HLU Committee

From: vittorio favati <vfavati@yahoo.com>
Sent: Tuesday, July 1, 2025 5:34 AM
To: HLU Committee
Subject: Short Term Rental ban

Dear Mr. Mayor and your esteemed Office,

Based on the fact the county of Maui just received $1.6 billion from the federal government to be used for affordable housing, I sincerely request you to pull back on the proposed ban on our homes that we use for vacation rental programs and personal use.

The $1.6 billion will not only address our affordable housing issues, it will also address our water issues.

We as Homeowners, who are financially supporting the Maui government through our taxes on vacation rentals, should not be financially obligated to solve the affordable housing crisis when the county has received federal funding specifically for that purpose.

A county vote banning short term vacation rentals will be met by thousands of lawsuits from existing homeowners being deprived of their property rights and will force the county to spend far more than it is currently making from the vacation rental taxes paid by existing homeowners.

Thank you for your consideration.

Regards,

Vittorio and Kathy Favati

Kahana Village Condominiums
4531 Honoapiilani Road
Unit 1
Lahaina Maul HI 96761

HLU Committee

From: Deborah Johnston <scvace@yahoo.com>
Sent: Tuesday, July 1, 2025 7:19 AM
To: HLU Committee
Subject: Bill 9 Testimony

I presently own a condo in Maui and am against this Bill 9. Maui depends on tourism for it's survival and Bill 9 would be total suicide for Maui. Not only would tourism die but jobs would be taken from many local people in Maui. Please, do not support this bill

Sincerely,

Deborah Johnston

HLU Committee

From: Albert Perez <director.mauitomorrow@gmail.com>
Sent: Tuesday, July 1, 2025 8:55 AM
To: HLU Committee
Subject: Bill 9: Testimony and Legal Analysis
Attachments: mtf takings vested rights opinion 250630.pdf; TestimonyOfAlbertPerez.pdf

Aloha Chair Kama and members of the committee,

Attached please find testimony of Maui Tomorrow Foundation re. Bill 9. I have also attached an "Analysis on the Validity and Impact of Bill 9 Under Constitutional and Zoning Law", by attorney Lance Collins.

Mahalo,
Albert

--
Albert Perez
Executive Director
Maui Tomorrow Foundation
www.mauitomorrow.org

LAW OFFICE OF
LANCE D COLLINS
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June 30, 2025

Maui Tomorrow Foundation
P.O. Box 880390
Pukalani, HI 96788

Re: Analysis on the Validity and Impact of Bill 9 Under Constitutional and Zoning Law

Dear Maui Tomorrow,

You have asked for a regulatory takings, vested rights/zoning estoppel and termination of nonconforming uses analysis of Bill 9, a bill that would eliminate transient vacation rentals in apartment districts, presently under consideration by the Maui County Council.

The Fifth Amendment to the United States Constitution protects private property owners by requiring the government pay compensation if it takes private property for a public use. This protection applies not only to the federal government but also to state and local governments through the Fourteenth Amendment. Over time, the Supreme Court has developed a body of law explaining when government actions amount to a "taking" that requires payment. This includes situations where the government physically takes property, as well as situations where government regulations limit how property can be used. This paper explains how courts analyze regulatory takings claims, with a focus on how these legal principles apply to zoning regulations like those found in Bill 9.

In addition to constitutional protections against takings, courts recognize doctrines such as vested rights and zoning estoppel, which may limit a government's ability to retroactively interfere with certain land uses. These doctrines arise from principles of due process and equity, rather than compensation, and focus on whether a property owner has acquired a legal right to continue a land use based on prior approvals or government conduct. A vested right typically exists when a landowner has undertaken substantial investment in reliance on valid government permits. Zoning estoppel may apply when a governmental body has made representations or taken actions that induce reasonable reliance by the property owner. This analysis examines whether these doctrines provide legal protection to short-term rental operations that would be affected by Bill 9, and how courts evaluate such claims in the context of changing land use regulations.

Takings and Regulatory Takings

The US Constitution provides that private property shall not "be taken for public use[] without just compensation." Fifth Amendment, US Constitution. This provision is applicable to the states through the Fourteenth Amendment. *Chicago, Burlington & Quincy Railroad Co. v. Chicago*, 166 U.S. 226 (1897). Therefore, a state or local government may not take private property for public use without paying compensation. *Hawaii Housing Auth.ority v. Midkiff*, 467 U.S. 229 (1984) The US Supreme Court has explained that the purpose of this constitutional provisions is "to bar government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole." *Penn Central Transportation Co. v. City of New York,* 438 U.S. 104, 123-124 (1978) (quoting *Armstrong v. United States,* 364 U.S. 40, 49 (1960)).

Courts recognize two kinds of "takings" under the Fifth Amendment. The first is a physical taking such as when the government exercises the power of eminent domain. *Lingle v. Chevron U.S.A., Inc.,* 544 U.S. 528, 539 (2005). The other is what is called a "regulatory taking" which is "functionally equivalent to the classic taking in which the government directly appropriates private property or ousts the owner from his domain." *Id.* Although "property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking." *Pennsylvania Coal Co. v. Mahon,* 260 U.S. 393, 415 (1922).

The US Supreme Court has further differentiated two types of regulatory takings. The first is a regulation that forces a property owner to suffer a permanent, physical invasion of his property. No matter how *de minimis* the physical invasion, it requires compensation under the Fifth Amendment. *See, e.g., Loretto v. Teleprompter Manhattan CATV Corp.,* 458 U.S. 419, 435-440 (1982) (finding taking where law required landlords to allow cable television companies to put cable wiring in apartment buildings, despite that the physical intrusion was minimal). The second is a regulation that denies all economically beneficial or productive use of the land. *Lucas,* 505 U.S. at 1019. A *Lucas* taking usually involves a regulation that requires land to be left substantially in its natural state. *Bridge Aina Le'a, LLC v. State Land Use Comm'n*, 950 F.3d 610, 626 (9th Cir. 2020) (citing *Lucas,* 505 U.S. at 1018). A *Lucas* taking requires a "complete elimination of value," or a "total loss" in value, other than a "token interest." *Tahoe-Sierra Pres.Council, Inc. v. Tahoe Reg'l Planning Agency,* 535 U.S. 302, 330 (2002); *Palazzolo v. Rhode Island,* 533 U.S. 606, 631 (2001).

For any other kind of regulatory taking, the US Supreme Court has declined to create a "set

formula for determining how far is too far, preferring to engage in essentially ad hoc, factual inquiries." *Lucas v. South Carolina Coastal Council,* 505 U.S. 1003, 1015 (1992) (quoting *Penn Central Transp. Co. v. New York City,* 438 U.S. 104, 124 (1978)). In the seminal regulatory takings case, *Penn Central Transportation Co. v. City of New York,* 438 U.S. 104 (1978), the US Supreme Court examined whether New York's historical landmarks law went "too far" and required compensation. The case arose when Penn Central Transportation Company, which owned Grand Central Terminal in New York City, sought to construct a multi-story office building above the train station. The terminal, however, had been designated a historical landmark under New York City's Landmarks Preservation Law, and the city rejected the company's proposal to construct the office tower, citing concerns that the building would detract from the terminal's historic character. Penn Central brought suit, alleging that the city had appropriated part of its property – the air rights above the terminal – without providing just compensation.

The *Penn Central* Court emphasized that the taking analysis in regulatory action is factually intensive, but it described three factors that had "particular significance" in that case: (1) the economic impact of the regulation on the property owner; (2) the extent to which the regulation has interfered with distinct investment-backed expectations; and (3) the character of the government action." *Id.* These factors of "particular significance" have since evolved into a three part test that a plaintiff must meet to demonstrate a regulatory taking. The property owner bears a "heavy burden" under the test, *Keystone Bituminous Coal Ass'n v. DeBenedictis,* 480 U.S. 470, 493 (1987), and the first two prongs are given the most weight in the analysis. *Bridge Aina Le'a, LLC,* 950 F.3d at 630. The test is highly fact-driven. Nevertheless, what is clear is that any challenged regulation has a presumption of constitutionality, on which courts often rely. The net result is that property owners have a low success rate on constitutional takings claims.

This is particularly true for zoning or land-use restriction cases, which have been repeatedly upheld by the Supreme Court as a legitimate exercise of the state's police power for the protection of the health and safety of the citizens. *Village of Euclid v. Ambler Realty,* 272 U.S. 365 (1926).

Under the first factor, the economic impact of the regulation on the property owner, the court will compare the value that has been taken from the property with the value that remains in the property. *Id.* There is no bright-line rule or litmus test that triggers a taking under the Fifth

Amendment, but the Supreme Court has held that only a significant diminution in property value will trigger a takings claim. *Palazzolo v. Rhode Island,* 533 U.S. 606, 631 (2001) (holding that an owner left with a "token interest" in his property may pursue a takings claim). The analysis is both highly utilitarian and objective: takings are compensated only to the extent that the loss in value is one that is reflected in what a willing buyer would pay to a willing seller. *See, e.g., United States v. 564.54 Acres of Land,* 441 U.S. 506, 511 (1979); *see also Brown v. Legal Foundation of Washington,* 538 U.S. 216, 240 (2003) (holding that state law requiring interest on lawyer trust accounts to be transferred to a different owner for a public use is not a taking because the owner's pecuniary loss is near zero).

