

HLU Committee

From: Tim Oshaughnessy <timjosh@hotmail.com>
Sent: Monday, June 22, 2026 7:09 PM
To: HLU Committee
Subject: Supporting Kauhale Makai Inclusion on Exhibit 2
Attachments: KM AOA to Maui County Council Letter -06222026 copy.docx

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Please review the following letter on behalf of Kauhale Makai Association of Apartment Owners and its similar facts to Maui Sunset therefore supporting Kauhale Makai's inclusion on the so-called "Exhibit 2" .

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June 22, 2026

Honorable Alice Lee, Chair
Maui County Council
200 South High Street
Wailuku, Hawai'i 96793

And All Members of the Housing and Land Use Committee

Dear Chair Lee and Members of the Committee:

RE: Request to Add AOA O Kauhale Makai (930–938 South Kihei Road, TMK (2) 3-9-001:075) to Exhibit 2 of Bill 88 — Equal Treatment of Confirmed Timeshare Property

I. Introduction

The Association of Apartment Owners of Kauhale Makai respectfully submits this letter in connection with **Bill 88 (2026)**, which creates the H-3 and H-4 Hotel District zoning classifications and relies upon the Transient Accommodations Industry Group ("TIG") Exhibit 2 list of approximately 53 properties (4,519 units) as the initial candidate pool for rezoning. Kauhale Makai — a 169-unit, oceanfront condominium complex built in 1975–76 at 930–938 South Kihei Road — was omitted from that list. The AOA respectfully requests that the Council add Kauhale Makai to Exhibit 2 on a basis that the Council itself has already identified: **the property has validly existing timeshare units.**

This letter directs the Committee's attention to testimony given during its own proceedings on October 23, 2025,^{[\[1\]](#)} at which Council Member Sugimura raised the question of Kauhale Makai's timeshare units and the TIG's response confirmed both (a) the property was *overlooked* during Exhibit 2 compilation and (b) its timeshare units bring it within the same statutory framework that governs **Maui Sunset** — a confirmed timeshare resort at 1032 South Kihei Road that IS included on Exhibit 2.

II. Controlling Committee Testimony — October 23, 2025

The following verbatim excerpts are drawn from the official Maui County Council livestream of the HLU Committee hearing of October 23, 2025. Transcript timestamps are from the auto-captioned YouTube record. The property name appears in the captions as "Kauhale Makai" due to auto-caption rendering of "Kauhale Makai."

A. Council Member Sugimura Raises Kauhale Makai's 13 Timeshare Units (47:24–47:51)

"Yeah on the um one of the testifiers yesterday and I I'm sure all of you got an email um Kauhale Makai... have the 13 um time share as part of their whole so what happens to them because they have time shares"

47:33 — Member Sugimura

"We're going to that one we apparently overlooked. We're going to discuss what we're going to do with it. [It will] likely be in the exhibit 2 package when we have to do it."

47:43–47:51 — TIG Representative

This exchange is significant in two respects. First, the TIG representative expressly acknowledged that Kauhale Makai was **overlooked** — confirming the omission from Exhibit 2 was inadvertent rather than deliberate. Second, the representative indicated the property would "likely" be included in the Exhibit 2 package going forward.

B. Council Clarifies Bill 9 Does Not Apply to Timeshares (48:04–49:10)

"...really time share was already exempt from [the zoning change] we were doing just to move them along. So, if they're already doing time shares, they're exempt. That's the reason we didn't put them on the exhibit 2 list just so we could have a clean list of what is already exempted."

48:04 — TIG Representative

"Okay. So, you did not exempt them, but you are. But they're exempted in bill 9. Okay."

48:25 — Member Sugimura

"We didn't move them to exhibit two, but they're already exempted in bill 9."

48:31 — TIG Representative

"Okay. Even if only a portion of their total units." ... "Yes. Because that is the most legal way to [proceed]. This is what Nahulu advised us to do."

48:35–48:42 — Member Sugimura/ TIG Representative

"Member for — I just wanted to clarify that it's not an exemption. Bill 9 just doesn't affect them. I don't want anyone to get confused about like who is exempted and not exempted. It's just that Bill 9 doesn't apply to time shares because of the ownership style."

48:44 — Second Council Member

This exchange establishes the governing principle: Bill 9 (Ordinance 5909) **does not apply** to timeshare units by reason of their ownership structure. Corporation Counsel (Nahulu) advised the TIG that this was the legally correct approach. Critically, Member Sugimura confirmed — and the TIG conceded — that this non-applicability extends to properties where *only a portion* of total units are timeshares.

