

Climate Action, Resilience, and Environment Committee on 2021-05-19 9:00 AM - Recessed to 05/25/2021 at 1:30 p.m. End time: 12:07 p.m.

Meeting Time: 05-19-21 09:00

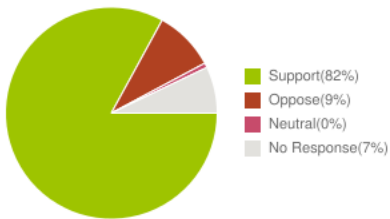
eComments Report

Meetings	Meeting Time	Agenda Items	Comments	Support	Oppose	Neutral
Climate Action, Resilience, and Environment Committee on 2021-05-19 9:00 AM - Recessed to 05/25/2021 at 1:30 p.m. End time: 12:07 p.m.	05-19-21 09:00	3	141	117	13	1

Sentiments for All Meetings

The following graphs display sentiments for comments that have location data. Only locations of users who have commented will be shown.

Overall Sentiment



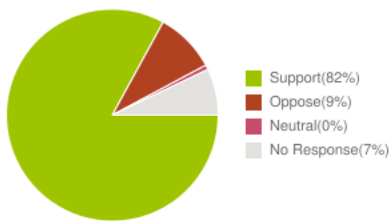
Climate Action, Resilience, and Environment Committee on 2021-05-19 9:00 AM - Recessed to 05/25/2021 at 1:30 p.m. End time: 12:07 p.m.
05-19-21 09:00

Agenda Name	Comments	Support	Oppose	Neutral
CARE-47 CC 21-190 RECOGNIZING CLIMATE CHANGE AND RESILIENCE IN THE COUNTYWIDE POLICY PLAN (CARE-47)	3	3	0	0
CARE-50 CC 21-232 MORATORIUM ON VISITOR ACCOMMODATIONS DEVELOPMENT (CARE-50)	138	114	13	1

Sentiments for All Agenda Items

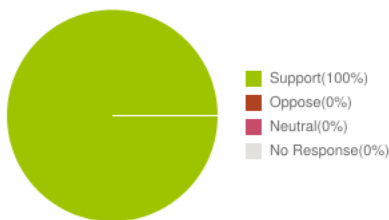
The following graphs display sentiments for comments that have location data. Only locations of users who have commented will be shown.

Overall Sentiment



Agenda Item: eComments for CARE-47 CC 21-190 RECOGNIZING CLIMATE CHANGE AND RESILIENCE IN THE COUNTYWIDE POLICY PLAN (CARE-47)

Overall Sentiment



Guest User

Location:
 Submitted At: 8:15am 05-19-21

I support CARE-47. It is only common sense that we need to address climate change and the climate crisis. We as islanders will see a massive change in sea level and this will impact us greatly since they used to let people build right next to the ocean. West Maui is already seeing the impact with the dozens of condominiums at the waters edge. I say let the ocean take it all back.

Guest User

Location:
 Submitted At: 3:22pm 05-18-21

Our names are Allie, Jaci, and Tara, and we are freshmen at Kihei Charter School. We have been working on a project regarding climate change and how reducing food waste can lower greenhouse gas emissions. We would love it if you could take a look at our website we put together for more information.

<https://kcscdd53.weebly.com/>

Thank you so much for your time!

Guest User

Location:

Submitted At: 12:04pm 05-18-21

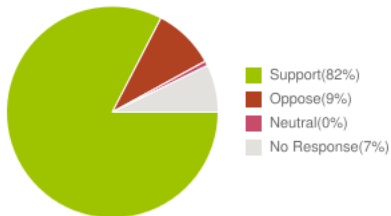
Hello, I am a 9th-grade student at Kihei Charter School. We created a climate literacy project for our final integrated project our solution was to spread awareness. We spread awareness using posters on key issues and details on how and what issues Maui county is facing currently. Therefore, we want to expand our solution by letting newcomers know what they can do to actively help climate change even for a short duration. Things like planting natives and discouraging invasive species are my details and there are much more to cover when spreading awareness.

Thanks in advance

Felix Daniel Velasquez.

