

NOTICE OF PUBLICATION AND NOTICE OF PUBLIC HEARING

'22 MAY 23 A8:17

Notice is hereby given that the Council of the County of Kaua'i will hold a public hearing on Wednesday, June 15, 2022, at 8:30 a.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Room 201, Historic County Building, Lihu'e, on the following:

Bill No. 2862

A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTION 9.2, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES

This Bill proposes to amend Chapter 5A, Section 9.2, Kaua'i County Code 1987, as amended (KCC), by removing the golf course valuation requirement that the Real Property Assessment Division account for "imparted value," which is complex, burdensome, and difficult to defend at the Tax Appeal Court. The Bill also adds definitions applicable to KCC Section 5A-9.2.

All interested persons who wish to present their comments may do so at the public hearing. Written testimony prior to the hearing would be appreciated. Written testimony can be submitted to the Office of the County Clerk, Council Services Division by mail, facsimile, or via E-mail to counciltestimony@kauai.gov. Copies of this Bill are available at the Office of the County Clerk, Council Services Division.

(The Council Committee or Council may amend this Bill at their subsequent meetings. Meeting notices are posted at least six (6) days in advance at the County Clerk's Office and the public may also testify at any of these meetings.)

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that the foregoing Bills No. 2862 was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on May 18, 2022, by the following vote:

AYES:	Carvalho, Chock, DeCosta, Evslin, Kaneshiro	TOTAL – 5,
NOES:	Cowden	TOTAL – 1,
EXCUSED & NOT VOTING:	Kuali'i	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihu'e, Hawai'i  
May 19, 2022

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

NOTE: IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF THE COUNTY CLERK, COUNCIL SERVICES DIVISION AT (808) 241-4188 OR COKCOUNCIL@KAUAI.GOV AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST.

UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.

(One publication – The Garden Island – May 26, 2022)

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTION 9.2,  
KAUAI COUNTY CODE 1987, AS AMENDED,  
RELATING TO REAL PROPERTY TAXES**

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BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. Chapter 5A, Section 9.2, Kauai County Code 1987, as amended, is hereby amended as follows:

**“Sec. 5A-9.2 Golf Course Assessment.**

(a) The following definitions shall apply for purposes of this Section:

“Cost of development” means the actual or estimated costs to improve the land into an operating golf course.

“Golf course” means property that has been developed for the sport of golf, including its related and incidental activities.

“Golf course use” means the actual use of property for the sport of golf and its related and incidental activities.

“Rental income” means land rent based on golf course use.

“Sales price” means the sale price of a property operated and used as a golf course and land acquired for golf course use.

[(a)] (b) Land operated and used as a golf course shall be assessed for property tax purposes on the following basis:

(1) The value to be assessed by the Director shall be on the basis of its actual use as a golf course rather than on the valuation based on the highest and best use of the land.

(2) In determining the value of actual use, the factors to be considered shall include, among others, rental income, cost of development, and sales price [and the effect of the value of the golf course on the value of the surrounding lands.].

[(b)] (c) In order to qualify in having land assessed in valuation as a golf course, the owner of any parcel of land desiring or presently using his or her land for a golf course shall, as a condition precedent, qualify as follows:

(1) Dedication of Land.

(A) The owner of any parcel of land for a golf course shall petition the Director and declare in his or her petition that he or she will dedicate his or her parcel of land for a golf course.

(B) The approval by the Director of the petition to dedicate the land shall constitute a forfeiture on the part of the owner of any right to change the use of the land for a minimum period of ten (10) years, automatically renewable indefinitely, subject to cancellation by either the owner or the Director upon five (5) years' notice at any time.

(C) The failure of the owner to observe the restrictions on the use of his or her land to that of a golf course shall cancel the special tax assessment privilege retroactive to the date of the dedication but not more than ten (10) years prior to the tax year in which the exemption is disallowed; and all differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be payable with a six percent (6%) a year penalty from the respective dates that these payments would have been due. Failure to observe the restrictions on the use means failure for a period of over twelve (12) consecutive months to use the land in that manner requested in the petition as a golf course by the overt act of changing the use for any period. Nothing in this Paragraph shall preclude the County from pursuing any other remedy to enforce the covenant on the use of the land as a golf course.

(D) The Director shall prescribe the form of the petition. The petition shall be filed by July 1st of any calendar year and shall be approved or disapproved by September 15th of such year. If approved, the assessment based upon the use requested in the dedication shall be effective on October 1st.

(E) The owner may appeal any disapproved petition as in the case of an appeal from an assessment.

(F) The term "owner," as used in this Section, includes lessees of real property whose lease term extends at least ten (10) years effective from the date of the petition.

(G) The amount of additional taxes due and owing where the owner has failed to observe the restriction on the use shall attach to the property as a paramount lien in favor of the County as provided in Sec. 5A-5.1.

(2) Covenant Not to Engage in Discrimination. The owner shall covenant in his or her petition with the Director that he or she will not discriminate against any individual in the use of the golf course facilities because of the individual's race, sex, religion, color or ancestry."

SECTION 2. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 3. 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 4. This Ordinance shall take effect upon its approval.

Introduced by:



LUKE A. EVSLIN  
(By Request)

DATE OF INTRODUCTION:

**May 18, 2022**

Līhu'e, Kaua'i, Hawai'i


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CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2862, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on May 18, 2022, by the following vote:

FOR PASSAGE:	Carvalho, Chock, DeCosta, Evslin, Kaneshiro	TOTAL – 5,
AGAINST PASSAGE:	Cowden	TOTAL – 1,
EXCUSED & NOT VOTING:	Kuali'i	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Līhu'e, Hawai'i  
May 18, 2022

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