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 Mayor
 MICHELE CHOUTEAU MCLEAN, AICP
 Director
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DEPARTMENT OF PLANNING
 COUNTY OF MAUI
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 WAILUKU, MAUI, HAWAII 96793

February 24, 2021



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Honorable Michael P. Victorino
 Mayor, County of Maui
 200 South High Street
 Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Michael P. Vict. 2/24/21
 Mayor Date

For Transmittal to:

Honorable Alice Lee, Chair
 and Members of the Maui County Council
 200 South High Street
 Wailuku, Hawaii 96793

Dear Council Chair Lee and Council members:

SUBJECT: A BILL FOR AN ORDINANCE AMENDING CHAPTERS 19.35, 19.64, AND 19.65 OF THE MAUI COUNTY CODE, RELATING TO ACCESSORY DWELLINGS, BED AND BREAKFAST HOME PERMITS, AND SHORT-TERM RENTAL HOME PERMITS

In the fall of 2020, the Department of Planning (Department) presented to the Maui, Moloka'i and Lāna'i Planning Commissions proposed revisions to Maui County Code Chapters 19.35 – Accessory Dwellings, 19.64 – Bed and Breakfast Homes (B&B), and 19.65 – Short-Term Rental Homes (STRH). These proposed revisions had several purposes: to allow for some flexibility in transient vacation rental use in accessory dwelling units while encouraging long-term occupancy, to limit STRH permits to one per applicant and per property, to clarify trusts and ownership requirements, to expand vacation rental notification requirements to neighbors of properties, and other minor revisions to Chapter 19.64 and 19.65 for clarity and consistency purposes. After several meetings with the Commissions and gathering feedback from the community, the Department worked closely with Corporation Counsel to finalize the attached bill.

A summary of the proposed changes and justification are as follows:

<u>Section Reference</u>	<u>Proposed Change</u>	<u>Justification</u>
Throughout the bill	“Shall” changed to “must” and other minor grammatical revisions	Consistent with the general direction towards plain language

COUNTY COMMUNICATION NO. 21-140

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Section Reference	Proposed Change	Comments/Revisions
19.35.010.D. & E., 19.64.030.A, 19.65.030.A	An accessory dwelling may be used for short-term rental home (STRH) or bed & breakfast home (B&B) if main and/or other accessory dwelling(s) are occupied on a long-term residential basis; number of STRH units is limited to one per lot	A main or an accessory dwelling may be used as B&B or STRH, which allows for flexibility for the property owner and requires some long-term residency
19.64.030.E	Clarifies a B&B permit may be owned by a family trust subject to criteria	Ensures applicant is a natural person or persons
19.64.030.N.	Dwelling unit for B&B must be constructed and owned by applicant for five years prior to application date for Moloka`i and Lāna`i	Construction and ownership requirement is aimed to reduce speculation and encourage a connection to the neighborhood. Moloka`i and Lāna`i Planning Commissions supported this revision but Maui Planning Commission did not.
19.64.030.R.	Lāna`i community plan B&B permit cap: 21	The Lāna`i community plan area currently has no cap; the Lana`i Planning Commission recommends a cap of 21 B&B permits
19.64.030.S., 19.65.030.U.	No STRH permit may be issued to anyone holding a B&B permit or has been banned from applying for a B&B permit and vice versa	Allows others an opportunity to profit from STRH investments and eliminates a loophole for rule-breakers
19.64.040.B.	B&B sign requirements revised to be consistent with STRH requirements	Consistent sign requirements are easier for the public to understand
19.64.040.B.	B&B public hearing notification requirements revised to be consistent with STRH requirements	Public hearing notification procedures for B&B applications are currently more complicated than notification procedures for STRH applications
19.64.050.A.	B&B public hearing criteria revised from one to two existing B&B homes within 500' distance	Public hearing criteria for B&B applications are currently more stringent than STRH criteria of two neighboring STRHs

19.65.030.G	Trust must be in name of applicant	Ensures applicant is a natural person or persons; the intent is one permit per person, whether individual, trustee, etc.
19.65.030.G	“Family trust” defined	Clarifies relationship of family members in family trust; trust may be revocable or irrevocable
19.65.030.H	Deletes options for applicants to hold multiple STRH permits	Only one STRH permit per applicant regardless of wealth, allows others an opportunity to profit from STRH investments
19.65.030.I.	Adds that a permit is not transferable “in any way to another party” and permits held by a trust may be transferred to a beneficiary of the trust	Keeps permits within the family; a permit held by a trust may only be transferred to a beneficiary
19.65.030.N	Adds criteria for consideration in the STRH permit application – benefits to the community and justification for STRH use	Additional criteria assists the STRH applicant in conforming to the character of the existing neighborhood and being part of the community
19.65.030.O.	Construction and ownership requirement increased from 5 to 15 years for STRH application	Increased construction and ownership requirement is intended to encourage a connection to the neighborhood
19.65.030.R.	Lāna`i community plan STRH permit cap: 21	The Lana`i Community plan area has no cap; Lāna`i Planning Commission recommends a cap of 21 STRH permits
19.65.030.T.	Dwellings in Experimental and Demonstration Housing Projects may not be used for STRH	The purpose of Experimental and Demonstration Housing Projects is to reduce the cost of housing in the state, in accordance with HRS 46-15
19.65.040.A., 19.65.080.D.	STRH ads must include Tax Map Key number unless prohibited by hosting platform	Allows for verification and enforcement
19.65.050.A	STRH permit applicant may not have financial interest in another B&B or STRH	Allows others an opportunity to profit from STRH investments
19.65.050, 19.65.060, 19.65.070	Includes residents of the physical addresses as part of the notification process	Existing notification procedures include owners and lessees who are often non-residents; neighbors are currently

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		excluded. Allows for use of regular mail for residents of physical addresses
19.65.060.A	Written protests from multiple owners, lessees or residents of the same physical address count as one protest	Codifies current practice
19.65.060.A	STRH approved by variance subject to commission review	STRH permits approved by variance need closer public review
19.65.060.A	Lāna`i and Moloka`i applications subject to commission review	Add Lāna`i and Moloka`i STRH applications to list of criteria for commission review
19.65.060.A.	Removes redundant trust language	Covered in definition of "family trust" in 19.65.030.G
19.65.080.E.	Deletes grace period that expired in 2016	No longer relevant
Section 13	Existing permitted B&B and STRH are allowed to continue operations and apply for renewal under the zoning restrictions and standards in effect immediately prior to the effective date of this ordinance	Existing permit holders may continue to operate and renew under zoning restrictions when they were originally permitted, and apply for renewal subject to renewal procedures of this ordinance.

Therefore, pursuant to Sections 8-8.3(6) and 8-8.4 of the Revised Charter of the County of Maui (1983), as amended, I respectfully propose the Council's consideration of the attached proposed bill, "A BILL FOR AN ORDINANCE AMENDING CHAPTERS 19.35, 19.64, AND 19.65 OF THE MAUI COUNTY CODE RELATING TO ACCESSORY DWELLINGS, BED AND BREAKFAST HOMES, AND SHORT-TERM RENTAL HOMES."

The Moloka`i Planning Commission, Lāna`i Planning Commission, and Maui Planning Commission have all recommended that the Council pass the legislation with minor revisions that have been incorporated into the attached bill. Here is a summary of the planning commissions' recommendations:

<u>Planning Commission</u>	<u>Date of Vote</u>	<u>Recommendations</u>	<u>Vote Count</u>
Lāna`i	Sept. 16, 2020	Recommended approval with revisions	9-0
Moloka`i	Sept. 23, 2020	Recommended approval with revisions	6-0
Maui	Nov. 24, 2020	Recommended approval with revisions	6-1

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The verbatim minutes are attached and the summary minutes are available online:

- Lāna`i Planning Commission, September 16, 2020:
<https://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/27673>
- Maui Planning Commission, September 22, 2020:
<https://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/27649>
- Moloka`i Planning Commission, September 23, 2020:
<https://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/27790>
- Maui Planning Commission, November 24, 2020:
<https://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/27808>

Passage of this bill would further a number of General Plan policies, goals, and objectives, including the following components of the Countywide Policy Plan (Ordinance 3732):

- “Recognize housing as a basic human need, and work to fulfill that need.” (page 58)
- “Encourage long-term residential use of existing and future housing to meet residential needs.” (page 59)
- “Promote an economic climate that will encourage diversification of the County’s economic base and a sustainable rate of economic growth.” (page 60)
- “Support home-based businesses that are appropriate for and in character with the community.” (page 60)
- “Encourage businesses that promote the health and well-being of the residents, produce value-added products, and support community values.” (page 60)
- “Encourage resident ownership of visitor-related businesses and facilities.” (page 62)
- “Support the diversification, development, evolution, and integration of the visitor industry in a way that is compatible with the traditional, social, economic, spiritual, and environmental values of island residents.” (page 62)

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- “Limit the number of visitor-accommodation units and facilities in Community Plan Areas.” (page 74)
- “Maintain a sustainable balance between the resident, part-time resident, and visitor populations.” (page 74)
- “Simplify and clarify the permitting process to provide uniformity, reliability, efficiency, and transparency.” (page 80)
- “Ensure that laws, policies, and regulations are internally consistent and effectuate the intent of the General Plan.” (page 80)

The proposed revisions in this bill offer options to permit holders, add consistency to the Code, and should help protect the character of the neighborhood in which these vacation rentals operate. The only proposed change that would affect existing permit holders is the neighbor notification requirements for renewals.

Thank you for your attention and consideration. Should further clarification be necessary, please feel free to contact me.

Sincerely,



MICHELE CHOUTEAU MCLEAN, AICP
Planning Director

Attachments

xc: MCM:JMCT

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ORDINANCE NO. _____

BILL NO. _____ (2021)

A BILL FOR AN ORDINANCE AMENDING
CHAPTERS 19.35, 19.64 AND 19.65, MAUI COUNTY CODE,
RELATING TO ACCESSORY DWELLING, BED AND BREAKFAST HOME, AND
SHORT-TERM RENTAL HOME PERMITS

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Findings and purpose. The purpose of this Ordinance is to allow bed and breakfast and short-term rental homes in accessory dwellings, subject to restrictions that encourage long-term occupancy in residential neighborhoods; limit short-term rental homes to one per property and one per person; clarify trusts and ownership requirements; expand notification requirements to neighbors of the property; and other minor revisions.

SECTION 2. Section 19.35.010, Maui County Code, is amended to read as follows:

“19.35.010 Generally. The limitations and requirements of this chapter [shall] will apply to any accessory dwelling. A. Any person who wishes to construct, or in any manner otherwise establish[,] an accessory dwelling [shall] must apply for a building permit therefor in accordance with this chapter.

B. All provisions of the County zoning district, or State land use district as the case may be, in which the accessory dwelling is proposed to be constructed [shall] will apply, except the provisions on the number of dwelling units permitted on a lot and except as the provisions of such district may be inconsistent with the provisions applicable to accessory dwellings. To the extent of such inconsistency, if any, the accessory dwelling provisions [shall] will prevail.

C. The provisions of this chapter [shall] will apply to any zoning district that allows accessory dwellings.

D. [No accessory dwelling shall] An accessory dwelling may only be used as a [bed and breakfast home,] short-term rental home[, or transient vacation rental.] if the main dwelling, and other accessory dwelling if applicable, are occupied on a long-term residential basis.

E. Only one accessory dwelling per lot may be used as a bed and breakfast home.”

SECTION 3. Section 19.64.030, Maui County Code, is amended to read as follows:

“19.64.030 Restrictions and standards. Bed and breakfast homes [shall be] are subject to the following restrictions and standards: A. The bed and breakfast [short-term rental] use [shall] may be permitted in no more than two single-family dwelling units per lot, [except that short-term rental use shall not be permitted in any accessory dwelling] pursuant to chapter 19.35 of this title.

B. The owner-proprietor [shall] must have a current transient accommodations tax [(TAT)] license and general excise tax [(GET)] license for the bed and breakfast home.

C. The owner-proprietor [shall] must be a resident of the County and [shall] must reside, on a full-time basis, on the same lot being used as the bed and breakfast home.

D. The owner-proprietor [shall] must have legal title to the property on which the bed and breakfast home is located.

E. The bed and breakfast home permit [shall] must be in the name of the owner-proprietor, who [shall] must be a natural person and the owner of the real property where the short-term rental use [shall be] is permitted[.], except that, a permit may be issued for a lot owned by a family trust if the following criteria are met:

1. The applicant is a natural person or persons who is a trustee or who are trustees of the family trust.

2. All of the trustees are natural persons.

“Family trust” is defined as a self-settled revocable trust where the trustee(s) is also the trustor(s) or grantor(s) or is related by blood, adoption, marriage, or civil union to the beneficiary(ies). No bed and breakfast home permit [shall] may be held by a corporation, partnership, limited liability company, or similar entity. The permit [shall] is not [be] transferable. No more than one permit [shall] may be approved for any lot.

F. The number of bedrooms used for short-term rental in the bed and breakfast home [shall] must be no greater than six on Lana`i and Maui, and no greater than three on Moloka`i, and [shall be] is subject to the provisions of section 19.64.050. The total number of guests [shall be] is limited to up to two adult guests and up to two minor guests per bedroom.

G. A bed and breakfast home [shall] may make breakfast available to onsite guests, but [shall] must not operate as a food service establishment (for example, restaurant), unless a food service establishment is a permitted use in the zoning district.

H. A bed and breakfast home [shall] must be in compliance with all other applicable federal, state, and local laws.

I. In permitting bed and breakfast homes, the planning director, the planning commissions, and the council [shall] must not consider, nor be bound by, any private conditions, covenants, or restrictions upon the subject parcel. Any such limitations may be enforced against the property owner through appropriate civil action.

J. All advertising for any bed and breakfast home in a residential district [shall] must include the number of the permit granted to the owner-proprietor.

K. Single-station smoke detectors [shall] must be provided in all guest bedrooms.

L. Single-family dwellings used as bed and breakfast homes [shall] do not qualify for real property tax exemptions pursuant to chapter 3.48 of this code.

M. [No] A bed and breakfast home [shall] must not create any impact greater than those theretofore existing in that district, and [shall] must conform to the character of the neighborhood.

N. [Bed] On Lana`i and Moloka`i, bed and breakfast homes [shall be] are limited to single-family dwelling units constructed at least five years prior to [structures existing and constructed as of] the date of application for the bed and breakfast permit. On Maui, bed and breakfast homes are limited to single-family dwelling units existing and constructed as of the date of the application for the bed and breakfast permit.

O. Within the Hana community plan area, on Lana`i, and on Moloka`i, a one-square foot sign identifying the bed and breakfast home permit number [shall] must be placed at the front of the property along the main access road. On Lana`i and Moloka`i, the sign [shall] must be attached to an existing structure, such as a fence. On Moloka`i, the sign [shall] must state the owner-proprietor's telephone number.

P. All guest parking must be off-street. Grasscrete and tandem parking [shall be] are allowed for any required parking stalls.

Q. The proprietor [shall] must post “house policies” within each guest room and [shall be] is responsible for enforcing such policies. The house policies [shall] must include the following provisions:

1. Quiet hours [shall] must be maintained from 9:00 p.m. to 8:00 a.m., during which noise in the bed and breakfast home [shall] must not disturb anyone on a neighboring property.

2. Amplified sound that is audible beyond the property boundaries of the bed and breakfast is prohibited.

3. Vehicles [shall] must be parked in the designated onsite parking area and [shall] must not be parked on the street overnight.

R. The County [shall be] is restricted in approving permits for bed and breakfast homes as distributed per the following community plan areas and as further restricted by the applicable community plan:

1. Hana: [48.] forty-eight.

2. Kihei-Makena: [100.] one hundred.

3. Makawao-Pukalani-Kula: [40.] forty.

4. Paia-Haiku: [88.] eighty-eight.

5. Wailuku-Kahului: [36.] thirty-six.

6. West Maui: [88.] eighty-eight.

7. Lana'i: twenty-one.

S. [The planning director or planning commission may impose conditions on the granting of a request for a bed and breakfast home if the conditions are reasonably conceived to mitigate the impacts emanating from the proposed land use.] No bed and breakfast use permit may be issued to any person who holds a valid short-term rental use permit or who has been prohibited from applying for a short-term rental use permit.

T. The planning director or planning commission may impose conditions on the granting of a request for a bed and breakfast home if the conditions are reasonably conceived to mitigate the impacts emanating from the proposed land use.”

SECTION 4. Section 19.64.040, Maui County Code, is amended to read as follows:

“19.64.040 Procedures for application and public notice.

A. Prospective proprietors of bed and breakfast homes shall apply for a permit with the planning director in accordance with the provisions of this chapter. A permit application fee shall be set forth in the annual budget of the County. All permit applications shall include, but not be limited to, the following information:

1. The name, address, and phone number of the applicant, and verification that the applicant is the owner of the lot[;].

2. The tax map key number of the lot on which the bed and breakfast home is proposed[;].

3. Certification that the applicant's primary residence is located on the same lot as the single-family dwelling unit to be used as the bed and breakfast home and that the permit will be nontransferable[;].

4. A site and floor plan identifying the location of parking on the site and the location of any bedrooms to be used for short-term rental and any bedrooms to be used by the owner-proprietor and the owner-proprietor's family[;].

5. A list of the names and addresses of the owners and lessees of record within a five-hundred-foot distance from the lot on which the proposed bed and breakfast home is to be located; and a map, drawn to scale, that clearly identifies the lots and the tax map key numbers of the lots identified pursuant to this section[; and].

6. Additional information as may be requested by the planning director to determine impact and mitigation measures.

B. Notice of [Application.]application.

1. All applicants [shall,] must, by certified mail, provide a notice of application for a bed and breakfast permit to the owners and lessees of record located within a five-hundred-foot distance from the lot on which the proposed bed and breakfast home is to be located.

2. The notice of application [shall] must contain a description of the proposed bed and breakfast home operation, parking on the site, and number of bedrooms to be used for short-term rental, together with a location map identifying the bed and breakfast lot in relationship to all other lots within a five-hundred-foot distance.

3. [A project notice sign must be posted at the front of the property along the main access road. On Lana'i and Maui, the sign must be sixteen square feet; on Moloka'i, the sign must be four square feet. The sign must be clearly visible from the roadway and must contain information and wording as prescribed by the department of planning. The sign must be placed five days prior to remitting an application and must be removed no later than five days after a final decision has been rendered by the planning director or the planning commission.] Ten days prior to mailing the notice of application, a four-square-foot

project notice sign must be posted at the front of the property along the main access road. The sign must be clearly visible from the roadway and must contain information and wording as prescribed by the department. The sign must remain in place forty-five days from the mailing of the notice of application. The sign is not subject to chapter 16.13 of this code.

4. The notice of application [shall] must state that the noticed owners and lessees of record may file a written protest against the proposed bed and breakfast home with the planning director, provided that all protests must be postmarked or received within forty-five days of the mailing of the notice of application.

5. [If planning commission review is required, pursuant to section 19.64.050.B, the application shall be subject to the requirements of section 19.510.020 of this code.]If planning commission review is required pursuant to subsection 19.64.050.B., the processing requirements are as follows:

a. The director must set the application for public hearing on the agenda of the planning commission.

b. The director must notify the applicant and the appropriate State and County agencies of the date of the public hearing at least forty-five calendar days prior to the public hearing.

c. The director must publish the notice of the date, time, place, and subject matter of the public hearing once in a newspaper printed and issued at least twice weekly and generally circulated throughout the County, at least thirty calendar days prior to the public hearing.

d. The applicant must provide notice of the public hearing date on the application to the owners and lessees of record located within a five-hundred-foot radius from the parcel identified in the application by:

i. Mailing, by certified mail, a notice of the date of the public hearing of the application in a form prescribed by the director to each of the owners and lessees at least thirty calendar days prior to the public hearing.

ii. Submitting each of the receipts for the certified mail to the director at least ten business days prior to the public hearing.

6. For purposes of this chapter, notice [shall] will be considered validly given if the planning director finds that the applicant has made a good faith effort to comply with the requirements of this subsection.

C. If an application does not meet the legal requirements of this chapter, it [shall] must be denied.”

SECTION 5. Section 19.64.050, Maui County Code, is amended to read as follows:

“19.64.050. Permit processing. A. Bed and [Breakfast Home.]breakfast home. Short-term rental of one to six bedrooms on Lana`i or Maui or of one to three bedrooms on Moloka`i in a bed and breakfast home [shall] may be permitted by a bed and breakfast home permit.

1. The applicant for a bed and breakfast home permit [shall] must file an application with the planning director as provided in section 19.64.040.

2. The planning director [shall] must approve or deny the application pursuant to the requirements of this chapter.

3. The application [shall] must be processed as provided in subsection B [of this section], if any of the following occur:

a. [If written] Written protests pursuant to [section] subsection 19.64.040.B.4 comprise [thirty] 30 percent or more of the owners and lessees of record within a five-hundred-foot distance from the lot on which the bed and breakfast home is proposed[;].

b. [If a] A variance was obtained to meet the requirements for a bed and breakfast home permit[;].

c. [If an] Two or more existing bed and breakfast [home] homes [is] are operating [on a lot] within a five-hundred-foot distance from the lot on which the bed and breakfast home is proposed[;].

d. For bed and breakfast homes located within the Hana community plan area, the number of bedrooms used for short-term rental in the bed and breakfast home [shall be] is greater than three[; or].

e. For bed and breakfast [home] homes located on Moloka`i and Lana`i, the application is for an initial bed and breakfast home permit.

4. The planning director [shall] must specify in the department's annual report the number of bed and breakfast home permit applications received and approved.

B. Bed and breakfast home permit applications described in subsection A.3, [of this section shall] must be submitted to the appropriate planning commission. The appropriate commission [shall] must review and either approve or deny the application pursuant to the requirements of this chapter, the effects the proposed use would have on surrounding uses, and the cumulative impacts within the region and island; provided that, the Maui planning commission [shall] must conduct a public hearing prior to approving an application for a bed and breakfast home permit within the Hana community plan area for which the number of bedrooms used for short-term rental in the bed and breakfast home [shall be] is greater than three.”

SECTION 6. Section 19.64.065, Maui County Code, is amended to read as follows:

“19.64.065 Revocation and enforcement. A. Revocation procedures.

1. The permit may be revoked if the director finds any of the following:

a. The owner-proprietor provided false or misleading information during the application process.

b. The owner-proprietor is delinquent in payment of State or County taxes, fines, or penalties assessed in relation to the bed and breakfast home.

c. Evidence of non-responsive management.

d. Police reports of noise or other disturbances on the property.

e. Warnings or violations resulting from requests for service.

f. Neighbor complaints of noise and other disturbances relating to the bed and breakfast home operations; provided that the department has received at least three complaints about the bed and breakfast home within a twelve-month period. Complaints must be from property owners or lessees of record located on two or more different lots within a five-hundred-foot radius of the bed and breakfast home.

g. Noncompliance with permit conditions.

h. Noncompliance with this chapter.

i. Noncompliance with other governmental requirements.

2. If the permit is revoked, the department [shall] must not accept a new application for a bed and breakfast home permit from the owner-proprietor for two years after the date of revocation.

B. Advertising that offers a property as a bed and breakfast home [shall constitute] constitutes prima facie evidence of the operation of a bed and breakfast home on the property and the [burden of proof shall be on the] owner, operator, or lessee of record, bears the burden of proof to establish that the subject property is being used as a legal bed and breakfast home or is not in operation as a bed and breakfast home.

C. Any communication by a property owner, operator, or lessee to any person where the owner, operator, or lessee offers their home for rent as a bed and breakfast home on the property [shall constitute] constitutes prima facie evidence of the operation of a bed and breakfast home on the property and the [burden of proof shall be on the] owner, operator, or lessee of record, bears the burden of proof to establish that the subject property is being used as a legal bed and breakfast home or is not in operation as a bed and breakfast home.

D. Advertising for a bed and breakfast home without a valid permit number is prohibited, constitutes a violation of this title, and [shall] will result in an enforcement action pursuant to section 19.530.030 of this title; provided that:

1. The alleged violator and the property owner [shall] must be notified that all advertising without a valid permit number [shall] will be terminated within seven days after issuance of the notice of warning. The notice of warning [shall] must specify that failure to cease such advertising by the deadline [shall] will result in issuance of a notice of violation and an order to pay a civil fine in the amount set forth in section 19.530.030 of this title for each day such advertising continues after the deadline.

2. For a complaint of advertising without a valid permit number that is initiated by the public and confirmed by the department, the department [shall] must send a notice of warning to the alleged violator and the property owner following receipt of a request for service, provided the person who initiated the request for service supplied a valid physical address for the property.

3. A notice of violation, including an order to pay daily fines, [shall] must be sent to the alleged violator and the property owner pursuant to section 19.530.030 of this title after the deadline if advertising without a valid permit

number continues after the deadline, unless the alleged violator or property owner has submitted evidence satisfactory to the director that such advertising is not [in] under their control.

4. All repeat violations for advertising without a valid permit number [shall] will result in a notice of violation without prior issuance of a notice of warning. A notice of violation, including an order to pay daily fines, [shall] will be sent to the alleged repeat violator and the property owner pursuant to section 19.530.030 of this title, unless the alleged violator or property owner has submitted evidence satisfactory to the director that such advertising is not [in] under their control. For purposes of this section, a repeat violation is one where the alleged violator has previously been issued a notice of warning for advertising without a valid permit number.

E. Operating a bed and breakfast home without a valid permit is prohibited. Evidence of operation may include: advertising, guest testimony, online reviews, rental agreements, receipts, or any other information deemed relevant by the department. Operating without a valid permit [shall] will result in a property owner being ineligible to apply for a permit for two years.

F. The department [shall] must notify the department of finance, real property tax division, of violations of this chapter.

G. The department [shall] must file a report with the state department of taxation for properties with violations of this chapter.

H. Sixty days from the effective date of this ordinance, and each year thereafter, the department [shall] must provide to the state department of taxation and the department of finance, real property tax division, a current list of:

1. Unpermitted operations with internet advertisements for bed and breakfast homes.
2. Unpermitted bed and breakfast home operations identified by a department request for service form.”

SECTION 7. Section 19.65.030, Maui County Code, is amended to read as follows:

“19.65.030 Restrictions and standards. Short-term rental homes are subject to the following restrictions and standards: A. The short-term rental home use is permitted in [no more than two] one single-family dwelling [units] unit per lot[, except that short-term rental use shall not be permitted in any accessory dwelling].

No more than one short-term rental home permit [shall] will be approved for any lot, except for lots that are subject to a condominium property regime under chapter 514A or chapter 514B, Hawaii Revised Statutes, the following [shall] apply:

1. If the applicant owns all condominium units on the lot, only one permit may be granted for that lot.

2. If the applicant does not own all condominium units on the lot, each condominium unit will be considered a lot for purposes of this chapter and each unit owner will be eligible to apply for a short-term rental home permit, except that no owner may hold more than one short-term rental home permit.

3. Irrespective of ownership, each condominium unit [shall] must be considered a separate lot for purposes of notification and planning commission review thresholds under subsection [19.65.060(A)(2).] 19.65.060.A.2.

4. For the purposes of this chapter, any reference to a short-term rental home property [shall mean] means a property, lot, or condominium unit.

B. Each permitted dwelling unit on a short-term rental home property [shall] must be rented to one group with a single rental agreement, except:

1. On the island of Lana'i.

2. Any short-term rental home where the owner resides on an adjacent lot.

C. The permit holder [shall] must have a current transient accommodations tax license and general excise tax license for the short-term rental home.

D. The permit holder [shall] must:

1. Hold a minimum of a [fifty] 50 percent interest in the legal title to the lot on which the short-term rental home is located, except as provided in subsection [19.65.030(G).] 19.65.030.G.

2. Serve as manager of the short-term rental home; except that, the permit holder may designate:

a. An immediate adult family member of the permit holder to serve as manager. Immediate family includes a person's parents, spouse, children and their spouses, siblings, stepparents, stepchildren, adopted children and their spouses, and hanai children.

b. An individual with an active State of Hawaii real estate license to serve as manager, except for properties located in the Hana or [Lana'i] Lana'i community plan areas, where an individual may act as a manager as allowed by State law.

c. An adult to serve as a temporary manager for up to forty-five days in a twelve-month period.

3. Notify the department and the immediate adjacent neighbors of:

a. Any designation of an individual as manager under this section, including a statement of the designated manager's tenure, residential and business addresses, and telephone numbers.

b. Any change in the manager's addresses or telephone numbers.

E. The manager of the short-term rental home [shall] must:

1. Be accessible to guests, neighbors, and County agencies. For purposes of this section, "accessible" means being able to answer the telephone at all times, being able to be physically present at the short-term rental home within one hour following a request by a guest, a neighbor, or a County agency, and having an office or residence within thirty driving miles.

2. Ensure compliance with [State] state department of health regulations, this chapter, permit conditions, and other applicable laws and regulations.

3. Enforce the house policies.

4. Collect all rental fees.

F. The short-term rental home [shall] must only be rented when the manager is accessible.

G. The short-term rental home permit is issued in the name of the applicant, who [shall] must be a natural person or persons holding a minimum of a [fifty] 50 percent interest in the legal title in the lot; except that, a permit may be issued for a lot owned by a family trust, a corporation, a limited liability partnership, or a limited liability company if the following criteria are met:

1. The applicant is a natural person or persons who is a trustee or who are trustees of the family trust, or who [represents] represent [fifty] 50 percent or more of the partners of a limited liability partnership, [fifty] 50 percent or more of the corporate shareholders of a corporation, or [fifty] 50 percent or more of the members of a limited liability company.

2. The limited liability partnership, corporation, or limited liability company is not publicly traded.

3. All of the trustees, partners, corporation's shareholders, or limited liability company's members are natural persons, and if there is more than one [trustee,]

partner, shareholder, or member, they [shall] must be related by blood, adoption, marriage, or civil union.

“Family trust” is defined as a self-settled revocable or irrevocable trust where the trustee(s) is also the trustor(s) or grantor(s) or is related by blood, adoption, marriage, or civil union to the beneficiary(ies).

H. An applicant may hold no more than one short-term rental home permit[,], except when:

1. Additional permits are for short-term rental homes that each have a County-assessed market value of \$3,200,000 or higher at the time of each application.

2. The permit holder filed complete applications for the short-term rental home permits within one year of this chapter’s original effective date of May 23, 2012.]

I. A permit is not transferable; except that[,], a permit may be transferred upon the death of a permit holder to an immediate family member as defined in subsection [19.65.030(D)(2)(a).] 19.65.030.D.2.a. If the permit is held by a trust, the permit may be transferred to a beneficiary of the trust.

J. The applicant [shall] must provide the department with the application, copies of any applicable homeowner or condominium association bylaws or rules and any other applicable private conditions, covenants, or restrictions. The documents, if any, [shall] may assist the department in determining the character of the neighborhood.

K. The number of bedrooms used for short-term rental home use on a short-term rental home lot [shall] must be no greater than six on [Lanai] Lana`i and Maui and no greater than three on [Molokai.] Moloka`i. The total number of guests staying in the short-term rental home at any one time [shall] must be no greater than two times the number of approved bedrooms.

L. Single-station smoke detectors [shall] must be installed in all guest bedrooms.

M. Single-family dwellings used as short-term rental homes [shall] do not qualify for real property tax exemptions permitted under chapter 3.48[.] of this code.

N. Short-term rental homes [shall] must conform to the character of the existing neighborhood in which they are situated. Prior to issuing a permit, the department or applicable planning commission [shall] must consider the following:

1. If a proposed short-term rental home property is subject to any homeowner[,], or condominium association[,], bylaws or rules, or other private conditions, covenants, or restrictions, then correspondence from the association or other entity responsible for the enforcement of the bylaws, rules, conditions, covenants, or restrictions is required. The

correspondence [shall] must include specific conditions that determine whether the proposed short-term rental home use is allowed. The correspondence [shall] may be used to assist the department in determining the character of the neighborhood. If no association or entity exists, this requirement [shall] does not apply. The director and the planning commissions [shall] are not [be] bound by any private conditions, covenants, or restrictions upon the subject parcel. Any limitations may be enforced against the property owner through appropriate civil action.

2. Existing land-use entitlements and uses.
3. The applicable community plan.
4. Community input.
5. Potential adverse impacts, including excessive noise, traffic, and garbage.

6. The number of permitted short-term rental homes surrounding the proposed short-term rental home property and their distance to the property.

7. The number and substance of protests to the short-term rental home application and protests related to the cumulative short-term rental homes in the neighborhood or area.

8. Existing or past complaints about rental operations on the property.

9. Existing or past noncompliance with government requirements and the degree of cooperation by the applicant to become compliant.

10. Benefits the short-term rental home will bring to the community.

11. The applicant's justification and reasons for applying for short-term rental home use, and how the property would be used if the permit were not granted.

O. [Short-term] A short-term rental [homes] home permit [shall be] is limited to a single-family dwelling [units] unit constructed at least [five] fifteen years prior to the date of application for the short-term rental home permit, and the dwelling unit [shall] must be owned by the applicant for at least [five] fifteen years prior to the date of application.

P. A two-square-foot sign [shall] must be displayed along the main access road of the short-term rental home identifying the valid short-term rental home permit, a twenty-four-hour telephone number for the owner or the manager, and a telephone number for the department. The signs [shall] are not [be] subject to the provisions of chapter 16.13[.] of this code.

Q. The permit holder or manager [shall] must prominently display "house policies" within the dwelling. The house policies

[shall] must be included in the rental agreement, which [shall] must be signed by each registered adult guest. At a minimum, the house policies [shall] must include:

1. Quiet hours from 9:00 p.m. to 8:00 a.m., during which time the noise from the short-term rental home [shall] must not unreasonably disturb adjacent neighbors. Sound that is audible beyond the property boundaries during non-quiet hours [shall] must not be more excessive than would be otherwise associated with a residential area.

2. Amplified sound that is audible beyond the property boundaries of the short-term rental home is prohibited.

3. Vehicles [shall] must be parked in the designated onsite parking area and [shall] must not be parked on the street.

4. Parties or group gatherings are not allowed.

R. The County [shall be] is restricted in approving the number of permits for short-term rental homes as distributed per the following community plan areas and as further restricted by the applicable community plan:

1. Hana: thirty.

2. Kihei-Makena: one hundred; with no more than five permitted short-term rental homes in the subdivision commonly known as Maui Meadows.