Practically speaking, however, in assessing the first factor, courts commonly consider the property value before the government action at issue to the property value after the government action. *Id.* at 631-632; *Florida Rock Indus., Inc. v. United States,* 18 F.3d 1560, 1567-68 (Fed. Cir. 1994); *but see Walcek v. United States,* 49 Fed. Cl. 248, 266 (2001) (rejecting argument that comparative value is the sole method to determine economic impact). This can have the effect of blurring any distinction between the first and second prongs of the *Penn Central* test. *See, e.g., Penn Central,* 438 U.S. at 129 n. 26 (considering whether Penn Central had been allowed a reasonable return on its investment); *Keystone Coal,* 480 U.S. at 496 (discussing potential profitability of a coal company following adoption of legislation). The "common touchstone" of these cases, however, is that they are intended to identify regulations that are "functionally equivalent" to a physical appropriation or ouster. *Lingle,* 544 U.S. at 539 *cited in Bridge Aina Le'a*, 950 F.3d at 631. Because it can be difficult to analogize between a regulatory depriving a property owner of some use for the property and a traditional appropriation or ouster, the courts have used the comparative value of the property, before and after the government action, as a rough tool to identify losses that are functionally equivalent to appropriation.

The second factor in the *Penn Central* test is the extent to which the regulation interfered with distinct investment-backed expectations. *Id.* at 124. The law review article that developed the investment-backed expectations test used in Penn Central refers to a "sharply crystallized, investment-backed expectation." Frank Michelman, *Property, Utility, and Fairness: Comments on the Ethical Foundations of "Just Compensation" Law,* 80 HARV. L. REV. 1165, 1229-1234 (1967). Later cases refer to "*reasonable* investment-backed expectations," converting the facially subjective *Penn Central* test into an objective formulation. *E.g., Kaiser Aetna v. United States,* 444 U.S. 164, 175 (1979); *see also*

Good v. United States, 189 F.3d 1355, 1361-62 (Fed. Cir. 1999) (noting that in light of the regulatory climate at the time of the property's acquisition, there would not have been any reasonable expectation of approval for the property's development). Thus, a property owner must show, in light of the state of the law (or trends in the state of the law) at the time of the property's acquisition, that there were crystalized, investment-backed expectations that were both subjectively held and objectively reasonable.

There are two common themes in courts' analysis of the investment-backed expectations test, both of which narrow the potential takings route for property owners. First, courts will almost uniformly reject takings claims under the investment-backed expectations test if the regulation existed at the time the property owner purchased the property. This is true despite the Supreme Court's holding that a takings claim "is not barred by the mere fact that title was acquired after the effective date of the . . . restriction." *Palazzolo v. Rhode Island,* 533 U.S. 606, 630 (2001). Lower courts have treated *Palazzolo's* holding that while a post-regulation acquisition is not a *categorical* bar to a takings claim, it is a *factor* to consider in determining whether the investment-backed expectations were reasonable. *E.g., LaSalle Nat. Bank v. City of Highland Park,* 799 N.E.2d 781, 789 (Ill. App. 2003). This factor is typically found to be dispositive. *See id.* (distinguishing similar case on the basis that the property acquisition occurred after the adoption of the regulation t issue); *Wensmann Realty, Inc. v. City of Eagan,* 734 N.W.2d 623, 638 (Minn. 2007) (holding that a plaintiff could not have reasonable expectations of use except for those permitted by zoning restrictions); *U.S. Gypsum Co. v. Exec. Office of Env't Affairs,* 867 N.E.2d 764, 778 (Mass. App. 2007) (finding that no reasonable person could have had investment-backed expectations other than those permitted by regulations at the time of purchase).

A second theme is that courts will often rely on a "heavily-regulated industry" principle to find that owners of property could not have had reasonable investment-backed expectations because they could not be confident that future regulations would be enacted. The definition of heavily-regulated industry in this context is rather broad and has included dog racing, *D'Arcy v. Florida Gaming Control Comm'n*, 361 So. 3d 935, 936-37 (Fla. App. 2023) (holding that a dog track had no reasonable investment backed expectations because gambling is heavily regulated); game preserves, *Brakke v. Iowa Dept. of Nat. Res.,* 897 N.W.2d 522, 551 (Iowa 2017) (quaranting deer preserve was not a taking because game preserves are highly regulated); game farms, *Kafka v. Mont. Dept. of Fish,*

Wildlife, and Parks, 201 P.3d 8, 32 (Mont. 2008) (upholding ban on charging a fee to shoot livestock raised for hunting on the basis that game farms are highly regulated); restaurants and bars, *Orlando Bar Group, LLC v. DeSantis,* 339 So.3d 487, 494 (Fla. App. 2022) (COVID closures were not a taking because alcohol is highly regulated, so there can be no reasonable investment-backed expectations). Where applied by the courts, the "heavy-regulated industry" principle operates as a *de facto* bar to a takings claim.

The character of the governmental action, the third *Penn Central* prong, considers whether the regulation is more like a physical invasion (which typically requires compensation) or a public program adjusting the benefits and burdens of economic life to promote the common good (which *typically does not require compensation). Penn Central, 438 U.S. at 124.* In 1978, when Penn Central was decided, permanent physical invasions were not considered a *per se* violation of the Takings Clause; this change happened in 1982 when the Supreme Court decided *Loretto v. Teleprompter Manhattan CATV Corp.,* 458 U.S. 419 (1982). Thus, after *Loretto,* it raises the question as to what type of "character" weighs in favor of finding a taking, and lower courts seem to have struggled with how to apply the third factor in light of *Loretto.* It is clear enough that arbitrary and capricious regulations do not pass constitutional muster. *See Lingle,* 544 U.S. at 543 (holding that a regulation "so arbitrary as to violate due process" is facially impermissible and "[n]o amount of compensation can authorize such action."). Beyond this, however, there is little agreement. Some courts have found that a regulation targeting specific property triggers the third prong, *see, e.g., E. Enters. v. Apfel,* 524 U.S. 498, 543 (1998) (noting that the regulation at issue did not target a specific property); *Arctic King Fisheries, Inc. v. United States,* 59 Fed. Cl. 360, 381 (2004) (citing *Eastern Enterprises* for the proposition that the third prong is a fundamental fairness test, with two indicia being relevant: retroactivity or the targeting of a specific property or individual). Other courts have suggested that a regulation supporting the government's own commercial interests may trigger the third prong. *See R.I. Econ. Dev. Corp. v. Parking Co.,* 892 A.2d 87, 104 (R.I. 2006) (holding that easement intending to benefit revenues of the state airport authority was not a public use). There is no consensus on this issue.

Despite that *Penn Central* is purportedly a three-part test, in many instances, courts do not rely on all three factors when deciding a claim under the Takings Clause. The Supreme Court has referred to the *Penn Central* factors as a balancing test and, ultimately, an ad hoc factual determination. Based on this language, some courts have concluded that even one of the *Penn*

Central factors can be dispositive. *E.g., D'Arcy v. Florida Gaming Control Comm'n*, 361 So. 3D 935, 936-37 (Fla. Ct. App. 2023); *cf. Ruckelhaus v. Monsanto Co.,* 467 U.S. 986, 1005-06 (1984) (rejecting part of the taking claim based on one factor and finding that the "force" of one factor was so overwhelming to find a taking on another portion of the taking claim as to obviate the need to consider other factors). The Federal Court of Claims puts it a slightly different way: "[u]nder the *Penn Central* test, satisfying any single factor does not decide the inquiry in favor of the plaintiff, but instead allows the *Penn Central* inquiry to continue; yet, failing to satisfy a factor will usually mean the *Penn Central* claim will fail. *Resource Investments, Inc. v. United States,* 85 Fed. Cl. 447, 551 (2009).

Finally, with the ad hoc nature of the *Penn Central* test, along with the Supreme Court's oft-quoted admonition that a regulation that goes "too far" will be considered a taking, *Pennsylvania Coal,* 260 U.S. at 415, there is a strong (but unstated) undercurrent of "fairness" in courts' analysis of takings claims. In *Penn Central,* the Court explained that the "Fifth Amendment's guarantee . . . [is] designed to bar [the] government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole." *Penn Central,* 438 U.S. at 123-124 (quoting *Armstrong v. United States,* 364 U.S. 40, 49 (1960)). The fairness and justice standard, or the *Armstrong* principle, has since been cited by the Supreme Court in other takings cases as a fundamental rationale for the takings clause, *e.g., Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency,* 535 U.S. 302, 321 (2002); *Lingle v. Chevron U.S.A., Inc.,* 544 U.S. 528, 537 (2005).

Bill 9 proposes to ban short-term vacation rentals in the apartment district, but it gives property owners a period of time to adjust before the ban takes full effect. A legal challenge to Bill 9 would likely be reviewed under the *Penn Central* test, which courts use to decide whether a government rule has taken private property without paying for it. This test applies because Bill 9 does not allow the government to physically take over anyone's property, like in the *Loretto* case, and it does not completely take away all use or value of the property, like in the *Lucas* case.

The first part of the test looks at how much money property owners lose because of the rule. Property owners would lose income because they would no longer be allowed to rent their apartments to short-term vacation guests. However, they could still rent to long-term tenants or live in the apartments themselves. The Supreme Court has said that losing profits alone usually isn't enough to prove that the government took property. Even if someone bought an apartment mainly to rent to vacationers, courts usually focus on how much value the property still has for other legal

uses. In this case, the property would still have significant value.

The second part of the test looks at whether the rule interferes with the property owner's reasonable expectations. Courts would consider the extra time given by the amortization period, which helps owners adjust their business and avoid sudden financial loss. Courts may also consider whether short-term vacation rentals are a heavily regulated business. In Maui County, there are already many rules on vacation rentals, which may make it harder for owners to argue they reasonably expected the right to continue renting short-term.

The third part of the test looks at the purpose of the government rule. Courts usually allow zoning changes when they apply to many properties and are not aimed at just one person or property. Zoning rules are a way for governments to protect the health, safety, and general well-being of the community. Because Bill 9 is a general rule meant to serve the public, this part of the test would likely favor the government.

