

LU Committee

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Sent: Friday, February 16, 2018 5:27 PM
To: LU Committee
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Subject: RAM Testimony on LU-40
Attachments: (2) tesimony LU40 B&B restrictions 2.20.2018.docx

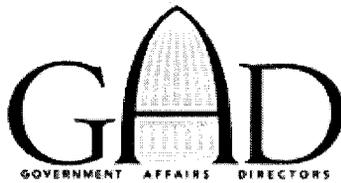
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Aloha Land Use Committee Members,

Please find my testimony on LU-40 attached.

Mahalo and have a great long weekend!!!!

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**February 20, 2018
Testimony LU-40**

Good morning and aloha Chair and members. My name is Lawrence Carnicelli, speaking on behalf of the REALTORS Association of Maui's over 1700 licensed professional REALTORS and affiliates on item LU-40.

What I'd like to start my testimony with is what I start with most of the time we talk about the vacation rental industry... which is ILLEGAL vacation rentals.

Here on Maui we do not have a vacation rental problem... we have an illegal vacation rental problem! As a matter of fact, the STRH permit cap for the island of Maui is only 382 permits and only about 230 permits have been granted thus far. However, we all know that there are way more vacation rental homes on Maui than 230. The County is failing to address this problem as there is lack of enforcement on these illegal operators. In order to solve this lack of enforcement the Council is continually reconsidering punishing those willing to go through the proper channels, complete applications, pay their fees, pay their taxes, complete all inspections and get all approvals to run legally. In essence we are punishing the legal operators for the sins of the illegal operators.

Therefore, it is important to discuss enforcement versus legislation. Often times when there is a lack of enforcement we turn to stricter laws to get the intended results. However the unintended consequence is a system that further punishes people that want to do it the right way and use the legal process. People that want to come forward and use the legal process and do what is right are disincentivized from doing so even further. The more complicated and the more difficult we make the process the less likely people are to come forward and operate legally. If we need to address enforcement then we should do just that. It's not possible to legislate enforcement. The last thing we all want are laws that actually encourage people to go underground and operate illegally.

Even though this bill is titled "A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE RELATING TO ENFORCEMENT PROCEDURES FOR BED AND BREAKFAST HOMES AND SHORT-TERM RENTAL HOMES" this bill will do very little if any enforcement on illegal operations. This bill will only affect the homeowners that have permits or try to get permits via the legal process. If you are an illegal black-market vacation rental these new restrictions will not hurt you. What we should be addressing is how the process of enforcement is written and implemented... in the code and in practice.

In closing I would like to highlight a few recommendations transmitted from the differing Planning Commissions and Advisory Board for your adoption and consideration:

- Would like to see more latitude with enforcement to allow inspectors to use common sense.
- For Section 19.64.060(C), require that a B&B operator to respond to a problem within one (1) hour, instead of the current suggested wording: "reasonable time."
- Does not support a five (5) year ban for B&Bs.
- Does not support any transferability of permits.
- Commented that permits should be limited to one (1) renewal so that the property returns to residential housing again.

And I would like to end my testimony with the reminder that B&B's are local residents that live on property as there residence. They are not off-island owners. Mahalo for the opportunity to testify.