3. Makawao-Pukalani-Kula: forty.

4. Paia-Haiku: fifty-five; except that new permits [shall] must not be issued for properties within the special management area, [so as] to avoid proliferation of this use and subsequent changes in the character of the region's coast.

5. Wailuku-Kahului: thirty-six.

6. West Maui: eighty-eight.

7. Moloka'i: zero.

8. Lana'i: twenty-one.

The council [shall] must review the community plan short-term rental home restrictions when the number of approved short-term rental homes [exceeds ninety] exceed 90 percent of the restriction number. Transient vacation rentals operating with a conditional permit under chapter 19.40 of this title, [shall] must be included in the number of short-term rental homes permitted under this subsection.

S. Prior to issuing a permit, the director or planning commissions may impose conditions for a short-term rental home if the conditions are reasonably designed to mitigate adverse impacts to the neighborhood.

T. Any dwelling unit developed in accordance with chapter 201H, Hawaii Revised Statutes, [or] chapter 2.96 of this code, or chapter 16.28 of this code, [shall] must not be used as a short-term rental home.

U. No short-term rental home permit may be issued to any person who holds a valid bed and breakfast home permit or who has been prohibited from applying for a bed and breakfast home permit.

SECTION 8. Section 19.65.040, Maui County Code, is amended to read

as follows:

“19.65.040 Advertising. A. All advertising for a short-term rental home [shall] must include the valid permit number issued to the permit holder[.] and must include the tax map key number of the property unless prohibited by the hosting platform.

B. Reservation websites [shall] must include the short-term rental home house policies or a working link to the short-term rental home house policies.

SECTION 9. Section 19.65.050, Maui County Code, is amended to read

as follows:

“19.65.050 Procedures for application and public notice.

A. Applicants [shall] must submit an application for a short-term rental home permit to the department in accordance with the provisions of this chapter. Permit application fees and permit renewal fees [shall] will be set forth in the annual budget. Permit applications [shall] must include all of the following information:

1. The name, address, and telephone number of the applicant.

2. Verification of property ownership, and signatures of all owners of the property unless waived by the director in cases where the requirement is unduly burdensome.

3. The tax map key number of the lot on which the proposed short-term rental home is situated.

4. Proof of compliance with section 19.65.030.

5. A site and floor plan identifying the location of parking and bedrooms for short-term rental home use.

6. A list of the names and addresses of the owners and lessees of record, within a five-hundred-foot radius of the lot of the proposed short-term rental home.

7. A planning department short-term rental home inspection report that states the structures proposed for short-term rental home use meet the minimum health and safety standards established by the department, or a miscellaneous inspection report issued by the department of public works. The planning department report is to be completed and signed by a home inspector certified by the American Society of Home Inspectors.

8. A certification form signed by the owner of the property attesting to the following:

a. No part of the property has been used for any rentals of less than one hundred eighty days at a time, with or without the owner's permission, since January 1, 2013; or, if any part of the property has been used for any rentals of less than one hundred eighty days since January 1, 2013, the owner [shall] must:

[(1)]i. Identify the periods the property was rented for less than one hundred eighty days.

[(2)]ii. Provide proof that the owner paid applicable general excise taxes and transient accommodations taxes for the periods the property was rented for less than one hundred eighty days.

[(3)]iii. Provide a State tax clearance showing all applicable State taxes have been paid.

[(4)]iv. Pay an after-the-fact permit fee to the County in an amount as set forth in the annual budget ordinance.

b. The owner has not previously advertised, or has ceased advertising, for the short-term rental home that is the subject of the application, and will not begin, or resume, any advertising until a permit is approved.

c. The owner either has no financial interest in any property within the [county] County associated with a bed and breakfast home permit or a short-term rental home permit; or, if the owner has a financial interest in a property that is subject to a bed and breakfast home permit or a short-term rental home permit, the nature of the financial interest and the property address.

d. The owner has paid, or will pay, all fines that have been assessed as a result of a notice of violation previously issued to the owner for

unpermitted short-term rental use or activity, prior to the processing of the short-term rental home permit application.

e. All statements made by the owner on the certification form and provided during the short-term rental home permit application process are correct to the best of the owner's knowledge.

f. The owner acknowledges that any false information or misrepresentations made in the application or during the application process [shall] will result in an enforcement action pursuant to section 19.530.030 of this title, the denial or revocation of the permit, and a prohibition against the current property owner applying for a short-term rental home permit for the property for a period of two years after the date of denial or revocation of the permit.

9. Additional information as may be requested by the director.

B. All applicants [shall] must send, by certified mail, written notice of the application for a short-term rental home permit to the owners and lessees of record located within a five-hundred-foot radius of the lot of the proposed short-term rental home. All applicants must send, by regular mail or hand delivery, written notice of the application for a short-term rental home permit to the residents of each physical address located within a five-hundred-foot radius of the lot of the proposed short-term rental home; if the owner or lessee's mailing address is the physical address, then the certified mailing will fulfill this requirement. The written notice [shall] must include all of the following:

1. A description of the proposed short-term rental home operation.
2. The location of proposed on-site parking.
3. The total number of bedrooms proposed for short-term rental home use.
4. A map identifying the short-term rental home lot in relation to all other lots within a five-hundred-foot radius.
5. A provision that the owners, and lessees of record, and residents of the physical addresses located within a five-hundred-foot radius of the proposed short-term rental home may file a written protest with the director via fax, email, or letter; provided that, all protests must be postmarked within forty-five days of the mailing of the notice of application.

C. [No more than ten] Ten days prior to mailing the notice of application, a four-square-foot project notice sign [shall] must be posted at the front of the property along the main access road. The sign [shall] must be clearly visible from the roadway and [shall] must contain information and wording as prescribed by the department. The sign [shall be removed after] must remain in place for forty-five days from the mailing of the notice of application. The sign is not subject to [the provisions of] chapter 16.13 of this code.

D. If planning commission review is required pursuant to subsection [19.65.060(A)(2),] 19.65.060.A.2, the processing requirements [shall be] are as follows:

1. The director [shall] must set the application for public hearing on the agenda of the appropriate planning commission.

2. The director [shall] must notify the applicant and the appropriate State and County agencies of the date of the public hearing [not less than] at least forty-five calendar days prior to the public hearing.

3. The director [shall] must publish the notice of the date, time, place, and subject matter of the public hearing once in a newspaper printed and issued at least twice weekly and generally circulated throughout the County, at least thirty calendar days prior to the public hearing.

4. The applicant [shall] must provide notice of the public hearing date on the application to the owners, [and] lessees of record, and residents of the physical addresses located within a five-hundred-foot radius from the parcel identified in the application by complying with the following procedures:

a. Mailing, by certified mail, a notice of the date of the public hearing of the application in a form prescribed by the director to each of the owners and lessees [not less than] at least thirty calendar days prior to the public hearing.

b. Submitting each of the receipts for the certified mail to the director [not less than] at least ten business days prior to the public hearing.

c. Mailing, by regular mail or hand delivery, a notice of the date of the public hearing of the application in a form prescribed by the director to residents of the physical addresses located within a five-hundred-foot radius at least thirty calendar days prior to the public hearing; if the owner or lessee's

mailing address is the physical address, then the certified mail will fulfill this requirement.

E. For purposes of this chapter, notice [shall] will be considered [valid] validly given if the director finds that the applicant has made a good faith effort to comply with the requirements of this section.

F. If an application does not meet the requirements of this chapter, it [shall] must be denied.”

SECTION 10. Section 19.65.060, Maui County Code, is amended to read

as follows:

“19.65.060 Permit processing. A. The short-term rental home permit process [shall] will be as follows:

1. The applicant for a short-term rental home permit [shall] must submit an application to the department as provided in section 19.65.050.

2. The director [shall] will approve or deny the application pursuant to the requirements of this chapter; provided that, the applicable planning commission [shall] must approve or deny the permit pursuant to the requirements of this chapter when any of the following occur:

a. The director receives two or more written protests from the owners, [or] lessees of record, or residents of the physical addresses of two or more lots adjacent to or directly across the street from the driveway access area for the proposed short-term rental home. Roadway lots and road widening lots abutting the access street [shall] must not be considered lots for purposes of this section.

b. [Thirty] 30 percent or more of the owners, [and] lessees of record, or residents of the physical addresses within a five-hundred-foot radius of the proposed short-term rental home lot submit written protests to the director when there are less than forty lots within a five-hundred-foot radius of the proposed short-term rental home lot.

c. [Fifteen] 15 percent or more of the owners, [and] lessees of record, or residents of the physical addresses within a five-hundred-foot radius of the proposed short-term rental home lot submit written protests to the director when there are forty or more

lots within a five-hundred-foot radius of the proposed short-term rental home lot.

d. For subsections a, b, and c, written protests from multiple owners, lessees of record, or residents of the physical address from the same lot will count as one protest.

[d.]e. A variance is obtained to meet the requirements for a short-term rental home.

[e.]f. Two or more existing short-term rental homes are operating within a five-hundred-foot radius of the proposed short-term rental home lot.

[f. An owner of the lot for which a short-term rental home permit application has been submitted or a trustee, partner, corporate shareholder, or limited liability company member of the entity which holds title to the lot is also an owner, trustee, partner, corporate shareholder, or limited liability company member of an entity which holds title to or an ownership interest in a lot with a short-term rental home permit.]

g. The short-term rental home is proposed on the islands of Lana`i or Moloka`i.

B. The director may transmit applications for public hearing by the appropriate planning commission in accordance with complaints received or some other substantive reason.

C. For short-term rental homes operating under existing conditional permits that meet the criteria set forth in section 19.65.030, those operations [shall] must be given the option of changing existing permits to short-term rental home permits, subject to [section 19.65.070(B),] subsection 19.65.070.B, and upon expiration, such permits may be extended for periods of up to five years on [Lanai] Lana`i and Maui and up to one year on [Molokai,] Moloka`i, or may continue to operate under existing conditional permit requirements and time extension procedures.

D. In addition to any enforcement action pursuant to section 19.530.030 of this title, the rules of the appropriate planning commission, and the rules of the department, the permit for the short-term rental home [shall] must be denied and the owner-applicant may not re-apply for another permit for two years after the date of denial if it is shown that the owner-applicant provided false or misleading information during the application process.

E. In the department's annual report, the director [shall] must specify the number of short-term rental home permit applications received and approved.

F. Substantive amendments to a permit, including, but not limited to an increase in the number of bedrooms or dwellings used for short-term rental home purposes, or the addition of a new dwelling to the permit, [shall] must be processed in the same manner as the initial application.”

SECTION 11. Section 19.65.070, Maui County Code, is amended to read as follows:

“19.65.070 Duration, renewal, and nonrenewal of permits and compliance with permit conditions. A. Initial short-term rental home permits are valid for a maximum period of three years, except that shorter periods may be approved to mitigate impacts.

B. Permit renewal applications [shall] must be submitted to the department no later than sixty days prior to expiration of the permit, after which the department [shall] must not accept any renewal application. Permit renewals may be granted by the director for terms of up to five years on [Lanai] Lana`i and Maui and up to one year on [Molokai;] Moloka`i; except that renewals for permits initially approved by the [Molokai] Moloka`i planning commission may only be granted by the [Molokai] Moloka`i planning commission for terms up to one year. In reviewing a renewal application, the director or [Molokai] Moloka`i planning commission as appropriate [shall] must require evidence of compliance with conditions of the short-term rental home permit and this chapter. The permit [shall] will remain in effect while the renewal application is being processed for up to six months after the expiration date, unless the applicant fails to provide requested information to the department within sixty days.

No permit [shall] will be renewed without written verification of appropriate State and County tax filings.

C. Compliance inspections may be conducted prior to granting a permit renewal or during the permit period. Permit holders [shall] must allow compliance inspections to be conducted within one hour of notice. Refusal to allow access within one hour may result in permit revocation.

D. Upon approval of the permit, the permit holder [shall] must send the permit number, a copy of the short-term rental home’s house rules, twenty-four hour contact information for the manager, and the department’s contact information to the owners, [and] lessees of record, and residents of the physical addresses of abutting properties and properties directly across the street from the short-term rental home. Proof of mailing [shall] must be

submitted to the department within thirty days of the permit approval.

E. The permit holder [shall] must send by certified mail notification of any change to contact information for the manager to the department, the owners or lessees of record of abutting properties and those directly across the street from the short-term rental home. The permit holder must send by regular mail or hand delivery the same information to residents of the physical addresses of abutting properties and those directly across the street from the short-term rental home; if the owner or lessee of record's mailing address is the physical address, then the certified mailing will fulfill this requirement. Such notification [shall] must be sent prior to, or immediately after, the change in contact information occurs. Proof of mailing [shall] must be submitted to the department within thirty days of the mailing.

F. Nonrenewal procedures.

1. The director may decline to renew the permit if the director finds any of the following:

a. The permit holder provided false or misleading information during the application process.

b. The permit holder is delinquent in payment of State or County taxes, fines, or penalties assessed in relation to the short-term rental home.

c. Evidence of non-responsive management.

d. Police reports of noise or other disturbances on the property.

e. Warnings or violations resulting from requests for service.

f. Neighbor complaints of noise and other disturbances relating to the short-term rental home operations; provided that, the department has received at least three complaints about the short-term rental home within a twelve-month period. Complaints must be from property owners, [or] lessees of record, or residents of the physical addresses located on two or more different lots within a five-hundred-foot radius of the short-term rental home.

g. Noncompliance with permit conditions.

h. Noncompliance with this chapter.

i. Noncompliance with other governmental requirements.

2. If the permit is not renewed by the director, the department [shall] must not accept a new application for a short-term rental home permit from the permit holder for two years after the date of the previous permit's expiration.

G. No later than January 15 of each calendar year, the department [shall] must transmit to the real property tax division of the department of finance, and the state department of taxation, an annual list of all short-term rental homes as of January 1 of that calendar year. The real property tax division [shall] must regularly review its records and determine that no short-term rental home has an exemption pursuant to chapter 3.48 of this code.”

SECTION 12. Section 19.65.080, Maui County Code, is amended to read as follows:

“19.65.080 Revocation and [Enforcement.] enforcement.

A. Revocation procedures.

1. The permit may be revoked if the director finds any of the following:

a. The permit holder provided false or misleading information during the application process.

b. The permit holder is delinquent in payment of State or County taxes, fines, or penalties assessed in relation to the short-term rental home.

c. Evidence of non-responsive management.

d. Police reports of noise or other disturbances on the property.

e. Warnings or violations resulting from requests for service.

f. Neighbor complaints of noise and other disturbances relating to the short-term rental home operations; provided that the department has received at least three complaints about the short-term rental home within a twelve-month period. Complaints must be from property owners, [or] lessees of record, or residents of the physical addresses located on two or more different lots within a five-hundred-foot radius of the short-term rental home.

g. Noncompliance with permit conditions.

h. Noncompliance with this chapter.

i. Noncompliance with other governmental requirements.

2. If the permit is revoked, the department [shall] must not accept a new application for a short-term rental home permit from the permit holder for two years after the date of revocation.

B. Advertising that offers a property as a short-term rental home [shall constitute] constitutes prima facie evidence of the operation of a short-term rental home on the property and the [burden of proof shall be on the] owner, operator, or lessee of record bears the burden of proof to establish that the subject property is being used as a legal short-term rental home or is not in operation as a short-term rental home.

C. Any communication by a property owner, operator, or lessee of record to any person where the owner, operator, or lessee of record offers their home for rent as a short-term rental home on the property [shall constitute] constitutes prima facie evidence of the operation of a short-term rental home on the property and the [burden of proof shall be on the] owner, operator, or lessee bears the burden of proof to establish that the subject property is being used as a legal short-term rental home or is not in operation as a short-term rental home.

D. Advertising for a short-term rental home without a valid permit number and tax map key number is prohibited and constitutes a violation of this title and may result in enforcement action pursuant to section 19.530.030 of this title; provided that:

1. The alleged violator and the property owner [shall] must be notified that all advertising without a valid permit number and tax map key number [shall] must be terminated within seven days of the mailing date of the notice.

2. Enforcement action, including fines, may commence pursuant to section 19.530.030 of this title if advertising without a valid permit number and tax map key number continues after such warning.

3. If the hosting platform prohibits including tax map key numbers in advertising, then only the valid permit number is required.

E. Operating a short-term rental home without a valid permit is prohibited. Evidence of operation may include: advertising, guest testimony, online reviews, rental agreements, receipts, or any other information deemed relevant by the department. Operating without a permit [shall] will result in a property owner being ineligible to apply for a permit for five [years, except that:] years.

[1. An ineligible applicant may apply for a short-term rental home permit and the permit application may be processed provided that at the time of the application, the ineligible applicant has:

a. Provided proof that prior to enactment of the ordinance that created this exception and during the entire period that the applicant has been operating

without a permit, the applicant has had valid general excise tax and transient accommodations tax licenses, and has paid all applicable general excise taxes and transient accommodations taxes due and owing.

b. Agreed to pay and has paid in full real property taxes at the rate applicable to short-term rental home properties and has claimed no homeowner's exemption for the tax years in which the applicant has been operating without a permit.

c. Ceased, and does not resume prior to issuance of a permit, any and all advertising and operations of the short-term rental home that is the subject of the application as of the date of the application.

d. Paid, in addition to any other applicable permit fees, an after-the-fact short-term rental home application fee as set forth in the annual budget ordinance.

e. Paid any outstanding fees or fines for violations on the property including, but not limited to, initial and unwaived daily fines for unpermitted short-term rental home operation; after-the-fact zoning, special management area, or building permit fees; department of public works or department of planning application fees; or other fees, dues, or fines imposed by the State or County.

2. This exception to the five-year ineligible status for owners operating without a permit shall apply from July 1, 2016 to December 31, 2016.]

F. The department [shall] must notify the department of finance, real property tax division, of violations of this chapter.

G. The department [shall] must file a report with the [State] state department of taxation for properties with violations of this chapter.

H. Sixty days from the effective date of this ordinance, and each year thereafter, the department [shall] must provide to the state department of taxation and the department of finance, real property tax division, a current list of:

1. Unpermitted operations with internet advertisements for short-term rental homes[; and].

2. Unpermitted short-term rental home operations identified by a department request for service form.

SECTION 13. Existing bed and breakfast home and short-term rental home permit holders may continue to operate and renew under the zoning

restrictions when they were originally permitted, and apply for renewal subject to the renewal procedures of this Ordinance. Applications submitted within six months of the effective date of this Ordinance may be processed and approved pursuant to the zoning restrictions and standards in effect immediately prior to the effective date of this Ordinance.

SECTION 14. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 15. This Ordinance takes effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

/s/ Stephanie M. Chen

STEPHANIE M. CHEN

Department of the Corporation Counsel

2020-0822

2021-02-19 Amend chapters 19.35, 19.64, and 19.65

Ms. Preza: Thank you very much. I'm also going to go read through the meeting rules just in case anyone is just joining us or is joining us for the first time so everyone knows what the protocol is. So if you would like to provide written testimony then that should have been emailed to the Planning Department yesterday. And testifiers, if anyone in the audience would like to testify, then public testimony will be taken when each agenda item is called. And so testimony will be limited to a maximum of three minutes. I will call for testifiers, and if you're muting your audio and video, you will be able to unmute at that time. And also if you would like to sign up to testify, if you could directly message Leilani, letting her know your name, what you would like to testify, which agenda item you'd like to testify on, and she will let me know who had signed up at that time. And so I will ask everyone via this platform, Bluejeans, if they would like to testify and then I'll call to see if anyone calling in via phone would like to testify also.

Let's see. Commissioners shouldn't be contacted via the chat function, so the "everyone chat" function really should be used by the audience. But if you do have a question, I would directly message Leilani, but we will not be checking the chat, or using the chat during this meeting. Great. Okay, thank you all again for being here. I hope you're all doing well.

We're going to get started on Item B.1. which is a bill for an ordinance amending Chapters 19.35, 19.64, and 19.65. I believe we do have a presentation in regards to this agenda item and so I will call for public testimony after the presentation. Thank you.

B. PUBLIC HEARING (Action to be taken after public hearing.)

1. A BILL FOR AN ORDINANCE AMENDING CHAPTERS 19.35, 19.64 AND 19.65, MAUI COUNTY CODE, RELATING TO ACCESSORY DWELLINGS, BED AND BREAKFAST HOMES AND SHORT-TERM RENTAL HOMES

MS. MICHELE COUTEAU MCLEAN, AICP, Planning Director, referring to the Lanai Planning Commission a Proposed Bill to Amend Chapters 19.35, 19.64 and 19.65, Maui County Code, Relating to Accessory Dwellings, Bed and Breakfast Home Permits and Short-Term Rental Home Permits.

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/1127/Legislation---Proposed> and is summarized as follows:

Chapters 19.35, 19.64, and 19.65 are proposed to be amended to allow bed and breakfast and short term rental home operations in accessory dwellings, subject to restrictions that encourage long-term occupancy; limit short-term rental homes to one per property and per applicant;

**clarify trusts and ownership requirements; expand notification requirements to neighbors of the property; and other minor revisions.
(Jacky Takakura)**

Ms. Jacky Takakura: Okay, is it alright if I start?

Ms. Michele McLean: Yeah, go ahead Jacky. Sorry, I just wanted to say aloha commissioners. It's to see all of you. It's been a little while, and thank you for all attending the meeting tonight. Jacky Takakura will do the presentation on the first two items on the agenda. And then Jacky and I will both be available for questions. Thank you Chair.

Ms. Jacky Takakura: Good evening Chair Preza and the Lanai Planning Commission members.

Ms. Preza: I think there's a lot of noise happening, so if you're just joining us if you could please mute, be sure to mute your audio so that everyone can hear the presentation clearly. I see that most people have muted themselves. But please do check if you have not yet muted your audio to mute so that everyone can hear the presentation clearly. Thank you. Go ahead Jacky.

Ms. Takakura: Okay. Good evening everyone, Chair Preza and Lanai Planning Commission members. It's nice to see you all. Aloha from Wailuku, Maui. So I just have a few slides to go over with this proposed bill for ordinance. And so I'm just going to share screen. And it's just like I mentioned, a few slides, and then I'll just go over the proposed changes and then we can discuss after. So I'm going to share screen now. And if you don't mind --. Oh, you know what, I'm really sorry. I have to close the door just a minute. They're vacuuming so just a second.

Okay, thank you. So can you give me thumbs up if you can see that light blue screen that has the proposed bill for amendment chapters? Okay, great. Thank you. And can you hear me because they're vacuuming out in the hallway. Is that alright?

Ms. Preza: Yes, you sound clear. Also, I just wanted to mention for those of you who are joining us via Bluejeans, and you're not familiar with the platform, there's a way view the slideshow bigger, the -- Jacky's screen -- if you go to the bottom left, there's like a little blue bar that you can slide to designate what you would like your display to look like. So you can put it on the right most one or the one that's almost all the way to the right if you want to see that screen blown up. Thank you.

Ms. Takakura: Okay. Thank you. Okay, so the Department of Planning proposes to revise Chapters 19.35, 19.64 and 19.65 of the Maui County Code. These chapters relate to Accessory Dwellings which is 19.35, Bed and Breakfast Home Permits which is 19.64, and Short-Term Rental Home Permit 19.65. And in this presentation I'll briefly go over the proposed changes to these chapters.

The overarching goal, the why of this, is to allow for some flexibility in transient vacation rental use in accessory dwelling units while encouraging long-term occupancy. We also want to clarify trusts and ownership requirements, and expand notification requirements to neighbors, and other minor revisions to Chapter 19.64 and 65 for clarity and consistency purposes.

And so we're sharing this information with the Lanai, Maui and Molokai Planning Commissions. You're the first group. Okay so before we start, I just wanted to give you an update of the bill specific to Lanai because I'm sure you would all, you know, this would be the first question in your mind. You folks have worked really hard on this. For the bed and breakfast and short-term rental home bills, those were passed, as you know, by your body, the Lanai Planning Commission. And Corporation Counsel completed their review of the bills. And so then we transmitted the bills to the Mayor on September 10th for approval, and then it will be routed to the County Council. So those are in the works.

Okay, and then the next one is the Lanai vacation rental moratorium. And you might be aware that the County Council Planning and Sustainable Land Use Committee passed it out of committee on August 28th. And then the Full Council passed it at First Reading on September 11th, last Friday. And then the next step will be approval at Seconding Reading, then the Mayor's signature, and then certification by the County Clerk. So those are well on their way through the process. So good job all of you for all that hard work you folks put in.

Okay, so now let's look at the proposed revisions that we have before you today. So as I mentioned it's three chapters, 19.35, 64 and 65 of the County Code. And the goal is to allow for some flexibility in transient vacation rental use in accessory dwelling units while encouraging long-term occupancy. We're going to add some limits to permits per property and per applicants. We want to clarify trust and ownership requirements, expand vacation rental notification requirements to neighbors, and other minor revisions to the bed and breakfast and short-term rental home chapters for clarify and consistency purposes.

The bill does not propose any changes to permit number limits for Maui and Molokai. It follows the Lanai Planning Commission's recommendations for permit numbers for Lanai. And I'm going to repeat that, it does not reduce permit number limit. And also this bill was something that we've been working on for a while, pre-COVID 19. So I know things are a little different right now, but these proposal are needed so we decided to move forward. As we go on you're going to see that there's some font or text in green and there's some in red. The green is more permissive, and the red is more restrictive. And just the black is neutral. So you're going to see that throughout this presentation.

Okay, so let's start with the first chapter that we propose to change, and that's 19.35, accessory dwellings. And what we're proposing is that an accessory dwelling maybe only used as a short-term rental home if the main dwelling and any other accessory dwelling that's applicable are occupied on a long-term residential basis. That's for short-term rental homes. For bed and breakfast, only one accessory dwelling per lot may be used. And so what does

this mean? This means that for short-term rental homes, it would be okay to have it in the accessory dwelling if the main dwelling and any other accessory dwellings are used for long-term occupancy. And for bed and breakfast, it would be okay in one accessory dwelling. So this would allow for some flexibility for the property owner while still requiring some long-term residency. If there are two dwellings on a property and the owner wants to do a short-term rental home, then it might be preferable for them to do the short-term rental home in the ohana, and rent the main house out long-term. More room for a local family. Right now, but rules as they are, they would have to do the short-term rental home in the main house and rent the ohana long-term. So this here, that's all the changes that we're proposing for 19.35, Accessory Dwellings.

So the next part is 19.64, and that's the chapter on Bed and Breakfast Home Permit. And this first part that you see here in green, that kind of parallel what we just said in 19.35, that the bed and breakfast use may be permitted in no more than two single-family dwelling units per lot pursuant to Chapter 19.35. And what that means is that it would be okay for the bed and breakfast to be in the main dwelling, and or one accessory dwelling for a total of two dwelling units. Any other dwelling units on the property must be occupied long-term.

Okay, so the next proposed change is that bed and breakfast homes would be limited to single-family dwelling units constructed at least five years prior to the date of application for the B&B unit, and the dwelling unit must be owned by the applicant for at least five-years prior to the date of application. These construction and ownership requirements are aimed to reduce speculations and encourage a connection to the neighborhood. Bed and breakfast have not had an ownership requirement before, but short-term rental homes already have this requirement.

The next item as you know, the cap would be set for 21 for Lanai. And then this bottom one in italics that you see is something that we are proposing for the short-term rental home side. We would like to have the same language in the bed and breakfast side that no bed and breakfast permit may be issued to any person who holds a valid short-term rental home permit, or who has been banned from applying for a short-term rental. And like I said, we have this already proposed in the Chapter 19.65. And this would allow others an opportunity to benefit from bed and breakfast investments, and it eliminates a loophole for rule breakers.

This is regarding signs for bed and breakfast homes. Right now the current rules require a 16 square foot sign for Maui and Lanai. What we are proposing is the same sign requirement as is required for short-term rental homes, and that is a four square foot sign. And then the timing would also be the same as for the short-term rental homes, no more than 10 days prior to the mailing of the notice of application, the four square foot project notice sign would be posted, and then it may be removed after 45-days from the mailing of the notice of the application. So this would just make it consistent with the other chapters, Chapter 19.65.

These are all, also to, for consistency purposes, public hearings. A Planning Commission review is required. The processing requirements would be the same as the short-term rental

home requirements. Also the criteria for public hearings, right now for bed and breakfast includes one existing bed and breakfast on a lot within 500 square feet, to be consistent. For short-term rental homes it's two so we propose revisions to make both chapters two. I know Lanai has some specific requirements with the 300-foot. We would keep that for Lanai. That wouldn't be changed.

The last item here regarding the real property tax classification, we would like to include that as prima facie evidence of the operation of the bed and breakfast. And that's just another tool for enforcement to pursue illegal.

So that's it for short-term, I mean for bed and breakfast. Now we're going to move to Chapter 19.65 for the short-term rental homes. And this first item here is regarding the accessory dwelling. So it's similar to what we proposed in 19.35 that the short-term rental home use would be permitted in no more than one single family dwelling unit per lot on Maui and Lanai, and that would be either the main dwelling or the accessory dwelling. And then the other dwelling unit has to be occupied long-term.

So the next proposed revision is regarding trusts. And this provision would require that the trustee belong to the family of the family trust. And we worked with Corporation Counsel on the trust language as we have had some trouble with two short-term rental home applications from trusts. And so what the proposal is that trusts must be in the name of the applicant. And a family trust is defined as a self-settled revocable trust where the trustees are also the trustors or grantors or is related by blood, adoption, marriage, or civil union to the beneficiary. Next proposal is one permit per applicant, and then that the permit would not be transferrable in any way. And this would eliminate loop holes that may be used for investment purposes.

Okay, so the next part for the short-term rental homes is additional criteria which would assist the applicant in conforming to the character of the existing neighborhood and being a part of the community. This would assist the short-term rental home applications getting approved when they go to the Planning Commission. And this information, you know, the benefits that the short-term rental home would bring to the community and the justifications and reasons for applying for short-term rental home use and how the property would be used if the permit is not granted. This kind of information often comes out of the hearing, but it should be included up front in the report and analysis.

The next item which is in red is increasing the construction and ownership requirements. That the short-term rental home could be limited to single-family dwelling units constructed at least 15 -- one, five -- 15 years prior to the date of the permit applicant, and the dwelling unit be owned by the applicant for at least 15 years prior to the date of application. And this was requested by the Mayor. And it's intended to encourage a connection to the neighborhood.

Okay, so next proposed change which you know is the Lanai cap of 21. The next one is the experimental and demonstration housing project. And the purpose of this kind of housing project is to reduce the cost of housing in the State in accordance with HRS, HRS 46-15. Like

with the affordable housing and workforce housing, vacation rentals are inconsistent with the purposed of this kind of housing.

Next item, something I just mentioned that we'd like to have consistent in the bed and breakfast chapter is that no short-term rental home permit maybe issued to anyone holding a bed and breakfast permit or has been banned from applying for a bed and breakfast. And this would allow others an opportunity to profit from short-term rental home investments, and will eliminate a loophole for a rule breaker.

Okay, the next proposal is that the ads would include the physical street address. And this allows for verification. And then the last item on this slide, the owner can't have a financial interest in another bed and breakfast or STRH. And again, this allows others an opportunity to apply benefit from a short-term rental home investment.

Okay, next one is notification, and right now the existing notification procedures include owners and lessees were often non-residents, and neighbors are currently excluded. So we'd like to include the physical addresses to be included when notices have to go out. So that physical address is in a couple of places in the proposed revision.

The next item, just like with the bed and breakfast, including the tax class as evidence. That's another tool for enforcement to pursue illegal. And then the last item on this one -- I apologize, that's my bad -- I have an error on the graph that is included in the memo to the commission. I must have copied and pasted something and I didn't notice it. The correct proposal was just changing the "shall" to "must" which you see quite a bit in throughout this bill for ordinance. And that's consistent with the way that they've been revising the code overall. And so for that part of the code it should just be changing the "shall" to the "must" and I'm very sorry for that.

Okay, so in summary what we're proposing are that accessory dwellings to be used for bed and breakfast or short-term rental homes of other dwellings are occupied long-term. We defined family trust, updated ownership requirements. Limiting short-term rental home permits to one per property and per applicant. We're proposing consistency between the bed and breakfast and the short-term rental home rules. Easier for applicants, easier for compliance, and we'd like to encourage compliance. It's easier for staff. Including neighbors in the communications. So this bill is to offer options to permit holders, and it should help protect the character of the neighborhood. And like I said, you know, consistency, notification. I'm trying fix some snags that we've seen in the process of it. That should benefit everyone. I does not affect existing permit holders. However we would like to propose that existing permits would have to follow whatever rules are in place at the time they apply for renewal. That would be easier for the public, for the permit holders, the neighbors, the staff; everybody to follow the same set of rules. I would like to propose that one last thing about -- you know whatever rules are in place at the time of the renewal that's what the . . . (inaudible) . . .

So that's the proposed changes. The commission has a couple of options. We're requesting that you would approve the proposed amendments to the three chapters. You can do that.

You can approve the bill and we would forward it to the County Council. Or you can put amendments, or you can defer or, you could recommend denial. So I'd love to hear your feedback and testimony, and we'll do our best to answer any questions. Thank you. I'm going to stop screen sharing now. Thank you.

Ms. Preza: Thank you Jacky. And Leilani, am I correct for the audience that slide deck is available on the county website or --

Ms. Ramoran-Quemado: I will be make it available, but I believe Jacky also placed it on the website too.

Ms. Preza: Okay. Thank you. Sorry. Thanks so much.

Ms. Takakura: Yes.

Ms. Preza: You know with virtual time we have to make everyone can get the information if they need. Thank you so first --. Sorry Alberta, if you could --. Okay, thank you. Sorry I was going to say if only commissioners could be on their video that would really helpful to us to keep everything organized. Leilani, has anyone asked to testify on this agenda item?

Ms. Ramoran-Quemado: Thank you Chair. No one has signed up to provide testimony.