In summary, when courts review a regulatory takings claim under the *Penn Central* test, they consider the economic impact of the regulation, the property owner's reasonable investment expectations, and the nature of the government's action. In the case of Bill 9, property owners would lose some income from the use of their property for transient vacation rentals but would still be able to use their property in other ways. The amortization period gives owners time to adjust, and the highly regulated nature of transient vacation rentals in Maui County may limit reasonable expectations. Because Bill 9 serves a general public purpose and applies broadly, it is likely that courts would uphold the regulation and find that it does not result in an unconstitutional taking.

Vested Rights and Amortizing Nonconforming Uses

In addition to potential takings claims, property owners facing the loss of short-term rental rights under Bill 9 may assert legal theories based on vested rights or zoning estoppel. These doctrines differ from constitutional takings in that they focus not on compensation for regulatory burdens, but on whether a landowner has acquired a legal right to continue a land use in the face of changing regulations. While sometimes raised as standalone claims or defenses, courts analyze vested rights and zoning estoppel under distinct frameworks that emphasize equitable reliance and due process, not economic impact alone. The following discussion addresses the legal standards for these doctrines and explains how they interact with local government authority to eliminate

nonconforming uses through zoning reform.

The doctrines of vested rights and zoning estoppel are often invoked in land use disputes but apply only under narrow, well-defined circumstances. A property owner's reliance on existing zoning or prior governmental approvals may sometimes create enforceable expectations, but these doctrines do not confer immunity from lawful regulatory changes adopted in the public interest. As the Hawai'i Supreme Court stated in *Allen v. City & County*, 58 Haw. 432, 435 (1977), "Estoppel focuses on whether it would be inequitable to allow the government to repudiate its prior conduct; vested rights upon whether the owner acquired real property rights which cannot be taken away by government regulation."

Equitable estoppel applies in limited cases where a landowner has made substantial expenditures in reliance not just on existing zoning laws or general expectations, but on specific official assurances that zoning requirements have been satisfied and approvals will follow. As explained in *Life of the Land v. City Council*, 61 Haw. 390, 453 (1980), "The doctrine of equitable estoppel is based on a change of position on the part of a land developer by substantial expenditure of money in connection with his project in reliance, not solely on existing zoning laws or on good faith expectancy that his development will be permitted, but on official assurance on which he has a right to rely that his project has met zoning requirements, that necessary approvals will be forthcoming in due course, and he may safely proceed with the project." Zoning estoppel does not apply where the right to a land use remains inchoate—i.e., where no construction has begun or approvals are still discretionary. It is not triggered simply because a use was previously allowed. In this case, it is inapplicable because the issue involves the regulation of existing uses.

Preexisting lawful uses may be considered vested rights and thus entitled to a degree of protection under the Due Process Clause. As the Intermediate Court of Appeals explained in *Waikiki Marketplace Inv. Co. v. Chair of Zoning Bd. of Appeals of City & County of Honolulu*, 86 Hawai'i 343, 353–54 (App. 1997), "[D]ue process principles protect a property owner from having his or her vested property rights interfered with, and preexisting lawful uses of property are generally considered to be vested rights that zoning ordinances may not abrogate." Nevertheless, courts have long recognized that legislatures retain the power to impose reasonable new regulatory constraints on vested uses to further legitimate public interests.

In *Kendrick v. Planning Dep't of the County of Kaua'i*, 155 Hawai'i 230, 240 (App. 2024), quoting

United States v. Locke, 471 U.S. 84, 104 (1985), the court stated: "But even with respect to vested property rights, a legislature generally has the power to impose new regulatory constraints on the way in which those rights are used, or to condition their continued retention on performance of certain affirmative duties. As long as the constraint or duty imposed is a reasonable restriction designed to further legitimate legislative objectives, the legislature acts within its powers in imposing such new constraints or duties."

Courts across jurisdictions have similarly held that vested rights do not guarantee the continuation of any specific zoning classification. In *Molo Oil Co. v. City of Dubuque*, 692 N.W.2d 686, 691 (Iowa 2005), the Iowa Supreme Court stated, "A property owner does not have a vested right in the continuation of a particular zoning classification." Similarly, in *Blades v. City of Raleigh*, 280 N.C. 531, 546, 187 S.E.2d 35, 44 (1972), the court held, "The enactment of a zoning ordinance [is] not a contract by the city with property owners to maintain the zoning pattern thereby established."

Hawai‘i courts and federal courts applying Hawai‘i law recognize that nonconforming uses may be lawfully phased out through reasonable amortization periods. This reflects a longstanding understanding of zoning as an exercise of the police power to promote public health, safety, and welfare. In *City of Los Angeles v. Gage*, 274 P.2d 34, 38–39 (Cal. App. 1954), the court stated: "Zoning laws are enacted in the exercise of the police power... The police power is not restricted to the suppression of nuisances. It includes the regulation of the use of property to the end that the public health, morals, safety, and general welfare may not be impaired or endangered. Zoning deals with many uses of property which are in no way harmful. A municipality has the power to establish and maintain residential and quasi-residential districts, and to exclude therefrom all nonconforming and conflicting uses."

An amortization period is valid if it is reasonable—that is, if the public benefit outweighs the private hardship. As stated by the Ninth Circuit in *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186, 1199–1200 (9th Cir. 2004), as amended on denial of reh'g and reh'g en banc (July 12, 2004), "Nothing in the Constitution forbids municipalities from requiring non-conforming uses to close, change their business, or relocate within a reasonable time period. As a general matter, an amortization period is insufficient only if it puts a business in an impossible position due to a shortage of relocation sites." The California Court of Appeal in *Gage* likewise emphasized, "Certainly the maximum benefit of zoning ordinances cannot be obtained as long as

nonconforming businesses remain within residential districts, and their gradual elimination is within the police power." *City of Los Angeles v. Gage*, 274 P.2d 34, 41 (Cal. App. 1954).

The public interest in orderly land use may outweigh even substantial private losses, provided the legislative body acts within its powers. In *Miller v. Schoene*, 276 U.S. 272, 279–280 (1928), the U.S. Supreme Court held: "[W]here the public interest is involved preferment of that interest over the property interest of the individual, to the extent even of its destruction, is one of the distinguishing characteristics of every exercise of the police power which affects property." Similarly, in *Art Neon Co. v. City & County of Denver*, 488 F.2d 118, 121 (10th Cir. 1973), cert. denied 417 U.S. 932, the Tenth Circuit quoted *Hadacheck v. Sebastian*, 239 U.S. 394, 410 (1915): "A vested interest cannot be asserted against it because of conditions once obtaining. To so hold would preclude development and fix a city forever in its primitive conditions. There must be progress, and if in its march private interests are in the way, they must yield to the good of the community."

In *Hawaii Legal Short-Term Rental Alliance v. City & County of Honolulu*, 709 F. Supp. 3d 1141 (D. Haw. 2023), the U.S. District Court struck down a 2022 Honolulu ordinance that increased the minimum rental period for non-resort properties from 30 to 90 days, holding that it violated HRS § 46-4's limitation on prohibiting a continuing residential use of property that was lawful before the ordinance's adoption. In response, the Hawai'i State Legislature enacted Act 17 (2024), which clarified that any use constituting a "transient accommodation" may be prohibited by ordinance so long as nonconforming uses are lawfully terminated. This is consistent with long settled law, as stated by the Ninth Circuit in *League to Save Lake Tahoe v. Crystal Enterprises*, 685 F.2d 1142, 1146 (9th Cir. 1982): "A nonconforming use may terminate in one of several ways. These include **amortization**, abandonment, nonuse or discontinuance for a prescribed period, and voluntary or involuntary destruction," citing 6 *Powell on Real Property* 871(3)(f)(i). (emphasis added)

Amortization of nonconforming uses is valid where it is reasonable, with reasonableness determined by balancing the public benefit against the private loss, and considering factors such as the length of the amortization period relative to the owner's investment and the nature of the nonconforming use. In *Major Media of the Southeast, Inc. v. City of Raleigh*, 792 F.2d 1269, 1273 (4th Cir. 1986), the court there held that "amortization provisions have generally been held by courts not to necessitate additional compensation, if they are reasonable." Courts assessing the reasonableness of amortization have considered: the amount of the owner's investment; the length of the

amortization period; the nature, location, and character of the nonconforming use; the proportion of the owner's total business affected; salvage value and remaining useful life of improvements; tax depreciation schedules; lease terms; and whether the owner enjoys a monopoly or exclusionary advantage under prior zoning.

In sum, while landowners may assert claims based on vested rights or equitable estoppel, those doctrines provide only limited protection and do not override the government's authority to legislate in the public interest. As the Hawai'i Intermediate Court of Appeals made clear in *Waikiki Marketplace Inv. Co. v. Chair of Zoning Bd. of Appeals of City & County of Honolulu*, 86 Hawai'i 343, 353–54 (App. 1997), "due process principles protect a property owner from having his or her vested property rights interfered with, and preexisting lawful uses of property are generally considered to be vested rights that zoning ordinances may not abrogate." Yet, even with respect to vested rights, legislatures may impose new regulatory constraints so long as they are reasonable and serve a legitimate public purpose.

As reaffirmed in *Kendrick v. Planning Dep't of the County of Kaua'i*, 155 Hawai'i 230, 240 (App. 2024), quoting *United States v. Locke*, 471 U.S. 84, 104 (1985), "a legislature generally has the power to impose new regulatory constraints on the way in which those rights are used, or to condition their continued retention on performance of certain affirmative duties." Courts have consistently upheld the power of municipalities to phase out nonconforming uses through reasonable amortization periods, recognizing that zoning is a valid exercise of the police power aimed at promoting orderly land use and community welfare. So long as the legislative decision reflects a rational balance between private loss and public benefit, and provides a reasonable period for adjustment, the elimination of nonconforming uses—such as short-term rentals—is constitutionally permissible and legally sound.

