a hundred appraisers and put them in one room and you could have a hundred different appraisers...appraisals of any single property. That's possible. And I...I think the idea is that how close are we? Are we reasonable? And for those that are unreasonable, I believe that the system is handling that. And what you have before you is documentation of the system and how it works. And, you know, so for me I do not see it as a major problem that needs to be handled at this time. I...I think that the system is in place, the system is working. There is differences and the differences as shown here in the document that you have before you is substantial too, but substantial in giving credit to the department to own up to, eh, we make errors too. And the errors that we make when we get the calls we respond and these are samples of their response on how they handle the responses. So, I just feel that the system is in place. The system is working and it's okay. It's not broken. And so I...you know I'd like to leave it at that at this point in the game and if someone can come up with some other ideas, you know I don't have the information here with me, but when you talk about the number of appeals, if you look at the other islands, and look at the numbers, the numbers are horrendous. So, I, you know, I...I just don't have a problem. I think it's okay, it's not perfect and we have assurances from the department that it's a continuing process that they...they're not stopping and saying this is it we're not going to do anything else.

But they're trying to do the best they can in refining their process in making fair assessments. I must say, however, that the findings of the appeals being predominantly in the ag area is troubling and yet I understand it. I understand it because ag lands were intended for ag purposes. But it's unfortunate that we, the county also is a little guilty at that for allowing this to happen. We have allowed people to build residences for residential use on ag lands that were not intended to be used for ag purposes. So, you know, we're guilty too and that's part of the reason for this appeal being high in the ag district because people are taking the ag lands, using it for residential use, and therefore the department is saying, hey, this is the value. What do you want me to do? This is the value. So it's kind of a Catch 22 and it's not simple, but I view the process as it's a process that is working right now and I do not see it as a major problem. I...I think there are some problems and there needs to be a continuing process to try to do better and I think the department is making an attempt to do that. So with that, thank you.

Mr. Kaneshiro: Thank you, Mr. Chair. Any further comments?
Mr. Furfaro?

Mr. Furfaro: Yes, thank you. You know, I...First of all, I want to thank the finance department and in particular, as Mr. Bynum point out, you know I introduced this bill last year. Subsequently, we did hire Mr. Hunt, we're getting some real attention to this matter. The question for me was always about the land portion. I think that's an area that we need to give more attention to in particular, especially those undeveloped lands versus their potential value. But this...at this point, it seems that we are constantly making improvements and I'm going to say that there have been a few definitions here today that really need to get a better...more clarity and a better understanding of how we might apply this potential appeal process. So, you know, I'm still supporting the possibility of deferring this until we get some of those pieces and it might take us longer than two weeks.

Mr. Kaneshiro: Okay, let me get the administration back up. There's one question I want to ask them. Mr. Hunt, if you will please. I'll suspend the rules to have him up here.

There being no objections, the rules were suspended.

Mr. Kaneshiro: Basically, the question I have is that we won't be able to implement this for 2010. We believe that if something is passed from now to whenever, it will be implemented in 2011. Is that correct?

Mr. Hunt: Fiscal year, you're talking about?

Mr. Kaneshiro: Yeah.

Mr. Hunt: Yes.

Mr. Kaneshiro: So, given that circumstances, what would be the latest we would need to get a bill like this on the floor and have discussions on and passed to be implemented for 2011? Just an estimate?

Mr. Hunt: It's a good question. It really depends on the market activity this year, which we've seen a real dearth of activity, but we're monitoring a lot of the listings dropping. So, you know, again for...and I hate to use the word accuracy, but our opinions of value or judgment of value, we rely on data, and until we start seeing more data we don't know where we're going to be and which neighborhoods have to be readjusted from each other and pulled apart to have more specific data that will give us more accurate assessments. So I...I can't give you a date.

Mr. Kaneshiro: So...no, the real question is what will be...so really is it a year from now before we need to approve a bill like this to have it implemented for 2011? That's the question. Or perhaps, you know, you misunderstood. My question is what is the...if we were to make some amendments to the current bill, what will be the latest date to have those amendments made or have some work done on a bill as such...

Ms. Baris: December.

Mr. Kaneshiro: So it can be...implemented for 2011.

Ms. Baris: December 31, 2009.

Mr. Kaneshiro: Of this year?

Ms. Baris: Yes.

Mr. Kaneshiro: For 2011 implementation?

Mr. Hunt: Correct.