Ms. Preza: Okay. Is anyone -- did anyone not chat to Leilani and would like to testify at this time? No. And if anyone is calling in via the phone, would anyone like to testify via phone on this agenda item? Okay, there being none, then I'll close public testimony at this time. And commissioners if you have questions for Jacky or Michele, or if you have any comments on this proposed amendment, these proposed amendments, what do you think. Please feel free to un-mute yourself to talk.

Okay while you folks think about it I have a couple of questions. One of my concerns was the phrasing of discussing that the primary resident must be lived in for a long-term residential basis, that phrase right there. And I guess I'm just wondering if you folks could clarify that for me. So Jacky or Michele, I don't know if we need wording in there to define what long-term basis is.

Ms. McLean: Thank you Chair, that's a great question. Long term residency just means not short-term residency. So it could be, for example, if someone owns a property and uses one of the dwellings for their second home and does a short-term rental home in the other dwelling that would be possible too. The County defines the difference between short-term and long-term at 180-days. So right now as Jacky described there was a recent code change that said ohanas cannot be used for vacation rentals. And we felt pretty confident about that because ohanas really provide a lot affordable housing opportunities for people. But then we realized that there could be situations where someone who owns a property with a main house and an ohana would prefer to live in the ohana themselves and do their vacation rental in, in the

main dwelling. So that's why we're proposing this change to allow the flexibility with the goal being that we want to see some long-term residential use of the property so that the whole thing isn't used for short-term rental if there's more than one dwelling on it. So that the, that's the genesis of it.

Ms. Preza: Thank you Michele. Sorry I have two questions that came out of your response from that so thank you so much for explaining. First of all when you say ohana, you mean accessory dwellings, right? Just so we're all on the same page. Ohana dwellings are accessory dwellings.

Ms. McLean: Correct. Yeah.

Ms. Preza: Okay. Thank you. Thank you for that clarification. So I guess I'm wondering -- so what you're saying is because long term residency is defined by being there over 180-days, I guess I'm wondering how the County would monitor that. I guess my -- I understand where the intention is coming from with, you know, in case someone has, you know, an accessory dwelling and their main house, and they want the flexibility to be able to rent that out. But I guess I'm concerned about, you know, people who aren't here all the time, you know, who maybe have a couple of different, you know, properties within their plot and then, you know, they're here like two months out of the year, but they're renting the rest. Like, I guess I'm just wondering how the long term residency will be monitored.

Ms. McLean: It's really monitored as part of our short-term rental home enforcement. And we rely mostly on internet ads for that or complaints. And so if, if someone is essentially getting away with it, then we would not have a way of monitoring it. But if we have heard legitimately of situation where someone executes a six month lease or a one year lease, and then their circumstances change, and they have to move to the mainland or something like that after four months. Well, we're not going to cite them for that because the intent was to be compliant and to live there long-term. But otherwise we don't, you know, we don't go around and ask to see people's leases unless we get a complaint or we have reason to believe that a violation could be occurring. Then we ask for evidence to demonstrate that there isn't a violation and a lease could be one of those things.

Ms. Preza: Commissioners, do you have questions now that we've been talking for a little bit, or comments?

Ms. Kaye: Yeah I do, Shelly. I had a similar question. I was trying to picture how this all works. So if I am a property owner and I owned another property within 30 miles, and it's got an accessory dwelling, then I could rent under, the way this is set up, I could rent one of the properties in six month increments and it would be perfectly legal. And the other one I could operate as a short-term rental. I just couldn't operate anything as a B&B because I don't live on the property. Is that, is that right?

Ms. McLean: All of those things are correct, yes, Commissioner Kaye.

Ms. Kaye: Okay.

Ms. Preza: Any other questions Commissioners, or comments or --?

Ms. Kaye: Okay, if nobody else is going to go, I'm going to ask about, under 19.65, the benefits, I think adding the benefits with the short-term rental home would bring is great. And justifications and reasons for applying for it are great. But how the property would be used if the permit is not granted I don't get that. I don't, (a), understand the problem you're trying to solve there, and (b), why it's anybody's business.

Ms. McLean: Thanks. That's a great question. Because we will often hear from applicants that, well, if I don't get the permit, then the property is just going to be vacant. It's my second home, and I use it once a year, and it's just going to be vacant if I don't, if I don't get the permit. Versus someone who says, well, I can't afford the mortgage, and so if I don't get the permit, then I may have to sell it. And so it's just trying to get more of an understanding of the applicant's intention and, you know, what they, what they intend to do with the property whether or not they get the permit. So seeing what the flip side would be if the permit gets denied. That information might not be all that useful to the Planning Department if it's a permit that the Planning Department can approve. But it would be very useful information if that permit has to be reviewed by a planning commission because that tends to be the questions that applicants get asked. Well if we don't issue, if we don't approve this permit, what would you do with the property. And so it's just asking them to provide that information up front so that decision makers have a fuller picture.

Ms. Preza: Thank you Michele. And I was just going to chime in too. I feel like, at least for the Lanai Planning Commission in recent years, that is a question that has come up for different permit applicants, so maybe it would be good to just give them a heads up that, you know, especially smaller communities that might be something the community commission cares about. So thank you for your answer on that.

I had a question about so the mailing to physical addresses. In our proposed -- I know this separate -- but like in our proposed changes we had said something about, like, I don't know if we had actually said mail by like certified mail. But because we don't have mail boxes, you know, at our physical addresses here on Lanai, if there's a way to kind of make room to make sure that that, those items, envelopes, mail, whatever, gets to the actual residences. If there's a way to include wordage for that.

Ms. Takakura: If I may Chair?

Ms. Preza: Yes Jacky.

Ms. Takakura: Thank you for the question. So, yeah, we had that conversation. For Lanai, we had the special language that was proposed by the Lanai Planning Commission and that

would remain because I know the situation there is a little bit different. So you would still be having that delivery the way you folks wanted it. I can't remember . . . (inaudible) . . . Yeah, we're keeping the unique language for Lanai delivery option.

Ms. Preza: Oh, so, but can that be included in these revisions as well potentially?

Ms. Takakura: Sure.

Ms. Preza: Okay. Thank you. I also --. Sorry, I --. Does anyone have -- I have one more question if that's okay with other Commissioners. I was interested by the slide that where the revision was saying like one permit per applicant. And maybe Jacky or Michele you can clarify the intention with that. That was so that one applicant doesn't try to have multiple, like, financial interest in properties in our County, correct? And sorry, just as a follow up I asked that because I don't know -- and this might be too complicated to get into -- but I'm just thinking back to permits from a couple of years ago or last year or something where there was a husband and wife. And the husband applied for a permit for one property and then the wife applied for another, and I was just wondering if you folks had thought about that. And if that's okay or if that's something that you're trying to avoid as speculation. Yeah, sorry, any comment on that.

Ms. McLean: Yeah, well right now the code allows someone to have more than one permit if the value of the property is above a certain amount. I can't remember what the valuation was. Jacky might be able to jump in and say, but it's like millions of dollars. What is it Jacky?

Ms. Takakura: Sorry about that. \$3.2 million or higher.

Ms. McLean: So that's what the code says now, and that it just seemed -- it didn't seem fair to single out those high end properties to be, for owners of those high end properties to have more than one permit just because the properties are higher end. Now granted those higher end properties aren't as assessable to as many people as regular every day properties. But there just didn't seem to be a basis to allow someone to have more than one, one permit. And we do come across all kinds of ways for people to figure out how to, how to get their permits in the situation that you described where the husband gets one, the wife gets another. We didn't go so far as to propose a way to curb that so that, that possibility still exists. But, you know, little by little we're trying to make improvements.

Ms. Preza: Thank you Michele. And sorry, I just bring that up because it seems like, you know, you folks have worked on these amendments, and maybe just, you know, while they're going to -- if they end up going to the County Council maybe, like, thinking about incorporating some aspect to curb what we just -- the situation we just talked about it. Because that seems like a loop hole to me that, you know, people have tried, and so just something maybe to think about.

Ms. McLean: Sure and that can be among your recommendations, you know, that you want to add that if you think that's something you want to add, then that can be a part of your recommendation. Certainly.

Ms. Preza: Thank you. Commissioners, what do you think about that? Because I think that situation before that kind of bothered me a little that, you know, it seems, especially in a small community like ours that people were trying to, you know, say oh we're separate, but they're, they're both trying to STRH's with their different properties. So I'm not sure if you folks had feelings about that or if you want to incorporate some kind of recommendation with that in mind or if that's just something we should save for a later date.

Ms. Kaye: That, Shelly -- this is Sally -- I think that's a really interesting. I'm not sure what the language would be. I guess you're looking at 19.65A.8C, the owner cannot have financial interest in another B&B or short-term rental. So, if a husband and wife owns houses separate from each other but they're still married, then, if I'm thinking the way you're, where you're going with this, they essentially do have a financial interest. So, I'm not sure -- if that's strictly construed, then that would cover your concern, would it not?

Ms. Preza: It think it would. Sorry, can you say again what section of STRH that was in?

Ms. Kaye: I'm just looking at the slides that Jacky gave us. It was under the 19.65.050.A.8C. These aren't, the pages aren't numbered, so I'm sorry I don't know.

Ms. Preza: It's okay. Sorry I'm just going to take a second to locate that.

Ms. Kaye: While you're doing that can I then just do a follow up question with you, Michele, on the section I've asked you about the justification. Just as a clarification if someone say "I don't know" or "I don't want to answer that" is that a deal breaker? Would that be considered an incomplete application from your end?

Ms. McLean: As far as the application being complete, if they answered the question then that would be satisfactory. If that application has to go to a commission, then it would be up to the commission to decide if they have enough information to act on the permit. But right now for short-term rental homes there's a five-year ownership requirement. So I would think that they would have some idea of what they would do with the property since they would have owned it already for at least five years. So it would be surprising if they said I don't know, but they certainly could, you know, that's a fair answer to a question. But that might not work in their favor if they had to come to this commission for a, for approval.

Ms. Kaye: Okay. Thank you.

Ms. Preza: Thank you Sally, I found the part on the slide where it says that. Michele, would that, do you think that would cover my concern, financial interest?

Ms. McLean: You know it seems like it would. I would have to -- I would want to check back with staff though because I believe we did have a situation where what you described happened where the husband got one permit, the wife got another, and so I have to find out how that happened. Maybe this language didn't exist at the time. Or I guess it's possible for a husband to have a property solely in his name, and a wife to have a property solely in her name, and so it would be hard for us to connect the dots if we didn't know they were married. So it seems like it would, and thank you Commissioner Kaye for pointing that out. It seems like it would, but I'd have to figure out how that's happened in the past and if we need to elaborate on that some more then we can.

Ms. Preza: Thank you. I don't feel like we need to make like an amendment or anything, propose any amendments, but maybe just something for you to take back to your staff as a point of concern for us. Commissioners, do you have other comments or questions, or does anyone feel strongly about making a motion one way or the other? Sherry, hi.

Ms. Menze: Hi. We did have that situation on Lanai where a guy wanted to get a permit and he was going to get one and his wife was going to get another one. But it turned out for other reasons he was denied that permit.

Ms. Preza: Right. I just -- I think it was just a strange situation so maybe just for, you know, the County's staff to think about like how to deal with those things when they do come up. But thank you. I'm glad you remembered too. I'm glad I wasn't the only one who, you know, thinking about that.

Ms. Menze: No, I totally remembered that guy.

Ms. Preza: Commissioners, do you have other?

Ms. Trevino: I'd like to share just, I guess, I understand the reasoning behind them creating this. I think my concern is the -- how would I say it? You know, the way in which someone finds out that a home isn't being rented for more than short-term is as she expressed earlier through reports from other people and whatnot. And I'm also --. You know, so I'm just concerned because it would be fairly easy for somebody who has the monetary means to kind of manipulate something like this. And I just also wanted to ask the 180-days as far as does it need to be consecutive days or can a homeowner say, well, I'm there 30, 30, 30, 30 out of the year. You know, is there a consecutiveness to the 180-days or more for the long-term?

Ms. McLean: Thanks. That's another great question. The 180-days is for uses or occupancy other than the owner. So if it's the owner who rents it, then they rent it in January, they rent it in March, they rent it in September, that's short-term. Even if altogether it was 180-days in the course of the year, that's short-term if there are different people in between. But an owner

who owns the property they can come and go however they want to. We don't, we don't regulate how long the owner is there. So the owner can come and go however they wish.

Ms. Preza: I guess that's what I'm thinking. I thought the owners had to have long-term residence, substantial basis on the property to qualify for this. Is that not true?

Ms. McLean: The long-term residential basis could be the owner. Or, it could be a tenant that they rent to for long-term

Ms. Trevino: Okay, so that I guess -- maybe that's a clarification then. So the homeowner could come every other month, but as long as the homeowner is there some parts of the year, then they qualify.

Ms. McLean: Right. That means that the house that they occupy when they're there isn't rented out to anybody short-term. Nobody else uses it except for the owner.

Ms. Trevino: Right. I guess cause I'm trying to grasp the, you know, what we're trying to do here. Because it sounds like, you know, a lot of this has to do with trying to maintain community sense of neighborhood. However even if somebody rented every six months, they would be considered long-term. You could have two people, two parties moving in and out of a house every six months that would make that one long-term. Or just one party, I guess, if it's longer than six months, it would make that long-term. But then the short-term could keep going, the roll over, right, for the short-term rental. Or, again, an absent homeowner who just comes every so often. So that's concerning. I'm just voicing that as a board member for us to think about.

And the other thing that, I guess, I'm a little concerned about or like wondering is it could, a homeowner, who's is renting their place out long-term to, you know, to qualify to, you know, get the short-term rental. Like, I mean, I would hate for them to bully their long-term renter to saying, you know, you have to, you have to want this. Like, could that become an issue where somebody is renting long-term from the homeowner and doesn't want --? You know because we're saying the people are notified when this happens. Like I would hate for somebody to get evicted because they don't want that in their yard even though they don't own it. So I'm just -- I don't know what the repercussions of that is, but I'm just throwing that out there because I don't know if that would be a scenario that might come up. So those are just my concerns.

Ms. Preza: Thank you Chelsea. It's something to think about.

Ms. McLean: You could work for our enforcement staff, Commissioner. That's exactly the way their minds work. They come up with every scenario under the sun.

Ms. Preza: That's good though. But I'm also wondering, I guess, you know, I see the concern there too, but I'm also thinking, you know, I'm glad that this would, you know, if any STRH or

B&B would be granted it would hopefully be with the cap we proposed, you know, with our other revisions. And so hopefully our density regulations, everything would still be applicable. And I can't think of that may places in our town that even have accessory dwellings where this would make sense, but I think it's good to think about. Other Commissioners do you have thoughts or --? Comments or --. Our options are to recommend approval of these revisions, to recommend approval with amendments, to defer, or to reject these proposals.

I think we had --. You know I had talked about like asking the stipulation about being mailed to physical location to be included. I don't know if that needs to be written in or if, you know, you as the County, you folks would like to make sure it happens for Lanai because we don't have, you know, physical mail boxes in front of our home. I don't know if we have make -- do you think we should make an amendment of that, or just kind of making a note of it is okay.

Ms. McLean: I don't think you need to make an amendment, but it could be a part of your motion that if you do recommend approval of the bill that you would want to retain the notification that was put in the bill that specific to Lanai.

Ms. Preza: Thank you. Well Commissioners, how do you feel, what do you think? Are we thinking leaning towards approval, disapproval. Is there a certain phrasing that you think would be better if we amend it or --?

Ms. Kaye: I don't hear any amendments so I move that we, that we vote to recommend to County Council that they approve the bill for an ordinance amending the three chapters as presented by the Planning Department with the addition that the notification specific to Lanai be retained.

Ms. Preza: Thank you Sally. So we have a motion for approval. Is there any second?

Mr. Ornellas: I second.

Ms. Preza: That was John Ornellas. John seconded. Thank you. So if you wouldn't mind, I'm going to go through everyone. If you could just let know how you vote. So Natalie?

Ms. Ropa: Aye.

Ms. Preza: Thank you. Sherry.

Ms. Menze: Yes, aye.

Ms. Preza: John Delacruz?

Mr. Delacruz: Aye.

Ms. Preza: Thank you. Roxanne? Sorry, you were mute. Sorry, did you say, yes, Roxanne? Sorry, I can't hear you. Thumbs up. Can you hear us? Okay, that's a yes. Chelsea?

Ms. Trevino: Aye.

Ms. Preza: Thank you. Sally?

Ms. Kaye: Aye.

Ms. Preza: Thank you. Shirley?

Ms. Samonte: Aye.

Ms. Preza: John Ornellas?

Mr. Ornellas: Aye.

It was moved by Ms. Sally Kaye, seconded by Mr. John Ornellas, then unanimously

VOTED: to recommend to County Council to approve the bill for an ordinance amending the three chapters as presented by the Planning Department with the addition that the notification specific to Lanai be retained.

(Assenting: R. Catiel, J. Delacruz S. Kaye, S. Menze, J. Ornellas, S. Preza, N. Ropa, S. Samonte, C. Trevino)

Ms. Preza: Thank you. So I also vote yes so it passes unanimously. Thank you very much. And thank you Jacky and Michele for answering all of our questions.

Ms. McLean: Thank you Commissioners.

2. A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE RELATING TO CANOPY TOURS AND ZIPLINE OPERATIONS

MS. MICHELE COUTEAU MCLEAN, AICP, Planning Director, transmitting County Council Resolution 20-90 referring to the Lanai Planning Commission a Proposed Bill to Amend the Comprehensive Zoning Ordinance Relating to Canopy Tours and Zipline Operations.

MEMORANDUM

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**MAUI PLANNING COMMISSION
REGULAR MINUTES
SEPTEMBER 22, 2020**

Mr. Carnicelli: Aloha, everyone. Maui Planning Commission meeting of September 22, 2020 is now back in session. Director.

Ms. McLean: Thank you, Chair. This is your public, second public hearing item today, also transmitted by yours truly, a Proposed Bill to amend Chapters 19.35, 19.64, and 19.65, Maui County Code relating to accessory dwellings, bed and breakfast home permits and short-term rental home permits.

2. **MS. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, referring to the Maui Planning Commission a Proposed Bill to Amend Chapters 19.35, 19.64 and 19.65, Maui County Code, Relating to Accessory Dwellings, Bed and Breakfast Home Permits and Short-Term Rental Home Permits. (J. Takakura)**

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/1127/Legislation---Proposed> and is summarized as follows:

Chapters 19.35, 19.64, and 19.65 are proposed to be amended to allow bed and breakfast and short-term rental home operations in accessory dwellings, subject to restrictions that encourage long-term occupancy; limit short-term rental homes to one per property and per applicant; clarify trusts and ownership requirements; expand notification requirements to neighbors of the property; and other minor revisions.

Ms. McLean: I would like to note that the Chair, among others, expressed concerns about bringing some amendments forward when you had recently discussed the caps bill and conveyed your belief that further changes to STRHs and B&Bs shouldn't be considered at this time during the pandemic and the shutdown. I would like to note that a lot of these changes were in the works well before that happened and they're changes that we think are still worth putting forward. I would also like to note that we had a good meeting last week with the MVRA and Realtors Association, and we'll be proposing, as conveyed in the PowerPoint, several amendments based on that meeting, and so we feel pretty good about the proposals that we're putting for you. Certainly, there are still some points of contention, which I'm sure you've seen in the written testimony that was submitted and you'll probably hear in verbal testimony. But on those areas where there's consensus, we hope to have your support. So, with that Chair, if I could pass it on to Jacky to give that PowerPoint.

Mr. Carnicelli: Go ahead.

Ms. McLean: Thank you, Chair.

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1 Ms. Jacky Takakura: Thank you, Chair. Commission members, hello again. So, I'm going to
2 share screen again. So, bear with me for just a second. Can everyone see the light blue, thumbs
3 up? Okay, I try to keep these short not, too long, but it is it does cover three chapters, and I'll just
4 over each one briefly.

5
6 So, as the Director had said, we're proposing to revise three chapters, 19.35, 19.64, and 19.65 of
7 the Maui County Code, these are accessory dwellings, bed and breakfast home permits and
8 short-term rental home permits. I'm going to briefly go over the proposed changes to these
9 chapters, and the overall goal of the proposed bill is to allow for some flexibility in transient
10 vacation rental use in accessory dwelling units while encouraging long-term occupancy, clarify
11 trust and ownership requirements, expand vacation rental notification requirements to neighbors
12 and other minor revisions to Chapters 19.64 and 65 for clarity and consistency purposes. We
13 met with the Lanai Planning Commission last week, and tomorrow is the Molokai Planning
14 Commission.

15
16 So, we're proposing to revise three chapters to allow for some flexibility in transient vacation rental
17 use in accessory dwellings while encouraging long-term occupancy. That's what you see here
18 on the first item. We want to add some limits to permits per property and per applicant. We want
19 to clarify trusts and ownership requirements. You're going to see some definitions revised in here.
20 We want to expand vacation rental notification requirements to neighbors of properties. And then
21 another thing you're going to see throughout is these revisions for consistency between 19.64
22 and 19.65. As the Director mentioned, we are not proposing any changes to permit number limits
23 for Maui and Molokai, however we are following the recent Planning Commission
24 recommendations on permit numbers for Lanai, so you will see that for Lanai, but for Maui and
25 Molokai, we are not proposing to permit number limits. And as the Director said, you know, these
26 changes have been in the works for a while, so decided to move.

27
28 Throughout this presentation, you're going to see some see some things in green and some things
29 in red. The things that we think are more lenient are in green, and the ones that are more
30 restrictive in red. And you're also going to see, you know things are always going to be a work in
31 progress, we're getting better all the time, you're gonna see some things in italics that we have
32 as revisions, and so you're going to see that and I'll bring those...I'll clarify those as we go through.

33
34 Okay, so first chapter is accessory dwellings, and what we're proposing is that an accessory
35 dwelling may only...we're proposing this new language that it may only be used as a short-term
36 rental home if the main dwelling and other accessory dwelling, if applicable are occupied on a
37 long-term residential basis, so that would be for short-term rental home. For bed and breakfast,
38 it would be only one accessory dwelling per lot may be used as a bed and breakfast home. And
39 so, what does this mean? This means that it would be okay for short-term rental home in an
40 accessory dwelling if the main dwelling and any other accessory dwellings are used for long-term
41 occupancy, and then for B&Bs, it can be...the B&B can be in one accessory dwelling. So, for
42 short-term rental homes, if there's two dwellings on a property and the owner wants to do the

1 short-term rental home, then it might be...it'd be okay for them to do it in the ohana, and then rent
2 the main house long-term. That could be more room for a local family. With the way the accessory
3 dwellings chapter is now, they have to do the short-term rental home in the main house and rent
4 the cottage long-term. So, this proposed change would give them some flex...flexibility they could
5 do one of these. And I just want to clarify, when we say long-term occupancy, we mean owner
6 occupied or in long-term rental or an owner's, you know, second home that they stay out at
7 occasionally. So, that's the only change from 19.35, and you're going to see parallel language to
8 this in 19.64 and 19.65.

9
10 Okay so, the next chapter is 19.64, and that's the one for bed and breakfast homes. And so, like
11 we have in the Accessory Dwellings Chapter, we're proposing that the bed and breakfast use may
12 be permitted in no more than two single-family dwelling units per lot. And so, that means it would
13 be okay for the bed and breakfast in the main dwelling and/or one accessory dwelling for a total
14 of two dwelling units. Any other dwelling units must be occupied long-term. We do acknowledge
15 that this could warrant some adjustments to property tax classes to recognize the long-term
16 occupancy.

17
18 So next part, originally, construction and ownership requirements are aimed to reduce speculation
19 and encourage a connection to the neighborhood. Bed and Breakfast never had an ownership
20 or construction requirement before, but short-term rental homes have had a five-year requirement,
21 and that's what you see on this first item the proposal to include a limit, limitation of that it was
22 constructed at least five years prior to the date of application, and it was owned prior to...five
23 years prior to the date of application. We're open to revising this proposal to adjust the five-year
24 construction requirement and eliminate the ownership requirement cause like I just mentioned,
25 the goal here is to reduce the opportunity for speculation. So, this would confine bed and
26 breakfast homes to homes that already exist. Not a top priority for the Department, though, given
27 that families may wish to start bed and breakfast to generate more income. But we have seen
28 inquiries about developing B&Bs for investment. So, the proposed revision for that is just a five-
29 year construction requirement only.

30
31 The next item, as I mentioned is that the Lanai Planning Commission had recommended a cap of
32 21 bed and breakfast permits, and their bill is...actually was just received by County Council for
33 their review and action. That one is already...(inaudible)...

34
35 The last item you see in italics is a proposed addition that no bed and breakfast permit may be
36 issued to anyone, any person who holds a valid short-term rental home permit or who has been
37 banned from applying for a short-term rental home permit. We have parallel language already
38 proposed in 19.6..., and so this would be consistent with what we have there. And this allows
39 others an opportunity to profit from bed and breakfast investments, and it eliminates a loophole
40 for rule breakers.

1 This is all regarding signs, and it's simply to make the sign requirements consistent with the Short-
2 Term Rental Homes Chapter in terms of the size. Right now, for Maui and Molokai, the sign
3 requirement is 16 square feet...I mean, for Maui and Lanai. So, we're proposing to make it four
4 square feet and then also have the timing, the posting dates same as short-term rental homes.
5 The two would be consistent. bed and breakfast home and short-term rental home. It just makes
6 it easier for everybody.

7
8 And this is another part that is also to make bed and breakfast homes consistent with short-term
9 rental homes. If a public hearing...the Planning Commission public hearing review is required,
10 the processing requirements can be the same as short-term rental home requirements because
11 right now they're actually more complicated for bed and breakfast homes than they are for short-
12 term rental homes.

13
14 The public hearing requirement trigger would be, we're proposing it be for two or more existing
15 B&Bs within a 500-foot distance, and this is the same as short-term rental homes. Right now, it's
16 one for B&Bs.

17
18 And then the last item you see here, we proposed adding that a property's real property tax
19 classification would be prima facie evidence, just like how advertising is. However, you know it's
20 not a priority for the Department as tax classes are established by the County. This was proposed
21 because it would be a tool for our invest...inspectors to you know, pursue illegals, but we can live
22 without this proposal.

23
24 So that's it for bed and breakfasts. So, we're winding down just one last to go, 19.65 short term
25 rental homes. This first item you see in green is the part about the accessory dwellings, which
26 you saw in 19.35, short-term rental home or short-term rental home use would be permitted in no
27 more than one single-family dwelling unit per lot on Maui and Lanai. So, it could be the main
28 dwelling or the accessory dwelling. Anything would have to be occupied long-term. As noted,
29 before, like with a bed and breakfast the tax implications for this could be discussed by the Council
30 to encourage long-term occupancy, not tax, but the short-term rental tax.

31
32 Okay, the next part is a proposed...some revisions for definitions, and this part about trusts would
33 require that trustees belong to the family of the family trust. And we worked with Corporation
34 Counsel on the trust language after struggles with two short-term rental home applications from
35 trusts. And what we're saying here is that the trust must be in the name of the applicant and
36 there's a definition now we're proposing for family trust, and that would be as a self-settled
37 revokable trust where the trustees is also the trustors or grantors or is related by blood, adoption,
38 marriage or civil union to the beneficiaries. This language clarifies how trusts work as ownership
39 entities for short-term rental homes. Existing ones would be allowed to continue grandfathered if
40 they don't fit with this definitions, new ones though, would have to comply.

1 Next item is only one permit per applicant, regardless of wealth, right? This would allow others
2 an opportunity to profit from short-term rental home investments. Right now, we have some
3 language in the Code about being allowed to have more than one if the short-term rental home is
4 valued over 3.2 million dollars, so just deleting that part or proposing to delete that part and just
5 have one permit per applicant period.

6
7 And then the last part here, that the permit not be transfer...transferable in any way and that would
8 eliminate loopholes that may be used for investment purposes. However, we would like to
9 propose that we add this language, "or in the instance of a trust to the beneficiary of the trust".

10
11 So, we're also proposing to add additional criteria to assist the applicant in conforming to the
12 character of the existing neighborhood and being part of the community. And that would be
13 considering the benefits that the short-term rental home will bring to the community and
14 justification and reasons for applying for the short-term rental home. This will help the applicants
15 in getting approved when they go to the Planning Commission, and this information often comes
16 out at the hearings, but it should be included upfront in the report and analysis.

17
18 The item on the bottom that you see and red, the proposal is to limit short-term rental homes to
19 dwelling units constructed at least fifteen, 15 years prior to the date of the permit application, and
20 also, the dwelling unit be owned by the applicant for at least 15 ...(inaudible)...and this 15 year
21 requirement was requested by the Mayor, and we understand this may not be a
22 ...(inaudible)...proposal, but...(inaudible)...

23
24 Just a few more things, like with the bed and breakfast, the Lanai Planning Commission
25 recommends a cap of 21 short-rental home permits. This next item, the experimental and
26 demonstration housing projects, the purpose of those projects is to reduce the cost of
27 housing...housing in the state in accordance with HRS 46-15 and it's kind of similar to affordable
28 housing and workforce housing, and just like what those types of housing, vacation rentals are
29 inconsistent with the purpose of this kind of housing projects.

30
31 The third item, no short-term rental home permit may be issued to any person who is holding a
32 valid B&B permit or who has been banned from applying for B&B permit. Like I mentioned, when
33 we were...(inaudible)...the B&B like to have that in both sections, and this allows others an
34 opportunity to participate in the short-term rental home investment market, and it also eliminates
35 a loophole for rule breakers.

36
37 We're proposing, we propose to include that ads must include physical street address. However,
38 we'd like to change that and just use a tax map key number instead. That's enough information
39 for us for verification and enforcement without compromising safety.

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1 Last item we're proposing, right now, it already says that an owner cannot have a financial interest
2 in another short-term rental home. We'd like to say that can't have a financial interest in another
3 B&B or short-term...short-term rental home that way, others can participate.

4
5 Okay, so this is regarding notification. Existing notification procedures include owners and
6 lessees who are often nonresidents and neighbors are currently excluded. So, what we're
7 proposing here is that the physical addresses be included when notification has to go out, and
8 that way the people who live nearby can be informed. And a question came this about...came up
9 about this, well, you know, how many says does each lot get? But as it is now, each what gets
10 one say and this wouldn't change and we can include language to clarify that.

11
12 Second item, advertising. We're proposing to include the real property tax classification as prima
13 facie evidence, but like I mentioned, with the B&B's, you know we can remove this if you prefer.
14 It was just a proposal as another tool for our enforcement.

15
16 And then I have an error in the draft that you received, and I'm sorry there was a typo on the
17 bottom of Page 22. I must have copied and pasted without realizing it. The only change that
18 should be in that portion is changing the shall to the must, so I apologize for that. That is changing
19 shall to must, and be a lot of that shall to must throughout this proposal, and that's just consistent
20 with the general goal of the County Council to make the Unicode more, you know, readable and
21 just regular language.

22
23 So, in summary, what we're proposing is that accessory dwellings be allowed to be used for short
24 term rental homes and bed and breakfasts if other dwellings are occupied long-term, we want
25 definitions in there, family trust clarified. We would like to update the ownership requirements.
26 We'd like to limit short-term rental home permits to one per property and per applicant. We'd like
27 some consistency between the bed and breakfast and the short-term rental home rules.
28 Consistency is good for the applicants, for the public, for the staff who have to implement, and for
29 the commission, too. We'd like to include neighbors in the communication. And so, we're trying
30 to offer some options to the permit holders and also help protect the character of the neighborhood
31 in which vacation rentals operate. Like I mentioned, you know, consistency that's always a goal,
32 better notification, and addressing snags that we have seen in the process really that benefits
33 everyone.

34
35 The proposal doesn't affect existing permits. However, we would like to propose that existing
36 permits would have to follow whatever rules are in place at the time they apply for renewal. It
37 would be easier for the public, permit holders, the neighbors, the staff to follow the same set of
38 rules, and you know, the goal is always compliance. The only change for existing permit holders
39 at time of renewal would be the notification requirements to the neighbors, and we can make sure
40 that's clarified. Upon renewal, they would be allowed to continue as they were approved unless,
41 of course, they want to make changes which they could they could initiate.

42

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1 So, that's it in a nutshell. You have options and we're hoping that you approve with some revisions
2 that we've proposed in here the bill for ordinance, and I'd like to thank the Maui Vacation Rental
3 Association and the Realtors Association of Maui for working with us. You know, hopefully there
4 aren't more changes, but if they are, we will continue to work with them so that we can have
5 changes that, you know, we can all approve and get better all the time. So that's it, I'm going to
6 stop sharing the screen, and then...(inaudible)...Thank you very much.

7
8 Mr. Carnicelli: Thank you, Jacky. Director, how many people do we have signed up to testify on
9 this item right now?

10
11 Ms. McLean: Chair, right now we have 14 people.

12
13 Mr. Carnicelli: Okay, so Commissioners, I think that what I'd like to do is just ask the testifiers if
14 they would like changes to specifically go to, you know, the number, right, and ask what change
15 they would like, cause is, just...for those of you that are here on the call, you would like to testify,
16 would you like to give your manao, what we do here is do nothing more than give a
17 recommendation back to the County Council. That's what it is that we're going to do. So those
18 of you that understand that, so the more specific and pointed you can be with your testimony, the
19 more valuable it is to us. So instead of just going like, hey, listen, I'd like this or I don't like that
20 about it or what it is...you can say like, hey, listen, 19.030.070 says, and I think it should be
21 changed to...that would be very, very helpful to us just so you guys know. Commissioners, is
22 there anything else that you would like to say to testifiers that you would like or need as we go for
23 this recommendation? Commissioner Pali.

24
25 Ms. Pali: One that helps me often is to lead if you're in agreeance or opposing and then blah,
26 blah, blah, blah, because we hear this story, blah, blah, blah, blah, and you don't know which way
27 they go and then they reveal it at the end, but then I've lost the content. So, they could lead with
28 I agree with this and then or I don't agree that would really help me.

29
30 Mr. Carnicelli: Great. Anybody else have anything that they, they need from testifiers to help
31 them in this process? Okay, seeing none, also just so testifiers do know you have up to three
32 minutes not, three minutes and 20 seconds, not three minutes and forty-five seconds, just to be
33 fair to everybody, we do want to hear what you have to say, however, please limit your testimony
34 to exactly three minutes. At the three-minute mark, you'll hear in your ear, Carolyn say three
35 minutes and I will say thank you. Commissioner Pali.

