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INTERPRETATION

RELATING TO THE DEFINITION OF FLOOR AREA

Kakaako Mauka Area Rules:
Hawaii Administrative Rules ("HAR") §15-22-5

Chapter Reference:

According to HAR §15-22-5 Definitions:

"Floor area" means the area of the several floors of a building excluding unroofed areas measured from the exterior faces of the exterior walls or from the center line of part walls separating portions of a building. The floor area of a building, or a portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above, including but not limited to elevator shafts, corridors, and stairways. Excluded from the floor area are parking facilities and loading spaces, including their driveways and accessways, lanais or balconies of dwelling or lodging units which do not exceed fifteen per cent of the total floor area of the unit to which they are appurtenant, attic areas with head room less than seven feet, covered rooftop areas, and rooftop machinery equipment rooms and elevator housings on the top of buildings.

Problem Statement:

Through a letter dated September 16, 2015, the counsel representing Victoria Ward, Limited ("VWL") requested an interpretive opinion from the Hawaii Community Development Authority ("HCDA") with respect to the definition of "floor area" as set forth in HAR §15-22-5.

The language "...including but not limited to elevator shafts, corridors, and stairways.." in the definition of "Floor Area" in HAR §15-22-5 is not all inclusive and gives rise to some ambiguity regarding whether service areas in a building such as mechanical/electrical rooms should be considered included in the definition of "Floor Area". Similarly "parking facilities" are excluded as floor area, however, it is not clear in the definition of "floor area" whether service areas such as

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mechanical/electrical rooms, staircases connecting several floors of a parking facility, and storage areas are excluded as floor area. "Floor Area" is defined as usable area under the horizontal projection of the roof or floor above, however, the term "roof" remains undefined causing ambiguity on whether a trellis that is fifty percent (50%) open to the elements is considered a roof and the area under such trellis floor area. Similar ambiguity arises in considering whether areas under a roof or a floor slab that is entirely landscaped area and not necessarily usable should be considered "floor area".

Statement of Justification:

Pursuant to HAR §15-22-20 *Interpretation by the executive director*, the HCDA Executive Director may issue a written interpretation as follows:

- “(a) In administering this chapter, the executive director may when deemed necessary render written interpretations to clarify or elaborate upon the meaning of specific provisions of this chapter for intent, clarity and applicability to a particular situation.
- (b) A written interpretation shall be signed by the executive director and include the following:
 - (1) Identification of the section of this chapter in question.
 - (2) A statement of the problem.
 - (3) A statement of the interpretation.
 - (4) A justification statement.
- (c) A written interpretation issued by the executive director shall be the basis for administering and enforcing the pertinent section of this chapter. All written interpretations rendered pursuant to these rules shall be public record, and shall be effective on the date signed by the executive director.”

Statement of Interpretation:

1. Inasmuch as the definition of floor area includes service areas such as elevator shafts, corridors and staircases, the intent in the definition is to include other service areas such as mechanical and electrical rooms that are essential to service the portions of the building that qualifies as floor area. Therefore, mechanical and electrical rooms that service portions of the building that qualify as floor area shall be considered to be floor area as defined in HAR §15-22-5.

2. The definition of "floor area" in HAR §15-22-5 excludes "parking facilities" without further defining the term "parking facilities". As a practical matter, mechanical and electrical rooms within a parking podium that are designed to exclusively serve as parking use are an integral and necessary design element of "parking facilities" and should also be excluded from the definition of "floor area". Mechanical and electrical rooms in a parking podium that service any portion of the building that is considered floor area shall be considered to be floor area. Similarly staircases in a parking podium that service any portion of the building that is considered floor area shall be considered floor area.
3. The definition of "floor area" in HAR §15-22-5 excludes "parking facilities" without further defining the term "parking facilities". As a practical matter, storage areas within the parking facilities that consist of demising walls that do not run full height from floor to ceiling, do not provide any utility connections such as electrical outlet, water, sewer, gas, etc., shall not be considered to be floor area. A storage area may have an open net type covering on top made out of metal or other functional material.
4. The definition of "floor area" for "a building, or portion thereof, not provided with surrounding exterior walls" in HAR §15-22-5 includes "the usable area under the horizontal projection of the roof or floor above" without further defining the term "usable". The commonly accepted definition of the term "usable" as contained in the Merriam Webster Dictionary is "capable of being used" or "convenient and practicable for use". The term "use" as contained in the Merriam Webster Dictionary is "the act of using something" or "the state of being used" or "a way in which something is or can be used." Inasmuch as the exterior spaces at the ground floor that are beneath building overhangs and landscaped with dirt and planting material cannot be put in active use, such exterior spaces are excluded from the definition of "floor area".
5. Inasmuch as HAR §15-22-5 defines "floor area" as a roofed area having more than one wall, it is limited by the definition of a roof. The term "roof" is not defined in the Mauka Area

Rules. The Merriam Webster dictionary provides the following definition of the term "roof":

- (1) the cover of top of a building, vehicle, etc.,
- (2) the top of the inside of a tunnel, cave, etc., and
- (3) the top of the inside of your mouth.

All three definitions appear to point in the direction that the term "roof" anticipates a solid and continuous cover over something, and the purpose of roof for a manmade structure would be to provide protection from natural elements. An open trellis roof structure with no more than one wall and where at least fifty percent (50%) of the trellis roof is open to the elements is not a solid, continuous covering and does not provide protection from natural elements. Therefore, an area covered by an open, overhead trellis that only provides 50% roof coverage should not be considered "floor area" as it remains in essence open space to which an architectural and aesthetic feature has been added to provide some shading from the Hawaiian sun, but yet remains generally open to the sky above. It is hereby clarified that the area under an open trellis having no more than one wall and where at least fifty percent (50%) of the trellis roof is open to the elements is not considered "floor area" as defined in the Mauka Area Rules.

An amenity space on the roof top of a tower covered by a trellis that is fifty percent (50%) or more open to the sky and acts as decorative and recreational features is permitted as long as the height of the top of the trellis does not exceed eighteen feet (18 feet) from the finished floor surface of the roof.



Aedward Los Banos
Acting Executive Director