Mr. Furfaro: And so that we're all clear, 2011 is the calendar date, July 1, 2010 to June 30, 2011.

Mr. Hunt: And it would be involving the assessments that are made as of January 1, 2010.

Mr. Furfaro: Right.

Mr. Hunt: Which is why we're saying December of 2009 would be the latest date.

Ms. Baris: Okay, we mail out the notices every March 15. So if...and then it's included in there that if they want to appeal, they have to file it no later than April 9.

Mr. Kaneshiro: Thank you. You have a question for them? Regarding? Go ahead.

Mr. Bynum: This change to 10% was originally in a comprehensive tax reform bill the administration presented us last year. Correct?

Mr. Hunt: That is correct. I wasn't involved with it, but I...that is correct.

Mr. Bynum: And then, you know, that didn't...that's pending and who knows how long, but there was a judgment that we should address this 10% now. Is it the administra...my understanding is the administration's position on changing it to 10% is kind of reluctantly okay. Is that accurate?

Mr. Hunt: I think it was meant to help sell the total package. It was one of the carrots. You know, it...it involves more work in trying to be more accurate, but again that's...that's our job. We try to be accurate any way. It's just being more accurate and how much more time is spent. The big concern is how much more time is spent on appeals prevents us from becoming more accurate because we're spending time on appeals and not on assessing. So, there's a fine line when that crosses over.

Mr. Bynum: But in my communication with the administration and the finance director, he's kind of said, okay, we can live with this 10%. Now some of the other things that are being proposed or discussed...you have opinions on but...is that accurate?

Mr. Hunt: I'd say that's an accurate statement.

Mr. Bynum: Okay, so I understand, yeah, thank you.

Mr. Asing: I...let me follow up on that question on the accuracy that you agreed. I don't think that is accurate. I believe that, you know, the 10% that was put in the bill is really...it was put in there as nothing more than a carrot to give something so that I can take away this. That's the reason that was put in there, you know, because you're going to take away. So, I...I...I think, you know, we need to be more accurate on...if you just take one piece of the pie, yeah, and say that because the proposal was in the package already that you can implement that portion, I don't think that's an accurate statement from the administration on the reasons why they put that in there.

Mr. Hunt: I think the reasons were to soften the potential

removal of the cap and knowing now and I hate to bring up the cap issue again, but the...this is...this is...this is reality.

Mr. Furfaro: No, it's fine. I like folks being honest.

Mr. Hunt: This is reality and I wasn't involved in writing this, by the way. I was on...

Mr. Kaneshiro: We realize that.

Mr. Hunt: Okay, but it was to soften the impact it could potentially have on removing the cap, allowing people to get into appeal if they don't agree and trying to keep those assessments tighter.

Mr. Kaneshiro: Okay, thank you. Any other questions? If not, we need to take a five-minute recess because...if that's okay, but any other questions for...questions for Mr. Hunt?

Mr. Furfaro: I just want to say thank you for...

Mr. Kaneshiro: Okay.

Mr. Furfaro: ...revealing the softening of a potential blow in the big package.

Mr. Kaneshiro: Thank you. With that, I'll call the meeting back to order.

The meeting was called back to order, and proceeded as follows:

Mr. Kaneshiro: We'll take a five-minute recess and get back again in session.

There being no objections, the Committee recessed at 12:10 p.m.

The Committee reconvened at 12:18 p.m., and proceeded as follows:

Mr. Kaneshiro: The Finance Chair calls this meeting back to order. Committee members, any further discussion before I ask for a motion and probably as Chair, let me tell you that I think what we should do is defer this agenda item and I'll say that perhaps we probably would defer it for at least six months. This will give us an opportunity to bring it back on and at least give us time to work on this current proposal before the end of December of this year. So it still can be implemented for the fiscal year 2011. So that would be my suggestion. So before we make that motion or any motions come up, I will open this up for some further discussions. Mr. Bynum.

Mr. Bynum: I won't reiterate what I said a few minutes ago that...but can it be a date specific in September or I mean can we be assured that it will come back in September? September.

Mr. Kaneshiro: Committee Meeting September 23? We'll have them...we'll have staff check on that right now.

RICKY WATANABE, Council Services Administrator: Sorry, the 16th or the 30th committee meeting.

Mr. Kaneshiro: Committee Meeting on the 16th of September.