36
37 Ms. Pali: Is there a web site people can go to find the actual document we're referencing.

38
39 Mr. Carnicelli: Maui Planning Commission, it's part of the agenda. Yeah, if they go to the Planning
40 Department web site, there is a Planning Commission Page which then leads you to all of the
41 agendas and all of the resources on there. So, yeah, that is...we have our own page on the
42 County web site. I guess that being said, Director.

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Ms. McLean: Thank you, Chair, before we start with testimony, I just want to say a couple brief things.

Mr. Carnicelli: Oh sure.

Ms. McLean: First, we did not revise the bill based on the proposed revisions that we have in the slide set. It gets too confusing when there are multiple versions of a bill. Only one bill was posted for public hearing and we're working off of that bill. So, the revisions that we noted in the slide said have not been incorporated into the bill. That's something we're proposing today for the Commission's consideration. Two items that were highlighted in the slide, one is the ownership requirement and the construction requirement. Right now, there's no ownership or construction age requirement for B&Bs. There is a five-year ownership and construction requirement for STRHs. The Department's original proposal was to put the same five-year requirement for B&Bs so that they would be in parity with STRHs. Based on the discussion with the realtors and MVRA that five-year restriction, construction and ownership was a concern to them, and so we are agreeable to removing that. I believe the slide said just the construction requirement, but we don't have a major concern with removing both. And as Jacky mentioned, the Mayor is requesting that the five years for STRHs be changed to 15 years, that's a mayoral requirement and that's why we're putting that out there.

The other item that was highlighted in the slide set is what the Department can use as evidence for STRH violations. And right now, for B&B and STRHs advertising is evidence of operation. The original proposal calls for also including the STRH tax class as evidence, but in discussions with MVRA and the realtors, there were reasons why that might not be the best course of action. So, we're also agreeable to removing that as well. So I just want to clarify those, they weren't...that wasn't clear enough in the slide set and then it's also very important to note, as Jacky did talk about right at the end, existing permits can continue to operate as they are permitted, even though the rules might be changing for B&Bs and STRHs, existing permits can continue to operate as they are. The only change that would happen is the requirement to notify for STRHs to notify neighbors if there's a change in the manager. So that would be the only, the only change to existing operations. So, I just wanted to make those clarifications.

Mr. Carnicelli: Yeah, that's helpful. Thank you, Director, and I think that that'll be helpful for the people that want to come forward and give testimony as well. So, they, hopefully they understood all of that as well. So, thank you.

Ms. McLean: Okay, Chair, the first person to testify is Kathleen Gildred, and she will be followed by Colleen Medeiros. Kathleen, you can unmute your audio, and if you wish to, you can, unmute your video.

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1 Ms. Kathleen Gildred: And let's see, I'm not sure how I unmute, oh, I see, it's up here. Okay, hi
2 there.

3

4 Mr. Carnicelli: Good morning.

5

6 Ms. Gildred: Nice to see you all. I have been a part-time resident of Maui for many years now. I
7 bought my home Hake Alana in 1994, and it's has been vacation rental ever since 1995. I was
8 required to go through the permitting process when a neighbor reported me. I, of course didn't
9 know there even was a permitting process. I don't know that anybody else did either because I
10 got most of the way through the permitting process and then the County stopped it, and said we
11 don't have a procedure now for doing this, we're going to wait till we streamline the process, so I
12 got a call a couple years later to continue going through the process, and I ended up getting permit
13 number two. So, I am permit number two on the island. And in the twenty-five years we've been
14 in business, we have employed many people like at least ten people on a regular basis. We
15 have...we have given salaries to...you know, provided employment for all of these people and
16 their families and et cetera, et cetera and with the current climate of, you know, what's going on
17 in the economy right now, I don't feel it's a good time to change the process. I think for right now,
18 we should keep it as it is so that the permitting that's in place can continue as it is and the
19 employment can continue, and I know also many people coming to the island who'd only want to
20 stay in a beautiful home and my home would not be a vacation rental...it would not be a long term
21 rental. I do have a long-term rental in my cottage. So, I'm just voicing to keep it as it is for right
22 now to not extend the time requirement to 15 years cause that would really interfere with other
23 people being able to function as I've been as bed and breakfast there and ...(inaudible)...So,
24 thank you for hearing my testimony and I will now let you go on to other people cause I know
25 there are many of us who want to testify. Thank you for your work.

26

27 Mr. Carnicelli: Thank you, Ms. Gildred. Any need for clarification of the testimony? Seeing none,
28 thank you very much. Appreciate it.

29

30 Ms. Gildred: Thank you.

31

32 Mr. Carnicelli: Director.

33

34 Ms. McLean: Chair, the next testifier is Colleen Medeiros and she'll be followed by Kimberly Lee.

35

36 Ms. Colleen Medeiros: Good morning, everyone, I'm Colleen Medeiros.

37

38 Mr. Carnicelli: Good morning.

39

40 Ms. Medeiros: I'd just like to speak to two of the changes. The first one is the change regarding
41 the trusts. It sounds like it's going to be shifted a little bit so that I would agree with it. Basically,
42 I've been holding off, putting my property into my trust because I just didn't know what the

1 implications would be for my permit. But as I understand it just now, it sounds like if I transfer my
2 property into the trust, it should, it should, I should be able to keep my permit. And if I die, my
3 permit would transfer to either my husband or my beneficiary is if I understand it correctly that
4 sounds good, and that is how I think it ought to be designed.

5
6 Let's see here, the second, the second point is the extension of the time frame for building an
7 ownership from five years to 15 years. I would like to understand what the intention is in extending
8 that to fifteen years. As far as...so, I oppose, I oppose extending it to 15 years because it seems
9 to me that with the five-year timeframe coupled with just this, the caps that are...that we have on
10 permits, those two items together effectively limit the number of permits, so I don't understand the
11 need for the 15 years, and I oppose that.

12
13 And again, just sort of in conclusion, just to remind everybody that we are a group of several
14 hundred local full-time Maui resident owners here trying to operate these businesses. I feel like
15 people really lose sight of the fact that there are many hundreds of local owners and we would
16 like to be supported to the greatest degree possible, you know, as a business, as a small
17 business, and to date, we, we specifically, our business type has been exclusively cut out of any
18 of the Cares Act money that that other businesses are getting. And I just kind of feel like it's
19 important for you folks to, to know that if you don't already, maybe you know that, but—

20
21 Ms. Takayama-Corden: Three minutes.

22
23 Mr. Carnicelli: Thank you.

24
25 Ms. Medeiros: All right, thank you. Thank you so much.

26
27 Mr. Carnicelli: Thank you, Ms. Medeiros, do you have...is there...Commissioners is there any
28 need for clarification from the testifier? Seeing none, thank you very much for your manao.
29 Director.

30
31 Ms. Medeiros: Okay, thank you, bye.

32
33 Ms. McLean: Thank you, Chair. The next testifier is Kimberly Lee, and she will be followed by
34 Greg Mebel.

35
36 Ms. Kimberly Lee: Aloha, Commissioners, my name is Kimberly Lee. This is my husband Keith.
37 We have a second home in Kihei, it's a condo. We've owned it for 17 years, and I know you want
38 to know if we support or oppose, but really, I don't feel like we have enough information to be able
39 to tell you that with this, this bill for the ordinance. As I read it, there's a lot of parts of it to me that
40 are confusing. For example, we have G.E. and TAT tax permit. We have a W number, I'm not
41 even sure if that means that we have a short-term rental permit. I'm assuming under the way that
42 we're operating that we do, but I don't even know if that is the case because we have a condo

1 versus a single-family home. I am, I am confused about the 15-year, five-year timeline. So,
2 there's a lot in this ordinance that we are trying to read through and understand, and I'm assuming
3 that if we can't read through it and understand it, that all those who are impacted by it should be
4 able to understand it. I'm not opposed to having some kind of guidelines. We have another
5 property in the City of Henderson in Nevada, and it's very streamlined and very understandable,
6 and we're in compliance with that. I don't mind being in compliance. I think it's a win-win if the
7 jurisdiction has, has regulations and rules that we can operate under.

8
9 I specifically don't know, on Page 14 under Section R, one part it says that the Kihei-Makena area
10 is limited to a hundred permits, but in the intention of this bill, it says that there's no limits on
11 permits. So that's one of the areas that I'm, I'm not saying I don't understand. You know, I know
12 our place has been sitting empty for six months. the County is losing tax revenue. We bought
13 this property with the understanding that we could have rent it on a short term to offset our costs
14 on it and we are very concerned about losing the property if we're not able to do that as well as
15 I'm sure many other people in the same situation are concerned. I'm also concerned about our,
16 we're not allowed to have people quarantine in our property when it is a very safe alternative to
17 motels and hotels because you can have separate access, entry, people can stay and cook, it's
18 a lot less expensive. It could be for residents as well as people coming in. So, with that, I think
19 with the, the bill, the ordinance needs further clarification so that we owners can understand it
20 better. Thank you very much.

21
22 Mr. Carnicelli: Thank you, Ms. Lee. Is there any need for clarification from the testifier? I just
23 have one point of clarification. So, you, your, your vacation rental is a condo, correct?

24
25 Ms. Lee: Yes.

26
27 Mr. Carnicelli: It's not a single-family resident, okay.

28
29 Ms. Lee: Yes.

30
31 Mr. Carnicelli: Okay.

32
33 Ms. Lee: And that's...that part is not laid out well to me. In this ordinance is a condo it says a
34 lot...so I don't know maybe you can answer that question, is a condo defined in this bill?

35
36 Mr. Carnicelli: Well, you know, unfortunately, this is not a time where you ask us questions is for
37 you to provide your manao, but STRH, STRH permits are for single-family residences it's not for
38 condos, so yours is...anyways I don't give you legal advice, I don't want to tell you what yours is
39 or isn't, but just, just wanted to make sure I understood what it is that you have, so thank you.
40 Thank you very much. Any other need to clarify from Ms. Lee? Thank you both for showing up.
41 I appreciate it. Director.

42

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1 Ms. McLean: Thank you, Chair, and, and, if there are others who wish to testify like the Lees, I
2 would like to clarify that this does not affect condominiums that can lawfully operate as vacation
3 rentals. It's not in the bill because they're not affected at all by the proposed changes. The next
4 testifier is Greg Mebel, and he will be followed by Katherine Trozduk.

5
6 Mr. Greg Mebel: Okay, am I with you?

7
8 Mr. Carnicelli: Yes.

9
10 Mr. Mebel: Okay, great. Thank you. So, my name is Greg Mebel and I am actually
11 recommending that we deny or defer this ordinance. The reason being that there are a lot of
12 things actually that are excellent in the ordinance, and as Planning discussed, they were very
13 open to changing some of the problem areas which I think people in Maui are very appreciative
14 about, but to give some color, this industry is crippled right now. It's not happening. There are
15 problems where we have not been able operate since April. So, the idea of putting some of these
16 things out there, specifically, I think one of the Commissioners lost 19.65.030, Paragraph O, talks
17 about raising the requirement to 15 years, 19.64.0...and that's for STRHs, 19.64.030, Paragraph
18 N, raises the requirement to five years for B&Bs. What these do is these put obstacles in the way
19 of these small businesses and that especially now is really a problem just to give a little color. I've
20 had a...I've worked with the property manager here at Molly ...(inaudible)... who has been there
21 for 30 years and has three kids who were born and raised here, and she could not be on this call.
22 She usually testifies in front of you guys. You would with her because she is preparing to go, to
23 leave Maui. So, there's two equation's and are parts of the housing equation as we know, it's the
24 economy and housing units. We represent a very small amount of housing units, but represent a
25 decent amount of what, of Maui County economy. So that's where we are.

26
27 Just to, just to...and there was one more thing, I know that the Planning Director did clarify this at
28 the end, but the slide when I read it, looked like it said something, sorry, I'm looking, looked like it
29 said something different. What it said, I think when I read it was that renewal people who renew
30 would need to renew under the current ordinance that would actually, it would cripple a lot or
31 make a lot of people's permit...they couldn't have a permit anymore, they couldn't renew. So,
32 more things that would cripple this program that really was meant to take short-term rentals that
33 were underground, untaxed, unregulated, uninsured, bring them into the sunlight, it would cripple
34 that exact program that was trying to do that and we'd be moving backwards. So, I might...there
35 may be some clarification there for that last portion, I think it was in the Deputy Planning Director's
36 summary, and that's all I have. Are there any questions for me?

37
38 Mr. Carnicelli: Thank you, Mr. Mebel. Any need for clarification from the testifier? Seeing none,
39 thank you. However, at this point, Director, I'm going to go ahead just based on his testimony.
40 I'm going to have you clarify his testimony for him as far as him speaking to what it is that you
41 may or may not have said, so if you would go ahead and address that before we take other
42 testifiers and they might have the same question.

1
2 Ms. McLean: Relating to renewals?

3
4 Mr. Carnicelli: Yeah.

5
6 Ms. McLean: And that's what Jacky, Jacky did say, that that renewals would be able to continue
7 to operate under their...how they're permitted today. It wouldn't have to change. For example, if
8 someone has two permits and the bill gets adopted to say you can only have one permit. They
9 can still keep their two permits and continue operating. So, we'll have to clarify that language.

10
11 Mr. Carnicelli: Right.

12
13 Ms. McLean: When it comes to renewals, the only provision in the renewal language has to do
14 with notifying not just surrounding owners, but also the actual residences, the physical addresses
15 so neighbors know of any change in management that I believe that's the only thing that would
16 change for existing permit holders. But we will have to work on that language before...not to get
17 too far off track, but after commissions review a bill, we take all those comments into consideration
18 and revise the bill and have Corp Counsel review it and sign off on it. And so, we will work on
19 that language before we transmit it to Council to make sure that that's perfectly clear cause that's
20 absolutely what the intent is. It's not to change the standards for any existing operation.

21
22 Mr. Carnicelli: Okay, but to further clarify what Mr. Mebel's talking about, we see all the time
23 people that let their permit expire and then they reapply, you get your permit expire, you reapply,
24 you're under the new rules, not your old rules? Correct?

25
26 Ms. McLean: That is true. That is true. So, if the Commission wants to allow expired permits to
27 reapply under the provisions that were in effect at the time, then you can make that
28 recommendation and we can put that into the bill. We're not proposing that 'cause if a permit
29 expires, it expires, and this is an industry that's driven by the calendar. So, it's astonishing when
30 people don't renew, but nonetheless, if that's what the Commission wants in that renewal or
31 expiration, you can make that recommendation.

32
33 Mr. Carnicelli: Great, fair enough. Thank you, Mr. Mebel, appreciate your comments.

34
35 Mr. Mebel: Thank you.

36
37 Mr. Carnicelli: Director.

38
39 Ms. McLean: Thanks, Chair, the next justifier is Katherine Trozduk, and she will be followed by
40 Denise Tjarks, and I apologize if I'm mispronouncing your last names Katherine, if you'd like to
41 unmute your audio.

42

1 Ms. Katherine Trotzuk: Yeah, I think I am. Can you hear me?

2

3 Mr. Carnicelli: We can.

4

5 Mr. Trotzuk: Okay, perfect. Thank you, first. Good morning and thanks for your time and for
6 allowing us all to testify. I'll try and make it short. I want to say ditto to the previous testifier. I
7 just think this is, this is not the time to start to look at making more changes and to, to making
8 things even more difficult for B&B and short-term vacation permit holders. If you have to go
9 forward with something, just, just work with the green pieces in that presentation and leave the
10 rest until we know where we stand. We are small businesses and we have had zero, zero income
11 in the last six months, and yet I would say that the B&B that...the permit that we have, you know,
12 we have continued to employ and pay the vast majority of people who work for us, and with us.
13 And I think that is what's missed in some of this because, you know, hotels have let people go
14 left, right and center, but when you're a small business and you know these people individually
15 and you care about them and you need your property to be maintained in a certain way with the
16 expectation that you'll be able to be back and running your business again as soon as possible,
17 you know you keep those people. They're part of your community, your ohana, and so it's... we,
18 we care, and we certainly have made that commitment to many of the people who work for us.
19 So, at this point, after six months of zero income, but still many, many bills to, to hear that, that
20 there would be additional restrictions is, is really frustrating and disappointing. So, I do hope that
21 you will just defer this and say we don't know enough about the economy, about the future to be
22 able to make any recommendations on tightening these restrictions. And, and if anything, let's
23 make things a little bit easier, and then reassess in a year or so as to what needs to change. I
24 thank you to the Planning Commission for the some of the suggestions that you did make in the
25 PowerPoint presentation. I think some of those were great improvements on the original
26 language, but even so, I have all kinds of issues around, you know, this fifteen year thing for short-
27 term home rentals that's not what we have, we don't intend to buy one, we don't know anybody
28 who's going to buy one, I just think it's so punitive and so unnecessary. The language that exists
29 is already sufficient. So, thank you for your time.

30

31 Mr. Carnicelli: Thank you, Ms. Trotzuk.

32

33 Ms. Trotzuk: Yeah, close enough.

34

35 Mr. Carnicelli: Okay, any need for clarification? Seeing none, thank you very much for your input.

36

37 Ms. Trotzuk: Thank you.

38

39 Mr. Carnicelli: Director.

40

41 Ms. McLean: Chair, the next testifier is Denise Tjarks, and she will be followed by Rann Watamull.

42

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1 Ms. Denise Tjarks: Thank you, Director McLean. I just wanted to also thank you for meeting with
2 the MVRA, as well as the Realtors Association last Friday. For this exact reason, I would ask that
3 the Commission vote number three to send the bill back with further revisions and changes to be
4 made in collaboration with our groups. I also agree right now is an extremely difficult time for
5 many of our small business owners and that giving a lot of changes at this time would be, wouldn't
6 be prudent. I would just ask that you consider moving more slowly. The original bill was crafted
7 out of eleven planning commission meetings and city council meetings. And I specifically have
8 concerns about the trust language, the 15-year construction requirement, the five years B&B
9 permit, and the requiring the physical address which you have addressed some of those issues,
10 and I just would ask that a bill be brought forward that has these all clarified before a vote is taken.
11 That's all I have. Thank you very much for all your hard work. You have a hard job.

12
13 Mr. Carnicelli: We get paid well, though. Thank you, Ms. Tjarks. Any need for clarification?
14 Seeing none, thank you. Also, let the record show that Commissioner P. Denise La Costa is also
15 on. Director. Good morning P. D.

16
17 Ms. McLean: The next testifier is Rann Watamull, and he will be followed by Susan Deloria.

18
19 Mr. Rann Watamull: Good morning Commissioners. Hi, how are you doing? Thanks, Chairman
20 and Commissioners, and Director McLean. My concern as you said Commissioner, I'll be exact,
21 19.65.030.G.2, I have concerns with the language regarding the definition of family trust, and I
22 submitted written testimony so I won't read it, but I'll just kind of summarize it for you. I've been
23 in the trust business for about 26 years, helping families in Hawaii with their trusts, administer
24 trusts, and so, what I find is this language is much more restrictive and is not neutral at all. I have
25 some real concerns, in fact, kind of flies in the face of established hundreds of years of trust law,
26 and let me explain.

27
28 First of all, requiring that the trust be a self-trusted trust, who is going to discriminate against
29 Maui families because one of the most popular forms of trust to use is called the irrevocable trust.
30 An irrevocable trust means the grantor or trustor cannot change it during his lifetime, and these
31 trusts are especially popular for people who want to avoid estate tax, avoid and avoid family
32 conflict issues and also liability issues. So, this language would prevent many families would
33 arbitrarily discriminate against families who need to use an irrevocable trust.

34
35 Okay, number two is when you say the definition of family trust must be that the settlor must be
36 the trustee or related to the beneficiaries. Never, in my experience, of any thing I've ever dealt
37 with or I've talked to attorneys across the country have they ever seen a requirement like this in
38 any trust, in any language for anything because on the contrary, most trusts have provisions for
39 trustees who are not family members because it's more common to have a unrelated trustee than
40 a family member.

41

1 In addition, the proposed definition would arbitrarily discriminate against...discriminate against
2 Maui families who do not have a family member who has the ability, the knowledge, skills or
3 inclination to serve as a trustee, and it will particularly harm those families with special needs
4 beneficiaries who are unable to serve. So, of equal importance, an independent non-family
5 trustee is often critical to preserving family relationships, because as many of you know, if you've
6 gone through it, the settlement of our parent's estate often causes much family conflict and outside
7 independent trustees can be a valuable resource.

8
9 So, I've got a suggestion for you rather than circumventing well-known trust law and discriminate
10 against Maui families. How about this, follow the lead of what counties do when they want to
11 consider granting a homeowner's exemption. What they do simply is required that the
12 beneficiaries be named in the trust. So how it would work would be is that the...simply you would
13 say that the family members and heirs would be the sole beneficiaries of the trusts. This would
14 work for you because it would preclude, it would exclude corporate or business, STRH permit
15 applicants without arbitrarily harming and discriminating against Maui's families. So anyway,
16 that's why I have problems with the language of family trust just cause my 26 years-experience
17 of administering these trusts for families, and of course--

18
19 Ms. Takayama-Corden: Three minutes.

20
21 Mr. Watamull: Yes, okay, thank you.

22
23 Mr. Carnicelli: Thank you, Mr. Watamull. Any need for clarification from the testifier? I actually
24 just to clarify, what it is that you're saying is if because okay, here's what we're trying to accomplish
25 cause this is like one of the things that we're, we're, you know, tasked with is I don't want
26 somebody to put this in a trust that's going to be able to get a get around to be able to then
27 somehow sell this. It's not a business, right. This is not something that you can then transfer to
28 somebody else, and...so, part of what I think the intent of this is that if we use so...you're saying
29 named sole beneficiaries in the trust would be the way to do this.

30
31 Mr. Watamull: Yes.

32
33 Mr. Carnicelli: You're saying as an expert rather than—

34
35 Mr. Watamull: Sole beneficiaries and heirs, name them, and that's what we do with in order to
36 get a homeowner's exemption for property tax. The beneficiaries have to be named in the trust,
37 so you name the beneficiary and the heirs as a sole beneficiary so it couldn't go to a corporation,
38 it couldn't go to somebody else. So, if you did that, then that would...I think that would solve your
39 issue without discriminating against those that have to use outside trustees.

40

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1 Mr. Carnicelli: Right. No, I get it because I am, I'm actually one of those people to have one of
2 those irrevocable trusts, so, I get it. No, I understand. So, any other need to clarify the testimony?
3 Thank you. I appreciate your expertise.

4
5 Mr. Watamull: Thank you very much.

6
7 Mr. Carnicelli: Director.

8
9 Ms. McLean: Chair, the next testifier is Susan Deloria, and she will be followed by Jen Russo.

10
11 Ms. Susan Deloria: Hi, good morning.

12
13 Mr. Carnicelli: Good morning.

14
15 Ms. Deloria: Can you hear me?

16
17 Mr. Carnicelli: Yes.

18
19 Ms. Deloria: Hi, good morning, I just want to say again, thank you so much for the opportunity
20 and for doing what you do. So, to keep this short, I think what I would like to point to is 19.65.030,
21 the limitation of or the more restrictive 15 years. I just think that is way too long of a, of a restriction.
22 I think currently right now, the five years, and I do think keeping it consistent between B&B and
23 STR, I think is a good idea. I understand that the B&B doesn't have that at the moment, I think
24 as far as I can, could understand, but I, that was my, that's my only point is to oppose the 15
25 years, and again, just, just another clarification to some of the testifiers that had come before me
26 is that please understand, not understand, please remember that each permit number
27 is...represents a small business in our community. Every single permit number there is a small
28 business and it's been very hard. You know, businesses are still paying higher property taxes.
29 They're paying their G.E.T., they're paying their T.A.T., and that's I think the only clarification that
30 I wanted to point out, and that's it. Thank you.

31
32 Mr. Carnicelli: Thank you, Ms. Deloria. Any need for clarification? Seeing none, thank you very
33 much, we appreciate it. Director.

34
35 Ms. McLean: The next testifier is Jen Russo, and she will be followed by Amy Bond.

36
37 Mr. Carnicelli: You are on.

38
39 Ms. Jen Russo: Thank you so much for what you do here at the commission. Commissioners, I
40 know you've been putting in long days and ...(inaudible)...shut down. and I appreciate that, and
41 thank you to Jacky and Michele for reviewing and clarifying the amendments. I feel that similar
42 to reducing the caps legislation that you saw a few months back, we are in a period of uncertainty

1 and we need more information and context. The procedural changes to the bill aren't terrible, but
2 we feel that the additional five years construction and five years ownership to apply for a B&B are
3 over the top. And in addition, the 15-year ownership requirement on the STRH permit is way too
4 long. We just changed the ordinance a year or so back to add the five years, and do we have
5 data that shows that that did not accomplish what it intended? And if we have that data, why is
6 that not in the report? I think these new restrictions are creating a huge barrier for small
7 businesses to flourish in Maui County. Small businesses that support diversification, regenerative
8 tourism and raise funds for our largest tax base in the county, and pay a large chunk to the
9 affordable housing fund through property tax

10
11 There are some other issues that could be addressed if we are requiring long-term residents with
12 the accessory dwelling, there may be the case where one of the dwellings is doing long-term
13 rental. I think we have to create a special consideration, a tax category, tax rate or tax exemption
14 for those folks doing long-term rental. I think that would really support and encourage the long-
15 term rental use that we want to see.

16
17 Using the tax classification as prima facie evidence of operation is problematic. The County
18 controls the tax classification. The Planning Department updates Real Property Tax Division with
19 what permits have been added or given up, et cetera. So, if you give up your permit and the
20 County still has you classified as short-term and then they use that as evidence to send you notice
21 a violation that seems backward. And if you sold your property and someone new bought it and
22 it was still classified as short-term from the previous owner, then the County sends out a notice
23 of violation to this new homeowner, then there are flags on this property that the new owner has
24 to clear up, but they were never in the wrong. I just think that that sets a bad precedent, and I
25 know we kind of stand on the precipice of the unknown right now, but maybe we want to create a
26 situation where the ordinance supports more young people getting permits or more Maui residents
27 doing short-term rental and B&B or how about a grace period for those expired permits? This is
28 already a highly regulated industry and I don't think we've seen it grow out of control. We have it
29 in tight control, according to the Planning Department, and we've made strides with the illegals. I
30 think these huge restrictions during this time could possibly reverse that work and drive more folks
31 and operations underground. And we know there are pros and cons to this industry, but I think
32 we've created a situation where we have a win-win.

33
34 Ms. Takayama-Corden: Three minutes.

35
36 Ms. Russo: Our heavily regulated permit scheme is not easy to get into. There are a lot of rules
37 to follow.

38
39 Mr. Carnicelli: Thank you, Jen.

40
41 Ms. Russo: And this industry as a whole raises 60 percent of the visitor accommodations.
42

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1 Mr. Carnicelli: Thank you.
2
3 Ms. Russo: Thank you.
4
5 Mr. Carnicelli: Appreciate that.
6
7 Ms. Russo: I hope you think this is the right time to defer.
8
9 Mr. Carnicelli: Any need for clarification from the testifier? Seeing none, thank you, Ms. Russo.
10
11 Ms. Russo: Thank you.
12
13 Mr. Carnicelli: Director.
14
15 Ms. McLean: Chair, the next testifier is Amy Bond, and she will be followed by Francine Aarona,
16 also known as Aunty Mopsey.
17
18 Ms. Amy Bond: I don't know if you guys can see me.
19
20 Mr. Carnicelli: We can hear you.
21
22 Ms. Bond: I'm just seeing how to turn...oh, wait there it is hold on a second. Hi, good morning,
23 Commissioners and Planning Director. Thank you for this time. I appreciate seeing you all again.
24 I have to agree with everything that Jen Russo said. I just want to take a minute to tell you that
25 without...I have a short-term rental home permit and of course, I've not been operating for seven
26 or eight, six or seven months now. I'm home schooling three children virtually. I did apply for the
27 CARES Act money, but because I'm a short-term rental home that didn't work out. I also applied
28 for the Kokua Grant Program through the Maui Business and was also told that I was ineligible
29 because I was a short-term rental home. So, that was heartbreaking.
30
31 So anyway, in discussion with these changes, I really don't agree with changing anything at this
32 point due to the Covid. I feel like all these small businesses are, huis and networks of people that
33 are holding their hands together trying to get through this, and I do feel that in the future, our small
34 businesses in this community are what gonna pull us out of this recession, because we are in a
35 recession. I mean, Da Kitchen, 24-Hour Fitness, the Harley Store, Luna Tide, Mermaid's Tail,
36 Paia Mercantile, Maui Tropical Plantation, the lavender farm, Cheeseburgers in Paradise, Ruth
37 Chris Lahaina, possibly Mama's Fish House, all of these places are gone, maybe to open again,
38 maybe not. So, I just wanted to make that point.
39
40 So, in discussion about these charters, the 15-year on a short-term rental home is way too long
41 for someone to apply for that permit, it's just ridiculous, 15 years is like three presidents later. I

1 mean, I just can't even believe someone would even recommend 15 years. I mean, I have a
2 baby, they go to college, I can apply for a permit, that's crazy.

3
4 Oh, the trust information really needs to be cleaned up. I have a trust. I would like my permit to
5 go to my children if I can still have the permit by then, who knows? But that would be nice if there
6 was true clarification on what happens with that because that's really important. Also, I have a
7 short-term rental home permit and I would, you know, it would be nice if I could have the flexibility
8 to be able to apply for a bed and breakfast permit down the road if I chose to do so. I'm an
9 entrepreneur, I'm a small business owner, and I don't think by saying one person can only have
10 one or the other is really a legitimate reason to say that they can't. I just don't think it's a good
11 reason to, to say that you can only have one or the other. I just feel like that's kind of biased and-

12 -

13
14 Ms. Takayama-Corden: Three minutes.

15
16 Ms. Bond: And that's it. Thank you for your time. I'm hoping that you'll make great decisions
17 going forward.

18
19 Mr. Carnicelli: Thank you, Ms. Bond. Any need for clarification of the testimony? Seeing none,
20 thank you.

21
22 Ms. Bond: Thanks a lot.

23
24 Mr. Carnicelli: Director.

25
26 Ms. McLean: Chair, the next testifier is Francine Aarona, and she will be followed by Netra
27 Halperin.

28
29 Ms. Francine Aarona: Aloha, can you hear me?

30
31 Mr. Carnicelli: We can. Good to hear you.

32
33 Ms. Aarona: I'm sorry, I'm not great at this, operating this iPad, so you can't see me, but you can
34 hear me.

35
36 Mr. Carnicelli: Yes.

37
38 Ms. Aarona: And I promise to tell the truth. You know, my testimony comes today in protecting
39 our aina, and that's the very reason that I'm testifying today. We have allowed gentrification to
40 overpower our way of life, a way of thinking and our respect for each other. We have really lost
41 sight of what is important, and it's time to say no more. I, I sent in a written and testimony, but I

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1 would like to highlight certain things listening to the other testifiers. I can speak for what I say
2 because I'm completely surrounded by vacation rentals.

3
4 The collaboration of the MVRA feel that this is not a good time to be talking about modifications
5 to this ordinance. They feel that there are bigger fish to fry. During this pandemic, it's the perfect
6 time to clean house, and fry that big fish. We have been talking about this for a while already,
7 you know, it's not something new. The small fish has grown and we as a community need to have
8 a clear understanding of the language that are defined in the chapters regarding rentals and
9 B&Bs. Yes, they are against 15-year requirements for short-term rent renter and five-year
10 requirement for B&B. This requirement, however, encourages long-term rental and is a
11 connection to the neighborhood. We have allowed this permitting to get away from us and even
12 though it seems like 15 years, 15 years goes by real fast.

13
14 This proposed revisions allows tracking to be done by requiring physical addresses to prevent
15 false advertisement for duplicate operations of short-term rental and B&Bs, and allows a clear
16 effort for enforcement to be done. This is one area that we are weak and we need to step up to
17 the plate. Now is the time to correct the system and also be sure that the neighborhood knows
18 what's going on. Economic opportunities come to those who do the right things. I ask that this
19 Planning Commission recommend this approval even with the changes. The trust can be looked
20 at, but amending the Chapters 19.35, 64 and 65 to the Maui County Council. If I approved, I ask
21 that the presentation of the new language is made clearer as to the old. So, I mahalo you for all
22 that you do. Please stay safe and healthy in this time, but I think that we need to move forward
23 even though we're in this predicament of the pandemic. It's been a hundred years. What's going
24 to happen the next hundred years? Did we learn from the last past...

25
26 Ms. Takayama-Corden: Three minutes.

27
28 Ms. Aarona: So, I thank you very much for listening.

29
30 Mr. Carnicelli: Thank you, Aunty Mopsey. Any need for clarification of the testimony? Seeing
31 none, always good to hear from you. Be well and be safe, be well and be safe yourself as well.

32
33 Ms. Aarona: Okay, mahalo.

34
35 Mr. Carnicelli: Thank you. Director.

36
37 Ms. McLean: Oh, excuse me, the next testifier is Netra Halperin, and she will be followed by
38 Michael Russell.

39
40 Mr. Carnicelli: Ms. Halperin, you unmute yourself and for your—

41
42 Ms. Netra Halperin: Okay, can you see and hear me now?

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Mr. Carnicelli: Yes.

Ms. Halperin: Okay, great. Okay, so I am Netra Halperin and I am the owner of Opulent Design, a vacation rental and B&B consulting application. So, I am a consultant that helps people get permits. And so, I think it's a good time for all of the things that are making it easier. As many of the testifiers have already mentioned, we are going into a recession, so now is not the time to make it more difficult for people to earn a living. So, I support...I'm sorry, I don't have the numbers, but I will say what I support in the beginning. So, I do support the accessory dwelling be allowed in B&Bs. First of all, it's too restrictive to not allow it, and it also would be too many things happening on one property. So, if you had a main house with an owner and some short-term guests and then the ohana with long-term renters, that's just too much mixing and matching and it's way too complex. It's better that the whole thing, the whole property be a B&B with the owner living in either the ohana or the main house, and then they have their guests in the other spaces that aren't occupied.