Conclusion

Bill 9, which would prohibit short-term vacation rentals in apartment districts, is consistent with constitutional and statutory land use principles. Under well-established takings jurisprudence, the proposed regulation does not amount to a physical taking or a categorical denial of all economically viable use of the property. A *Penn Central* analysis—which governs most regulatory takings claims—would likely weigh in the County's favor, particularly because affected properties

retain substantial alternative uses, the rental industry is heavily regulated, and the ordinance includes an amortization period to ease the transition. In addition, doctrines of vested rights and zoning estoppel do not provide a legal shield against the enforcement of land use regulations that are reasonably designed to serve legitimate public interests. Courts have consistently recognized the power of local governments to eliminate nonconforming uses through reasonable amortization, provided there is a rational balancing of public benefits and private burdens. Therefore, Bill 9 is likely to withstand legal challenge.

Very truly yours,
LAW OFFICE OF LANCE D COLLINS

LANCE D COLLINS

To: Maui County Council, Housing and Land Use Committee July 1, 2025

From: Albert Perez, Maui Tomorrow Foundation

RE: Support for Bill 9

Aloha Chair Kama, Vice Chair U'u-Hodgins and Committee Members,

The original plan for tourism in Maui County was to focus it in resort areas, and keep it out of our communities. Over time, using loopholes in the apartment zone language, short term rentals crept in. Unlike bed & breakfast homes, there is no owner on site to maintain order and respect neighbors. After a while, nearby residents had few neighbors – just a parade of visitors.

The 2012 Maui Island Plan [on page 5-3] cites a 2006 "Maui Island Housing Issue Paper, which says that "*many TVRs are also part-time vacation homes, with owners defraying mortgage costs by TVR use, thereby driving up housing costs." So, if we reduce the number of short term rentals in the apartment district, the cost of housing should decline.*

> *Knox, John M. and Tom Dinell (December 2006). Maui Island Housing Issue Paper: A Discussion Paper for the Maui County General Plan Update, Summary of Recommendations.*

- [According to the DBEDT] TVRs currently have a 54% occupancy rate. Bill 9 only applies to about half of them. Most of the short term visitors in the Apartment zone can be accommodated in the remaining STRs.
- Existing TVRs already have water. Lack of water is already limiting housing, and climate change is reducing available water. Bill 9 will provide housing that already has water to residents. Residents should be our priority.
- But Bill 9 is only one of several things that need to be done to bring balance back to our island home, where visitors are housed in resort areas, and our neighborhoods can thrive.

Maui Tomorrow supports Bill 9 – as part of a three step plan:

STEP ONE: Please pass the bill with no exemptions for particular properties. According to property rights attorneys we have consulted, such carve-outs could make the ordinance vulnerable to challenge, because laws need to apply uniformly. If the Council picks winners and losers in the Apartment district, the law could be thrown out in court. *They also tell us that any challenged regulation is presumed to be Constitutional, especially in highly regulated industries like STRs. Property owners have a low success rate on constitutional takings claim (see attached analysis from attorney Lance Collins).*

STEP TWO: A 3-year phase-out period will give owners time to adjust and apply for changes in zoning if they can make the case that short term rental is appropriate for that property - on a case-by-case basis. *Note: There should be no automatic rezoning, especially not as part of Bill 9. If too many units are rezoned to Hotel, the positive impact of the bill will be reduced.*

STEP THREE: The County should consider purchasing appropriate "Minatoya List" properties using affordable housing funds. Better yet, the County can use those funds to offer down payment assistance to local residents, and the housing funds will go 5 times further.

> This three step approach will ensure that a good number of these units will be returned to the local housing market.

Mahalo

Albert Perez, Executive Director
Maui Tomorrow Foundation

HLU Committee

From: County Clerk
Sent: Tuesday, July 1, 2025 9:00 AM
To: HLU Committee
Subject: fwd: testimony
Attachments: Comments, Bill 9 - for HLU Deliberations; Maui County Bill 9 re. "all apartment district properties to long-term residential use"

HLU Committee

From:	blb@maui.net
Sent:	Tuesday, July 1, 2025 8:59 AM
To:	County Clerk; Keani N. Rawlins; Yukilei Sugimura; Gabe Johnson; Shane M. Sinenci; Tamara A. Paltin; Thomas M. Cook; Nohe-Uu-Hodgins; Tasha A. Kama; Alice L. Lee
Cc:	Lynn Britton; maalaeavillage assn
Subject:	Comments, Bill 9 - for HLU Deliberations
Attachments:	LB COMMENTS - BILL 9.docx

Aloha Council Chair Alice Lee, HLU Committee Chair Tasha Kama, HLU Vice Chair Nohe Uu-Hodgins and Members of the Maui County Council,
I know you will start deliberations on Bill 9 tomorrow. It won't be easy.
I have watched the majority of the three committee meetings on the issue and commend the chair and committee for your patience and diligence listening to all sides of the issue.
I offer the attached comments pertaining to the specifics of the bill and request special consideration of issues for the small communities of Ma'alaea and Hana.
Mahalo for your efforts and consideration.
Aloha,
Lynn Britton

TO: HOUSING AND LANDUSE COMMITTEE
RE: BILL 9 – PHASING OUT SHORT TERM RENTALS ON MAUI
FR: Lynn Britton, July 1, 2025

- **Housing for Maui's people is a top priority**.
  It is unfortunate that this has created such hostility on the part of some Maui residents. Now is not the time to threaten, or to pit one against the other. **Find a fair solution that will truly benefit those in need. Taking valuable dollars away when all revenue is needed is not the answer.**

  If the county is serious about wanting to obtain these units, the County could show good faith by devising some method for those who are **willing to sell** for the county to retain their units for affordable housing-IN PERPETUITY.

- **Extending the deadline to July 1, 2028/ July 1, 2030 'to allow for properties to rezone to hotel/resort'**
  The administration has said the three/five-year extension is to provide those STR owners that want to convert to hotel to be able to do so. The additional time may help some, but does not help settle this issue.

  To speed things along, delete the three/five-year extension and planning dept. provide a reasonable time period for those owners in properties that are allowed a way to declare their intention to convert to hotel/resort;

- **Exempt those properties with documented history of hotel activity - Ma'alaea and Hana.**
  If the apartment-zoned property is in an area designated 'residential' they would not be able to individually apply for hotel zoning. This would affect all of Ma'alaea Village and Hana Town.

  Ma'alaea history documents the presence of Maui's first hotel at Ma'alaea Harbor in 1888; the Hale Kini hotel had four units in Ma'alaea in the 1950s. All of the Ma'alaea condominium buildings were built in the 1970's and eight were on the Minotoya list. None of the condominium original documents show that the properties were built for affordable or workforce housing; many of them specifically allow transient rentals, as well as long term housing.

The residential designation would prevent the approximate 460 legal STR owners in Ma'alaea from being able to apply for 'hotel' zoning should they choose to do so.

The County should allow a secondary designation between 'residential' and 'hotel/resort' that would enable small communities like Ma'alaea Village or Hana Town to retain their unique mix of residential, STR apartments and visitor-oriented activities.

- **'Permitted uses' within the A-1 and A-2 districts.**
  - STR owners should hold appropriate licenses and be current in payment of taxes, fines, etc.
  - Council and the Mayor/administration should VIGOROUSLY pursue those in arrears, which apparently totals in the millions of dollars.

- **Ma'alaea is not suitable for long term housing**
  - Ma'alaea is home of Maui's first hotel and crossroads for all of Maui
  - All condominium properties are on the coast and in the SLRXA.
  - Aging properties face increasing costs for maintenance, insurance, and seawall repair.
  - Special assessments for some properties have exceeded $2 million for seawall repair, more to come.
  - All condominiums are along Hauoli St., with access only by Ma'alaea Road and no outlet in case of emergency.
  - Next to Lahaina, Ma'alaea is the second most fire prone area on Maui.
  - Average costs to own and maintain an apartment-zoned condominium property in Ma'alaea range from $5,000 to $6,000/month.
  - Insurance is getting higher every year.
  - In most cases, there is one parking stall per unit. According to current county codes which require 2 stalls/unit, this is a 482-stall deficit.
  - On street parking on Hauoli St. is sometimes at a premium and would not accommodate the two car/unit average household.

- **Exempt apartment buildings along the ocean in West Maui and South Maui in the SLRXA that will be affected by sea level rise.**
  - Will Maui families able to purchase these units be able to pay additional assessments as the buildings age and face increasing sea level rise challenges?
  - Will County government step in to supplement maintenance fees and special assessments in order to maintain these buildings?

HLU Committee

From: Roxanne K. Morita
Sent: Tuesday, July 1, 2025 8:46 AM
To: County Clerk
Cc: Gabe Johnson
Subject: Fw: Maui County Bill 9 re. "all apartment district properties to long-term residential use"

Morning,

Please see testimony as submitted to CM Johnson from a Lana'i constituent.

Mahalo,

Roxanne K Morita
Executive Assistant- Lāna‘i District Office
Councilmember Gabe Johnson Lāna‘i Seat
Office: 808-565-6100 Cell: 808-866-4489
Roxanne.morita@mauicounty.us

From: bart baldwin <bdbbdb@hotmail.com>
Sent: Thursday, June 19, 2025 11:48 AM
To: Gabe Johnson <Gabe.Johnson@mauicounty.us>
Cc: Roxanne K. Morita <Roxanne.Morita@mauicounty.us>
Subject: Maui County Bill 9 re. "all apartment district properties to long-term residential use"

Aloha Gabe,

I'm personally and professionally totally against the Bill 9.
I encourage you to think about the overall impact in $ and sense to this Bill 9.
How the decision to approve would effect Maui residents, Maui investors, and Maui County coffers.