C. Council Member States Kauhale Makai Can Be Added Upon Recordation Proof (54:50–55:34)

"Contrary to Mr. Post's opinion, I think it would be possibly faster to just change the zoning on exhibit 2 or any STR parcel that meets the criteria if Kauhale Makai is proven to meet the criteria with their recordation of time share units. And then if a council member wants to sponsor additional ones, I would do a separate one because you have four votes for the exhibit 2 and you may just need one more or you may need two more depending on what planning commission says. So that can sail through relatively quickly."

54:50–55:34 — TIG Council Member

A Council member sitting on the TIG indicated that the procedural path for adding Kauhale Makai to Exhibit 2 is straightforward — requiring only Bureau of Conveyances recordation of the timeshare units. The AOA stands ready to provide such documentation upon the Committee's request.

III. Statutory and Regulatory Framework

The timeshare non-applicability rule is codified in Ordinance 5909 (Bill 9) itself: [\[2\]](#)

"Existing time share units and time share plans... deemed exempt from this section as long as the project identified by the declaration continues to operate under a lawful time share plan or registration."

Mayor's Correspondence on Ord. 5909, May 30, 2025

The County's official Bill 9 guidance confirms: "Bill 9 does not change the status of: Timeshares."[\[3\]](#) The TIG Report itself provides the affirmative criterion: *"Properties that are entirely or almost entirely made up of timeshare units would not be required to phase out TVR use and, therefore, should be located in the Hotel District or resort and hotel-related community plan areas."*[\[4\]](#) The Council testimony at 48:35–48:42 confirms this non-applicability extends to properties with partial timeshare composition.

IV. Equal Treatment: Kauhale Makai vs. Maui Sunset

Maui Sunset (1032 South Kihei Road) is a confirmed timeshare resort included on Exhibit 2. Its official website describes it as a "premier oceanfront vacation rental and timeshare resort," and a separate Timeshare Owners Board operates independently.[\[5\]](#) The table below demonstrates that the factual basis for Kauhale Makai's inclusion is at least coequal with Maui Sunset's.

Factor	Kauhale Makai	Maui Sunset
Address	930–938 S. Kihei Rd	1032 S. Kihei Rd
TMK	(2) 3-9-001:075	390010020000
Year Built	1975–76	1974
Units	169 (incl. 133 Minatoya)	225
Zoning	A-2 Apartment	A-2 Apartment
Timeshare Units	13 — confirmed by Council testimony, Oct. 23, 2025 (47:33)	Confirmed — official website; separate Timeshare Board
Bill 9 Applicability	Does not apply (Council confirmed 48:44)	Does not apply (timeshare ownership)
On Exhibit 2	NO — AOA requests inclusion	YES
Minatoya Units	133 (Ord. 3701; long-standing STR use)	Not confirmed in record
SLR-XA Exposure	Oceanfront; parcel boundary overlaps coastal zone	Oceanfront; comparable coastal exposure

There is no legally cognizable distinction between Maui Sunset's timeshare composition and Kauhale Makai's that justifies treating the two properties differently under Exhibit 2. Both sit on the same road within two-thirds of a mile of each other, share identical A-2 zoning, pre-date the April 20, 1989 cutoff for H-3/H-4 eligibility, and contain validly existing timeshare units that render Bill 9 inapplicable. Excluding Kauhale Makai while including Maui Sunset raises a straightforward equal protection concern under both the Hawai'i and United States Constitutions.

V. Additional Bases for Inclusion

The timeshare argument is the *fourth* independent basis supporting Kauhale Makai's inclusion on Exhibit 2. The AOA's previously submitted exhibit, *Factors Favoring TIG Exhibit 2 Inclusion*, details the remaining elements;

- 1. Sea Level Rise Exposure Area (SLR-XA).** Kauhale Makai's oceanfront parcel boundary extends into or immediately adjacent to the SLR-XA coastal zone as mapped by the Hawai'i Sea Level Rise Viewer (PacIOOS). The property's exposure is coequal with both Maui Sunset and Maui Schooner (980 S. Kihei Rd.),

both of which are on Exhibit 2. Coastal retreat scenarios place continued residential use of the site in long-term jeopardy, reinforcing the appropriateness of hotel district rezoning.