Agenda Item: eComments for CARE-50 CC 21-232 MORATORIUM ON VISITOR ACCOMMODATIONS DEVELOPMENT (CARE-50)

Overall Sentiment



CARE Committee

Location:

Submitted At: 9:00am 12-01-21

Testimonies from CARE Committee

Guest User

Location:

Submitted At: 8:37pm 05-24-21

I am writing in support of the moratorium on visitor accommodations and development. Maui does not need more accommodations for visitors. We already see the effects of too many visitors on Maui, specifically the impact on the health of the ocean, our wildlife and corals which are essential to maintain the Maui's shoreline integrity. Our roads are congested with traffic, Sewage ejection wells are pouring sewage into the ocean. We are facing a crossroads here on Maui. Do we want our island to become another Waikiki with the resulting loss of our quality of life, or do we want to limit the number of tourists, putting our money and resources into preserving and creating a diverse economy that is good for tourists and residents, and maintains and preserves the stunning natural beauty of our island, its people and our unique flora and fauna. Please vote in favor of this moratorium. Sincerely, Joy Kaaz, Kihei resident.

Guest User

Location:

Submitted At: 1:33am 05-23-21

I support the moratorium. Please stop building visitor accommodations. Our island's resources are already overwhelmed by large numbers of tourists. Continuing to build hotels won't serve our community's needs, it will only serve the big hotel chains' bottom line. Please do the right thing and stop building visitor accommodations for the foreseeable future. Mahalo.

Guest User

Location:

Submitted At: 1:59pm 05-20-21

Paula Satterthwaite from H_na. We are already overwhelmed! Please enact this moratorium!

Misao1946 Higa

Location:

Submitted At: 9:45am 05-20-21

I support moratorium to stop building more hotels. Should also include all of Maui County.

Rebekah Curtis

Location:

Submitted At: 6:05am 05-20-21

Building has become the new thing. Year after year. What about affordable homes, what about the impact it is causing to our beach and oceans

Guest User

Location:

Submitted At: 9:57pm 05-19-21

No more hotels! The impact is not worth the jobs/profits

Guest User

Location:

Submitted At: 9:17pm 05-19-21

I support the Moratorium! We don't need more visitor accommodations!!!

Guest User

Location:

Submitted At: 2:54pm 05-19-21

I support the moratorium proposal on visitor accommodations. Let's decide how to keep Maui in balance instead of being ruined by excess tourism. This is a challenging and important issue to deal with.

Guest User

Location:

Submitted At: 1:13pm 05-19-21

Hawaii is a very special place. We need to keep it that way. Take care of the people of the island that have lived here all their lives that are in need of homes. Take care of the infrastructure of this island and stop putting more people on the island. Take care of our keiki and build them decent schools. Take care of the ocean and think about the constant and critical climate change. More construction means more in our land fills, more cars, more people, more destruction to this beautiful island.

Dorothy Jakubek, Lahaina

Guest User

Location:

Submitted At: 11:58am 05-19-21

County needs to control the numbers coming in. This is out of control. Hundreds of thousand of outsiders flocking here. While our keikis, small businesses and people suffer. Fk the money!!!! Take care of our resources first and foremost.

Guest User

Location:

Submitted At: 11:50am 05-19-21

A moratorium is needed for Maui County on visitor accommodation building. CARE 50 Genesis Young MD testimony.

This urgent and critical problem is damaging our county environment because of excessive number of tourists. For all the reasons the Council passed the sustainable tourism quality over quantity resolution we need to have this moratorium to stop building more visitor accommodations where we already have too much and give us time to figure out how to get our environmental disaster from over tourism under control.

We have too many tourists and that is damaging the tourist industry let alone the environment and our own enjoyment of where we live.

This is an urgent and critical problem and we must make this moratorium county wide and as important as it is. Otherwise it loses its effectiveness due to no control on the whole County.

This moratorium must be countywide and that is defined and limited.

This moratorium must be as long as possible as 2 Years Goes Way to quickly and many projects such as the Maui Coast Hotel are only slated to begin building in about 2 years which means we will end the moratorium just in time to allow more hotels before we've even caught up to the existing permitted hotels that shouldn't be built. 5 years is more appropriate to really have an impact and decrease new building while we reevaluate.

The conditions for lifting this moratorium are very important. The lawyers would likely have us water this down and create just a single easy trigger to end the moratorium but that is just not the way the world works. This problem has many aspects and so there should be multiple triggers for ending this moratorium that all must be satisfied. That all must be satisfied. This is still limited in scope due to the fact that all of these issues deal with over tourism and its effects.

1st condition is that all visitor accommodation legal and illegal be accurately counted and a mechanism be in place to monitor that monthly

the 2nd condition as per Maui island plan there needs to be a effective mechanism for keeping our relative number of visitors to less than 25% of the humans on the island at any given time as per the 3 to 1 ratio in the Maui island plan.