And I also oppose to B&B, five-year construction or ownership. Again, it's not the time to be making things more difficult for people to survive. I agree definitely with the smaller signs. Those big signs were, they were just ridiculous. They should be the same, and obviously as a consultant for me, my life would be easier if there's consistency between the B&B permit and the STRH, and the B&B permit was created first, then therefore if it was more stringent and I think that after a year or two that operating the Planning, the County Council realized that some of those restrictions were not necessary, and so it's a little bit more loose with the STRH, and so I think that those...the B&B should have the more loose, unrestrictive requirements of the STRH when the ones you discussed. I absolutely oppose 15 years, I mean, the 15...the house is starting to get old by then and it's just way too restrictive. Again, people need to earn a living, people are, you know, crashing and burning economically right now.

And then the other thing and it's not in the bill, but I'm just going to mention it anyway, property tax. People are paying property tax that is totally appropriate when they are doing short-term rental, but when they are not and they're paying 30, 40 thousand a year and these are high end STRHs in property tax for a building that is sitting empty is completely unfair. It's just not fair.

Ms. Takayama-Corden: Three minutes.

Ms. Halperin: Is completely unfair. It's just not, not fair.

Mr. Carnicelli: Thank you, Ms. Halperin. Any need for clarification of the testifier? Seeing none, thank you very much for your testimony, appreciate it.

Ms. Halperin: Okay, thank you.

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1 Mr. Carnicelli: Director.
2
3 Ms. McLean: Chair, the last person we have signed up to testify is Michael Russell. So, if there
4 is anyone else who wishes to testify on this item, please use the chat function to let me know.
5 Michael Russell, you're up. Michael Russell, unmute your audio.
6
7 Mr. Michael Russell: Hi, sorry about that.
8
9 Mr. Carnicelli: There we go.
10
11 Mr. Russell: Okay, here's a redo. All right, basically I would like to ask the Planning Committee
12 to oppose recommending this bill. Mostly because I feel like there's just way too much uncertainty
13 in some of the provisions, namely, we need to clarify what exactly these provisions mean for, you
14 know, for putting our properties in a trust. The renewals language is still unclear. And the part
15 on taxes, you know, this needs to be tightened up before, before I would ask the Planning
16 Committee to make a recommendation. I think we can revisit this later. I understand there are
17 some things, some, some, some language in there that, that is healthy that makes sense, but
18 there's also a lot of language in there that is frankly, ridiculous. I feel 15 years is way too restrictive
19 and I feel like that right now given all of this uncertainty we, we need some time. We need to let
20 the dust settle a little bit. We already have extremely restrictive policies in place, and I just don't,
21 I would ask again the Planning Committee to defer on making a recommendation on this at this
22 point. That's it. Thank you.
23
24 Mr. Carnicelli: Thank you, Mr. Russell. Any need for clarification from the Commission? Seeing
25 none, thank you, Mr. Russell. Appreciate you giving your testimony.
26
27 Mr. Russell: Thank you.
28
29 Mr. Carnicelli: Director, anybody else sign up at the last minute?
30
31 Ms. McLean: Yes, Mr. Croly.
32
33 Mr. Carnicelli: The ever present, Tom Croly.
34
35 Mr. Tom Croly: The infamous, right. Okay—
36
37 Mr. Carnicelli: We should actually put your name on the Planning Commission page, right?
38
39 Mr. Croly: Thank you for your attention today. I know you have a long agenda, and I really don't
40 want to drag it out. You've heard, you've heard all of the issues to this point. I would like to go
41 down the list and say I agree with this one, I disagree with that one, but that in and of itself would
42 take me more than three minutes. However, what we did hear was some agreement today

1 between some of the testifiers who had issues with the bill and the Department. So, I really might
2 encourage you to ask the Department to bring this back to you at another time once they have
3 worked out those issues of agreement where people can come in and say, I agree, I agree and
4 just work it down to the areas maybe that are left of disagreement.

5
6 There are some issues with what's being proposed here from a practical sense. For example, if
7 we say we want to notify all of the neighbors at a physical address, you can't send a certified mail
8 to a physical address. You can only send certified mail to an individual, okay, and if that individual
9 is a renter in that property, we don't know who they are. I think about the property across the
10 street from me that has five dwellings on it. Of course, only two of them are legal, but who do I
11 send it to? You know, so there's, there's a problem with just that. You heard about the problems
12 with the trust. It took into account one type of trust and excluded a whole bunch of other types of
13 trusts without, you know, a justification. You heard the issues against the five-year ownership
14 requirement for B&Bs and against the 15-year ownership requirement for short-term rentals.

15
16 So, if you're going to have a discussion on this, I hope that you're not going to take this whole
17 thing and say, hey, pass it on, yes or no, but that that we get some, some more feedback between
18 the people who are concerned about this and the Planning Department and then maybe bring it
19 back to you.

20
21 My wife fell off a ladder last week and broke her foot. Tomorrow, she has surgery for that. We're
22 facing very, very uncertain future with that, it's overwhelming me right now, but I bring this up from
23 the standpoint of we're not going to make plans for next year because I don't know what's going
24 to happen with her ability to walk in and so forth, and I think Maui is in the same situation right
25 now. Our entire economic engine has broken more than just its foot and we don't know what it's
26 going to look like a year from now. So, I would encourage you not to take any action that would
27 in any way limit what we may be able to do a year from now or not. Thank you, Chair.

28
29 Mr. Carnicelli: Thank you, Mr. Croly. Any need to clarify the testifier? Seeing none, thank you,
30 Tom.

31
32 Mr. Croly: Thank you.

33
34 Mr. Carnicelli: Director, anybody else sign up?

35
36 Ms. La Costa: Excuse me, Chair.

37
38 Mr. Carnicelli: Oh, P. D.

39
40 Ms. La Costa: Thank you, Chair. I just wanted to say best wishes to Mrs. Croly for her surgery
41 tomorrow.

42

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- 1 Mr. Carnicelli: Director, did anybody else sign up, I didn't hear you.
2
3 Ms. McLean: No, Chair, no one else has signed up to testify.
4
5 Mr. Carnicelli: Okay, so if anybody would like—oh, I heard a voice.
6
7 Ms. Julie Williams: Excuse me, pardon me, yeah, I'm sorry, I was able, I could unmute myself
8 but I couldn't say that I wanted to testify.
9
10 Mr. Carnicelli: That's okay, what's your name?
11
12 Ms. Williams: My name is Julie Williams. I am short-term rental person and I have a condo that
13 is zoned for vacation rental, so my understanding if I heard correctly earlier that this does not
14 pertain at all to the ones that are zoned for commercial or for short-term rental? Is that correct?
15
16 Mr. Carnicelli: Director, I'll let you go ahead and chime in.
17
18 Ms. McLean: Yes, Chair, that is correct. This doesn't affect vacation rentals. So, the proposal
19 that operators can have only one permit that would not preclude them from also having a vacation
20 rental condo.
21
22 Ms. Williams: Okay, is there any chance that maybe the wording can put...be put there to reflect
23 that or is there someplace that I can go because I'm afraid that some of the people in the
24 condominium may decide that, oh, look, they made these changes and now you cannot rent, and
25 I need to be able to provide something that shows that, no, I can, that makes sense? I'm sorry,
26 I'm all new to this.
27
28 Mr. Carnicelli: That is, is being new is quite okay. Is that all you have as far as your testimony?
29
30 Ms. Williams: Yes, as far as if this isn't pertaining to vacation rentals that are in place that was
31 my main concern.
32
33 Mr. Carnicelli: This is not, this does not have to do with condos. The STRH and the B&B
34 ordinance are for single-family residences.
35
36 Ms. Williams: Okay, I guess it was confusing because it says condos in it, so I thought it pertained
37 to us as well, but thank you.
38
39 Mr. Carnicelli: You bet. Any need for clarification to Ms. Williams? Hearing none, thank you very
40 much for coming forward, we appreciate it. If there's anybody else that would like to testify on
41 this particular item, please unmuted yourself, and if you also wish unmute your video as well.

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1 Going once, going twice, okay, so if there are no objections, we'll go ahead and close public
2 testimony on this item. Seeing no objections, public testimony is now closed.

3
4 It is 12:01, Commissioners, I think we should go ahead and take a lunch before we dive into this.
5 Half hour, okay? You guys want 45 minutes, half-hour, you tell me. Let's do 45 minutes. Let's
6 do 45 minutes. Okay, so we will come back at 12:45. So Maui Planning Commission meeting of
7 September 22nd is now in recession till 12:45. Thank you everyone.

8
9 A recess was called at 12:02 p.m., and the meeting was reconvened at 12:48 p.m.

10
11 Mr. Carnicelli: Aloha, good afternoon everybody. The Maui Planning Commission meeting of
12 September 22, 2020 is now back in session. I believe we're in the midst of Item B.2. Director,
13 I'm going to go ahead and pass the ball to you, straight away.

14
15 Ms. McLean: Thank you, Chair. Commissioners, I had a brief discussion with the Chair and also
16 based on the written testimony and the verbal testimony today, I'd like to suggest that the
17 Commission defer this item today and that would allow Jacky and me to work on a revised bill
18 that includes the major changes that we talked about in the PowerPoint that would include
19 eliminating the proposed change to B&Bs to have the five-year ownership and construction
20 requirement, removing the 15-year requirement for STRHs and leaving it as is with the five years,
21 removing the property tax as evidence of operation from B&Bs and STRHs, working some more
22 with Corp. Counsel on the trust language taking into account some of the testimony that we saw,
23 clarifying that ads should use TMKs, not physical addresses.

24
25 I went through my notes from when we met with RAM and the MVRA, there was something else
26 relating to neighbor notification, when there are triggers to go to the Planning Commission that
27 each lot gets one vote. So, if there are three different people that all submit testimony in
28 opposition, that's still one lot in opposition, and clarifying what the changes mean for existing
29 permit holders and renewals. Those were the main takeaways that I got from the discussion and
30 the testimony. If there are any other issues that you would like to see addressed in a revised bill,
31 please let me know. And so, what we would do is work on that bill and coordinate one last time
32 with the MVRA and RAM, and then we'd be able to post that and then schedule it again at a future
33 meeting. Thank you, Chair.

34
35 Mr. Carnicelli: Commissioners, is there anything other than the items that the Director had
36 mentioned that she's going to go back with and then try to come back with a bill that we can just,
37 you know, say be okay with, that all the stakeholders that are okay with rather than us trying to
38 wordsmith it. Is there anything else that you would like to add or you need clarification on from
39 the Director at this point or Jacky?

40
41 Okay, Director, I have one, I have one just clarification, and I think we've talked about it in this
42 commission before where we kind of separate B&Bs from STRHs, you know B&B, someone that

1 lives here, right, someone's part of community, STRHs are, you know, can be somebody lives
2 here and some are and a lot are others, so but when we said, okay, the five-year requirement for
3 B&Bs and then the 15 for STRHs I get that we're saying, okay, not the 15, but the whole point of
4 this is to eliminate speculation, right? Like that's the, that's what we're trying to do. So, in just
5 trying to look at the B&B permit, my first question is before I go any further is do you have to be
6 qualified under real property tax to get your homeowner's exemption before you can apply?
7 Because those rules changed, right? We're just like in order to get your homeowner's exemption,
8 you now have to have filed Hawaii State property tax or it's like Hawaii income taxes last year.
9 So like, if I moved here in 2020, I'm probably not going to file property tax or you know, I'm sorry,
10 income taxes until 21 or maybe 20, and then my property taxes kick in the next year after that.
11 So, in that requirement for B&Bs, is that same kind of requirement there or somebody can move
12 here today, say, oh now I live here, I'm now a resident and I can apply for B&B.

13

14 Ms. McLean: For the ownership requirement for B&Bs, we just look for a deed.

15

16 Mr. Carnicelli: Okay.

17

18 Ms. McLean: We don't go into the homeowner's exemption or anything like that. We only look at
19 a deed to see that the owner is the applicant.

20

21 Mr. Carnicelli: Okay. So, when you go back and meet with MVRA and RAM about this, that's
22 something for me that I think is important, because if we're saying, hey, listen, we want to give
23 somebody B&B license, that means they live here. So, I think that there's got to be I mean, even
24 if you go to Chapter 2.96 has a definition of like who can qualify for you know, workforce housing.
25 So, like we have a couple places in the...you know, in our own ordinances that define what a
26 resident is or how it qualifies. I would like to see something like that proposed. I'm not saying
27 that, you know, I have to get my way. I'm not saying that it has to be in there. But I think that,
28 you know, beyond just, okay, your name's on the deed and you, and you're doing this because,
29 again, if what we're trying to do is squelch speculation, if that was what the intent of the five-year,
30 15-year or whatever it is, you know, mark is then I think that that's something that's not
31 unreasonable to ask. And that's just the only thing that I'll float out there for the conversation that
32 you then have with the stakeholders moving forward.

33

34 Ms. McLean: Okay, we can look into that too.

35

36 Mr. Carnicelli: Okay, yeah, so I don't know if it's an income tax return or whatever it might be.
37 So, but yeah, just some sort of requirement that you are in fact a resident, not just the deed owner.
38 So, anything else, Commissioners? So, I guess I'll entertain a motion to defer.

39

40 Mr. Edlao: So move.

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42 Mr. Carnicelli: Who was that? Oh, Commissioner Edlao moved.

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Ms. La Costa: Second.

Mr. Carnicelli: Seconded by Commissioner La Costa. Discussion on the motion?

Mr. Edlao: I think this is a good idea because there were a lot of comments, a lot of, a lot of concerns even in my mind with the changes, you know the five and the 15-year, and the trustee thing. I think we need to further discuss and come out with more clarification so everybody knows exactly where they're at. And again, I agree with everybody this is trying times, maybe it's time to just step back a little bit and look at it real hard before we move forward into something that may cause more problems. Okay.

Mr. Carnicelli: Great. Thank you, Commissioner. Would anybody else like to speak to the motion? Okay, Director.

Ms. McLean: Thank you, Chair. The motion is to defer so that the Planning Department can produce a revised bill based on the discussion and testimony.

Mr. Carnicelli: Great. All those in favor, please raise your hand. Let the record show that it's unanimous, 8-0.

It was moved by Mr. Edlao, seconded by Ms. La Costa, then

**VOTED: To Defer the Matter in Order for the Department Produce a Revised Bill Based on the Discussion and Testimony Received.
(Assenting – J. Edlao, P. D. La Costa, S. Castro, K. Freitas,
M. Hipolito, K. Pali, C. Tackett, D. Thompson)**

Mr. Carnicelli: Thank you, Director, for that. I also want to say thank you to all the testifiers, everybody that submitted written and oral testimony, it's greatly appreciated. It's always good to see the community come out and have their voices heard and try to make a better mousetrap. Thank you to everybody.

Respectfully Submitted by,

CAROLYN TAKAYAMA-CORDEN
Secretary to Boards and Commissions II

the County Council is unable to make that condition for Molokai, then the Commission would like to forward the comments of the Commission as summarized by Director McLean.

(Assenting: L. Buchanan; W. Moore; B. Mowat; J. Pele; L. Poepoe; J. Sprinzel)
(Absent: J. Perez, III)
(Excused: J. Bicoy; L. Espaniola)

Chair Buchanan: Oh, you thought that was going be simple. Nah. Okay, I going move on --

Ms. McLean: Truly, I had -- I had no idea how you folks were going to react to this. Sometimes I make assumptions that I shouldn't, but I had no idea what your feelings were going to be on this one.

Chair Buchanan: I know we're different. We love being different. We're so proud of being different. But I hope I explained why. Okay, if anybody needs to take a break, you know, five-minute Zoom break, whatever, let me know. Raise your hand, and if not, we're going to power on to the next agenda item. Hang on. Okay, which is item C, no. 2:

Chair Buchanan read the following agenda item description into the record:

2. **MS. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, referring to the Molokai Planning Commission a Proposed Bill to Amend Chapters 19.35, 19.64 and 19.65, Maui County Code, Relating to Accessory Dwellings, Bed and Breakfast Home Permits and Short-Term Rental Home Permits. (J. Takakura)**

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/1127/Legislation---Proposed> and is summarized as follows:

Chapters 19.35, 19.64, and 19.65 are proposed to be amended to allow bed and breakfast and short-term rental home operations in accessory dwellings, subject to restrictions that encourage long-term occupancy; limit short-term rental homes to one per property and per applicant; clarify trusts and ownership requirements; expand notification requirements to neighbors of the property; and other minor revisions.

Chair Buchanan: I guess staff would be Jacky. Director, you want to say something?

Ms. McLean: Thank you, Chair. Yes. I'll just make some introductory comments that these proposals had been in the works for a while, and we have heard from some in the vacation rental community that now's not the time to move forward with these changes. But as it turns out, when we met with them, they actually agreed with most of the changes, there were just a few where there was some disagreement and so you'll see in the PowerPoint that we are proposing some modifications to address those concerns. Of course, the changes to 19.65 and the related ones to 19.35 would not affect Molokai because your cap on STRHs at the end of the year will be zero so, you know, the permitting requirements in processing and so forth, in that sense, isn't applicable to Molokai, but we're required to bring that forward to you anyway in case you do want to comment on those provisions as they would apply to the other islands. So, if there aren't any questions at this point, then, Jackie, can take it away.

Chair Buchanan: Thank you, Jacky. Commissioners, any questions? No. Okay, thank you, Jacky.

Ms. Takakura: Thank you. Commissioner Buchanan and Commission Members. So, I'm going to share screen again. Bear with me for a second. Can I get a thumbs up you can see this light blue screen with the writing? This one is a little bit longer just because we're covering three chapters and, as mentioned, 19.65, I'm just covering it because, you know, it's part of the Maui County Code even though, for Molokai, the cap is zero for short-term rental homes. As mentioned, it's three different chapters that we're looking to amend: 19.35 is the one accessory dwellings; 19.64 is bed and breakfast; and then 65 is the short-term rental homes. And like Michele mentioned, the goal is, you know, to allow for some flexibility in transient vacation rental use in accessory dwelling units while encouraging long-term occupancy, and then we had a few housekeeping items, like clarifying some definitions in ownership and trying to make some things consistent between 64 and 65.

Okay, so as mentioned, we're trying to allow for some flexibility in allowing accessory dwellings to be used for either bed and breakfast or short-term rental – or I'm just gonna say bed and breakfast here, and we can just disregard the short term rental home, but also we want to make sure that there is some long-term occupancy on the property. Limiting short-term rental homes to one per property per applicant. Like I mentioned, we would need some clarifications and definitions, revisions for consistency, improvements for notification of neighbors, and then little things like you're going to see throughout here changing the word "shall" to "must;" that's kind of consistent with the County Council's overall goal of making the Maui County Code more user-friendly and readable.

Throughout the presentation, you're gonna see some things in green and some things in red. Those are the things that we think are more lenient, those are going to be green, and the things that are going to get a little bit more restrictive are in red. And like the Director mentioned, we did meet with Realtors Association of Maui and the Maui Vacation Rental Association, so you're going to see more things in italics that we're proposing to

revise based on their feedback, and, you know, we will continue to work with them, you know, if there are any further changes, but, hopefully, we can get this figured out and get it right. So next slide. And this is the Chapter 19.35, there's just --

Chair Buchanan: Jacky? Sorry.

Ms. Takakura: Yes?

Chair Buchanan: Jacky?

Ms. Takakura: Yes?

Chair Buchanan: Who's "them?" The County Council?

Ms. Takakura: Oh, I'm sorry. The Realtors Association of Maui and the --

Chair Buchanan: Oh. That's what I was wondering.

Ms. Takakura: Yeah, MVRA. Just getting some feedback from them as we go through this process.

Chair Buchanan: Okay. That's what I was wondering. Thank you.

Ms. Takakura: Okay. Sorry. Okay, so just this one slide is about accessory dwellings, and the proposed change is to say that an accessory dwelling may only be used as a short-term rental home if the main dwelling and other accessory dwelling, if applicable, are occupied on a long-term residential basis. In the event of bed and breakfast, it would be only one accessory dwelling per lot may be used as a bed and breakfast home. So that would mean, for bed and breakfast, that they could operate in the main dwellings and/or an accessory dwelling not to exceed two dwelling units. Other dwelling units must be occupied on a long-term residential basis, and when we say "long-term residential basis," that can mean owner-occupied or a long-term rental or an owner's second home that if they stay at that occasionally, so this allow for some flexibility without changing the numbers, so, like for bed and breakfast, it's still limited to two dwelling units on the lot.

Chair Buchanan: Jacky, I no understand. I sorry.

Ms. Takaura: No problem.

Chair Buchanan: What is the dwelling unit?

Ms. Takakura: Oh, the houses, so it could be like the main house or the accessory dwelling units.

Chair Buchanan: Okay.

Ms. Takakura: 'Cause, you know, on some bigger lots, you're allowed to have more than one main dwelling or some bigger lots can have more than one accessory dwelling?

Chair Buchanan: Okay.

Ms. Takakura: So what we're proposing is for the bed and breakfast, you can have the bed and breakfast in one accessory dwelling, but only one. The other, because with bed and breakfast you can have two yeah? So the other one still has to be in a main dwelling and they're still maximum two.

Chair Buchanan: Okay.

Ms. Takakura: Okay. Bridget, go ahead. I see your hand. Sorry.

Chair Buchanan: Commissioner Mowat, you have a question?

Ms. Mowat: Yeah. Can you define again, I'm sorry, the -- what is the accessory dwelling? What qualifies it to be an accessory dwelling? Is it just a second building?

Ms. Takakura: So we have accessory dwellings in 19.35 and those are permitted based on the size of the lot, and then I, you know, there are some special restrictions for accessory dwellings on Molokai. I will have to pull up my Maui County Code 19.35 that's -- so this is 19, I'm looking at 35. I'm sorry. I'm just looking at another screen. Okay, so for Molokai, one accessory dwelling shall be permitted on a lot that is 7,500 square feet or greater; that's in addition to the main dwelling, and it's allowed for lots that are 7,500 square feet or greater on Molokai. Does that answer your question?

Ms. Mowat: I guess. I remember we were talking about accessory dwellings and -- or --

Ms. Takakura: Yeah, there's limitations on like the size and, you know, the connections and so forth. They're pretty regulated, specifically, in this chapter ...(inaudible)...

Ms. Mowat: And their use and their -- what they're -- and their uses. Yeah.

Ms. Takakura: It's for residential dwelling. Yes, to live in.

Ms. Mowat: Okay.

Chair Buchanan: So, Bridget --

Ms. Takakura: Does that ...(inaudible)...

Chair Buchanan: Hang on.

Ms. Takakura: Yeah.

Chair Buchanan: I think, Bridget, don't get confused because accessory dwellings in different zoning --

Ms. Mowat: Zoning. I'm thinking about the ag.

Chair Buchanan: Yeah ...(inaudible)...

Ms. Mowat: Yeah, farming. Farming. That's what I thinking of.

Chair Buchanan: Okay. Thank you.

Ms. Mowat: Okay. Mahalo. Thank you, Jacky, for the clarification.

Ms. Takakura: You are correct because some ag is different. Yes. Yes. Okay, so -- and then we can also talk some more after, yeah, as you go. Okay, so this is now looking at the next Chapter 19.64, bed and breakfast homes, and this part in the green at the top is the parallel language about allowing -- proposing to allow the -- a bed and breakfast use in two single-family dwelling units, and so that means it can be in a main dwelling or the one accessory dwelling unit. So that's just kind of the same thing that we have in 19.35 but putting it here also so it's the same thing.

Ms. McLean: Jacky --

Ms. Esmeralda: Jacky, I think you're muted.

Chair Buchanan: Jacky, you're on mute.

Ms. McLean: Jacky, you're muted again.

Chair Buchanan: Did she fall off?

Ms. McLean: Jacky?

Chair Buchanan: I think she's not on.

Ms. Mowat: She looks frozen. She looks like she's frozen.

Chair Buchanan: Poor thing.

Ms. McLean: Let me give her a call.

Chair Buchanan: Okay.

Ms. McLean: Sorry, Chair. She -- she put her phone on transfer to voicemail since she's in the meeting but we're going to run down and ask her to -- to regroup. So, it should just be a minute.

Chair Buchanan: You know what then? Can we take a recess?

Ms. McLean: Perfect time to take recess. Perfect. Okay, Stephanie, Commissioners, if there's no objections, we're going to take a recess, and we're going to recess, let's give it five minutes. Thank you, Suzie. We in recess. Recess.

(A recess was called at approximately 12:27 p.m. The meeting reconvened at approximately 12:41 p.m.)

Chair Buchanan: We left off with Jacky. We leading off where Jacky left off. Thank you, Jacky.

Ms. Takakura: Thank you, Chair Buchanan. Sorry about that. For some reason my computer was resolving network issues, so I went out and came back in. But I'm going to share screen again and I think this is where we left off, or were we on the previous slide? This is the one about the five-year construction. Did we see this one? Sorry, I don't know where we -- where I -- I lost. I'm going to go one slide up. I know we talked a little bit about the accessory dwellings, and I think we got that understood, so then I moved to bed and breakfast homes, and this first part is kind of the parallel language that you saw in the 19.35 saying that bed and breakfast use may be permitted in no more than two single-family dwelling units, that could be the main dwelling or the accessory dwelling, but still it's limited to two dwelling units, period, and then any other dwelling units have to be occupied long-term. This could warrant some adjustments to real property tax classes to recognize the long-term occupancy.

Next slide on this subject, still on bed and breakfast homes, Chapter 19.64, and you can see this is in red, so it's a little bit more restrictive. What we had proposed initially was limit -- putting in that same limit that they had for short-term rental homes, limiting bed and breakfast homes to units that were constructed at least five years prior to the date of application and owned at least five years prior. In talking with Realtors Association and the Vacation Rental Association, we agreed to revise it to just five-year construction requirement only and the goal of that is to reduce the opportunity for speculation. You know, we know that some families might want to start operating a bed and breakfast to

generate more income in light of the COVID-19 pandemic so, you know, we can remove this one, if that's your preference.

The middle item is that Lanai Planning Commission came up with their own proposal for their cap of 21 permits for bed and breakfast so that we have it in here; that bill is already en route to County Council. And then the last part that I have in italics is something we wanted to add, it's something we have proposed in 19.65 and we just want to say the same thing here, that no bed and breakfast permit may be issued to anyone who holds a valid short-term rental home permit or who has been banned from applying for a short-term rental home permit, and that's just to allow others to participate in this market and it eliminates a loophole for rule-breakers 'cause, you know, some people might try to -- if they can't do one, they might try the other.

Okay, still in bed and breakfast homes. This is about the signs and we just want to make the sign requirement the same as the short-term rental home ones, and actually, for Molokai, it's already a four square-foot sign so this would make Maui and Lanai similar because, right now, the current rules for a Maui and Lanai are a 16 square-foot sign, and so we're proposing that it be a four square-foot sign, so it would be same for the three islands and also between the two chapters of the code, and it also changes the dates that they have to post it and take it down, and that's, like I said, for consistency purposes.

Okay, so the next part is about the public hearing criteria and the notification requirements, and again, it's to make it consistent with the short-term rental home requirements 'cause, right now, if planning commission review is required, it's actually more complicated to get this processing than it is to do the short-term rental home one, so we'd like to make it consistent so it's easier for everyone. And then the criteria about the public hearings, the current criteria for bed and breakfast public hearings is if there's one existing B&B on a lot within 500 square-foot distance, for short-term rental homes, it's two, the proposed revision makes it two here and that's consistent with the two types.

The last item here we had proposed to add that a tax class, a real property tax class, could be used as prima facie evidence, but in talking with -- in further discussion, we decided it's not a priority for the Department as tax classes are established by the County. So that one -- that one is okay to take off.

Okay, so that's it for bed and breakfast. I'm just gonna go through this part, the short-term rental homes quickly, even though, you know, the cap on Molokai is zero. This is the part about accessory dwellings that the short-term rental home use could be permitted in the accessory dwelling or the main dwelling; any other dwelling units would have to be occupied long-term, so that's the proposal for that and, like I mentioned, it's parallel to what we have in 19.35.

And then we have some changes here regarding definitions and trusts and this provision would require that trustees belong to the family of the family trust, and we worked with Corporation Counsel on this trust language after we had some struggles with two applications from trusts, and so what we've proposed is that the trust must be in the name of the applicant, and then the definition for family trust is self-settled revokable trust, where the trustee is also the trustor or grantor, or is related by blood, adoption, marriage, civil unions. And this language clarifies how trusts work as ownership entities for short-term rental homes. Existing ones would be allowed to continue, like grandfathered, if they don't fit this definition, but new ones would have to comply.

This next item, the one that's in red, is just simply one permit per applicant, period, because, right now, there's some language in there about like if the property is over 3.2 million dollars, then it's okay to have more than one. We'd like to make it clear and simple that one permit for applicant.

Then the last item here that you see on the bottom is to eliminate loopholes that could be used for investment purposes, and what we have here is that the permit wouldn't be transferable in any way, and we want to add that in the instance of a trust that it could transfer to the beneficiary of the trust.

We want to add some additional criteria that assists the applicant in conforming to the character of the existing neighborhood and being part of the community. This will assist the applicant in getting approved when they go to the planning commission. And this kind of information, like benefits that the STRH brings to the community and then the justification and reason for applying, those usually are asked anyway during the hearing so it should be included upfront, you know, it just makes it clearer to have that information right from the start.

The last one that you see in red is the short-term rental home limiting -- proposal to limit the short-term rental home to dwelling units that were constructed at least 15 years prior to the date of the permit and that it was owned by the applicant for at least 15 years prior to the date of the application, than 5, and this requirement was requested by the Mayor and we do understand that this may not be a popular proposal, but there it is.

Okay, just a few more details, and this is little things. For Lanai, their cap is at 21 and, like I mentioned, that is en route to County Council. We also have some experimental and demonstration housing revisions, those are kind of like affordable and workforce housing, and vacation rentals are inconsistent with the purpose of that kind of housing so we want to make it clear that they would not be permitted. The one in the middle, no short-term rental home permit may be issued to any person who holds a valid bed and breakfast permit or has been banned from applying, that's just like what we have in the bed and breakfast permit proposal, we want to have the similar wording and that just, you know, allows others to participate in this vacation rental, and it also eliminates a loophole

for rule-breaking. The second from the bottom, we propose that ads must include physical street address, but we'd like to change that to just use the tax map key number instead. For us, that's enough information for verification and enforcement, and it doesn't compromise the safety of a guest or the owner. And then last one, owner cannot have a financial interest in another B&B, that's just adding the B&B in there, and that, again, is to allow others to participate in short-term and bed and breakfasts.

So, the next part is about notification, because one of the things that we hear often is that, you know, like say a neighbor rents nearby and they don't get notification so we would like to include that physical addresses of a proposed short-term rental home get notification also; that way, at least, you know, the neighbors who may -- maybe they're not on the side that they would see the sign, at least they get notice. The next part is about the advertising as evidence, I mean, excuse me, including real property tax classification as evidence, we're okay with not having that in there, that was just proposed as another tool for our enforcement, but we're okay with not having that in. And then the last part on the bottom of this slide, I did have a typo on the bottom of page 22 of the draft bill, I think I copied and pasted, but the only change for that part, 19.65.080.D.1 is just changing the "shall" to the "must," so I apologize for that.

Okay, so in a nutshell, those are the proposals allowing accessory dwellings to be used for bed and breakfasts or short-term rental homes if the other dwellings are occupied long term, so that gives them flexibility. Definition of family trust. Some revisions to ownership requirements, and ...(inaudible)... for permits consistency because when things are consistent, it's easier to comply and we'd like compliance. Increase notification for neighbors. So, you know, those are basically the goals of what we have here.

We propose that existing permit holders would continue under existing rules, and the only change that would lead to is that when they come in at time of renewal, they would just have to notify the requirements to the neighbors and make sure this is clarified. Upon renewal, they will be allowed to continue as they were approved, unless, of course, they want to make changes but, otherwise, they would just be, you know, continuing under the existing bill.

So, just like the other one, we're requesting that you approve the bill with some revisions, as -- that we went over, you can make other revisions if you want, we can defer, or you can recommend denial. It's up to you. That's it in a nutshell and we can take any questions, and I'm going to stop screen sharing, but can always go back to anything that you need to.

Chair Buchanan: Okay. Thank you, Jacky. Okay, Commissioners, you guys like take public testimony first or you guys have questions right now? Okay. I cannot --

Mr. Sprinzel: Public testimony fine.

Chair Buchanan: Okay. Thank you. John. I just was saying I never see you. Alright, so we're going to take public testimony first on this agenda item. If there's anyone in the public wishing to testify, please chime in, state your name for the record.

Ms. Poepoe: Hi. This is Mahina Poepoe.

Chair Buchanan: Hi, Mahina.

Ms. Poepoe: I only have couple notes that I took during the presentation. First, I really like the idea of putting the TMK on the advertisements. I think that'll really help finding the illegal one. And then the -- the other point was that, on Molokai right now, all B&Bs have to come through the Commission regardless of triggers and I think that this should remain the same for Molokai and not be made consistent with the STR review process just to ensure that all of them come through Commission and aren't just approved by the Department because there were no triggers, if that makes sense.

Chair Buchanan: Okay, great. It does make sense. Thank you for the reminder. Okay. Does that conclude your testimony?

Ms. Poepoe: Yes. Thank you.

Chair Buchanan: Okay. Commissioners, any questions for the testifier? Okay. Thank you, Mahina. Seeing none, is there anyone else in the public wishing to testify on this agenda item? Okay, seeing none, we will close public testimony on this agenda item. Commissioners, you guys have any questions on the report from Jacky for short-term rentals and B&B?

Mr. Poepoe: I had a question?

Chair Buchanan: Commissioner Poepoe.

Mr. Poepoe: How much did the Realtors Association weigh in on - on the changes?

Ms. McLean: Chair, this is Michelle. Jacky noted in the presentation the proposed changes based on our discussions with them. If that wasn't highlighted in the PowerPoint, then they didn't have any input on -- on everything else; just the ones that were noted in the presentation are where we're agreeable to making some revisions.

Mr. Poepoe: Were there any other -- other stakeholders identified?