I appreciate Mayor trying to be creative to come up with housing after Lahaina and other wildfires; however, Maui and others should have prevented the fires from occurring with better management of

- land management in general (by govt. and private entities),
- MEMA day of, and
- Long-term planning.

It seems to me, the County in their attempt to fix a systemic issue by erasing the vested purposes of Minatoya List, is causing as much or more harm as the Aug. 8, 2023 fires.

I know you care for Maui, for Maui residents, and it is my personal opinion you do not realize the business sense of the dire situation caused by the passage of Bill 9.
You have a good heart and I encourage you to think about those owners who purchased and what this change means to them, the real estate market, the real property tax base, Maui residents, and the long-term economic impact.

I realize this is a complicated issue. Made complicated mainly by Maui County

- not being more proactive to housing for decades,
- not figuring out ways to compliment fresh water sources (desal plants),
- Allowing dry fallow grass/land,
- Allowing too many cars to block streets (thus not enforcing laws on the books),
- etc

I've tried to keep this short and simple; realizing, I may not be saying anything new.

Best wishes and thanks for your time,

bb

Bart D. Baldwin (M) #808.649.0644
RS 75316
Help U Sell Honolulu Properties

HLU Committee

From: Sammi Kanamu <samleikanamu@gmail.com>
Sent: Tuesday, July 1, 2025 11:12 AM
To: HLU Committee
Subject: Testimony re: Bill 9 (Minatoya Phase-Out)

Aloha Chair and Council Members,

My name is Sammi Leikula Kanamu, and I am submitting testimony in strong opposition to short-term vacation rentals (STRs) in our communities on both Oʻahu and Maui.

As a Native Hawaiian, I'm compelled to say: while some may hold legal titles today, the ʻāina was never meant to be sold, carved up, or exploited. Our ancestors did not consent to this, and no deed or title can change the fact that the ʻāina belongs to us, the kānaka maoli.

I am one of them. I've been personally displaced due to rising land taxes triggered by rezoning on Oʻahu. Property surrounding my family's agricultural ʻāina—bought up by outsiders—sent our land equity skyrocketing and made our taxes unaffordable. Even in ag-zoned lands, our rights are being eroded, and Hawaiians are losing their homes.

Short-term rentals are making this worse. Every STR is a home taken from a local Hawaiian ʻohana. Every STR drives up housing costs, destabilizes our neighborhoods, and chips away at the root of our community and culture. STRs are not just a zoning matter—they are a survival matter for Native Hawaiians.

STRs prioritize profit over people. They welcome transients while our own keiki and kūpuna are displaced. They strain our infrastructure, weaken our community bonds, and damage our culture.

You were elected to serve the people who live here—not absentee landlords and foreign investors. You have the kuleana to protect this ʻāina and its people.

Therefore, I urge you to:

1. Phase out STRs in residential neighborhoods and sensitive ag zones.

2. Enforce illegal STRs with meaningful penalties.

3. Protect agricultural lands from further STR intrusion.

4. Prioritize long-term housing for local families.

Please stand with us. Choose ʻohana over profit. Choose future generations over short-term gains.

Mahalo nui loa for your time and commitment.

Respectfully,
Sammi Leikula Kanamu
samleikanamu@gmail.com

HLU Committee

From: robinawagstaff@gmail.com
Sent: Tuesday, July 1, 2025 1:19 PM
To: HLU Committee; County Clerk
Subject: Bill 9, STR Ban (opposed)

Dear Council Members,

I am a long time Maui native, growing up in upcountry, and currently work in Finance. **I am strongly opposed to Bill 9** as the bill gives no certainty of the desired outcome to convert to long term rentals or local ownership but certainly will damage lively hoods and the economy. As you may know in Lake Tahoe similar zoning changes were made, that led to wealthy buyers converting to a second home or selling for cheaper to another wealthy owner, **and the county ban was ultimately struck down by courts.**

I understand Amortization carve out was given to local officials to do away with STR use. Amortization cannot be unilaterally used if it is not in benefit for the needs of the many vs. the needs of the few. Hurting property owners, businesses that focus on the STR market, and loss of tax revenue absolutely is a larger pool of people then those who lost their homes. While sad as it is that people lost their homes; why should one chaos be shifted to another group of people who are greater in numbers then those who lost their homes? How is that fair or equitable?

I am thankful that the US court system exists as precedent in both Hawaii and the US is clear into the matter of amortization and its use, as well as vested grandfathered rights.

Robin Wagstaff
808.280-4971

R.Wagstaff Consulting
7 Ala'apapa Parkway
Makawao, HI 96768

HLU Committee

From: Rebecca Grupenhoff <mauibec7@gmail.com>
Sent: Tuesday, July 1, 2025 4:40 PM
To: HLU Committee
Subject: Bill 9 Testimony

Aloha, and thank you for taking time to read my testimony on this very polarizing issue.
My name is Rebecca, and I moved to Maui in 1986. When I first arrived, there wasn't any hostility from the locals whatsoever. Everybody seemed to be enjoying the island equally, and everybody seemed to have enough business to keep them happy.
I worked three jobs immediately after arriving, as I noticed, the prices were a little more expensive than I thought. I worked very hard and saved enough money to buy a condo that I could put into the rental pool. I never heard any negative comments from the locals.
This is a business that I run to help offset retirement. I understand the frustration from the locals after the fire, but the problem with affordable housing started long before. So you can understand the frustration from vacation rental owners that nothing was done by the government. The fault lies squarely on the planning commission.The $4.8 billion lawsuit and the new $1.6 billion grant should be used to build affordable housing for locals, not take away our businesses. If you wanna make it more affordable for the locals, why don't you go after the gouging of Times markets and the west side gas stations? The locals need to eat for a reasonable cost, and they need reasonably priced gas to go back-and-forth to their jobs.
The tourist industry is already low, with the montage laying off 40% of their workers, and most of my friends are not getting shifts at restaurants and hotels. This will only get worse if the bill passes. Some tourists won'tbe able to afford to come, as the hotel prices per room are higher than most one bedroom condos.
I'm sure you've been hearing people talk about the government being in the hotel lobbyists pocket. I can't think of any other explanation for this ban. Clearly it makes no fiscal sense, and it is creating great tension between the locals and hoales. I'm sure you've read all of them national newspapers, commenting on how we don't want tourists here.
I would be more than happy to rent to a local, but with my maintenance fees, leasehold fees, property, taxes, and GE taxes, insurance and electricity, my break even point would be $3200 a month. I'm very happy to break even on my condo if it will help a couple of fire survivors. I actually had some friends in my unit who were fire survivors for over five months until they could find a place to land. I also volunteered at the Napili hub as well as the S turn hub. I've donated everything that I could clothes, linens, and dishes as well.
I'm afraid if this bill passes, I will be forced tosell my unit, most likely to someone from the mainland.
Not all vacation rental owners are greedy, most have worked very hard to get what they have, and to have it taken away is heartbreaking.
Please understand that most of us "haoles " are very much contributors to the community, would like to see the fire survivors taken care of, but it seems like there should be a solution that make both sides happy.
Maybe the timeshares should be banned from vacation rentals as well, as a lot of them have three bedroom units for families. I know they aren't included in the Montoya list because they were built after the list was made. However, I would guess that 80% of the units are vacation rentals, which is not what they were intended for.

In short, the Island has had a need for affordable housing for the last 20 years. To penalize, hard-working people who live here by taking away, their business does not seem like a very fair or intelligent decision.
I hope you take the time to read this.
Thank you very much for your time.
Rebecca Grupenhoff.
Sent from my iPhone

HLU Committee

From: Maui Vacation Rental Association <ED@mauivacationrentalassociation.org>
Sent: Tuesday, July 1, 2025 5:14 PM
To: HLU Committee
Subject: Bill 9 Testimony - MVRA
Attachments: MVRA Testimony 07.01.25.pdf

Aloha Councilmembers,

Mahalo once again for the time and effort you and your staff have dedicated to reviewing Bill 9. We are submitting this supplemental written testimony to provide additional context and clarify several points related to the Minatoya properties. We hope this information will support your continued deliberations and help inform your decision-making process.

Mahalo Nui Loa,

Caitlin Miller
Maui Vacation Rental Association

MAUI VACATION RENTAL ASSOCIATION

Executive Summary: The Impacts of Bill 9 on Legal Short-Term Rentals in Maui County

Maui County stands at a pivotal moment. **Bill 9** proposes eliminating legally operating short-term rentals (STRs) in Apartment-zoned districts — a move that affects thousands of units established under decades of lawful use and County-sanctioned frameworks.

This report clarifies the legal foundation of these properties, examines their economic significance, and addresses misinformation that has influenced recent public discourse.

Key Findings and Reasons to Reconsider Bill 9

1. STRs Were Never Intended to Serve as Workforce Housing

Contrary to popular belief, most STR-designated units were not developed with workforce or affordable housing intent. Many were built decades before current affordable housing policies existed. Their condominium documents and zoning history clearly authorize legal transient use — and that use has been reaffirmed by County ordinance and legal opinion.

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2. STRs Are Not the Cause of Rising Home Prices

MLS data shows that non-STR (non-Minatoya) condos appreciated at equal or even higher rates than STR-designated complexes. Broader economic forces — not STR eligibility — are driving price increases.

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3. STRs Are Vital to Maui's Economy

STR-classified properties are projected to generate $246 million in property taxes in FY25 — the largest single source of revenue for Maui County. They also support thousands of local jobs and small businesses, including cleaning, maintenance, tours, and restaurants.

