

TY MANAGEMENT CORPORATION

November 29, 2019

ATTN: WEST MAUI CPAC  
Department of Planning  
2200 Main St., Suite 315  
Wailuku, HI 96793

**SUBJECT: TESTIMONY WITH RESPECT TO POLICIES AND ACTIONS  
RELATED TO GOAL 2.1: READY AND RESILIENT SYSTEMS**

Dear CPAC Members:

This is written testimony submitted on the above referenced matter. TY Management Corporation (TY) is the owner of the Bay and Plantation Golf Courses at the Kapalua Resort, as well as associated assets. TY acquired the Plantation Course in 2009 and the Bay Course in 2010.

TY appreciates the diligent and complex work being performed by all the members of CPAC. TY also realizes the need to be prepared to allow for the movement of some existing shoreline development due to sea level rise and coastal hazards, and applauds a policy agenda designed to address this.

However, the proposed policy #1...”[r]eserve existing golf course facilities as future receiving areas to transfer existing shoreline development that is impacted by sea level rise and coastal hazards”... is inconsistent with the Maui Island Plan (MIP), will not accomplish its stated purpose, and raises significant legal and constitutional issues.

*Consistency with the MIP*

The Bay and Plantation Golf Courses are simultaneously essential landscape features and economic drivers for the Kapalua Resort. The Resort is itself is the employment and economic center for this part of West Maui.

Golf courses are key components of “resort destination areas” contemplated by the MIP. “[I]t has been County policy to limit large-scale resort development to the defined resort destination areas of Wailea, Mākena, Kapalua, and Kā`anapali. The tremendous contribution that tourism makes to our economy must be acknowledged ... The visitor industry continues to provide Maui residents with many economic opportunities. The industry generates the most tax revenue and employs more residents than any other industry. Many Maui residents benefit from the industry. Over the years, it has been County policy to maximize the economic benefits of the visitor industry by attracting

higher-spending visitors rather than maximizing the number of visitors to the island. This policy ensures a rich visitor experience while protecting the island's natural beauty, culture, island lifestyles, and aloha spirit.”<sup>1</sup>

The proposed policy language is thus inconsistent with the MIP.

*The Policy will not accomplish its intended purpose*

As sea level rise and coastal hazards increasingly threaten some existing coastal development, there will need to be planning for required actions. The specific actions to be taken, however, should be based on the specific uses being impacted and the suitability of different lands to be possible sites for relocating these uses.

Unfortunately, the proposed policy is not based on such an analysis. There is no clear reason why golf course lands are best suited to the re-siting of existing shoreline developments as compared to other existing land uses and areas. This point is particularly relevant in the context of the many thousands of acres of abandoned and unused agricultural lands existing in West Maui.

Implementation of the policy could thus, among other things, promote an illusory promise to relocate essential developments to places where those developments could not successfully be sited.

*Constitutional and legal concerns*

It is not clear to us if the proposed policy language creates a restriction on any existing development rights, and if so, what compensation scheme is proposed. Passage of such policy language would likely create an immediate impairment of value on existing golf course facilities, and hence would likely be the subject of legal challenge.

Moreover, it is not clear whether this policy proposal – which may have the effect of an overlay zoning – is within the allowed scope of a community plan. TY believes Maui Corporation Counsel should be asked to opine on this question.

*Next steps*

In lieu of adopting the policy as worded, we suggest consultation with golf course owners, resort associations and others affected by the proposed policy in Kaanapali, Kapalua, Makena and Wailea. We imagine that they are unaware of this proposal and would have important input.

As an alternative to the language of Policy #1 we suggest that a better policy would be to have the County of Maui inventory existing shoreline developments that may be impacted by sea level rise and coastal hazards, identify those coastal developments which are critical to West Maui, conduct preliminary cost benefit analyses comparing relocation

---

<sup>1</sup> Maui Island Plan: General Plan 2030, 4-12 (2012)

versus shoreline protection efforts, and identify existing lands without ongoing economic uses that may be suitable as "receiving zones" for displaced uses.

Thank you for your consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jonathan B. Kindred', written in a cursive style.

Jonathan B. Kindred  
Director