Ms. McLean: It was the Realtors Association of Maui and the Maui Vacation Rental Association together made those requests.

Chair Buchanan: Okay. Any more questions, Commissioner, Poepoe? No? Commissioners, any questions? Did I lose -- oh no. There's Commissioner Mowat. Okay. Okay. Yeah, go ahead, Commissioner Moore.

Mr. Moore: I was wondering if project managers are permitted to manage these properties because a project needs a license to manage one property.

Ms. McLean: Commissioner Moore, the -- a bed and breakfast has to be operated by the owner proprietor, I mean they could hire someone to help with the business, but a B&B itself needs to be run by the owner, proprietor. A short-term rental home, which you won't have on Molokai after the end of the year, can have a manager and there are requirements for the manager.

Mr. Moore: Thank you.

Chair Buchanan: Okay, Commissioner's, any more questions? Okay, Jacky, I had a question on the presentation. You stated that on one of the slides, and I was too slow to catch it, but my question was for husband and wives because we had a husband and wife who owned -- who were married but had multiple parcels, placed multiple parcels under business names and then also on themselves, so how is the County defining "per person?" I see on one of the slides you cannot be related. Or what did it say? I'm wondering if the husband and wife can individually own multiple units and apply separately. And you on mute, by the way.

Ms. Takakura: Thank you, Chair. So, right now, the proposal, and this is for short-term rental homes, is simply one permit per applicant. I don't think we had any proposed revisions --

Chair Buchanan: We have a definition for "applicant?"

Ms. Takakura: I'm not sure if we had any proposed -- anything making it more specific for bed and breakfast though. I'm going to look.

Mr. Poepoe: I see 19.65.050.A.8, owner cannot have financial interest in another B&B or STRH.

Ms. Takakura: Yes, that is correct. I'm just checking the bed and breakfast language in that --

Ms. McLean: Chair, I don't think that the bill, as proposed, would prohibit a husband owning one property entirely in his name and a wife owning another property entirely in her name. If the property is in both of their names, then he couldn't get a B&B one and

she have one in the other because they have an ownership interest in both. But if they own them exclusively in their own names, then each one could get a permit or -- for those properties.

Chair Buchanan: Okay. And on that same trend of thought, an applicant can be a corporation?

Ms. McLean: Yes, as the bill is written now.

Chair Buchanan: Okay. So that's one of my problems. Okay, so for me, the whole short-term rental and B&B, the real issue, the underlying basic issue is the zoning. I always thought that the County of Maui was erroneous in allowing commercial uses in the residential areas and that a commercial business, such as a short-term home rental and a bed and breakfasts could be in appropriately zoned areas, and when people think that we don't have any B&B and short-term -- actually, we have a lot. Any condominium that is in appropriately zoned area or any resort in a resort owned area is a short-term rental, so when people say we don't have any short-term rentals, that is really, really wrong. Every -- every Hotel Molokai, every Wavecrest, every Ke Nani Kai is a short-term rental. So the -- the real -- and this is why we have continuing issues with B&B and short-term home rentals is because they're in neighborhoods where our kids are riding bikes on the road. So, we have people in a short-term rental that -- that you don't know in your backyard. I have a problem with that. I will always have a problem with that forever and ever until I get my council person to try and to introduce bills to rescind the type of decision-making that was meant -- made to allow a nonconforming use in a area that was zoned for families. And to have a corporation own -- make a financial interest in the State of Hawaii to purchase homes purely to make money in my backyard is wrong. It's just wrong. And so I know people don't like it when I say that, this is my personal experience having had to deal with a few illegal short-term rentals in my neighborhood, and it just adversely impacted everyone in my community, so from parking, inadequate parking to people just not knowing that we had a hearing-impaired child in our neighborhood that couldn't hear cars speeding up and down the road, but people who lived there knew that we had a hearing-impaired child in our cul de sac. So, again, it's almost like the zipline yeah. People not are not aware in a rural area of what goes on day to day. Short-term home rentals that are primarily used not by locals, but by tourists, should not be an allowable use in a residential zoned area because they're already permitted in areas zoned appropriately for that use, and I want that conveyed to the County Council. It took us, what, ten years to pass our zero cap, and that was so hard. It was just painful. It's painful. And so, I no like pain. And I -- and I tired of advocating on behalf of my community to people who no understand. So, I guess for this, all the stuff that was in green, which was to make it more lenient to be -- I can see being in compliance with short-term home rental, but I have a question on the B&B. I see Lanai put a cap on B&B. Currently, correct me, Molokai has no cap on B&B? You muted, Jacky.

Ms. Takakura: Thank you, Chair. That is correct. Lanai Planning Commission proposed a cap of 21 permits for bed and breakfast. And you are correct that the -- there's no cap right now for the Molokai Community Plan area.

Chair Buchanan: Okay. Did the Lanai -- oh, you know what? I'll hold my questions. Commissioner Pele.

Mr. Pele: Oh, I just wanted to verify and -- and correct me, we have five B&Bs active on this island right now, on Molokai?

Ms. Lopez: Currently, you have -- sorry. Thank you. Can I answer that question?

Mr. Pele: Yes.

Ms. Lopez: You, currently, have two bed and breakfasts here on the island.

Mr. Pele: Oh, two? Okay. Thank you. Thanks.

Ms. Lopez: And they're all located in the Kawela District of Molokai.

Mr. Pele: Okay. Thank you.

Ms. Takakura: Excuse me, Chair. Buchanan may make a correction? So I'm just looking at the Maui County Code for 19.64, bed and breakfasts, and the permits has to be in the name of the owner proprietor who shall be a natural person and the owner of the property. No bed and breakfast home permit shall be held by a corporation, partnership, limited liability company, or similar entity. So, yeah, for bed and breakfast, yeah, that's a, yeah, it cannot be held by a corporation, so I just checked, looked -- I looked at 19.64.

Chair Buchanan: Okay, thank you. Commissioner Pele, you had any more question?

Mr. Pele: Oh no, thank you. I just was trying to refresh my memory. I did catch the cap and I don't think we ever addressed that as far as the B&B was concerned.

Chair Buchanan: Okay, thank you. And I think that this Commission was amenable at the time for the B&B because the natural person was a live-in person that provided oversight, and the problem with the short-term home rental was that all they had to do was have a name and a number for a manager, like Commissioner Moore stated earlier, and that was for kind of like a 911 when people was partying like animals and you needed to call someone, so is that the same for B&B signage, that there's a number to call? You muted?

Ms. Lopez: I can answer that question. Only for Molokai, on the signs, you need to include the owner's telephone number, and that's under -- in the B&B ordinance.

Chair Buchanan: Wow, how awesome. How awesome is Molokai? At least if people partying like animals, we -- we get somebody to call. We no gotta -- I know I'm so frustrated at times when we have something going on and we have nobody to call except our Maui Police Department to burden them even more. Commissioner Mowat.

Ms. Mowat: And that's -- that's something that kinda like I want to add on to yours is that in the community, when people pau work, they go home, they wanna to cook dinner, they wanna to kick back, in a -- in a short-term rental, these guys are on vacation, they partying, you know, disrupting the whole environment of the community, so that's why I agree with -- with, you know, Lori's comments that it doesn't really belong there and we got -- we have zoning, we have Molokai Shores, we have, you know, that, yeah, I no have any problem with because they're going to have all the maintenance or they're going to have the security there to keep everybody quiet. So, there's designated areas for tourism or the tourists, let's keep 'em in the designated areas and not in the family -- in our -- in our communities. So, I just wanted to add on to Lori's comments. Mahalo.

Chair Buchanan: Thank you, Commissioner Mowat. And with that, Jacky, what Commissioner Mowat was just talking about, can you go back to the slide where the Council wanted to add in the green verbiage about conforming to community on the application instead of waiting for it to come up because we -- you on mute, Jacky. Okay.

Ms. Takakura: I just -- I have to find it.

Chair Buchanan: Yeah.

Ms. Takakura: Okay, so I'm going to share screen again, but this is regarding the short-term rental home permit applications, so that's not actually relevant to Molokai, but, yeah, we would like to add this information so that the applicant can include it, you know, when they submit everything, the benefits that the short-term rental home will bring to the community, and then justification and reasons for applying for the short-term rental home, and how the property would be used if the permit's not granted 'cause those are standard questions that come up at the hearings now, we see this all the time, so at least the applicant can start preparing the information from the time of the application.

Chair Buchanan: Okay. I was kind of surprised to see this because staff often cautions the Commission not to -- not to use, not to overreach our authority. I found that this -- this question or this guideline or consideration, it says that the planning commission must consider. I'm just surprised to see it. I mean I'm happy to see it and I don't have real -- an issue with it, but I -- if this is something that can go -- is this new language, Jacky? So

if -- if you guys can insert new language like this and also the new language following in red, why we no can put in new language? You muted, Director.

Ms. McLean: Chair, this is Michele. If I could take a stab at that.

Chair Buchanan: Okay.

Ms. McLean: It may be, in the past, that the two bullets there in green about the benefits to the community or the justification or reasons, if you have been guided in the past to not consider those things, that could be because it wasn't in the law as one of the things for you to consider, and so we try to file -- try to follow the criteria and those haven't been in there before. We're proposing to add it though because most commissions have tried to glean this information from applicants and so for it to be something that applicants know are to be considered, then -- then they'll put it in their application and they'll be prepared to address it; that's why we put it in green because we think it will be helpful to applicants even though if they don't answer those sufficiently, then it might work against them, but I think it could help them overall, but that's my guess as to why you had been steered away from considering those things because they weren't included as criteria before. And to answer your question about criteria that could be considered, I think you can suggest things, they need to be lawful and have a connection to -- to the use or else Corp Council's going to tell us you can't say that, but certainly you can -- you can suggest other criteria. I mean it isn't applicable to Molokai anymore anyway but, in general, you know, that's how it would work on criteria for permits.

Ms. McLean: Thank you, Director. And while it may not be applicable today, we could all be gone tomorrow and it could be applicable to the new commission that wants to restore short-term home rentals. So, I guess if I was an applicant, I would say where does it validate that my project has to be a benefit to the community? Is that -- is that validated somewhere else as a use or as like this project should have benefit to the community and explain that benefit almost like if you was going through the SMA or 343 or something?

Ms. McLean: Sometimes applicants offer these things up themselves, for example, we've had applicants, on Maui anyway, who have part-time homes here so they do spend time on Maui, and when they're here, they're active in community organizations, they give in financial support to various nonprofits, they volunteer, so trying to establish their connection with the community and that they care about this place and will be respectful operators, so a lot of times applicants will offer this up themselves. This won't work very well for applicants who really have no connection, who have a place as an investment and, you know, rent it out, don't really spend time here themselves, it would be hard for them to -- to meet these criteria. So, that's how it kind of fits in.

Chair Buchanan: Has the Attorney General weighed in on the verbiage? I mean have you guys vetted this through your guys' law people?

Ms. McLean: They haven't reviewed the bill yet. The way that the process works is they don't review the bill until it's ready to be transmitted to Council.

Chair Buchanan: Okay.

Ms. McLean: So, they could -- they could have issues with this or they may recommend refinements to the language, but we're --

Chair Buchanan: Okay.

Ms. McLean: We're hoping that they'll be able to support it to some degree.

Chair Buchanan: Okay. The only reason why I say that -- that this is so mushy because the Commission, Molokai Planning Commission, has tried to do this in conditions and we've constantly be told that we treading on -- into territory that is legally wishy-washy, so that's why I kind of surprise. But anyway, moving on to the -- what's in red -- oh, sorry. Jackie, you can put that back up? The red. I like -- I like talk about the red before we go, and please, Commissioners, I sorry, for the patience, because we make a law and make a rule, it ends up being really bad, and then we spend years trying to fix it to be some -- when we shouldn't have even had it, and this is -- I -- I see this in red as a product of that, so we limiting the single-family dwelling units to have been constructed at least 15 years prior to the date of permit application and to be owned by the applicant for at least 15 years, and I can read between the lines to see that this is for people, local people who have owned their home for quite some time and -- and that's why it's more restrictive instead of people who just come in and buying up homes in order to make money. Am I close, Director?

Ms. McLean: Yeah.

Chair Buchanan: Okay.

Ms. McLean: This was a request, as Jacky mentioned, from the Mayor. Right now, it's a five-year requirement but he -- he felt that a longer term would -- would confine it more to -- to residents or people with a longer-term connection to Maui County.

Chair Buchanan: And so, for something like this or any of the other proposed changes, after the last period, we can always say, except for on Molokai, yeah? Like, right now, I could say, except for Molokai, where single-family dwelling unit must be constructed at least 20 years, I could say something like that, right, as a proposal? I'm not going to but I'm just saying so because if the Mayor can, I can, right? So. Okay.

Ms. McLean: You've done it before. I don't see why you can't continue to do it.

Chair Buchanan: Okay. Okay. I sorry. I just getting punchy at this point on wordsmithing because that's where we lose a lot of stuff. So -- so, Commissioners, we should put one cap on the B&B right now because we can and instead of taking ten years to do a cap, and I'm thinking that the Lanai Planning Commission did not have a protocol, like a scientific protocol, for coming -- deriving at 21, using whatever data that they had in order to find out what was amenable to them, like we could do some piecemeal, arbitrary stuff right now. Jacky.

Ms. Takakura: Excuse me, Chair, if I may. Thank you. The Lanai Planning Commission had at least five meetings on this subject so they -- they did have quite a few workshops and meetings and worked with the Director and the Deputy Director to come up with their proposal. I believe you could put I would -- I would imagine it would be a separate item from this, but probably Corporation Counsel can advise on that.

Chair Buchanan: Commissioners, if you guys not going whoa, there's Stephanie. I going whoa. Yeah, that going be step -- that -- that going be one definitely step for us. So, right now, B&B is pretty much in line STHRs. I kinda funky on the use, you know why? Seventy-five hundred square feet is not that big you know, 'cause my lot is seven thousand square feet right now, and if I was to squeeze another house to rent out for tourists, boy my neighbors going be kinda wild because I going be right up -- right up to their front door, and then too I'm on a cul de sac, and in every cul de sac, you cannot park your cars because emergency vehicles cannot come in and turn around. Is that correct, Fireman Poepoe? Commissioner Poepoe? We all had to move our cars to comply. Commissioner Poepoe, is that true?

Mr. Poepoe: It's really hard to turn in a loop when there's a car in it.

Chair Buchanan: Okay. So, you know, if you're in a cul de sac, your parking restriction, so are there any associated parking restrictions that go on with accessory use for B&B and short-term home rental under this ordinance?

Ms. Takakura: Thank you, Chair. The B&B Chapter 19.64, I believe it already has parking restrictions that parking can't be on the street, but that wouldn't change.

Chair Buchanan: So, there would be no street parking. So -- so, if my neighbor had one short-term home rental or B&B, and one of their clients came up and parked on the street, I could call MPD and have them remove their car or ticket their car?

Ms. McLean: I don't know if it would be MPD. If -- if it's a traffic violation, then yes, you could call in MPD. If parking is otherwise allowed on the cul de sac, then it would be a zoning violation and you would call us and we would site the operator.

Chair Buchanan: Oh my God, that is not going to work for me, Director, because we don't have a zoning inspector on Molokai. Oh my gosh, that is so not going to work for us. I mean that's -- that's the whole reason why we put the 911 on the -- on the sign. So, okay, so now if people partying, right, we call 'em, we call the operator, nobody answer, the house, so we call MPD but they going to one noise complaint, yeah, not to one zoning infraction. Okay, we cannot do this then if our only recourse to have that car ticketed or removed is to call Maui County through our request of service process, is that how that would be handled, Director?

Ms. McLean: Yes.

Chair Buchanan: Okay. So, because I'm the Chair of the Planning Commission, I cannot do requests for service because I don't even know if it'll ever come back, so I would have to ask somebody else or my neighbors to file a request for service to remove tourist cars that are parked illegally 'cause they supposed to be on property, but they not. Okay. I just setting the scenario. Thank you.

Ms. McLean: Yeah, I mean I -- I certainly understand what you're saying, but if parking on the street is legal otherwise, then it doesn't have the urgency of MPD having to remove the vehicle. It's a zoning violation. It's a permit violation. But if parking is prohibited on the street for anybody, then yes, MPD could remove that car like they would remove any other car. So, the car itself, it shouldn't make a difference in this scenario whose car it is. If it's not supposed to be there, then it should get removed.

Chair Buchanan: Okay, so before COVID, I went to visit family in Kahului and in Wailuku, and I had to park my car five -- five blocks away because the parking issue in Wailuku and Kahului is so stressed because of McMansions, and so that's why you shouldn't have commercial type of uses in residential areas because we already get multi-general families in houses 'cause nobody can afford, so that's how come I want the County Council to know how adamantly we are -- I am opposed to this in the red because it's a nonconforming use, period. Nothing to do with a B&B for make money or accessory dwelling. And if people can afford it, hurry up and build one five hundred square rental, and then add to the congestion in my neighborhood, and then not have a means to enforce that if I have problems with that accessory use and I cannot have the help of the manager or the homeowner, so it's just a messy slippery slope. So, I would say no. I mean to make it more restrictive and I no go along with the making it more permissible. Commissioners, any more questions? I lost Commissioner Pele. Okay. Oh, you there. You lying down. Okay, I see your hand. I see your hand. I sorry you guys for belaboring

this. You said that short-term home rental and the B&Bs was not allowed in experimental housing. Is that the only restriction? Where else it's not allowed?

Ms. Takakura: If I may, Chair? Thank you. It's already not allowed in affordable housing and workforce housing. This part about the experimental housing, it's we'd like to add that in because it's something in reference to HRS, not in the Maui County Code, and so just adding that to the list of where it can't occur, you know, affordable housing, workforce housing, and then this kind of experimental and demonstration housing.

Chair Buchanan: Director McLean, is there any way in this that we can add except on Molokai where it will not be permitted in interim or residential zoned areas? STHRs and B&B? Can we insert that somewhere in here?

Ms. McLean: I think it's -- I don't think there's anything wrong with you making the recommendation, but we would have to check with Corp Council to see how this was noticed and to see if that's under the umbrella of what was publicly noticed because, you know, the public who saw the public hearing notice might think, oh, okay, those don't apply to me, I don't have an interest in testifying on that one way or the other, so it might go outside of what's been posted today, but we could initiate a bill to do those things separately and bring that back to you another time if -- if that's what you want to see.

Chair Buchanan: I don't know. I just no like 'em take ten years. Thank you. Stephanie.

Ms. Chen: Thanks. I -- I agree with the Director. I think the Commission could add this as a comment, but to change the, for example, the B&B caps, that should be something that's done in a different ordinance, so the comment could be something like a -- a blank cap that, you know, to be discussed further. But I agree with the notice requirement there. Thank you.

Chair Buchanan: I was thinking more of making it a non-permissible use.

Ms. McLean: That can be achieved by caps, though. I mean, if you limit the caps to the number of existing operations and even those in the pipeline, and Sybil can jump in and let us know if there are any in the pipeline, then, same as you did for Molokai, once those permits expire or by a certain timeframe, they go down to zero, and so that's effectively no B&Bs in any district so that you can achieve the same thing by -- by putting a very restrictive cap and phasing them out.

Chair Buchanan: Thank you, Director and Stephanie, but I respectfully disagree, and the reason is I would rather it not be permitted because at any time, if there, in the future, is a change of -- of leadership through the County that may just -- just releasing the cap is - is much easier to do than going through a public comment for a non-permissible use. But in that sense, I respectfully disagree and I would rather it -- you go from more

restrictive to lenient than trying to just start off at a higher level of leniency and be able to add or detract; if you understand where I coming from.

Ms. McLean: Yeah, I don't disagree with you, Chair, that it is more solid to do those prohibitions. I don't disagree with that.

Chair Buchanan: Yeah, can you also tell the County Council that they should look at rescinding this whole short-term rental and B&B law for Maui County. No, I'm serious. It's laughable, but I think we've had nothing but trouble with it, and what we saw that it put a real burden on the taxpayers of Maui County in order to enforce and create a whole structure just to, like we want for the zipline, now I gotta get one zipline expert, now I need one whole department to manage short-term rentals and B&Bs and make sure they paying their TAT tax and -- and I no even get the TAT tax, all of it back, so -- so any way you can make this restrictive for Molokai. I am amenable to B&Bs and putting a cap on it if -- if I stuck with 'em right now. But, again, if you want to do that type of commercial business, then you should buy land that is appropriately zoned for that business because it is a commercial business, buy one condo, by five condos, something. Okay. Thank you.

Ms. McLean: Chair, if there are no more comments, then I can try to summarize what we've heard, and Jacky can jump in if I missed anything.

Chair Buchanan: Yeah, Director, after this comes out from us --

Mr. Poepoe: I'll wait.

Chair Buchanan: Oh, I sorry. Commissioner Poepoe.

Mr. Poepoe: No. Never mind. I get one question but after the Director.

Chair Buchanan: And I just like know where does this report go to after it leaves us, does it go to committee?

Ms. McLean: The way that the process works is we would put together a transmittal letter, a revised proposed bill that incorporates the three commissions' comments, the minutes from all of the commission meetings, and we send that package to the Full Council, and then at a Full Council meeting, they will refer it to committee, and I'm assuming it would go to Council Member Paltan's Planning and Sustainable Land Use Committee, and then they would have to meet on it, make a recommendation back to the Full Council, who would pass the bill on two readings.

Chair Buchanan: Okay, 'cause I'll look at it better. I just wanted to know who we gotta talk to after this. Okay. Thank you. Go ahead. Wait, did we open for -- oh, we did in

the beginning public testimony right up in the front row. Okay, thank you. Go ahead, Director. Mahalo.

Ms. McLean: Okay, the comments are relatively broad. It sounds like you recommend rescinding the B&B and STRH ordinances altogether. In the meantime, you support the proposed revisions that are more restrictive and oppose those that are more lenient. And you would like to see a future bill that establishes caps for B&Bs on Lanai – or, excuse me, on Molokai, and, also, prohibit STRHs and I believe B&Bs too in those districts where they are allowed, except I'm assuming business districts, but in residential, and ag, and interim where most of the residential communities are.

Chair Buchanan: Yeah, Commissioners, is there anyone that doesn't agree with anything that Director just read to us?

Mr. Poepoe: I'd like to add.

Chair Buchanan: Okay, Commissioner Poepoe.

Mr. Poepoe: That 19.64 not be consistent with 19.65 for the -- in terms of processing, that it continues to come to the Commission.

Ms. McLean: Chair, to clarify, it looks like, right now, the B&Bs that the Commission reviews are those that hit one of the Commission review triggers, and for any permit that has to be approved by the Commission, the renewals have to be approved by the Commission too, but it doesn't say that all permits have to go to the Commission, it's only those that hit one of the triggers. Now, that could be something that you recommend changing as well today if you want that.

Chair Buchanan: I -- taking into consideration --

Ms. Lopez: ...(inaudible)... Chair?

Chair Buchanan: Okay, go ahead, Sybil.

Ms. Lopez: So, under -- under 19.64.050 of permit processing, A.3., section B, subsection, under e, it says: For bed and breakfast home located on Molokai and Lanai, that the application is for an initial bed and breakfast home permit that shall go in front of the appropriate planning commission. So, for Molokai, all initial bed and breakfast goes in front of the Molokai Planning Commission and that Planning Commission shall review and either approve or deny the application for pursuant to that requirements of the chapter.

Ms. McLean: Okay.

Ms. Lopez: So that is not changing, yeah?

Ms. McLean: Thank you, Sybil.

Chair Buchanan: So, Commissioner Poepoe is asking that it be consistent, that 19.64 be consistent with 19.64.050?

Ms. McLean: I think he's just asking that that stayed the same.

Chair Buchanan: Oh, okay, okay. Is that correct, Commissioner?

Ms. McLean: And just to clarify.

Chair Buchanan: Commissioner Poepoe?

Mr. Poepoe: Yes, that all -- all authority is retained by the Commission for permitting and approving B&Bs on Molokai.

Chair Buchanan: And it's the same for STRHs. Is that correct? 'Cause that's what Commissioner Pele had stated earlier. Sybil, you know?

Ms. Lopez: Is the question -- thank you, Chair. Is the question for STRHs what Commissioner Pele stated as what the -- this?

Chair Buchanan: Yeah, for Molokai, even though we have a zero cap because the cap is one issue and the due process of it is another issue.

Ms. Lopez: No, that verbiage does not include --

Chair Buchanan: Exist.

Ms. Lopez: Is not included short-term rental or ...(inaudible)...

Chair Buchanan: Can we can we include that? Can we include for short-term rentals even though our cap is zero, Director? Oh, Jacky?

Ms. Takakura: Sorry. Sorry to interrupt, Chair. Regarding the short-term rental home renewals, I'm just looking at 19.65.070.B, and this is about renewals, so it can be granted for renewals up to one year on Molokai except the renewals for permits initially approved by the Molokai Planning Commission may only be granted by the Molokai Planning Commission for terms up to one year in terms -- in reviewing a renewal, the Director Molokai Planning Commission, as appropriate, can require evidence of compliance and

so forth, so that's for short-term rental homes and going to 19.64, which is the bed and breakfast chapter, it's similar about the renewals, permit renewals up to one year on Molokai except that renewals for permits initially approved by the Molokai Planning Commission may only grant -- be granted by the Molokai Planning Commission for terms up to one year. And so I think what you folks is want to keep it that way, right? We don't have any proposal to change that.

Ms. McLean: I -- I think what they're saying is that B&Bs, all permits have to go to the Commission and have to be renewed by the Commission. For short-term rental homes, right now, only permits that hit the triggers have to go to the Commission and those same permits have to be renewed by the Commission, and I think what is being said today is that you want all short-term rental homes to go to the Commission, even though the cap is zero, if the cap changes someday, you want all permits, like the B&Bs, you want all permits to go to the Commission. So, yes, we can add that comment.

Chair Buchanan: Okay, that's correct. Commissioner Pele.

Mr. Pele: We're talking about the cap is zero and I see there's something that -- that might not be relevant, but there is pending litigation against the grandfathering and there is a few STRHs that have joined from Molokai, so I have no information on where that's going, it's been stated has frivolous, who knows if it's frivolous, but the possibility remains that those grandfathered STRHs could -- could end up winning, and we want to make sure that they still have to come back to us 'cause, you know, nobody's talked about that litigation and it's always in the back of my mind of where that will -- where that'll end up.

Chair Buchanan: Agreed, Commissioner Pele. And, Director, you're correct. We like 'em to the Planning Commission because, just what Jackie had mentioned, is for me, again, is so flaky and why we have so much distrust is because you go from one to the other, and one says something, the other one overrides the other, and just what alone what she said in 19.64.050 is there was verbiage added with -- about the Planning Director and we fought hard to keep and retain on decision-making at the Planning Commission level and not be -- give authority to one person to make decisions for our community, and so with respect, when you said only triggers, then we gotta go back now, okay now triggers is another name loopholes to me, so we like close the loopholes and be really specific that that type of decision-making is - is left to the Molokai Planning Commission, okay, as in renewals or not, they still should all come to us. Is there any Commissioners that don't agree with that statement? Ah, seeing none. I guess we all in agreement it. Okay. Thank you very much. Okay, where we go from here?

Ms. McLean: Do you want to make a motion to forward those comments to the Council?

Chair Buchanan: Yeah, just one real fast recap 'cause was really -- really easy. The rescind the B&B, support restrictive, oppose the more lenient, establish cap on B&B,

prohibit STHR and B&B where not compatible, and then about the consistency with the Molokai Planning Commission having the -- the authority. I think, yeah, that's all good.

Ms. McLean: Okay.

Chair Buchanan: Commissioners, any questions for staff -- staff report? Seeing none, we can open up the floor for a motion to -- you guys can approve with recommendations, not approve, defer. Any motion on the floor?

Ms. Mowat: I'll take a shot at it.

Chair Buchanan: Okay.

Ms. Mowat: I -- I recommend approval of the proposed bill with amendments to the Maui County Council.

Chair Buchanan: And, Commissioner Mowat, is that amendments and the proposed conditions or the --

Ms. Mowat: Yes.

Chair Buchanan: The verbiage? Okay.

Ms. Mowat: Yes. All that was -- that was --

Chair Buchanan: That was mentioned on the record.

Ms. Mowat: Mentioned earlier. Yeah. Yes.

Chair Buchanan: Okay, Commissioners, is there any second for discussion? I have a peace sign from Commissioner Pele.

Ms. Mowat: Two.

Chair Buchanan: I'm assuming that is a second. So for the record --

Mr. Pele: Yeah, that's the number -- that's the number two. Second.

Chair Buchanan: For the record, for those who not on Zoom, Commissioner Pele has second the motion to approve with our amendments, conditions, and verbiage to Council. Any discussion, Commissioners, on the motion? Okay, seeing none, I going call roll call. Commissioner Poepoe?

Mr. Poepoe: Aye.

Chair Buchanan: Commissioner Mowat?

Ms. Mowat: Aye.

Chair Buchanan: Commissioner Moore?

Mr. Moore: Aye.

Chair Buchanan: Commissioner Pele?

Mr. Pele: Aye.

Chair Buchanan: Commissioner Sprinzel? You on mute, John. You voted aye? Okay. You can do a thumbs up too. Commissioner Sprinzel votes in the affirmative. And Chair votes in the affirmative. Unanimous. Motion carried.

It has been moved by Commissioner Bridget Mowat, seconded by Commissioner John Pele, then

VOTED: to recommend approval to the Maui County Council of the proposed bill with amendments, proposed conditions, and verbiage as discussed.

(Assenting - L. Buchanan; W. Moore; B. Mowat; J. Pele; L. Poepoe; J. Sprinzel)
(Absent - J. Perez, III)
(Excused - J. Bicoy; L. Espaniola)

Ms. McLean: Great. Thank you so much, Chair and Commissioners. We really appreciate the time you spent on both of these. It was really helpful. Thank you.

Chair Buchanan: Our favorite subject.

Ms. McLean: Yeah right.

Chair Buchanan: Okay, you know what? Let's take a brief five-minute break. What time is it? Can we do a five-minute break? We -- I know we just did one but let's do another five-minute break. Very short five-minute.

Ms. McLean: Okay. Jordan Hart is gonna switch places with me --

1 And what I did was I took the previous presentation and then I updated it that way you could see
2 where we were and what we've...what we're proposing to change, and then hopefully that'll also
3 help the new commission member, Hipolito to get up to speed so can follow the flow. So, like I
4 mentioned last time, the purpose of the bill is to allow breakfast and short-term rental home
5 operations in accessory dwellings but with long-term occupancy on the property. We want to limit
6 the short-term rental home permits to one per property and per applicant. We have some
7 clarifications of definitions, revisions for consistency, improvements for notification, and then other
8 things like you're going to see a lot of the shall to must. We color coded them like I mentioned
9 last time, the green is more permissive, the red is more restrictive, black is neutral, and the new
10 one is that you're going to be seeing today is bold, and those are the things that we've updated
11 since September.

12
13 So, I'm going to start in numerical order, 19.35, this is the chapter about accessory dwellings.
14 This one actually doesn't just...it doesn't have changes, just some clarifications. And what we're
15 proposing is that an accessory dwelling may only be used as a short-term rental home if the main
16 dwelling and other accessory dwelling, if applicable, are occupied on a long-term residential basis
17 as defined in Title 19, meaning an owner or owner's family or by lessee or tenant for 180 days or
18 more per year. So the proposed changes allows for flexibility for the property owner and does
19 require some long-term residency. And so the...when we say long-term, it can be owner occupied
20 or a long-term rental or an owner's second home that they stay at occasionally. So, that was the
21 only change for accessory dwellings, as we had mentioned last time for the bed and breakfast
22 portion that it can be in one accessory dwelling so that it's not in more than two dwelling units on
23 the property for a bed and breakfast, and that's the same thing we had proposed last time. The
24 only change here is the bold for the short-term rental home part...(inaudible)...after.

25
26 So, I'm going to move to the next chapter in 19.64, this is the one about bed and breakfasts. This
27 is the parallel language here regarding accessory dwellings, so, no change, as I mentioned in the
28 last slide. It just kind of, you know, makes 35 and 64 consistent for the accessory dwellings and
29 the bed and breakfast homes.

30
31 Okay, so this one, as you can see, there's some bold that means there's a change. In September,
32 we proposed a five-year construction requirement for bed and breakfast. Lanai and Molokai
33 Planning Commission supported the proposal, but the Maui Planning
34 Commission...(inaudible)...just as a recap, the purpose of proposing a construction and
35 ownership requirement was to reduce speculation and encourage a connection to the
36 neighborhood. Bed and breakfast never had ownership or construction requirements before, but
37 short-term rental homes have had a five-year ...(inaudible)...requirement and originally, this
38 amendment was intended to bring parity between the two permit types. But after listening to the
39 commissions, we're proposing to include the five-year construction requirement for Molokai and
40 Lanai only.

41
42 The next two items are no change from last time. Lanai bed and breakfast cap set at 21 permits
43 because right now they don't have a cap, and this proposal is actually at the County Council for
44 review and approval.

1 And then this last item, no change from September proposed addition. It's consistent with another
2 parallel one that's for 19.65, the short-term rental home one that no permit may be issued to
3 somebody who holds one of those permits and vice versa, and that allows others an opportunity
4 to participate in these investments. And it also eliminates the loophole for rule breaker.

5
6 So, this is about signs for bed and breakfast homes. No changes here. And it's simply to make
7 the procedures consistent with the short-term rental home sign procedures. So no change from
8 last time.

9
10 Still on bed and breakfasts. The first two items, no changes. And this is...the first item is about
11 the public hearing criteria and notification requirements. That's to make them same as short-term
12 rental home requirements because right now, actually it's a little bit more complicated for bed and
13 breakfast homes. So, by making this consistent with short-term rental home, it'll be a little bit
14 easier and same for either one.

15
16 The second item, no change. And that is the criteria for bed and breakfast public hearings,
17 because right now the criteria is only one existing bed and breakfast on a lot within 500 square
18 foot distance, and for short-term rental homes, it's two. So the proposed revision is making both
19 chapters two as the trigger for public hearings, and that's what you saw in September.