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4. Their Use is Legal and Longstanding

Transient use in Apartment Districts has been legal since at least 1981 and has been upheld through six County ordinances and a formal legal opinion (Minatoya). These properties are not hotels, nor are they operating illegally.

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5. Tax Reclassification ≠ Use Conversion

Some recent testimony claims that owner-occupancy in Minatoya properties has plummeted — but this is based on a misinterpretation of County tax classifications. In 2020, Maui eliminated the "Apartment" class and reclassified units in STR-eligible complexes as "TVR/STR" unless they applied for exemptions. These were largely second homes before and remain so today. The data shows continuity in use, not a mass shift toward STRs.

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Dispelling Misinformation: Myths vs. Facts

In recent public testimony, reports, and advocacy materials - recurring claims have been made about short-term rental use in Apartment Districts. While emotionally compelling, many of these claims are misleading, incomplete, or factually incorrect.

This section provides clear, documented rebuttals to those claims using ordinance history, and economic data.

Claim 1: Minatoya properties were intended as workforce.

Fact:
The properties often referred to as "Minatoya units" do not — and never did — qualify as workforce housing. The legal framework for **Residential Workforce Housing Units** was not established until **2006**, via **Ordinance 3418**. Nearly all of the STRs in question were built well before that date — most **prior to 1989** — and are not subject to workforce housing restrictions under County Code.

While some of these properties were developed under Apartment zoning, "residential" does not equate to workforce or affordable use. In fact, many of these complexes were intentionally designed and marketed for **transient or second-home occupancy**, with amenities and layouts better suited to short-term use.

County zoning laws — specifically Ordinance 1134 (1981) — explicitly permitted transient vacation rentals in Apartment Districts at the time these properties were built. The ordinance not only grandfathered existing TVR use across all zoning districts but also **directed new transient vacation rentals to the Apartment and Hotel Districts**, so long as the use was authorized in the project's governing documents.

Suggesting these properties were "meant" to serve as long-term residential housing ignores the actual **legal zoning designations**, **developer intent**, and the **recorded use permissions** embedded in their condo declarations.

A sampling of condominium declarations is attached

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Claim 2: STRs contribute little to the local economy

Fact:
Short-term rentals are a **major contributor to Maui County's economy**. While they pay among the **highest real property tax rates** — second only to timeshares — what truly sets them apart is their **total contribution**.

In **FY25**, STR-classified properties are projected to generate **$246 million** in Real Property Tax revenue — making them the **largest single source of property tax revenue in the County**.

That funding supports vital County services including **affordable housing programs, road repairs, emergency response, and infrastructure**. This contribution dwarfs that of hotels, long-term rentals, or commercial properties.

But STRs don't just fund government — they **fuel the local economy**:

- **Maui residents** earn income through STR-related jobs: cleaning, maintenance, landscaping, accounting, and management.
- **Small businesses** benefit from guest spending at local shops, restaurants, activities, and tours.
- **Local families** participate directly in tourism through STR ownership or management — something not possible in large corporate hotel models.

Phasing out legal STRs not only threatens this tax base, it would also pull the rug out from under many locally rooted small businesses and working families who rely on STRs for income and opportunity.

How STRs Support Maui's Economy

STR Revenue →

➡️ Real Property Taxes

- $246M in FY25 from STR-classified properties
- Funds Affordable Housing, Infrastructure, Emergency Services, Parks, etc.

➡️ Transient Accommodations Tax (TAT)

- Shared by County and State

- Supports tourism, housing, and local infrastructure programs

➡️ **Guest Spending**

- Restaurants, cafes, grocery stores
- Farmers markets, surf schools, cultural tours
- Local artisans and small businesses

➡️ **Owner Spending**

- Local cleaning crews, landscapers, plumbers, contractors
- Bookkeepers, insurance brokers, photographers

➡️ **Local Operators**

- Maui-based management companies
- Resident-run vacation rental and hospitality businesses

Claim 3: STRs are illegal hotels in residential neighborhoods.

Fact:
These properties are **not hotels**, were **never intended to be hotels**, and are **not operating illegally**.

Short-term rental (STR) use in Maui's Apartment Districts has been **explicitly legal for decades**. This use has been **acknowledged and protected** through a series of six ordinances and a formal legal opinion, commonly referred to as the **Minatoya Opinion**.

What's often overlooked is that STRs in apartment-zoned buildings represent a **unique category** of land use — they are **not full-scale hotels**, but also **not traditional long-term housing**. These were typically **privately owned condo units**, many developed for mixed-use or transient use from the beginning. Because they didn't fit neatly into existing hotel or residential definitions, the County created **tailored ordinances** over time to clarify and regulate them.

These key ordinances include:

- **Ordinance 1134 (1981):** Directed new TVR uses to Apartment and Hotel districts and grandfathered existing ones.

- **Ordinance 1797 (1989):** Applied long-term residential requirements to new construction — but **exempted** buildings permitted or built before April 20, 1989.
- **Ordinance 1989 (1991):** Reaffirmed the 1989 exemption and clarified enforcement of long-term occupancy rules, further supporting legal TVR use in pre-1989 buildings.
- **Minatoya Opinion (2001):** Provided legal clarity that TVR use was allowed in qualifying buildings.
- **Ordinance 4167 (2014):** Codified the legal use of STRs in apartment zones, removing any ambiguity.
- **Ordinance 5126 (2020):** Reconfirmed those protections and prevented new conversions after Sept. 24, 2020.

If these were hotels, none of these ordinances would have been necessary. The County didn't write six different laws for illegal operators — it wrote them to manage a **distinct, legal use** that has coexisted with the broader housing ecosystem for more than 40 years.

Claim 4: Properties lack hotel operations or oversight.

Fact:
Short-term rentals operate on a **decentralized, community-based model** — and that's by design. These are not corporate hotels. They are **individually owned**, often **locally managed**, and deeply embedded in the local economy.

While STRs don't resemble hotels with on-site bellhops and check-in desks, they **do not lack oversight**:

- STRs are required to comply with **County zoning laws**, **state tax regulations**, and **building codes**.
- Operators must maintain **current tax licenses**, **real property classifications**, and in some cases **registration numbers or permits**.
- Many STR owners **hire local managers**, housekeepers, maintenance providers, and bookkeepers — all of whom contribute to **local employment and tax collection**.

The decentralized nature of STRs is actually a **strength**, not a flaw. It allows:

- **Local families** to participate in the visitor industry — by managing, maintaining, or even owning STRs.

- **Smaller vendors and gig workers** to benefit directly from tourism — rather than having profits captured by multinational hotel chains.
- **Guests** to explore different parts of Maui, spreading tourism benefits across more neighborhoods and small businesses.

STRs provide oversight — just not in the centralized, corporate-hotel format. And as a result, they create **wider, more inclusive participation in Maui's largest economic sector**.

Claim 5: Clarifying Misconceptions About Owner-Occupancy Rates

Recent public testimony has included claims that owner-occupancy in Minatoya-designated condominiums has declined by 40–60% over the past decade. While the statistic may seem alarming, it is based on a misinterpretation of Maui County's real property tax classification system and does not accurately reflect changes in use or ownership.

This section corrects those misunderstandings using verified County records and historical context.

🔍 *Understanding the 2020 Property Tax Classification Change*

In 2020, Maui County passed **Ordinance 5160**, which restructured how condominium units were classified for real property tax purposes. Prior to this change, condo units were typically classified as:

- **Owner-Occupied**
- **Hotel/Resort**
- **Apartment**

Importantly, the **"Apartment" classification included both long-term rentals and second homes** — many of which were not used as a primary residence.

After 2020, Maui County ended self-reporting for these classifications. Units in complexes where short-term rentals were legally permitted were **automatically reclassified as TVR/STR** unless they qualified for an Owner-Occupied or Long-Term Rental exemption.

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✗ *The Error: Misreading "Apartment" as Owner-Occupied*

Some testimony appears to have **misinterpreted the former "Apartment" classification as synonymous with owner-occupancy**. This is inaccurate. Many of these units were used as **second homes or informal vacation rentals**, not as primary residences. Their reclassification to TVR/STR in 2020 reflects regulatory updates — not a dramatic change in how the units are actually used.

🏢 Example: Pacific Shores

To illustrate how this misinterpretation can occur, consider **Pacific Shores**:

Year	Classification	Units
2015	Owner-Occupied	34
2015	Apartment (Second Homes)	58
2015	Hotel/Resort	44
2025	Owner-Occupied	21
2025	Long-Term Rental	13
2025	TVR/STR	102*

* Includes 44 Hotel/Resort + 58 Apartment (2015)

The **58 "Apartment" units from 2015 were not owner-occupied** — yet some accounts erroneously treated them as such and concluded that these units were "lost" to STR use.

Source: Maui County Real Property Tax Classification data, 2015 & 2025

📄 *Historical Documents and Intended Use*

Some testimony also claims that older condo documents prove the properties were meant exclusively for long-term housing. But this interpretation overlooks key facts:

- Prior to 1981, **there were no legal requirements to define rental duration** in governing documents.

- After 1981, Maui County required **explicit STR language** in new developments — but many Minatoya properties were built before this rule and continued to operate under legal nonconforming use.
- Courts have consistently held that **STRs are a form of residential use** unless explicitly prohibited in the project's governing documents.

The Real Historical Pattern

Property records show a long-established pattern of second-home and short-term rental use:

- **Over 75% of Minatoya condo units have historically been used as second homes or for STR purposes.**
- Real property tax records dating back to the 1980s support this pattern.
- Many of these properties were intentionally developed and marketed for flexible or transient use.