The 3rd condition must be that resident sentiment which has been declining since 1988 return to at least 10% above the 1988 decline as measured by the HTA. If we don't have this as a condition then why are we doing this. Poor resident sentiment equals a poor tourist experience and reflects the experience of environmental degradation

The 4th condition we need to have a full quality of life measuring and monitoring system in place before the moratorium is lifted otherwise we really don't know where we are and currently the Quality of life measurement is mandated but it is not being fully done and the current indicators are not good in general and not wide enough in scope and please note there is already work being done on this.

5th condition would be that infrastructure be present before new development and be more than sufficient for existing needs not after the fact as a matter of law.

6 condition would be that affordable housing relative to the visitor industry room numbers be adequate to accommodate 20 staff per room of visitor accommodation present have enough affordable housing for the visitor industry staff and an absolute numbers that would seem to be at least 5000 more units. This moratorium should be tied to affordable housing because the need for affordable housing helps the tourist industry to house their staff and have staff therefore.

The 7th condition would be that at least a plan for reef and ecosystem regeneration and maintenance be in place and appropriately funded by the visitor industry that is dependent on this resource and uses this resource and causes the major Degradation of this resource and so for their best interest and ours. They must support this and pay for through a special improvement district if needed and that should be in place before the moratorium is lifted

the 8th condition would be that a county approved sustainable and regenerative visitor industry policy and procedure be in place for the county and all the visitor industry..

In summary this moratorium must be countywide and it is urgent that we adopt this and it must be for at least 5 years and it must have many important conditions to trigger the end of it as that would make this moratorium meaningful by having in place the needed environmental and visitor industry policies and procedures that will make for sustainable tourism quality over quantity and regenerate and maintain our beautiful Maui County into the future.

I wish the construction and hotel industry could see how this will be in their best long-term interest. They also live here don't think? The visitor industry is destroying the environment that they need.

Mahalo,
Genesis Young MD,
CAAC sustainable tourism subcommittee chair

Guest User

Location:
Submitted At: 11:42am 05-19-21

I support a moratorium on building any more visitor accommodations . Our island is way over crowded with visitors as it is and our environment is suffering because of it . I see people trashing our island and disrespecting the reefs by standing on them and harassing the wildlife . The very thing that brings people here is being destroyed . The west side especially has too much traffic . Traveling to and from work means contending with rental vehicles whose drivers speed and drive aggressively . We are not the mainland !
I don't go out any more except to go to work and back . I don't drive around the island anymore not wanting to endanger myself from tourists not paying attention to the road . NO MORE HOTELS PLEASE ! There should also be a moratorium on how many people can travel here . It's a nightmare being a resident here right now with way too many tourists ! No more development please !!!

Dwight Burns

Location:
Submitted At: 10:55am 05-19-21

Good Morning Chair King. Please see the following attachment regarding my testimony.

Mavis Oliveira-Medeiros

Location:
Submitted At: 10:45am 05-19-21

Aloha Chair King and Committee Members:

I felt compelled to write because the traffic problems on the Hana road is generating a lot of angst among the Hana community, especially towards the County and State Gov't entities. Tourist are parking anywhere they please, partially due to the apps & websites that are telling them to. It doesn't seem to matter if there are "no parking" signs. Many residents cannot testify because they're at work during County Council meetings. Please consider that most Hana residents would most likely be for this moratorium, especially being a source for "too many cars on the road." Mahalo, Mavis

Bobbie Best

Location:
Submitted At: 10:29am 05-19-21

so many reasons to support & you've probably heard them
tnx for allowing input

Guest User

Location:
Submitted At: 9:51am 05-19-21

Aloha, I am writing in support of the Visitor Accommodations Moratorium Bill and request that the committee recommend an IMMEDIATE moratorium on all new visitor accommodations. Maui is at risk of becoming like Oahu and we need to find a balance of the needs of residents and a tourist economy. Please stop building!
Mahalo!