20
21 This last item, we had proposed to include the properties, real property tax class as evidence, but
22 we're deleting that proposal and we're just going to leave this part of the chapter, as is.

23
24 Okay, so now we're moving to the short-term rental home permits and this introductory part is the
25 same as the accessory dwelling part. No changes here that a short-term rental home use would
26 be permitted in no more than one single-family accessory dwelling unit per lot in Maui and Lanai,
27 and that means the short-term rental can be in the main or the accessory dwelling and anything
28 else has to be occupied...(inaudible)... And that, you know gives owners flexibility, you know,
29 maybe it makes more sense to rent out one versus the other. Then they can have that option.

30
31 Okay, so we've had a lot of talk about trusts, and the purpose of this revision is that we require
32 that trustees belong to the family of the family trust. And we worked with Corporation Counsel on
33 this trust language after we struggled with two applications from trusts, and this language clarifies
34 how trusts work as ownership entities for short-term rental homes. Existing ones would be
35 allowed to continue, you know, like grandfathered if they don't fit this definition, but new ones
36 would have to comply.

37
38 After the September hearings, we consulted with Corporation Counsel and they recommended
39 leaving the family trust definition as what was proposed in September. It might cut out some for
40 profit trustees, but the intention is one person, one permit whether individual trustee, partner,
41 shareholder or ...(inaudible)...by keeping the permit in the family it adds some accountability, and
42 hopefully encourages small, you know, mom and pop businesses and family involvement.

43
44 The second item is no change, only one permit for applicant, whether individual or trustee, and
45 then the third item about not being transferable in any way that eliminated the loophole that could

1 be used for investment purposes. But we're proposing to say that permits held by a trust may be
2 transferred to a beneficiary of the trust, that's the one change there.

3
4 Okay, so only one change on the slide towards the bottom. The part in green about the criteria to
5 assist the applicant in conforming to the character of the existing neighborhood. You know, a lot
6 of these criteria come up during the hearing anyway, you know, the benefits that the short-term
7 rental home brings to the community and then the reasons are a justification for the short-term
8 rental home use. So by including it upfront, it just makes it easier for everyone so that information
9 is prepared and it can be reviewed by the Commission.

10
11 The second one in red, we have proposed by the Mayor's recommendation to increase the
12 construction and ownership requirements to 15 years. That was not supported by the
13 Maui Planning Commission, but it was supported by the Molokai and Lanai, so we're proposing
14 to include the 15-year requirement for Molokai and Lanai only because the commissions on those
15 islands supported the proposal and that would be ownership and construction requirements. For
16 Maui, it would remain as is at five years.

17
18 So, most of these are still the same as what we proposed last time. The Lanai cap at 21, and just
19 like with the bed and breakfast one that's at County Council. No short-term rental homes in
20 experimental or demonstration housing projects because those are meant to reduce the cost of
21 housing in the state. And, you know, just like affordable housing and workforce housing, vacation
22 rentals are inconsistent with the kind of...

23
24 The item in the middle, the third one, that's similar to what's in the bed and breakfast language.
25 You know, it's only one permit, you can't have a short-term rental and a bed and breakfast and
26 you can't be banned that eliminates, you know, the...(inaudible)...

27
28 Okay, and then the one change that we did have is for the ads. Short-term rental ads must include
29 TMK, tax map key number. As you recall, we initially proposed the physical addresses, but the
30 TMK number will provide enough information for verification in ...(inaudible)...that's our proposal
31 on that one. And no change to that last one about having a financial interest ...(inaudible)...short-
32 term rental...(inaudible)...

33
34 So, almost done with short-term rental homes. This top one, last time we had proposed to include
35 the physical addresses when they do the notification. Right now, only owners and lessees of
36 record have to be notified, and you know, sometimes they're off island and so the people in the
37 neighborhood don't always find out. So, we are proposing to include physical addresses. The
38 change here is the proposed way method of notifying them, and that would be via either regular
39 mail or hand delivery for those physical addresses and this is in a couple of parts. I didn't want
40 to mention it three times, but you can see the three parts of the code that we're proposing to the
41 have that.

42
43 The middle one is about having to say when they want to submit written protests. Even if we get
44 more than one from, say, an owner or lessee resident from the same lot, it's going to be counted
45 as one.

1
2 And then the last item is similar to what we saw with the bed and breakfast. We're just going to
3 leave the advertising, as is. Advertising counts as evidence and we're not gonna include the part
4 about the real property tax...(inaudible)...

5
6 So, a summary of the proposed changes are that accessory dwellings may be used for a bed and
7 breakfast or short-term rental homes if other dwellings are occupied long-term. We've clarified
8 the definition of family trust, ownership requirements, limiting short-term rental home permits to
9 one per property and per applicant, whether individual or trustee, consistency between the two
10 permit types, neighbors are included in communication, and that existing permit holders would
11 continue under existing rules. There's only one change that would affect existing permit holders
12 and that's for existing short-term rental home permit owners. They would have to comply with the
13 notification requirements at renewal, and that means doing the physical addresses, you know,
14 with either the regular mail or ...(inaudible)...them.

15
16 And so, you know, these revisions in this bill offer options to permit holders and help protect the
17 character of the neighborhood. It makes the rules more consistent.

18
19 ...(unidentified participant joined meeting with unmuted audio)...

20
21 Mr. Carnicelli: If everybody...if you would please mute yourselves. There's somebody talking
22 that we can hear, if you would please mute yourself. Sorry, Jackie.

23
24 Ms. Takakura: No problem. I'm almost done. And as I mentioned, it would only affect the existing
25 short-term rental home permit holders for the notification procedures when renewing so that the
26 neighbors would be included in the notice.

27
28 So, your options would be to either recommend to the County Council to approve, we can make
29 some amendments or defer or you can disapprove that. We hope that you can approve, but those
30 are your choices. That's it.

31
32 I'm going to stop sharing and then we can take it to the next step. Thank you very much.

33
34 Mr. Carnicelli: Thank you, Ms. Takakura. So, I guess at this point in time, we're gonna go ahead
35 and open up the floor for public testimony, and remember again guys, this is nothing more than
36 we're a recommendation to the County Council, right. So, the County Council does have the final
37 say on this. Director, is anybody signed up? I think you said there was a few.

38
39 Ms. McLean: Yes, Chair. The first person signed up to testify. Is Francine Aunty Mopsy, Aarona,
40 and she will be followed by Ran Watamull. Aunty Mopsy if you want to unmute your audio and
41 video?

42
43 Ms. Francine Aarona: Okay, can you hear me?

44
45 Mr. Carnicelli: We can hear you. Do we get to see you too?

1
2 Ms. Aarona: I'm trying to, but it's not allowing me.

3
4 Mr. Carnicelli: That's okay, it's good to hear you.

5
6 Ms. Aarona: You can't see me but you can hear me, and it's been a long day. I put my husband
7 through pressure because he had to sit in on all the meeting. But anyway, mahalo for all that you
8 do, and I promise whatever I say is true. Mahalo for all that you do for our community, especially
9 during this time of adjustment in how we do business.

10
11 I hope that the word got out in time for our community to respond to changes, and unfortunately,
12 we depend on social media, emails or word of mouth. You know, I was very disturbed per the
13 minutes of the MVRA. It spoke of a meeting with the board to work out the details of our revisions.
14 And this concerned me where as it would be beneficial if those who live in the 500 feet radius of
15 the rental and B&B units had input before this meeting.

16
17 I do applaud the Planning Department in listening to the community from the meetings in 2019
18 and unfortunately didn't come out during the September meeting. But although I support the
19 amendments, I am concerned about the five-year status. And in looking at the presentation, I'm
20 not sure if I'm understanding it correctly, but we will keep the five-year status for the dwelling, the
21 construction. I feel that the proposed revision by the Department should remain for Maui and I
22 think for the 15 years that was proposed earlier and it's going back to five years, I think maybe
23 we should compromise and through a 10-year revision in there. There must have been a reason
24 why it was shot up to 15 years, but you know, it's been not a hardship for all of our people who
25 experience short-term rentals and bed and breakfast and I feel that the Planning Department has
26 heard the community and has made those adjustments so that we can have a better lifestyle
27 within our short-term rental homes and our bed and breakfasts. So I mahalo you for allowing me
28 to come before you today to share my manao, and I hope that you all stay safe and healthy and
29 that we get through this revisions. So mahalo so much.

30
31 Mr. Carnicelli: Thank you, Aunty Mopsy. Does anybody have any questions for the testifier? So,
32 I have one quick question for you and to just to clarify, you'd like to see the 15-year revision and
33 then what was the 500-foot radius thing that you were talking about that you just said as far as
34 this meeting itself?

35
36 Ms. Aarona: You know, as far as getting the word out to people, when I saw the minutes on the
37 MVRA site, it shared that they were able to speak with some of the board members to work out
38 some of the revisions that we're looking at today. My concern is, what about the community?
39 What about the people who live in the 500 radius? How do they get information or how did they
40 give you their manao on how they feel to what is presented today? I know the Planning
41 Department did a lot of work to meet the community in all their concerns, but in things like this, it
42 alarmed me that an extra effort to work out details regarding the revisions were just set with certain
43 people and not with others concerned, like the community and I don't...I may be speaking out of
44 turn or, you know, whatever, but dumb. That's how I felt when I read the minutes. So, that is a
45 big concern for me.

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The five-year, if I read it correctly, you're going to keep the five-year construction thing for the dwelling, the ownership, but then you got to go back to the five-year in Chapter 19.65, I think instead of raising it up to 15 years as was proposed, you're going to just keep that for Molokai and Lanai and keep the five-year for Maui. So, I'm saying, well why don't we compromise to a ten-year but I'm just throwing that out to the Commission.

Mr. Carnicelli: Understood. Understood. Thank you for the clarification, and just so you know, it is the Director, like the Department, may have met with MVRA, but the planning commissioners didn't. You know, the...and I'm sure the Jackie and/or Michele will address the amount of community outreach that's been till done now, 'cause this...I want to say this might be the third iteration that's come to us. But thank you for your manao, very much appreciated, as always.

Ms. Aarona: Thank you, and I'm sorry you can't see me. I can see all of you. Lovely day.

Mr. Carnicelli: All right, thank you. Director.

Ms. McLean: Chair, the next testifier is Rann Watamull, and so far he will be the last person to testify.

Mr. Carnicelli: Got it.

Mr. Rann Watamull: Okay, well unfortunately, you can see me, so but it's good to see you guys. You guys had a long day, and I had submitted testimony at the last meeting of September 22nd, so regarding my concern is the definition of family trusts and I won't go over it in detail but just the two points on it was the definition that says, a self-trustee of family trust is defined as a self-trustee revocable trust where the trustee is also the trustor and is related by blood, marriage, adoption or civil union to the beneficiaries.

Two concerns with that is one is this language would arbitrarily discriminate against Maui families that would need to use an irrevocable trust. And in a minute, I'll be happy to talk to you about the differences are revocable, irrevocable, what the advantages, disadvantages, but eventually all revocable trusts become irrevocable anyway when the trustor dies or becomes incapacitated, so it's just a matter of time it becomes an irrevocable ...(inaudible)...but some families may choose to put their property into irrevocable trust now, and that could be really important, and I'd be happy to tell you some of the reasons why.

The second issue is having the trustee forcing the trustee to be related to a family member also puts family members, discriminates against families because not all families have a beneficiary who is capable, willing or even able to serve as a trustee and as an independent trustee for 26 years, this has been my experience, I've been working with Hawaii families for over 26 years, and having an outside trustee to help the family is really critical at times. And so, this would prevent that, and especially families where there are special needs in the family. You just don't have anybody that can serve as trustee and you would knock them out from having the benefits of the property to somebody who had an independent trustee.

1
2 Now you have defined trustee as an individual, so you have eliminated the corporate trustee, and
3 in Hawaii there's only three major corporate trustees, and that's Bank of Hawaii, First Hawaiian
4 Bank and Central Pacific Bank because you required that the applicant be an individual, you will
5 not have, you cannot have a corporate trustee. So, so, that addresses that issue.
6

7 And I've also proposed, and Director McLean has it some language that might help with this in
8 defining the family trust. It doesn't have this...these two provisions that I think are really
9 discriminatory against the Maui families. Now with said, I'd have to open up and talk about any
10 clarification how trusts were, why irrevocable could be really beneficial or any other questions you
11 may have? Thanks.
12

13 Mr. Carnicelli: Thank you, Mr. Watamull. Ms. Pali has a question for you.
14

15 Ms. Pali: Hi, thank you. So, may I ask you, in your opinion, if this was worded, family trust is
16 defined as self-settled revocable or irrevocable trust--
17

18 Mr. Watamull: Yes.
19

20 Ms. Pali: --and then everything stayed the same. Are you, am I hearing you correctly that
21 because it's already defined as an individual, the corporate people are out of it anyway, and that
22 it could serve the same purpose?
23

24 Mr. Watamull: Yes, and as long as we don't say the trustee must be related by blood, adoption
25 to the beneficiaries because that's where we run into problems. So, those two issues I think--
26

27 Ms. Pali: Well, are they, are they separate issues or are you saying there's no point in allowing
28 irrevocable trust if they have to be related? Are you saying they're together or can we handle
29 them separately?
30

31 Mr. Watamull: You can handle them separately. There's two different issues. One is irrevocable,
32 of course, if it's irrevocable, typically the settlor is not the trustee. You have somebody else.
33 Yeah, yeah. And then, but, but to prohibit an outside independent trustee from serving the family
34 can be really harmful to families because, you know, not all family members have a child that is
35 capable of being a trustee or could be could be unbiased. I can tell you so many stories of saving
36 families from that, yes.
37

38 Ms. Pali: May I ask you one more question.
39

40 Mr. Watamull: Yes.
41

42 Ms. Pali: Is it your opinion that the reason why people may have the trustee, like you said, not a
43 family member or related, is because they might not be capable of managing, but could it be true
44 that just because they're not managing, they're still the beneficiary? Could it be worded that the

1 beneficiary of the irrevocable trust is...must be blood related adoption, marriage? Could those
2 two go together?

3
4 Mr. Watamull: Absolutely, and that was some of my suggestions last time, Commissioner Pali is
5 that I recommended that you define the beneficiaries in there as, as the settlor or his children or
6 heirs. And so it has to stay within the family line it can't be given out to a corporation or to an
7 investment company or something like that. So absolutely you have that where you keep it in the
8 family, even though you may have a third party be a trustee, you keep the beneficiaries within the
9 family, yes.

10
11 Ms. Pali: So, the family and the blood related family members, adoption, marriage, civil union,
12 they're still the benefit...beneficiaries of what's happening. It's just that they have someone
13 managing it all for them.

14
15 Mr. Watamull: Exactly, exactly.

16
17 Ms. Pali: Under the irrevocable, trust model.

18
19 Mr. Watamull: Whether irrevocable...yes, irrevocable or even, or even you can have an
20 irrevocable...a revocable trust that's managed by somebody else as well. Irrevocable just means
21 that the person who set it up can't change it at all. That's only thing a irrevocable means in, and
22 so in some cases, irrevocable benefits a family set up because it...but once you place an asset
23 into an irrevocable trust and you take away ...(inaudible)...of it, once it's there, you have creditor
24 protection, also, you can get that asset outside of your estate for estate tax protection. And even
25 though the federal lifetime exemption is high quality, Hawaii lifetime exempt is now only five million
26 dollars. And above that, Hawaii has the highest estate tax in the nation with a--

27
28 Ms. Pali: Let me go ahead and cut you off, sir. I'm so sorry. Let me just cut you off and stay
29 focused here.

30
31 Mr. Watamull: Yes.

32
33 Ms. Pali: So, you kind of just said something that now I'm toggling, someone could have a
34 revocable trust, have it managed by someone in the trustee that's not there, that's not blood
35 related, but still have the blood related families a beneficiary that model would still so, so those
36 families that didn't have someone they trusted to manage the trust could still have a trustee that's
37 not blood but...and still file it as a revocable trust? Is that a yes or no?

38
39 Mr. Watamull: Good question. It depends how it's written.

40
41 Ms. Pali: Well I think I just heard you said, yes, you could still do that.

42
43 Mr. Watamull: Yes, you can if you have certain provisions in the trust, it's called a defective
44 grantor trust, and that's technical, but yes, if the settlor still reports that income on his taxes, it's

1 considered a defective grant meaning, meaning for tax purposes it's still
2 considered...(inaudible)...but for estate tax purposes it's outside estate, so yes.

3
4 Ms. Pali: Okay, I got it. Thank you, sir. Thank you for your testimony.

5
6 Mr. Watamull: Yeah, thank you.

7
8 Mr. Carnicelli: Any other questions for Mr. Watamull. I, I may have to call you back at some other
9 time cause this is...and if we, if we're gonna start talking about actual changes, and I actually I've
10 been looking here in my emails and stuff like that, for whatever reason, I can't find what your
11 changes, what your written testimony is, so if you would be ready with that that would be great,
12 so—

13
14 Mr. Watamull: I've got it and happy to share. I sent it to the...I think Director McLean should have
15 it, so I'd be happy to provide it.

16
17 Mr. Carnicelli: Yeah, yeah, I mean, I'm sure I have it somewhere. I just personally can't find it
18 right. Commissioner Freitas has a question for you.

19
20 Mr. Watamull: Yes.

21
22 Mr. Freitas: Thank you, Chair. That was kind of one of the questions I was going to ask the
23 Department. What if, I'm sorry, you confused me even more. I'm sorry, with your response.

24
25 Mr. Watamull: I'm so sorry.

26
27 Mr. Freitas: But here's, here's a quick question. What if we just do revocable and irrevocable
28 trust will be allowed?

29
30 Mr. Watamull: Yes, perfect. As long as the trustee doesn't have to be related to the beneficiaries
31 or their children, then you've solved the issues and you keep, and everything remains the same,
32 the beneficiaries are the family members.

33
34 Mr. Carnicelli: But you've got to understand, though, the point of even bringing this up is cause
35 we're trying to not create a work around.

36
37 Mr. Watamull: Yes.

38
39 Mr. Carnicelli: These things are not transferable. We don't want like, okay, I'm a trustee or I'm a
40 beneficiary then all sudden Fred shows up and we make him a beneficiary on the trust...you know
41 what I'm saying? So this is the part, like I get what might work and we can use the local family
42 as the example, but we don't want to create a situation where suddenly these become
43 transferable, just kind of de facto.

44

1 Mr. Watamull: Well, that's a very, very good point, Chairman. But here here's the thing, your
2 definition requires that the, they have owned it for five years, right? If you change trustee, the title
3 is held by the trustee. He cannot be an owner because if you change it, he has to be an owner
4 for five years before he can be a legal applicant or owner of a short-term rental.

5
6 Mr. Carnicelli: Okay.

7
8 Mr. Watamull: So, you have that already written in there that there's very little work around,
9 especially if you make sure that trust names, it's only for the beneficiary, you know, the beneficiary,
10 his children and heirs, and it cannot go out to a corporation. I understand that, I support that
11 cannot go to a corporation, you cannot have a corporate trustee, you cannot get it, you, and if you
12 sell the property, it's gone anyway, right, so, but...and I do like the fact that you can distribute it
13 out to a beneficiary because sometimes that makes sense. So, that that was a good addition.

14
15 Mr. Carnicelli: Okay, awesome. Thank you, Mr. Watamull:

16
17 Mr. Watamull: But happy to talk any time if want to talk more about language, I'll make myself
18 available to you whenever you want.

19
20 Mr. Carnicelli: Well, and we're not the final say, there's gonna be another crack. You know,
21 County Council's the final say on changes to, you know, this is, this is a change to the ordinance,
22 but we're just a recommendation and we're trying to chase it down the rabbit hole as far as we
23 can to, you know, do as good a recommendation as we can. So anyways, appreciate you coming
24 forward and testifying. Anybody else have any other questions? Okay, seeing none, stay around
25 we might need you again.

26
27 Mr. Watamull: Okay.

28
29 Mr. Carnicelli: Director.

30
31 Ms. McLean: Chair, the next person to testify is Jen Russo, and she will be followed by
32 Sharyn Stone.

33
34 Mr. Carnicelli: Ms. Russo, you will need to unmute yourself. We cannot hear you if you are
35 speaking.

36
37 Ms. Jen Russo: Okay, unmuted?

38
39 Mr. Carnicelli: We got you now.

40
41 Ms. Russo: Am I unmuted? Okay. Aloha, I promise to tell the truth. Aloha, Commissioners.
42 Thank you for the opportunity to speak today. Happy Thanksgiving to everyone. We really
43 appreciate the Planning Department letting the community and stakeholders weigh in on changes
44 to the proposed legislation to the B&B and STR ordinance, and working on the revisions. The
45 community felt the 15-year requirement on STRs was exorbitant well as the five-years on B&Bs,

1 so thank you for working on revising. We do support several revisions and the cleanup of some
2 of the language. We like the change to add accessory dwellings. We think the trust language
3 could be further adjusted and still arrive at the goal of making sure it's not a person or it is a
4 person, not a corporation, and not create a situation whereby somebody would not be able to
5 apply because the last name is wrong and they're not able to undo the family trust. So I think
6 Rann spoke to that very well.

7
8 We have some language that we worked on too, if the Department want us to send that over. I
9 think that while we are working on the B&B ordinance this would be a great time to add a way for
10 B&B owners who have had their properties for 20 years or so to transfer their permit. We still
11 have some folks that are concerned that listing the TMK in their ads might be problematic because
12 some online hosts like Airbnb and VRBO block that info from coming up, and also I want to really
13 clarify that the intention in Section 12 is that all renewals for existing permits occur under the rules
14 when the permit was originally approved. That is the intention for that Section 12, so just make
15 that that is real clear. And lastly, we are still not sure this is the time to change the ordinance and
16 make any restrictions that could have a negative impact on our economy. Again, I thank everyone
17 for their time and attention to these matters and for their time at these meetings.

18
19 Mr. Carnicelli: Thank you, Ms. Russo. Is...Commissioner Pali has a question for you.

20
21 Ms. Pali: Can you just clarify, you said Section 12.

22
23 Ms. Russo: Right.

24
25 Ms. Pali: Your comment is just that you should not...current applicants should not be subjected
26 to the new changes or what was your comment?

27
28 Ms. Russo: No, existing...the existing permits for bed and breakfast and short-term rental homes
29 renew under the rules that when their permit was originally approved

30
31 Ms. Pali: So, in other words, that you would not be subjected to the new rules?

32
33 Ms. Russo: Right.

34
35 Ms. Pali: Thank you.

36
37 Ms. Russo: Okay.

38
39 Mr. Carnicelli: Any other questions? Thank you, Ms. Russo.

40
41 Ms. Russo: Thank you.

42
43 Mr. Carnicelli: Director

44

1 Ms. McLean: Chair, the next testifier is Sharyn Stone, and she will be followed by Leanne Sim,
2 and currently Leanne is the last one signed up to testify.

3
4 Ms. McLean: Sharyn if you want to unmute...

5
6 Ms. Sharyn Stone: Okay, can you hear me?

7
8 Mr. Carnicelli: We can.

9
10 Ms. Stone: Oh, good. Okay, on Zoom I'm freezing at the other end here, so anyway. Aloha
11 Members of Maui Planning Commission. Thank you for allowing me to say a few words today,
12 my name is Sharyn Stone, and I, with my husband, Jeff have lived on our property in Huelo for
13 27 years, 27 years this month actually. We've had a licensed B&B since 2009, after having first
14 applied for a permit in 2001. As you will note, a permit is not an easy thing to get. You have to
15 work hard for it, and once you have it, guess what, you get to keep working hard. Our land is
16 beautiful and we consider ourselves privileged to be its caretakers. We've been totally organic
17 since we purchased it in 1992, and we take great pride in that care and creation of an abundant
18 food supply with well-fed and maintained organic soil. The present pandemic has given us a
19 sobering lesson in the need for food security preparedness, the changing weather patterns of the
20 world over giving us more active lessons in wise resource management. Our visiting B&B guests
21 appreciate our offerings of fresh fruit, organic cleaning practices, composting, recycling, et cetera
22 and we love sharing that experience.

23
24 It should tell you something that I just had a birthday a few days ago and my husband's big present
25 to me was a giant garden chipper shredder. How many wives do you know who'd find that a
26 wonderful birthday gift? Okay, so I'm a sick puppy. However, I'm 68, my husband is 71, as much
27 as we enjoy the work, we're thinking of the future when we're not perhaps as capable of putting
28 out as much energy as we have had for the last 28 years. I would like to request that you consider
29 the proposal for a B&B owner who's owned their land for 20 years, has an active B&B license and
30 has had that license for at least ten years, please be allowed to transfer or sell their hard earned
31 business as a business. We're the only business in Hawaii I know of which is not allowed to sell
32 their business as a business. Frankly, I'm hoping my son is wanting to take it over, but he is only
33 23, so he needs to make his own decisions and he does need to have free choice, so just in case
34 we would truly appreciate having that option available to us if possible.

35
36 I've only one more comment and that is that I honestly don't think this is the ideal time to be
37 embarking upon the major work of revising B&B and STR permits though, there seems to be an
38 indecently short amount of time for discussion, and every owner I know is under real, real financial
39 stress, myself included. Please, stay well and stay safe. And again, thank you for your thoughtful
40 consideration.

41
42 Mr. Carnicelli: Thank you, Ms. Stone. Any questions for the testifier? Just clarification, you said,
43 make it transferrable if you've had it for 20 years and what was the ten-year thing?

44
45 Ms. Stone: That you'd had a permit for at least ten years.

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1
2 Mr. Carnicelli: Oh, you've owned the home for 20 and had a permit for ten, I see. Okay, got it.
3
4 Ms. Stone: Exactly, yes, yes.
5
6 Mr. Carnicelli: Got it, okay. We will take that under advisement. Thank you very much Ms. Stone.
7
8 Ms. Stone: I'm sure you will. Thank you.
9
10 Mr. Carnicelli: Director.
11
12 Ms. McLean: Chair, the presumably last person to testify is Leanne Sim.
13
14 Mr. Carnicelli: Okay.
15
16 Ms. Leanne Sim: Hi, can you hear me?
17
18 Mr. Carnicelli: We can.
19
20 Ms. Sim: Thanks everybody, I just have a couple of questions. One about the trust, maybe I'm
21 a little bit confused about the trust. I did have a question for Michele earlier about whether that
22 had to do with B&Bs or just STRs, and she said not the B&Bs. Can B&Bs be under a trust or no?
23
24 Mr. Carnicelli: Well, right now is public testimony so just go ahead and throw your questions out
25 and we'll try to get them answered for you.
26
27 Ms. Sim: Okay, what I was wanting to refer to in that instance is, you guys are talking about
28 having...being able to leave a trust to a beneficiary. If we're doing that, should you not be able to
29 leave your house to a beneficiary and that beneficiary be able to continue on with your business
30 as well, whether it be a B&B or an STRA, I just wanted to be fair on both ends. If a trust can be
31 inherited, then so should be a B&B business or in STRA business. That was one thing.
32
33 The other one was I do agree with the grandfathering in of when your permit was granted that the
34 rules be followed for when your permit was granted. And I'm with the selling of the business as
35 well. If you have owned the home for a certain amount of time and you've had the permit for a
36 certain amount of time, be able to either leave it to a beneficiary or be able to sell it as a business
37 because she is correct. It takes...it's the only business in Hawaii that you can't sell. I think that's
38 it. That's all my comments. Thanks, everybody.
39
40 Mr. Carnicelli: Thank you, Ms. Sim. Any questions for the testifier? Seeing none, thank you very
41 much.
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43 Ms. McLean: Chair, and Mr. Tom Croly has signed up to testify.
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45 Mr. Carnicelli: Shocking.

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Mr. Tom Croly: Aloha members, Tom Croly speaking on my own behalf. I want to thank the Commission for their deferral at the last meeting and for the changes that you suggested be made and I sincerely want to thank the Planning Department for working with the MVRA to make the changes that are proposed before you today. I think that what you're looking at today is a much better proposal than what was submitted in, in September, and I'm generally supportive of, of these changes.

My first concern has always been for the, the people who already have permits. We don't want to change the rules on underneath them. And I'm appreciative to Jackie today for making clear that these changes, most of these changes are not going to apply to people who have permits, for example, there's someone who has both a B&B and a short-term rental permit, I didn't want these changes to say, hey, now you have to give up one or the other, and that's clearly not going to be the case. But if you adopt what, what's here going forward, they...a new person couldn't get both of those permits, and that's, that's fine by me, but that might not be for everyone else.

I do have some changes about...some concerns about the trust's ownership issue, and I do think I can share a little bit more insight for you on that. And as has already been stated, I have some concern about a requirement for the TMK or address to be published in the ad, problem is, the ads are not always under the control of the owner. Airbnb says what they are allowed to put on, so even when I put my, my, my address in the ad, they block it out and say, you're not allowed to do that, and the same thing with the TMK numbers. So, that that may be something that that we can't do because it's not in our control.

And then, as Sharyn Stone just asked, I would like you to give some consideration to the B&B permit holders who have owned their property for a long time, they're long-term residents here and who's B&Bs are operating for, let's say, ten years with no complaints in an area that when they get to retirement age, they have the ability to use the goodwill that they have built up in their B&B and perhaps the changes that they've made to their property to make it work well for a B&B as an asset to, to sell that property to somebody new.

As things stand today, the new person can apply for a permit, but just as these changes that are, that are being proposed before you are being made, the new person may not be able to apply for the permit in the same derivation that it was before. So, this idea of making a limited transferability for people who have owned the property for X number of years, let's say 20, and held a permit for X number of years, let's say ten, I'd like the Commission to consider that.

The questions were about the trust are very confusing and I've made it an effort to learn more about trusts and become well-educated on these, and the key thing here is who the trustee is. A trustee is someone who manages the trust. The trustee is not the beneficiary of the trust unless the trustee is either the grantor of the trust or the beneficiary of the trust. So, in other words, the trustee's job is to make sure that the conditions of a B&B permit are being met. But the trustee is in no way, shape or form benefiting from the use of the property as a B&B or as a short-term rental. So, what Rann was trying to say to you, it's fine to make sure that the grantor of the trust that is the owner of the property before it goes into trust and the beneficiaries of the trust are all

1 family related, that's fine. But to also make the condition that the trustee must be part of that
2 family is leaving out a whole lot of people, and when the grantor of that trust dies, okay, now, the
3 only person left managing it is the trustee. But who benefits from it? The beneficiaries, those
4 family members. So, we've made it possible for some types of trusts to get a short-term rental
5 permit and then we're excluding—
6

7 Ms. Takayama-Corden: Three minutes.
8

9 Mr. Croly: --and then we're excluding other types of trusts and allowing them. So, I just encourage
10 you to kind of adopt that, that some changes there. Thank you, Chair.
11

12 Mr. Carnicelli: Thank you, Mr. Croly. So, here's the thing is, I don't want for us non trust attorneys
13 to sit here and try to wordsmith this thing till 5:30 when our next meeting starts. Is there something
14 very simple, and again, without us going down the wordsmithing rabbit hole to make this trust
15 thing at least work enough to where the fine scalpel can be used.
16

17 Mr. Croly: Yes.
18

19 Mr. Carnicelli: --at Council.
20

21 Mr. Croly: Here's what I suggest is that we, you're still making the permit holder the trustee, but
22 then when we say that the trustee and the grantor and the beneficiaries all must be related just
23 remove trustee from that. The granters must be related to the beneficiaries. There's the, the nut.
24 And then there's one other place where you're going to want to take out the word trustee, and that
25 is where they're blending it with the restrictions for corporations, where they say if there is more
26 than one member of an LLC or trustee, take out the trustee part of that, then they must all be
27 related, and I think you have fixed the problem right there.
28

29 Now, you might consult with Corporation Counsel and make sure that what I'm asking for doesn't
30 open the door, as you say, to some type of back door where someone could, you know, work
31 around the rules and get more than one permit. But the whole point is one permit per customer,
32 and you can't use the trust as a way to get multiple permits, and as long as you address that,
33 that's the fundamental concern, and that you can't sell the, the trust which trusts or not sellable
34 like an LLC would be, and transfer the permit that way, then you're fine. So, I think that they,
35 they've overengineered this in trying to protect the trust. And all you have to do is remove the
36 trustee as being part of the family members and just make sure granter and beneficiaries are all
37 family members. Got it?
38

39 Mr. Carnicelli: Thank you, Mr. Croly. Any other questions? Mr. Freitas.
40

41 Mr. Freitas: Thank you, Chair. Mr. Croly. I like when you testify because you really look at both
42 sides. I want you to help me, and this is your personal opinion, B&B, short-term rental, our role
43 as Commissioners, we want to make it an easy process, but also, I kind of disagree with
44 something you said, so I want you to tell us, what are we really, what are we providing the
45 opportunity for people to be owners? Let me give you an example. Ms. Stone, I'll use Ms. Stone

1 as an example, her son doesn't want to take over, you said, let her sell it, let her be able to sell
2 the place and get a profit over B&B, short-term rental. I don't think that is the intent of why there's
3 short-term rental and B&B. The person who buys the place, may totally just want to live in it. So,
4 my thing is what... also, what if there's other people who are on, who's waiting but in their 500 feet
5 radius they can't because someone has it. They sell it to somebody who sits on it, doesn't promote
6 it, whatever and these people who really deserve it are left out because we are kind of going, I
7 don't know what we are with the cap and all that. So to me, there's the question of will it make it
8 easy for them, and who is them? I know that was a comment about we don't want corporations
9 to be able to run a business out of it. But who are, who are we doing this, making these rules for?

10
11 Mr. Croly: Okay, first let me separate bed and breakfast from short-term rental. Okay, 'cause
12 bed and breakfast is owner must live on the site. So, so by definition bed and breakfast is the
13 owner's home. Okay, so I'm not asking and Ms. Stone is not asking for the transfer of a short-
14 term rental where it's not the owner's home, but she is saying and what I'm supporting here is the
15 idea that as a owner who lived in my home for 20 years and held a bed and breakfast permit for
16 10 years, I would like to be able to gain from the increase in value that might come by selling the
17 business portion of that.