Recent testimony citing steep declines in owner-occupancy **is based on a flawed interpretation of property classification data**. The shift in classification in 2020 reflects an administrative change — not a change in how these properties are used.

Understanding this context is critical for developing policy that is both effective and rooted in accurate information.

Claim 6: Addressing the Myth: Did STRs Drive Up Home Prices?

Claim:
Short-term rentals (STRs) and their resort-style amenities are the reason for rising home prices and high maintenance fees.

Fact:
This narrative doesn't hold up against the data. Rising home prices and maintenance fees are part of a broader national and global trend — not a consequence of STR use or amenities alone.

Maui-specific analysis using MLS data shows that **non-STR (non-Minatoya) condos experienced equal or even higher price appreciation and maintenance fee increases** compared to STR-designated properties. This undermines the argument that STRs are uniquely driving unaffordability. In reality, maintenance fees are rising across the board

due to inflation, insurance hikes, labor costs, and utility rates — factors that affect all property types regardless of rental status or amenities.

Key Context:

- STR eligibility is not a primary driver of sales prices. Many non-STR complexes have appreciated faster due to investor demand and desirable locations.
- STR use does not explain rising maintenance fees — complexes without pools, elevators, or resort-style features saw comparable or greater fee increases.

Global & National Trends:

- According to Redfin and Zillow data, the U.S. median home price rose **over 40% from 2019 to 2023**, including in areas with no substantial STR activity.
- In California, median home prices increased by **58% from 2015 to 2023**, largely due to investor activity, supply shortages, and demand in desirable locations.
- In Canada, Australia, and parts of Europe, housing costs have risen steeply with or without STR saturation, signaling broader economic drivers.

Context Matters:
In Maui, the focus on STRs as a scapegoat distracts from core structural issues:

- Maui's **build-to-rent and affordable housing inventory** remains insufficient.
- Many non-STR apartment properties have quietly become **second homes**—neither STRs nor long-term rentals—yet escape public scrutiny.
- **New development** often caters to luxury and second-home buyers without permanent residency or local ties

Complex Name	Minatoya Status	Avg Sale Price 2015	Avg Sale Price 2023	Total Increase
Palms at Wailea	Minatoya	$679,667.00	$1,155,286.00	70.0%
Kamaole Sands	Minatoya	$478,782.00	$845,744.00	76.6%
Maui Vista	Minatoya	$297,988.00	$532,771.00	78.8%
Kaanapali Royal	Minatoya	$667,857.00	$1,086,615.00	62.7%
Papakea	Minatoya	$472,917.00	$779,100.00	64.7%
Polynesian Shores	Minatoya	$356,333.00	$676,143.00	89.8%
Average	—	—	—	**73.8%**

Complex Name	Minatoya Status	Avg Sale Price 2015	Avg Sale Price 2023	Total Increase
Wailea Palms	Non-Minatoya	$778,467.00	$1,291,500.00	65.9%
Kai Ani Village	Non-Minatoya	$434,571.00	$780,000.00	79.5%
Keonekai Villages	Non-Minatoya	$321,895.00	$553,929.00	72.1%
The Breakers	Non-Minatoya	$366,800.00	$615,225.00	67.7%
Napili Villas	Non-Minatoya	$373,154.00	$610,250.00	63.5%
Villas at Kahana Ridge	Non-Minatoya	$432,846.00	$691,167.00	59.7%
Average	—	—	—	**68.1%**

Maintenance Fees

Complex Name	Minatoya Status	Avg Maint. Fee 2015	Avg Maint. Fee 2025	Total Increase
Palms at Wailea	Minatoya	922	1478	60.45%
Kamaole Sands	Minatoya	577	1131	95.97%
Maui Vista	Minatoya	454	818	80.9%
Kaanapali Royal	Minatoya	1082	1940	153.37%
Papakea	Minatoya	765	1095	46.0%
Polynesian Shores	Minatoya	615	808	31.3%
Average				**78%**

Complex Name	Minatoya Status	Avg Maint. Fee 2015	Avg Maint. Fee 2025	Total Increase
Wailea Palms	Non-Minatoya	877	1540	75.54%
Kai Ani Village	Non-Minatoya	370	1058	185.34%
Keonekai Villages	Non-Minatoya	346	845	144.36%
The Breakers	Non-Minatoya	441	1058	139.97%
Napili Villas	Non-Minatoya	340	734	115.93%
Villas at Kahana Ridge	Non-Minatoya	420	1228	192.63%
Average				**142.30%**

Note: Due to a significant decline in real estate transactions since 2023, particularly among Minatoya complexes, there is limited closing data available for 2024–2025. As a result, maintenance fee increases for some Minatoya properties may be underrepresented in the dataset. These figures rely on the most recent available data, but they may not fully reflect updated HOA dues or recent board-approved increases.

Most Apartment Units Will Not Become Long-Term Rentals

Even if short-term rentals in apartment districts are phased out, the assumption that these units will become long-term housing is not supported by existing trends. In fact, most apartment-zoned units developed after 1991 that are *not* eligible for transient vacation rental use under the Minatoya Opinion are still not being used as primary residences. The majority are held as second homes or investment properties and are classified as *non-owner occupied*. This trend illustrates the structural challenge of turning market-rate condominiums into workforce housing, particularly when they remain desirable to off-island buyers.

Region	Property Name	Units	Non-Owner Occupied	% Non-Owner Occupied
South Maui	Kihei Shores	217	100	46%
	Paradise Ridge Estates	30	22	73%
	Ke Aliʻi Ocean Villas	144	80	56%
	Makaliʻi	68	57	84%
	Lai Loa	75	70	93%

	Nā Hale O Makena	40	34	85%
	Villas at Kenolio	140	61	44%
	Kai Makani	112	57	51%
	Kamalani	170	47	28%
	Wailea Fairway Villas	118	65	55%
	Papali	24	22	92%
	Palms at Wailea	120	89	74%
	Hokulani	152	76	50%
West Maui	Napilihau Villages	76	21	28%
	Hale Royale	85	25	29%
	Honokowai East	51	27	53%
	Maui Lani Terraces	156	68	44%
	Kahoma Village	100	50	50%
	Hoonanea at Lahaina	100	53	53%
	Opukea at Lahaina	114	65	57%

Facts matter—and so does context. The following data and legal history provide the clarity needed to make informed decisions.

Legal Foundation – The Minatoya History

Short-term rental (STR) use in Maui's Apartment Districts has a long and well-documented legal history that spans over 40 years and six County ordinances. These laws were created in response to real-world land use needs — not to enable hotels, but to recognize a category of use that was different from both hotels and long-term housing.

Contrary to recent claims, STRs in the Apartment District were not "loopholes" or illegal workarounds. They were deliberately permitted through public policy decisions, legal opinions, and ordinances adopted by multiple County Councils and mayors across decades. Below is a timeline of how we got here:

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Ordinance Timeline

- **1981 – Ordinance 1134**
  - First defined **Transient Vacation Rentals (TVRs)** and **Timeshares** in Maui County Code.
  - Grandfathered all existing uses and **explicitly directed new STR development to Apartment and Hotel Districts**, provided that such use was allowed in governing documents (e.g., condo declarations).
  - ➤ *Legal foundation: STRs were permitted by code and directed to Apartment zones.*
- **1989 – Ordinance 1797**
  - Removed motels from allowable uses and required new buildings in Apartment Districts to be **occupied on a long-term residential basis**.
  - **BUT** exempted properties built (or with permits/SMA issued) prior to this date — effectively preserving STR rights for those existing properties.
  - ➤ *Legal carve-out: older buildings kept their STR use rights.*
- **1991 – Ordinance 1989**
  - Addressed inconsistencies in the code by removing Apartment Districts from areas allowing new STRs — **but again explicitly protected pre-existing uses**.
  - ➤ *STRs operating before March 4, 1991 were protected from impairment.*
- **2001 – The Minatoya Opinion**
  - Maui County Deputy Corporation Counsel Richard Minatoya issued a legal opinion requested by Mayor Kimo Apana.
  - It confirmed that properties **built or permitted prior to April 20, 1989** or **operating STRs before March 4, 1991** maintained legal rights to operate.
  - ➤ *Minatoya didn't create new rights — he clarified existing legal status.*
- **2014 – Ordinance 4167**
  - Codified the exceptions from 1989 ordinance **into County Code**, giving STR owners a solid, enforceable foundation in law.
  - ➤ *No more guesswork. The County put it in writing.*
- **2020 – Ordinance 5126**
  - Reaffirmed that STRs in the Apartment Districts are legal **only if the use existed prior to September 24, 2020**.
  - ➤ *Stopped the expansion of new STRs, but protected the ones that already existed.*

Key Takeaways

- These legal protections have been **public policy for over four decades**.
- No STR owner invented a "loophole." These rights were created, reviewed, and reaffirmed by multiple Councils and administrations.
- The County has repeatedly chosen to allow STRs in the Apartment District because they fill a distinct, legally recognized land use type — **not hotels, not long-term housing**, but something in between.
- Removing this category now would create significant legal risk and undermine the integrity of the County's own historical land use decisions.

STRs in Apartment Zones Were Never Classified as Workforce Housing

There has been public confusion about whether short-term rentals (STRs) in the Apartment District — often referred to as "Minatoya properties" — were ever classified or intended as "workforce housing." The answer, as confirmed by County Code is **no**.

To be considered a *Residential Workforce Housing Unit* under current County law, a property must meet criteria outlined in the 2006 Residential Workforce Housing Policy. These include deed restrictions, income-qualified buyers, resale price controls, and often, affordability terms that run for decades — if not in perpetuity.

None of the Minatoya properties meet these criteria.

