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July 16, 2021

Honorable Michael P. Victorino
Mayor, County of Maui
200 South High Street, 9th Floor
Wailuku, HI 96793

APPROVED FOR TRANSMITTAL

Michael P Victorino 7/19/21
Mayor Date

For Transmittal to:

Honorable Alice L. Lee
Chair, Maui County Council
200 South High Street, 8th Floor
Wailuku, HI 96793

RE: Ordinance No. 5174, Bill No. 142 (2020), A BILL FOR AN ORDINANCE
ESTABLISHING CHAPTER 9.40, MAUI COUNTY CODE, RELATING TO SOCIAL
HOST LIABILITY

Dear Chair Lee:

The Maui Police Commission, by a vote of eight to one, has authorized me to
communicate to the County Council the Commission's position on Ordinance No. 5174,
Bill No. 142 (2020), A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 9.40,
MAUI COUNTY CODE, RELATING TO SOCIAL HOST LIABILITY.

On June 2, 2021, I was notified by the Maui Coalition for Drug-Free Youth of the above-
referenced Social Host Liability Ordinance, which makes the Maui Police Commission the
body to hear appeals of notices of violation of this new law.

The matter was placed on the Maui Police Commission agenda for its June 29, 2021
meeting. At the meeting, Commissioners were displeased to find out that there was no
notice to the Commission about this Ordinance prior to the Coalition contacting the
Commission on June 2nd and further displeased to realize that the Commission was being
given this duty without being informed to provide any comments during its adoption by
the Council.

COUNTY COMMUNICATION NO. 21-385

Honorable Alice L. Lee
Page 2
July 16, 2021

As you may know, Section 8-12.3 of the Charter of the County of Maui gives the Maui Police Commission the authority to appoint the Chief of Police and has the authority to remove the Chief. Furthermore, Section 8-12.2.1 of the Charter requires that the Police Commission adopt such rules as it may consider necessary for the conduct of its business and regulation of the matters committed to its charge by law.

With regard to Section 9.40.050.B, Maui County Code, it requires the Chief of Police to adopt administrative rules to carry out the provisions of this new law. While the Chief may adopt administrative rules with regard to the process and procedures of the Maui Police Department when issuing notices of violation, it would be in violation of the Charter for the Chief to adopt administrative rules for the Police Commission. Pursuant to the Charter, the Police Commission must adopt its own rules to carry out its duties.

The Commission wants to make clear that its comments on this matter are not a reflection on the good work of the Council, the Maui Coalition for Drug-Free Youth or the substantive intent of the ordinance, including the the creation of an appeals process. However, the Maui Police Commission does not believe the appeals function should reside with this Commission.

The focus of the work of the Commission as currently defined in the Maui County Charter and its rules are on the Chief of Police, the budget for the Police Department, and reviewing and investigating complaints brought forth by the public on the conduct of the department or any of its members. The appeals process proposed in this ordinance would now have the Commission making judgments on members of the public – a major departure from its scope and focus on the police function and police misconduct within the community. Therefore, the Commission asks that the Council find another board or commission that is better fit to hear these appeals.

As the Ordinance is to take effect on September 1, 2021, the Maui Police Commission hereby provides notice that the Commission will not be implementing this Ordinance by that date.

Sincerely,



Frank R. De Rego, Jr.
Chair
Maui Police Commission

cc: Acting Chief Dean M. Rickard
Managing Director Sananda K. Baz