18
19 Now, when the Council made the bed and breakfast ordinance first, they said we don't want
20 someone to be able to go into the business of buying homes up, turning them into B&Bs, saying,
21 hey, look at what the income potential is and then selling it to someone else. They thought that
22 would not be a good thing to do when I understood that. But I'm now asking for you to open that
23 up for someone after 20 years of doing it, they're not a speculator anymore. This is their, you
24 know, it's their home. Now, if someone wants to buy that home and not do it as a B&B, they
25 certainly can. But there certainly would be some added value that, that, that a owner of a B&B
26 that that's successful could sell that home at a premium for if they can show that. So I'm asking
27 you to give consideration to that 10 years of B&B use and so forth.

28
29 Now, you said that there may be someone else waiting for that permit within 500 feet. That person
30 is not excluded from applying for a permit if they're within 500 feet. In fact, one of the changes
31 that you're considering today is allowing two permits within 500 feet. So, if there is somebody
32 else within 500 feet, the second guy can get a permit without even going before you guys. Now,
33 if there is already two and somebody wants a third one, then they have to come before the
34 planning commission for approval. It can't be approved administratively.

35
36 Now, the other question that you asked and I thought this was good, what's our role in this? What
37 are we doing like as the planning commission and, and like as many times, you have these public
38 hearings, and the point of bringing it to a public hearing is to make sure that we have given the
39 public all of the opportunity to see all the data before you render a decision as opposed to
40 somebody makes an application and it's approved administratively, and the public didn't have
41 that. It doesn't mean you can't grant the permit. It just means that we're inviting the public in for
42 a second time, we invited them in through, through sending them a letter saying, hey, this B&B is
43 going to happen in your area and you can, you can send a notice about it, and then we've invited
44 them in for a second time to come to this meeting, and it's for you to look over and then sometimes
45 in your purview of looking over it, you see something that the Planning Department missed. Oh,

1 you know, hey, we're looking closely and they don't have the proper parking or this is not a good
2 ingress/egress for this property or whatever the case may be, and you can condition it or you can
3 deny the permit. But that's how I, how I see your role in this process is just, just giving another
4 level of public oversight to these permits when they reach a certain threshold at that point.

5
6 But the transferability getting back to that, that Ms. Stone is asking for and that I'm advocating for
7 it really is kind of like a 401K, you work for a big company and you put your money into a 401,
8 and then you retire, you get your 401K, and can you live off of it, these people who have been
9 working real hard and putting their time and effort into their, their land and their B&B should be
10 able to gain something back from it. So that's all I'm asking for. But thank you, sir, for giving me
11 the opportunity to, to say that.

12
13 Mr. Freitas: I appreciate that, really do. Thank you.

14
15 Mr. Carnicelli: Any other questions? Thank you, Mr. Croly.

16
17 Mr. Croly. Thank you. Good luck.

18
19 Mr. Carnicelli: Anybody else, Director.

20
21 Ms. McLean: No, Chair. No one else has indicated they...oh, wait a sec, Kai Nishiki would like
22 to testify.

23
24 Mr. Carnicelli: Okay.

25
26 Ms. Kai Nishiki: Hello, Chair. Hello Commissioners, again. I wasn't gonna testify, but sorry after
27 I heard Tom Croly, and anyway, I absolutely disagree that B&B permits should be transferable.
28 It is definitely incentivizing speculators, whether or not you've had your business or whatever for
29 20 years on, at your home. I just don't believe that we want to be incentivizing things like this.
30 So, I completely disagree with that proposal. And I know this goes to Council after and I'm hoping
31 that you guys are just not going to make too many revisions to this, especially in that department.
32 Thank you very much.

33
34 Mr. Carnicelli: Thank you. Any questions for testifier? Thank you, Ms. Nishiki. I'm sure we'll
35 hear from you again later tonight. Anybody else signed up to testify Director?

36
37 Ms. McLean: No, Chair.

38
39 Mr. Carnicelli: Okay, so if there's anybody else that would like to testify on this item, please
40 unmute yourself and step forward now. Going once, going twice, okay if there are no objections,
41 we're gonna go ahead and close public testimony. Seeing no objections, public testimony is now
42 closed. Okay, so we have the Department's recommendation. I think the easiest thing to do is if
43 people have specific amendments or changes that they would like to make. Let's just, let's start
44 with that, 'cause, again, we're pushing three o'clock or Director.

45

1 Ms. McLean: Thanks Chair. If I could just make a few quick comments.

2
3 Mr. Carnicelli: Yea, yeah, yeah, I'm sorry, I should have given you that opportunity my fault.

4
5 Ms. McLean: That's okay. I just want to note that this this actually started as a cleanup bill to
6 bring the B&B and STRH processes more into alignment. The Mayor specifically asked for the
7 15-year ownership requirement for STRHs, so that was added to the bill. Then when we put that
8 forward, we got real scoldings from you folks, and so we did sit down with the MVRA and came
9 up with a version that's in front of you today.

10
11 Regarding putting the TMKs in the ads for STRHs that actually started out as listing the property
12 address, and we changed that to TMK at the request of the MVRA and some other folks. I think
13 it would be fine to add a qualifier that says, unless that's specifically prohibited by the hosting
14 platform, then you know, if it's their own website, they would need to provide it.

15
16 The trust language, we spent a lot of time with Corp Counsel on that. That doesn't mean that it
17 doesn't still need work, but unless you have a very clear and specific amendment, I'd ask that that
18 be left with us to further refine with Corp Counsel and we can consult with Mr. Watamull if we
19 need to. What we had come across is that there were these large enterprises that held a property
20 in trust and the applicant was unrelated to the family that established the trust and our belief was
21 that the Council wanted there to be a family connection with that operation if it's a family trust,
22 they wanted a family member involved. Whatever we may come up with, it's up to Council to
23 determine what they think is appropriate but that's why we, we went in that direction. Certainly,
24 we can work on better refining it, but I don't know that it would be time well spent today trying to
25 finalize that language.

26
27 And lastly, relating to transferring B&Bs, I would just point out that wasn't in the public hearing
28 notice, that hasn't been reviewed by the other two planning commissions, so I'm not really sure
29 that's something that can be added to this. Mike Hopper might want to comment on that.
30 Certainly, we can convey it up to Council and they can determine whether or not to include
31 something like that, but the other planning commissions which have completed their review did
32 not comment on that concept. So that's all I wanted to add, thanks Chair.

33
34 Mr. Carnicelli: Thank you, Director. Yeah, the thought that I had about the transferable, you
35 know, say 20 years, 30 years, whatever it might be, you know, if whatever the number is, is maybe
36 not even let it say, okay, they're now transferable, but maybe after a certain point allow a new
37 applicant to say, be in escrow if that makes sense. So the new applicant still has to qualify, right.
38 So, it's not like, okay, they just...the new applicant just gets the permits like, no, that new guy still
39 gets vetted, but again, that's not part of this, so we can, we can go down that rabbit hole another
40 day. But it is interesting to say, you know, for local people that live here, like okay, I think that
41 there's something also to be said for an established B&B that's been there 10 years, 20 years,
42 the neighborhood's you used to it, right. It's like, well, why would you say, oh, no, there and then
43 it's gonna, you're gonna get a new one in fresh place so there is something to be said for keeping
44 a very well-run, well established to B&B in the same place. So that's my thought on that.

45

1 But again, let's go to specific things that we want to change in what's been given to us. And I'm
2 going to go ahead start with you, Commissioner Pali. We're going to just start as if this is going
3 to be, say, a yes. Okay, and then we'll just make amendments. So, go ahead.

4
5 Mr. Hopper: Mr. Chair?

6
7 Ms. Pali: Corp. Counsel.

8
9 Mr. Carnicelli: Oh, I didn't see, I didn't see Michael. Okay.

10
11 Mr. Hopper: Yeah, I just wanted to say, I think the reason that you have the family trust language
12 is because if you're looking to make sure that you have one person, one permit, if you say that
13 the trust, the trustee who is the applicant and because they control the property would be the
14 applicant, if they're not related to anybody, there's really no way for them to, for you to make sure
15 that only one, one person has the...there's only one permit per person because you could have
16 you know, a family could own five different properties, transfer all five of them into different trusts
17 with different trustees, and they could all get STRH permits. So, that's why the family trust
18 language, I think originally existed, and that's why the current language is there now it has a
19 required familiar relationship between the trustee and the individuals.

20
21 Now, if you want to allow a, you know, a trustee to own, to apply and have a family, have an
22 unrelated trustee, you can do that, but there's going to be a risk of having multiple family...families
23 own multiple trustees or family's essentially...families own multiple STRHs by way of either having
24 the settlors and/or the beneficiaries be the same people, but the trustees be different. That
25 actually happened, we had a case where the...where the settlor of a trust owned an STRH permit
26 and transferred other property that they owned into a trust and had that trustee apply for an STRH
27 permit, and in fact, in that case, the trust was a revocable trust in which the settlor retained total
28 control over the actions of the trustee, meaning that the settlor could dictate all of the actions of
29 the trustee. So, not only did the, did this, the individual, own the property, own a property with an
30 STRH permit, but also transferred other property they owned into a, into a trust that trustee applied
31 and, and would not have any restrictions because the trustee is not related and the trustee is the
32 one who applies for the permit.

33
34 So, this is what this was trying to get at. I think that you could probably add that irrevocable
35 language, but if you mess with the familiar relationship issue, it will be difficult to ensure one
36 person, one permit. And if you're okay with that, then we can go that way and, you know, this
37 was added to make clear the Council's intent. If you're okay with and you think it's a minimal risk
38 that if you have different trustees owning property and managing properties for the same
39 beneficiaries or the same settlors, then you can do it that way, But this was why that language
40 was, was put there, was to deal with that issue. I agree this is extremely complex. At the time
41 this came out, I had recommended not having anyone other than individuals be eligible for STRH
42 permits, but no, we wanted LLCs, we wanted corporations and we wanted trust, trusts. So that's
43 where we are now, and it can get complicated and my understanding is that our office spent a
44 while working on this language. You could add the irrevocable language and you could take away

1 the familial relationship requirement, but that would incur, I think a risk of multiple people operating
2 STRHs or owning property and finding a way to have multiple properties operated as STRHs.

3
4 Mr. Carnicelli: Well, before you go anywhere, Mr. Hopper, but the grantors and beneficiaries of a
5 trust that hold a permit aren't eligible for an additional permit. They may not, they may not hold
6 one, an additional one.

7
8 Mr. Hopper: Right. So, they just, they transfer their property into a trust that a trustee that is not
9 related to them manages that trustee applies for a permit and the grantor because, you know, the
10 trustee is applying for the permit in that situation, the relationship with the settlor that doesn't,
11 that's not restricted in that situation.

12
13 Mr. Carnicelli: But you can't change grantors and beneficiaries.

14
15 Mr. Hopper: The applicant is the trustee. The applicant is not the settlor.

16
17 Mr. Carnicelli: Okay, I ... (inaudible)...

18
19 Ms. Pali: So then we just get some trust docs and we look at the beneficiary and we see it's the
20 same, I mean, there's other ways to navigate to know there's multiple ... (inaudible)...

21
22 Mr. Hopper: We tried to do that, and that's not what the language currently allows so that's why
23 this change was being made.

24
25 Mr. Carnicelli: I'll allow you to speak just briefly Mr. Watamull.

26
27 Mr. Watamull: Okay, but thank you just real quick. But if the trustee, an independent trustee is
28 all of sudden put in, he's not allowed to apply 'cause he's not owned the property for five years.
29 He would be precluded. That's all I gotta say, okay thanks.

30
31 Mr. Carnicelli: Okay. Here's, here's, here's what I think I want to do, I mean, 'cause again we're
32 gonna sit here and, you know especially when you get two attorneys and things like, we're gonna
33 sit here for an hour and a half, two hours just trying to wordsmith thing. What I would like to do is
34 probably, I mean, saying that we're gonna pass this on is just to say, hey we're passing it on but
35 this language is unclear, that you know, whatever it is, is we're gonna have to figure it out again
36 or something like that 'cause it just seems like there's still something. I get that Corporation
37 Counsel spent hours on this, and whatever it is, but it still seems like there's something going on
38 here that, that us laypeople aren't gonna do, and I don't know if Director we can send this on by
39 saying okay, we're sending this to you with these changes but this thing is a big question mark.

40
41 Ms. McLean: And I would agree, I would agree with that, and we can continue working on that.
42 And it may be that between the time you folks finish with this, we can work with Corp. Counsel
43 and others to provide better language that addresses most of the issues that we've heard.

1 Mr. Carnicelli: Yeah, and again, 'cause there's gonna be a give and take or whatever it is, and I
2 don't even know, like if there's ...(inaudible)...Corporation Counsel that is a trust attorney and that
3 understands a certain level and maybe I'm...maybe we're making this way too complicated. But
4 Commission Members, are you guys okay with if we just let's push the trust language and let's
5 punt on it, all right, and just say, hey, listen, okay "the change", is gonna to be that it's not this, but
6 we don't know what it is. We okay with that? ...(inaudible)...be okay with that. Okay,
7 Commissioner La Costa.

8
9 Ms. La Costa: Thank you. I'm not gonna punt, I'm gonna go for the fourth down. On Page 12,
10 where it says, family trust and it is underlined, we talked about put irrevocable in there, so, so
11 might that be in addition and then it can be wordsmith further or defined further after that family
12 trust is defined as a self-settled revocable or irrevocable trust, and just add that word. Thank you.

13
14 Mr. Carnicelli: Okay, any objections to adding revocable and irrevocable? Okay, seeing no
15 objections, we go ahead and made that amendment then. So, who would like as
16 Commissioner Pali, do you have any changes that you would like to make to this? Go ahead.

17
18 Ms. Pali: No, no, no. Are we done with the trust talk? We're good?

19
20 Mr. Carnicelli: We're done with the trust talk, I mean, unless you want to revisit?

21
22 Ms. Pali: No, no, no, nada. I just have two questions for maybe Director McLean, and it might
23 affect maybe some other topics. On Page 1, when we talk about STRH or B&B, if there's two
24 dwellings, as long as one is long-term and then the other one can be used for short-term rental.
25 How are you going to know if it's occupied as long-term? How do you know that they just don't
26 keep it vacant and say, oh, that's our second home, but it's kind of vacant, like what are the sort
27 of enforcement rules on specifically identifying that second unit as a long-term rental basis? Or
28 are they going to have to validate that they are using it for long-term leases to the community, so
29 one is going for the community members residence, and then the other one goes to vacation can
30 you tease that out for me?

31
32 Ms. McLean: Sure, and this is an—

33
34 Mr. Carnicelli: Sorry, what section are we in now? Is that 19.35.

35
36 Ms. Pali: We're on Page 1, Yeah, 19.35.010.D and E, it's on the first page of the November 24...

37
38 Mr. Carnicelli: D and E, okay, yeah, second page, yeah, second page, okay got it, I got it, yeah.
39 I just want to make sure we're all on the same page literally.

40
41 Ms. McLean: Okay, when we, when we talk about long-term occupancy that can mean a couple
42 of things. It can mean owner occupied, so the person lives there full-time. It can mean rented to
43 a tenant long-term, which means for six months or longer or it can be the owner's second home
44 and they live there when they come to it because that's their right as the property owner. So that
45 will be clarified, we did talk about that particularly to clarify that. The way that we would verify it,

1 and so...right now, the way the law stands is you can't use an ohana at all, and so that means if
2 you want to do vacation rental, you would have to live in the ohana and rent out the main house.
3 We're like, well, wait a second, people should have the opportunity. Maybe they want to live in
4 their main house and rent out the ohana. The point is that both dwellings can't be used, and that's
5 what it had been, you know, for many years, both dwellings could be used. And so, one can be
6 used for short-term rental, the other would either be the owner lives there full time, rents it out to
7 someone long-term or it's their second home and they use it when they want to, and we would
8 regulate that by looking at the ads of their operation that it's only for the number of bedrooms that
9 are allowed, et cetera.

10
11 Ms. Pali: Okay, and we have other rules in place that require on site manager or a manager
12 nearby if it's that vacant second home thing, right. Okay, next question. I'm just using your, this
13 really cool packet, I'm on Page 2 of the proposed summary changes, it's kind of easier on the
14 third page, we're talking about a revision to allowing regular mail or hand delivery notification to
15 the physical address because we're noticing that owners might live all over the world, but maybe
16 their tenant didn't get the notice and they're going to be impacted. How are we going to be able
17 to validate that there was a hand delivery?
18

19 Ms. McLean: Right now with, even with the certified mailings...well, certified mailings, you get
20 the return receipt, but there's also affidavit of mailing where the applicant certifies that they did
21 their mailing. So, we would request the same thing. It's not proof, but because this is an additional
22 requirement we didn't want to make it too burdensome. So, it's just asking the applicant to sign
23 an affidavit that they provided notice to those addresses.
24

25 Ms. Pali: Is there a follow through language if a neighbor shows up because he heard from his
26 other neighbor and says he never got a hand delivery? Is that a negative mark against the
27 applicant? Now you've got someone's word against someone else's whose word? I feel like
28 that's a gray area that might be a little tough.
29

30 Ms. McLean: That actually happens now, even with the certified mailings. Sometimes they get
31 returned and that's not the applicant's fault, you know, the recipient didn't pick it up. So, it's we
32 ask for a good faith effort, and if we feel like that has been done, then it's acceptable. If we feel
33 like it hasn't been done, then that could be considered providing false or misleading information
34 in the application process, which would be...(inaudible)...and to deny.
35

36 Ms. Pali: Okay, so, I think then I would be fine with no revisions there. And the only other
37 recommendation personally, myself, would be the Section 12. I like the proposed change. I get
38 that. I like the intent, but interesting enough, I'd really hate the way it's worded.
39

40 Mr. Carnicelli: Where are you Kellie? Kellie, where are you?
41

42 Ms. Pali: I'm on, I'm on one, two, three, bottom of Page 3, on the packet, it's the summary
43 columns.
44

45 Mr. Carnicelli: Oh, you're in the summary. Okay.

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1
2 Ms. Pali: Yeah, the summary is just real...much easier to read. It's Section 12 on the left, the
3 very bottom page.
4
5 Mr. Carnicelli: Yeah, I get it.
6
7 Ms. Pali: And the revision states simply put, existing permit holders may continue to operate and
8 renew under zoning restrictions when they were originally permitted and apply for renewals
9 subject to renewal procedures of this ordinance. That just is so plain and totally I get it, and then
10 you read the wording which is supposed to mean that, and it's...is supposed to mean that...and
11 it's...I know we're trying to do it in a backwards effect, but it's...it gets lost in translation. So, I
12 really like the revision language that trumps the proposed language.
13
14 Mr. Carnicelli: Okay, so no changes. We're going to keep what they're proposing?
15
16 Ms. Pali: I don't like the language that they're proposing. I would reword it using their explanation
17 under comments and revisions. I would have the comment and revision language supersede and
18 be the proposed change.
19
20 Ms. McLean: So the short cut language that we provided on Page 3 is better than the actual bill's
21 Section of Page 25 of the bill.
22
23 Ms. Pali: Better than the legal jargon.
24
25 Mr. Carnicelli: Any objections to Kellie's change? Seeing none, we'll go ahead and say it was
26 adopted via consensus.
27
28 Ms. Pali: That's all I got.
29
30 Mr. Carnicelli: There we go. Who else has changes that they would like to propose? Michele,
31 I've got a question about the TMK. I get why we're going away from addresses, right, 'cause you
32 don't want, you don't want houses to get broken into and hit and whatever else it is. I mean,
33 there's a lot of bad things that happen, but TMK kind of can still do the same thing. Is there, is
34 providing a GET or a TAT number valid or because it's not tied to an address that that kind of falls
35 on its face? I'm just, I'm just afraid of tying it to an address, right, 'cause you can still look up a
36 TMK number and find out where the house is.
37
38 Ms. McLean: We don't have access to GET and TAT files so we couldn't cross-reference the
39 GET or TAT number to...for to find an address.
40
41 Mr. Carnicelli: Right.
42
43 Ms. McLean: For enforcement purposes, we want to know where the property is located and
44 actually on the web site we have listings of all permitted B&Bs and STRHs with their physical

1 address and TMK. So, it's the permitted ones that information's already out there. This will help
2 us control the unpermitted ones.
3

4 Mr. Carnicelli: Okay, okay, and that's fine. And I think that the State requires TATs anyways, but
5 the thing is you could have, you could have one TAT license and six different vacation rentals off
6 of one TAT license. So, that's the other part that becomes a little bit crazy.
7

8 Just a comment on the five years versus 15 years. Again, I kind of go back to...I'm in favor of
9 leaving it at five. So, this isn't a revision, it's just a comment and the reason why is if you go to 15
10 years, we're now putting STRHs in 15-year old neighborhoods, right, and that's where like people
11 live, right. So, in a way, you're going like, okay I get the intent is you don't want speculators, but
12 I think just being in the real estate industry for over 20 years, five years is enough to kill a
13 speculator. Nobody is going to sit on a vacant house for five years to say, like okay, five years to
14 now I potentially have the, you know, ability to, to at least in my I haven't seen it, you know, say
15 okay, I'm gonna do a vacation rental. I'm gonna eat it for five years to possibly maybe do a
16 vacation rental, get a permit for it in five years, and so I'd rather see okay, and if somebody is
17 gonna do that then again, I'd rather see that five-year house potentially be a vacation rental rather
18 than the 15-year house that's been in somebody's neighborhood for that long. So that's just a
19 comment on the difference between the fives and the 15s. Any other changes? Commissioner
20 Tackett.
21

22 Mr. Tackett: Yea, I'm a 15-year guy all day long, every day. I think that, I think the demise of
23 what we have and the reason why the prices are the way they are is because so many years ago
24 we implemented residential as a business and now people are defending residential as a
25 business, and you wonder why everybody doesn't have a place to live because the single-family
26 residence is a million dollars right now. And why is it a million dollars, because now it's tied to
27 business. Land should never be tied to business and it's the best thing that you guys can do, in
28 my opinion, is get it back to you buy it to live in it. You buy it because you want to live here and,
29 and if you make money along the way at a B&B that's your profit, you know what I mean, you
30 don't, you don't get to sell it to somebody else so that the property values get even bigger from
31 there.
32

33 What...when you, when you look at the people that come before us, when you look at the people
34 that talk to us in this thing, how many of them you think were raised on Maui and that purchased
35 the house? How many of us, you know, I know a couple maybe in this process that are from Maui
36 that earned a house and that are here. So, I think the Mayor, when he said 15 years and Molokai
37 and Lanai, I said 15 years what they did is they stepped up big to protect the local people that's
38 what they did. And every time you chop that down, you chop that away and we're a planning
39 commission. We're planning for the future. So, if the plan is for all the local people to split and
40 all the people that made their money somewhere else or grew up somewhere else to come here,
41 if that's the plan, then short-term rentals and bed and breakfast that's a great avenue to that.
42

43 As a matter of fact, if I cannot, if I cannot continue to make my, my house payment because I'm
44 currently unemployed due to the situation there is I will sell my house for a million bucks and I'll
45 go live like a king anywhere else in the world, but I wouldn't surf the beaches, I surf. I won't see

1 the people I went to school with. I won't be around anybody or anything that I know, you know,
2 but that's what's on the table for me. And I think that until we put it into perspective, that, that
3 residential should not be a business, and I know it got tossed on to us and it is a business now,
4 and I'm willing to look at it open-minded as a business, and I'm willing to weigh everything as the
5 commissioner for the positive and the negatives and try to put the best people in the right places
6 with the right intentions. But I do not believe that, that lessening the amount of years that people
7 live here is going to change whether or not an old neighborhood or a new neighborhood goes into
8 bed and breakfast. I think the longer you make it or in short-term rental, I think the longer you
9 make people own something that the lesser you're going to make the property values, the lesser
10 you make the property values, the more working class people are going to be able to afford them,
11 and the more you're going to be able to retain a normal type of community which, which Maui
12 hasn't been a normal type of community shoot since I got out of high school in the 90s. You know,
13 in the 90s, it was normal like you saw normal people, you know what I mean? You saw, like,
14 people that grew up here or tourist that came here, but, but it hasn't been like that for a really long
15 time, you know. All the richest people in the world own a piece of this rock. Almost everybody
16 wants a piece of this rock. They can afford multiple things, five, six, seven, ten, fifteen homes
17 almost all of them have one of them here, and that's why we're in this situation that we're in.
18

19 So, I think that it's a... I think that it's a... it's a big mistake to not go with the 15 years. I'm, I'm, I'm
20 a it, it hurts me, you know, to see that that people think that the business is okay, and I understand
21 that some local people are running the business, you know, and, and all I got to say, is the reason
22 why they're running the business is because it got to a point where they had no other choice.
23 They have to run the business or they got to split just like everybody else that left. And when I
24 leave, if I leave, if I sell my house and split and go somewhere else where I can retire, I can almost
25 guarantee the next person that steps in and pays the million dollars, bucks for my house he didn't
26 go to Wailuku Elementary, he didn't go to Iao School, he didn't go to Baldwin either, you know,
27 he didn't go to any school on Maui. Whoever pays the million bucks for my house not going to be
28 here, from here either. So I think that's what we're touching on and that's what's important and
29 I'm in favor of the 15, and I think that we should reconsider the 15, and I think that the Mayor had
30 good reasoning behind asking for the 15. So anyways, what I, what hope is to put the 15 back in
31 like Maui and Molokai... or to make Maui, Molokai and Lanai the same. Thank you for my rant.
32

33 Mr. Carnicelli: Thank you, Christian. I, I appreciate your passion. I appreciate your, your wearing
34 your heart on your sleeve and saying what you feel, and feeling what you mean, and so anyways,
35 I appreciate that. So is your, is your... are you proposing to move it back to 15 years?
36

37 Mr. Tackett: That is my proposal.
38

39 Mr. Carnicelli: Okay, so, so, I guess that would be Page 14, right? So, we're talking about Page
40 14 of the packet which is 19.65.030. I'm losing track here, Letter O, you guys with me, 'cause it's
41 like it's either the five or 15. Am I in the right spot Jackie?
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43 Ms. Takakura: Yes, Chair that is correct.
44

45 Mr. Carnicelli: Okay, What Christian's trying to?

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Ms. Takakura: Page 14, Item O.

Mr. Carnicelli: Right. Item O on Page 14. So, are there any objections to moving from 15 back to 5 back to 15? Any objections to that? Okay, so we do have objections. So, we'll go ahead and say Christian has a motion on the floor to move it to 15, do we have a second? Okay, seconded by Commissioner Castro. So, we've got a motion on the floor to move it back to 15. Discussion on the motion. I think Christian, I think you spoke to the motion unless you want to it to do it again? Okay, Christian's good. Stephen you want to speak to the motion?

Mr. Castro: Well, I concur with brother Tackett, and you know, I think if you're gonna be in the business, get into some other business. You know, the purpose here is to get, get your home. I've been blessed and very fortunate, waited a long time and got my home and I've been in it for 39 years, so I don't see my children getting a home anytime soon until I croak you know, and that will be my house, yeah that they're gonna get, but I think 15 years is good enough.

Mr. Carnicelli: Okay, thank you. Anybody else like to speak to the motion? Commissioner Freitas.

Mr. Freitas: Thank you, Chair. Vice-Chair. Tackett said it quite beautifully, kind of answered my question that I asked Mr. Croly earlier today, what are we here for? And what you shared on one part of what we're talking about is exactly why we are here. Chair Carnicelli had shared that, you know, waiting 15 years, you're going to be you might be, you might be in a old, decrepit subdivision, but if I remember, we had applicants for B&Bs that the homes were pretty old. I remember one, you had to go through the bathroom to get to the room. I mean, it's, it's, it's okay, and the way I look at it is people buy their homes, they live in it for 15, 20 years and then their children move out and then they need income to fill the empty rooms and that's how they can help make their payments. I really agree with Vice-Chair Tackett in everything that he said and I support that going back to 15 and that we're also consistent with Lanai and Molokai and I'm sure our Mayor had probably a lot of advice from his staff about this too. So, I support that.

Mr. Carnicelli: Commissioner Pali.

Ms. Pali: So, I like that last phrase Commissioner Freitas said about painting the picture of getting your home, raising your family, families go, you're older now, maybe you can't physically work and then having the opportunity. I definitely agree with you there. I guess the question that I can't run from is why is only that age group allowed to have that scenario? What about a single mom with children that got blessed with a house? Maybe her father passed down a family home to her, but she still can't make ends meet and she certainly can't wait till 15 years go by to be able to take that little ohana unit and maybe vacation rental it. I don't think that for me as a commissioner, I want to determine who gets to have this this gem of an opportunity and who doesn't. I don't think that I want to choose today and sort of discriminate on who gets to participate. So that would be the reason why I'm against the 15-year.

1 I also think that we have to separate the people groups we're talking to. I must admit that I'm
2 guilty of kind of when I hear vacation rental or B&B, I don't know if this is okay to say, but I see a
3 person who is not from here applying. They don't have roots. That's kind of what the applicant
4 looks like. So, I feel like our attention is geared to that person. But maybe we need to grow.
5 Maybe we need to say, hey, let's teach our local people on how they can have multiple opportunity
6 to make this island not just their home, but, but a home and potential income so we can all benefit
7 from it. Why is it just that one people group that are taking advantage of it? Why aren't we
8 teaching our young kids on what that looks like, property management?

9
10 And so, those are all the reasons why I think that 15 years we were trying to protect the locals,
11 we can do it, but not by limiting opportunity. So, I'm an opportunist and I think this could provide
12 much opportunity for our locals if we tabled it up. And I also think that even no matter what
13 changes we make today, in most cases, the applicant will come to us anyway for permission. And
14 all of us can, can have our deeply rooted passion in certain areas, we can take it case by case
15 and look at the applicants, and at that point we can make a decision, but to just cut it off and say
16 no now and eliminate all the different opportunities and people groups, I'm not for it. I'm okay with
17 the five years.

18
19 Mr. Carnicelli: Thank you, would anybody else like to speak to the motion?
20 Commissioner La Costa.

21
22 Ms. La Costa: Thank you. Chair. I was looking for some statistics and I couldn't find the definitive
23 proof, but I have heard that the average person owns a home on Maui just shy of eight years, so
24 I have been in my home ten years now. If I decide to retire next year, which I'm wondering about
25 doing, I couldn't, I couldn't short-term my house because I haven't owned it for 15 years. I've
26 been on Maui 31 years, but I couldn't to Kellie's point, I couldn't short-term my house because I
27 fall outside the parameters. So, I think five years is, is a sufficient amount. Like you said, Chair,
28 you're not going to buy a place, let it sit empty and then wait for that five-year mark when the
29 entire economy could have changed by that time. So, I think that I'm against the 15 years and I
30 am for the leaving it at the five-year mark. Thank you.

31
32 Mr. Carnicelli: Anybody else like to speak to the motion? So, I'll just say that I think that Director,
33 how many STRHs are there on the island?

34
35 Ms. McLean: Gosh, I can check—

36
37 Mr. Carnicelli: Three hundred and something, 280 something like that.

38
39 Ms. McLean: I think, 250, 300 in that range.

40
41 Mr. Carnicelli: Okay, right. So, I get that people like to make STRHs the boogiemans, but the
42 reason why we have a housing crisis is because we're not building homes, not because of
43 rampant, I know that people will disagree with me, but it's not because of rampant legal vacation
44 rentals. And I don't want them in our neighborhoods, I don't want them in the, in the 20-year, and
45 it's not decrepit neighborhoods. I'm talking about established neighborhoods that's what I'm

1 talking about, 'cause I would rather see them in a neighborhood that's less established. Now, if
2 it is established, that's fine, and that neighborhood would have to do it. But we're going to force
3 it into established neighborhoods, whether it's a decrepit house or whether it's wherever it is, I
4 mean, that's a whole nother story, but the reality of what it is that we're talking about here is just,
5 okay, we've got a cap of whatever the number is, 384, 350 units, and where do we want them and
6 who do we want to have them that's basically what this comes down to. So, I've said my piece.
7 Anybody else want to say anything else?

8
9 Okay, so the motion is change on Page 14, Section O, is essentially change it back to everybody's
10 15 years including Maui instead of Maui being five and Molokai and Lanai being 15. All those in
11 favor of changing it to 15 please raise your hand. That's one, two, three, four, five. Opposed?
12 Three. So, the motion passes. So, we're gonna go ahead, move it back to 15. Done.

13
14 **It was moved by Mr. Tackett, seconded by Mr. Castro, then**

15
16 **VOTED: To Change Section 19.65.030, Item O on Page 14, to 15 years for Maui.**
17 **(Assenting – C. Tackett, S. Castro, J. Edlao, K. Freitas, M. Hipolito,**
18 **C. Tackett)**
19 **(Dissenting – K. Pali, P. D. La Costa, D. Thompson)**
20

21 Mr. Carnicelli: Any other changes? Anybody else got anything else? Okay, so I guess at this
22 point in time, then I will entertain a motion to let's see let me get the exact language here.
23 Recommend approval of the proposed bill, the proposed amended bill to Maui County Council so
24 that will include the changes that we made, including the 15 years that we just did, and then, you
25 know, the irrevocable trust language, and then, you know, the fact that we're going to wordsmith
26 trust before it goes to Council and try to work that out before Council, so is everybody clear, so
27 that's, that's essentially what I'm looking for a motion to transmit that. Moved by Commissioner
28 Pali. Do I have a second? Seconded by Commissioner Hipolito. Discussion on the motion? All
29 those in favor? That's six. All those opposed? Dissenting is Commissioner La Costa. Motion
30 passes.

31
32 **It was moved by Ms. Pali, seconded by Mr. Hipolito, then**

33
34 **VOTED: To Recommend Approval to the County Council of the Proposed**
35 **Amended Bill as Discussed and Amended by the Commission.**
36 **(Assenting – K. Pali, M. Hipolito, J. Edlao, K. Freitas, C. Tackett,**
37 **D. Thompson)**
38 **(Dissenting – P. D. La Costa)**
39

40 Mr. Carnicelli: So, we will transmit this as amended to the County Council and we'll take a little
41 bit of air out of the room. That was a little bit passionate. I like it. I like that we can disagree and
42 get a vote move on. Thank you, Jackie
43
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Respectfully Submitted by,

**CAROLYN TAKAYAMA-CORDEN
Secretary to Boards and Commissions II**