- Most were constructed **well before 2006**, with many built **prior to 1989**, predating the existence of the workforce housing designation entirely.
- These properties were **never subject to deed restrictions**, income eligibility requirements, or resale caps.
- No public subsidy, County ownership, or Housing Division oversight was involved in their development or sale.

While some have tried to argue these units were "intended" to be residential homes for locals, the **intent of a property must be understood through land use law, zoning permissions, and recorded development documents** — not retrospective assumptions. At the time of their construction, these properties were legally permitted to operate short-term rentals under zoning code and were often marketed and built with that use in mind.

Key Legal Clarification:
Apartment-zoned STRs are not, and have never been, workforce housing units as defined by Maui County Code. Suggesting otherwise conflates legal definitions with subjective narratives.

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Solutions & Path Forward

Despite the rhetoric, eliminating legal short-term rentals in the Apartment District will not deliver the housing outcomes our community needs. Instead of disrupting legal uses, losing revenue, and risking lawsuits, Maui County can adopt **measurable, strategic programs** that support long-term housing solutions.

A. Solutions That Don't Require Major Public Funding

These actions leverage existing County tools and enforcement mechanisms without creating new budgetary obligations:

- **Enforce Long-Term Occupancy in Post-1989 Apartment Projects**
  Buildings constructed after April 20, 1989, are already required to be occupied on a long-term residential basis. Yet, over 50% are used as second homes. Enforcing existing rules would generate actual resident housing without touching legal STRs.
- **Apply Long-Term Occupancy Rules to All New Builds**
  Enact a clear policy that **newly constructed Apartment District properties may not be used for transient accommodations or second homes**, and must be long-term occupied. This ensures future supply supports local needs.
- **Require Annual STR Registration**
  An annual registry would improve compliance, provide accurate data on use and ownership, and generate insight into market conditions.
- **Enforce Zoning Intent in Future Entitlements**
  New developments requesting Apartment zoning must commit to long-term housing use — with that condition enforced through permits, declarations, or deed restrictions.

B. Programs That Require Funding but Deliver Housing

To build true community resilience, Maui County must invest in long-term housing initiatives — using STR-generated revenue as a sustainable funding source.

We propose the creation or expansion of the following programs:

- **Down Payment Assistance Programs**
  Help local families cross the barrier to homeownership through structured grants or loans.

- **ADU Loan Support**
  Offer 0–2% interest loans for the creation of Accessory Dwelling Units (ADUs), increasing long-term housing inventory on existing properties.
- **Deed-Restricted and Shared Equity Housing**
  Build and preserve housing affordability by limiting resale value and ensuring owner occupancy.
- **Public-Private Housing Development Partnerships**
  Collaborate with mission-aligned developers to deliver multi-unit affordable housing through gap financing, land use support, or infrastructure investments.

Suggested Administration:
These programs should not be directly managed by County staff. Instead, we recommend contracting a third-party nonprofit — modeled after successful entities like **Eagle County's Housing & Development Authority** — to administer funds and track outcomes. This keeps operations nimble, transparent, and outcome-driven.

Economic Impact & Jobs: What's Really at Risk

Even as critics attempt to discredit UHERO's findings, the consistent message across multiple independent reports is clear: phasing out STRs will cost jobs, reduce county revenue, and hurt Maui's working families.

While some have dismissed the UHERO report as "not peer-reviewed," the authors are highly respected economists who have provided independent, data-driven analysis for state and county governments for decades. Importantly, UHERO's conclusions are not outliers—they align with data published by TravelTech, the State Department of Business, Economic Development & Tourism (DBEDT), and even internal Maui County revenue projections.

Additionally, it's important to note that **the County's own attempt to commission an economic impact study collapsed**, and no in-house analysis has been released to replace it. Two professionally produced studies—UHERO and TravelTech—are available now and offer critical insights that should not be ignored.

Key Findings:

- **Over $1 billion in lost GDP:** UHERO projects that a 25% drop in visitor spending from the phase-out would reduce Maui's GDP by **$1.1 billion** annually.
- **Significant Job Loss:**
  UHERO estimates as few as **1,800 direct jobs** could be lost if STRs are phased out in Apartment-zoned districts. Other economic analyses project a far greater impact — including the potential loss of **over 14,000 total jobs**, made up of

7,100 direct, **3,400 indirect**, and **3,700 induced** positions. These losses would disproportionately affect the visitor industry and small businesses in sectors like cleaning, hospitality, and maintenance.

- **$75–100 million in lost annual revenue:** This includes real property tax (RPT), MCTAT, and GET tied directly to STR activity—revenue currently supporting affordable housing, emergency services, and infrastructure.
- **Small businesses will suffer first:** From local housekeepers and handymen to coffee shops, surf instructors, and tour operators, thousands of small businesses rely on STRs for income and clientele. This was evidenced in Lahaina where STR-dependent businesses saw revenue collapse post-wildfire.

Maui's Unique Vulnerability

Unlike O'ahu or other islands with more diversified economies, **Maui's economy is deeply intertwined with tourism and decentralized visitor accommodations.** STRs serve as the backbone for family-run operations that support middle-class employment. A drastic reduction in this sector will lead to a ripple effect across industries that cannot be easily replaced.

A Cautionary Tale: New York City

Recent STR restrictions in NYC were touted as a fix for affordability, but instead led to:

- **Record-high hotel prices**
- **No measurable increase in housing supply**
- **Continued competition from second-home buyers**
- **Plummeting tourism in less-central boroughs**

Maui should not repeat the same mistakes.

STRs: Supporting Local People, Not Just Mainland Owners

Opponents of short-term rentals often frame this issue as a battle between mainland investors and local families. But this narrative overlooks a vital truth: **STRs support local people — not just through ownership, but through economic participation.**

While it's true that some STR units are owned by non-residents, the impact of this legal activity ripples throughout the local economy in ways that **directly sustain Maui families.**

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STRs Fuel Local Jobs and Services

Each vacation rental directly supports:

- Housekeepers and cleaning companies
- On-island property managers
- Local maintenance workers (plumbers, electricians, handymen)
- Landscaping crews and pool maintenance vendors
- Hospitality and guest services teams

These aren't abstract contributions — these are **real jobs held by real local residents** who rely on STRs to pay their rent or mortgage, raise their families, and stay on island.

STR Income Keeps Generational Homes in Local Hands

Some Maui residents rent out a family property part-time to:

- Cover the high cost of ownership, insurance, and maintenance
- Avoid selling a home that's been in the family for generations
- Offset the financial pressures of living in a high-cost housing market

These are **not absentee investors** — they are kamaʻāina families finding a way to remain rooted in their communities.

Participation in Maui's #1 Industry

Tourism remains Maui's primary economic driver, but not everyone works at a hotel. Short-term rentals allow:

- Small business owners to operate cleaning, concierge, or design services
- Local residents to enter the tourism economy as entrepreneurs
- Homeowners to create multigenerational wealth — not just for off-island investors

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🤝*A Pathway to Economic Inclusion — Not Exclusion*

Eliminating legal STRs won't just impact mainland owners — it would **strip local workers and vendors of income**, force some families to sell their properties, and close the door on island residents who have found creative ways to participate in Maui's tourism economy without corporate backing.

This is not just about real estate. It's about economic access. And right now, short-term rentals **are one of the few remaining entry points for local people to take part in Maui's economic engine.**

STRs Are Not Driving Prices

One of the most repeated claims used to justify the elimination of legal short-term rentals is that they have driven up housing prices, making the real estate market unaffordable for local residents.

However, MLS sales data from 2015–2023 tells a different story. Non-STR-designated properties (non-Minatoya) experienced **equal or even greater price appreciation** compared to STR-eligible (Minatoya) complexes.

This indicates that **vacation rental eligibility is not the primary driver of rising prices**. Instead, broader economic forces—such as limited housing supply, national demand, and inflation—are having a far greater influence on Maui's real estate market.

These trends **undermine the narrative** that STRs are the driving force behind Maui's housing crisis. Instead, market-wide factors such as inflation, building costs, and overall supply constraints are more significant contributors.

Conclusion: A Call for Caution and Clarity

The push to phase out legal short-term rentals (STRs) may be well-intentioned, but it rests on a series of flawed assumptions — assumptions that ignore market realities, punish local families, and jeopardize significant tax revenues that directly fund housing, infrastructure, and core County services.

This is not just a housing issue. It's a governance issue. It's about whether Maui County will embrace evidence-based policy or forge ahead with a political narrative that oversimplifies the problem and targets one group unfairly.

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We agree: **housing affordability is a crisis.**
But dismantling the legal STR sector won't solve it — and it may well make it worse.

! *Why Pausing This Legislation Matters*

- **Local jobs and small businesses** are tied to STRs — eliminating them means economic displacement for real people, not just off-island investors.
- **The County's own real property tax data shows** STRs are one of the *largest single revenue sources*, generating **$246 million in FY25**. Disrupting this stream threatens funding for the very housing programs we need.
- **Multiple studies — including from UHERO and TravelTech — have shown** that STRs are not the primary driver of housing prices, and removing them will not deliver affordable housing in any meaningful volume.
- **Actual MLS data from 2015–2023 shows** non-STR units appreciated more than STR-eligible ones — debunking the narrative that STRs alone inflated real estate prices.

🛠 *We Need Real Solutions*

We call on the Council to **pause this legislation** and instead focus on actionable programs that can:

- Expand down payment assistance
- Fund ADU development
- Support shared equity models
- Enable local builders through public-private partnerships

And we urge the County to **utilize a portion of STR-generated revenue** to support these very goals — without displacing residents or destabilizing our economy.

Let's stop fighting the wrong battle.

Preserve what's working. Build what's needed.
And create a future that supports both housing and opportunity — for all of Maui.

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📚 Sources

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