

## Testimony for Land use committee item LU-7

Submitted By Thomas Croly  
on behalf of the Maui Vacation Rental association  
Comments and Suggested amendments

The Maui Vacation Rental association has worked in good faith for 15 years to help establish laws that would allow properly permitted Short term Rentals to exist in Maui County. We believe that the proposed amendment to the Short-term rental ordinance to create a 5-year ownership requirement is counterproductive to this effort and WILL lead to more unpermitted short term rentals and a greater enforcement problem for the County to address.

However, if the council committee does see fit to amend the Short Term rental ordinance to create this new requirement, we would suggest the amendments be adopted as follows:

### **19.65.030 Restrictions and standards**

0. Short-term rental homes shall be limited to single family dwelling units and accessory dwelling units [existing and] constructed at least five years prior to the date of application for the short-term rental home permit[.] that also meet at least one of the following criteria:

1. The applicant purchased the dwelling unit prior to July 1, 2017; or
2. The applicant for has owned the dwelling unit for at least five years prior to the date of permit approval; or
3. The dwelling unit proposed for short-term rental home use had a purchase price of \$1,000,000 or more; or
4. A short-term rental home permit for the subject property pursuant to this chapter was current as of the date of sale; or
5. Any change of ownership within the five-year period prior to date of application was within a family and did not include a fair market sale. The ownership change could result from (but is not limited to):
  - a) inheritance; or
  - b) family planning ownership change to a trust, LLC, LLP, or corporation; or
  - c) family members purchasing the ownership share of other family member.

The basis or each of these changes from what is currently proposed is as follows:

1. Establishing that this new requirement would not apply to existing property owners is a necessity to avoid creating a "takings" from current property owners. Indeed there are property owners who have purchased property in the past 5 years who do intend to make application for a permit. It may take years for the property to be made ready for a permit application to be submitted.

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2. The ownership duration should be specified, before a permit may be **issued**, not before a permit may be **applied for**, as the processing of an application currently takes from 6 months to more than a year.
3. The high end second home market has existed for more than 40 years, these are the homes that we would most like to see making this use, as they are the one that otherwise will sit empty when the owners are not using them and will NEVER be part of Maui's resident housing inventory.
4. Current permit holders typically have existing reservations when the property is sold. If a new owner cannot apply for a permit it is most likely that this new owner will operate without a permit.
5. Many ownership changes can occur in preparation for making a property ready for submitting an application to be permitted as a short-term rental. These might be for estate planning purposes, or for liability exposure or might because of deaths within a family. Such an ownership change is not a market sale of the property and should not be used to restrict a property owner from making application for a permit.