Mr. Bynum: I would...because of my concern that things get deferred and then they don't come back ever. If it's a date specific, I'd be supportive of that.

Mr. Kaneshiro: Okay and let me, as Chair of this committee, I will say that the deferral would be to September 16, 2009, which we can get back into discussions and give us ample time if we want to implement the version that we have today or different, so. Lani, go ahead.

Ms. Kawahara: That was the question. So if we do the deferral, would you be...make...would it be to make more amendments or make...not more, but make amendments, specific amendments.

Mr. Kaneshiro: That's up to the committee. When we call it back to order, that's up...You as a committee member, if you have amendments and you want to tweak it more to make it, you know, more understandable, that's fine and well too. But then we'll get back into discussions again or pass it the way it is. So, yes, you'll have an opportunity to do that.

Ms. Kawahara: Okay. If I make...

Mr. Kaneshiro: But I caution you that...that by December we need to make some final decisions on this bill.

Ms. Kawahara: Okay, that's what I was going to ask because if there were going to be changes, we'd have to figure...count that into the final...

Mr. Kaneshiro: You'll have plenty enough time to work on it.

Ms. Kawahara: Okay, thank you.

Mr. Kaneshiro: Okay, any other further discussion? Mr. Furfaro, go ahead.

Mr. Furfaro: Yes, I want to say that in today's discussion several things came up. Some of those things dealt with condominium differences, appraisals. Others came up that, you know, the larger portion of the appeals are on raw land, whatever zoning code it has, and you know, there were certainly some good news here about the appeals process, but I also want to make...make it known you know...the tax bill goes out on March 15 and nobody from the tax office calls you, but your appeal is due by the 9th of April. You know, so there's only a three-week window there. So, you know, we need to understand that I introduced this bill because I don't want to piecemeal things, but the reality is you cannot take a whole code...tax code chapter and discuss openly and honestly every moving piece and come up with the right rationale. As we were told, you know sometimes we're looking at these things as offering carrots or...or celery. The reality is we've got to do the right thing for the right reason here. And I believe we are making great progress, but we need that time to really address some of the questions that have come up today. The one on the condominium appeals, land/building improvements and so forth is very concerning for me as it relates to the bill in its present form. So, hopefully by 16 September I will be offering some amendments. Thank you, Mr. Chair.

Mr. Kaneshiro: Thank you. Any further discussions? If not, again for the public, what we're doing is deferring this bill and even if this bill was voted on today, it still would not be able to implement this bill until 2011. So we...what we're...we're asking... what I'm asking my committee members is that we do more work, we do more research on the process and bring this bill back to the table on committee meeting of September 16 of 2009 so everybody understands that. With that...a motion.

Upon motion duly made by Councilmember Furfaro, seconded by Council Chair Asing, and unanimously carried, Bill No. 2292 was deferred until September 16, 2009.

Mr. Kaneshiro: I believe at this point we should take a lunch break and be back here at 1:30 p.m., 1:30 p.m. to conduct the rest of the Finance & Budget Committee meeting. Thank you.

There being no objections, the Committee recessed at 12:24 p.m.

The Committee reconvened at 1:38 p.m., and proceeded as follows:

CR-B&F 2009-05: on Bill No. 2299 AN ORDINANCE AMENDING
ORDINANCE NO. B-2008-672 AS
AMENDED, RELATING TO THE
OPERATING BUDGET OF THE COUNTY
OF KAUAI, STATE OF HAWAII, FOR THE
FISCAL YEAR JULY 1, 2008 THROUGH

JUNE 30, 2009, BY REVISING THE SURPLUS ESTIMATED IN THE GENERAL FUND (Appropriation of \$40,203 from the General Fund to Building Lease, Fire)
[Approved.]

CR-B&F 2009-06: on Bill No. 2302

AN ORDINANCE AMENDING ORDINANCE NO. B-2008-673 AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2008 THROUGH JUNE 30, 2009, BY REVISING THE SURPLUS AND APPROPRIATIONS ESTIMATED IN THE GENERAL FUND (\$900,000-New Kapa'a/Keālia Fire Station Off-Site Waterline)
[Approved.]

There being no further business, the meeting was adjourned at 2:23 p.m.

Respectfully submitted,

Wilma Akiona

Wilma Akiona
Secretary

APPROVED at the Committee Meeting held on March 18, 2009:


DARYL W. KANESHIRO
Chair, Budget & Finance Committee