- 2. Equal Treatment — Maui Schooner.** Maui Schooner (TMK 390010040000), also at A-2 zoning, is on Exhibit 2. Kauhale Makai is structurally identical in all material respects: same Kihei Road corridor, same zoning district, same pre-1989 construction, same Minatoya-list STR heritage.
- 3. Ordinance 3701 / De Facto Hotel Character.** In 2009, the Maui County Council unanimously (9-0) adopted Ordinance 3701^[6] granting a conditional permit for AOA concierge services — treating the complex as a de facto hotel-style operation. AOA Secretary Linda Paul's testimony stated that "the great majority of the 169 units have always operated as vacation rentals." Ordinance 3701's Condition 9 expressly contemplated timeshare solicitation restrictions, further evidencing the property's mixed-use commercial character.
- 4. Kauhale Makai Operates as Does a Hotel.**
 - Maintains a staffed office front desk for guest registrations and check-in.
 - Provides guest amenities including pool, hot tub, putting green, shuffleboard court, volleyball area, recreation room with saunas.
 - Employs a full-time Resident Manager, 3 full-time office staff, 4 full-time maintenance staff, all covered by health insurance and benefits.
 - Provides Security including exterior property-wide grounds video monitoring.

VI. Requested Action

The AOA of Kauhale Makai respectfully requests that the Housing and Land Use Committee:

- 1.** Initiate a Council-sponsored amendment to add Kauhale Makai (TMK (2) 3-9-001:075, 930–938 South Kihei Road) to Exhibit 2 of Bill 88, consistent with the TIG representative's statement on October 23, 2025 that the property would "likely be in the exhibit 2 package";
- 2.** Accept the AOA's Bureau of Conveyances documentation of the 13 valid existing timeshare units as the recordation proof referenced by the Council Member at 55:08 of the October 23, 2025 hearing;
- 3.** Treat Kauhale Makai on equal terms with Maui Sunset under Exhibit 2, given that both properties contain confirmed timeshare units, share identical A-2 zoning, and are situated within the same South Kihei Road oceanfront corridor; and
- 4.** Schedule a brief presentation by AOA representatives or counsel at the Committee's earliest convenience as needed to respond to any factual questions.

The AOA appreciates the Committee's attention to this matter and the Council's commitment to ensuring that all similarly situated properties in the South Kihei corridor receive equitable treatment under Bill 88. We respectfully submit that the record before this Committee — including the Committee's own October 23, 2025, testimony — compels inclusion.

Respectfully submitted,

Timothy J. O'Shaughnessy, President

On behalf of the Board of Association of Apartment Owners of Kauhale Makai and its Owners

930–938 South Kihei Road, Kihei, Maui, Hawai'i 96753

Enclosures:

1. Factors Favoring TIG Exhibit 2 Inclusion (AOAO Kauhale Makai Technical Exhibit)
2. Maui County Council HLU Committee Hearing, Oct. 23, 2025 — Timestamped Transcript Excerpts
3. Bureau of Conveyances Recordation — Kauhale Makai Timeshare Units [to be attached]
4. Real Estate Commission, State of Hawaii, Mandatory Kauhale Makai Purchaser Disclosure, Issued May 13, 1974
5. Ordinance 3701 (2009) — Condition 9, Timeshare Solicitation Restriction
6. Ordinance 5909 (Bill 9) — Timeshare Non-Applicability Language

cc:

Members, Maui County Council

[1] HLU Committee Meeting, October 23, 2025 — Maui County Council livestream.

<https://www.youtube.com/live/3LaZzsb30ao>

[2] Mayor's Correspondence on Ordinance 5909, May 30, 2025.

<https://mauicounty.us/wp-content/uploads/2025/07/Correspondence-from-Mayor-05-30-2025.pdf>

[3] Maui County Legistar — Bill 9 (Ord. 5909) entry.

<https://mauicounty.legistar.com/LegislationDetail.aspx?ID=7424602>

[4] TIG Report and Exhibit 2 (Bill 9). <https://mauirealestate.com/wp-content/uploads/2025/10/Report-and-Exhibit-Bill-9.pdf>

[5] Maui Sunset official website. <https://www.mauisunset.com>; Maui Sunset Timeshare Owners Board. <http://www.mauisunsettimeshare.com>

[6] Ordinance 3701 (2009).

<https://www.mauicounty.gov/DocumentCenter/View/10613/Ord-3701>