Guest User

Location:
Submitted At: 9:37am 05-19-21

brett gobar and ohana, support moratorium , COUNTY WIDE...construction jobs are TEMPORARY, hotels only benefit off island investors, little of profits remain on maui. HOTEL INDUSTRY LOBBYISTS have presented unsubstantiated claims of economic benefits to transient visitor accomadations

Thomas Croly

Location:

Submitted At: 9:23am 05-19-21

my testimony is attached in a file called Resident visitor ratios

Guest User

Location:

Submitted At: 9:12am 05-19-21

I support the moratorium. We need to focus on sustainability and the last thing we need is more hotel development at this time. The focus should be quality over quantity and let's not add more rooms. Resorts can focus on improving their existing footprint, increasing the quality and enhancing the guest experience. We need to look at balancing our fragile ecosystem on Maui so let's pause where we are. The moratorium accomplishes there in a smart and prudent way.

Guest User

Location:

Submitted At: 9:09am 05-19-21

I am a resident who was born and has spent most of my life in upcountry Maui and I support the proposed Moratorium on Visitor Accommodations Development. A temporary halt to the construction of visitor accommodations island wide -not just South and West Maui- is a critical first step to creating a new model of the tourism industry and curbing the current unsustainable volume of visitor arrivals to our island. The moratorium is aligned with the Maui Island Plan and halting the issuance of building permits for additional visitor accommodations is a necessary in order to implement a long term plan for management of visitor-unit expansion and it's only a precursor to more meaningful action addressing the serious issues created by an exploitive industry that has resumed at an unprecedented pace, catering not to "quality" visitors but bargain basement pandemic vacationers to the detriment of our limited natural resources and resident's quality of life, as clearly evidenced in East Maui, where drives of visitors continue to descend daily on these resident's home in search of their piece of the Hawaii fantasy theme park experience.

Over the past year, the pandemic had made it painfully obvious that the mandate to protect public health and welfare is impossible to uphold if we continue to allow the visitor industry to dictate the course of development — we can not survive in a model that depends on never ending expansion and exploitation. We must take action to protect and preserve the health of our environment and community by implementing an island-wide moratorium, capping and managing the number of visitor accommodations, and fully dedicating ourselves to true diversification of our economy to achieve a more balanced, sustainable model, where tourism is no longer allowed to take more than it benefits our island and it's residents. It's not just a matter of quality of life, it's a matter of survival.

Guest User

Location:

Submitted At: 9:07am 05-19-21

I'm writing to request an addition to CARE-50 "Moratorium on Visitor Accommodations Development". I respectfully request the following clause added:

4000.5 (E) this chapter does not apply to descendants of the indigenous citizens of the Kingdom of Hawaii or any entity where at least 10% of the stock of such an entity is held by descendants of the indigenous citizens of the Kingdom of Hawaii.

Growing up in the islands and being of native-Hawaiian descent, I strongly feel that an ordinance that restricts the entrepreneurial vision of this land's indigenous people can not be righteous. I humbly request that you take into consideration how this ordinance may affect the business objectives of a now minority indigenous people.

Guest User

Location:

Submitted At: 9:03am 05-19-21

I support this moratorium to protect all areas of Maui from excessive visitor & construction development.

Guest User

Location:

Submitted At: 9:01am 05-19-21

Aloha, I SUPPORT the proposed bill for a "MORATORIUM ON BUILDING PERMITS FOR VISITOR ACCOMMODATIONS (CARE-50),

I also am requesting the bill to be immediately implemented and modified to include ALL of Maui County, and not just South and West Maui.

Since the beginning of the pandemic Mayor Victorino has been saying over and over that Maui is not going back to "over-tourism", and Maui will be moving to Quality over Quantity.

PLEASE SUPPORT THIS BILL FOR A MORATORIUM on building permits

Mahalo

Suzanne Dorn

Kihei

Guest User

Location:

Submitted At: 8:48am 05-19-21

Absolutely ridiculous that the local residents of Maui are once again put aside for the pleasure of tourists and the money they generate within the wealthy chain hotels. The beaches do not belong to the hotels or the visitors.

Guest User

Location:

Submitted At: 8:43am 05-19-21

I wish I had the time to write something eloquent but I just found out about this and testimony is due. In a nutshell, it doesn't make sense. Cramming more tourist in and more locals out is not going to bridge the gap in a financially sustainable life for full time residents; in fact it might make it worse. I can't even begin to explain the damage it will cause to the island and ocean; the two reasons why people come here in the first place. I saw firsthand the reef rebound when in shut down. I fear with all my heart the irreparable damage that will be caused if we saturate this island with more tourism development. Pono up and do the right thing.

Guest User

Location:

Submitted At: 8:39am 05-19-21

The last thing this island needs are more hotels. Did you not learn anything from the pandemic and the crush of unemployment of 2020? Honestly, it seems idiotic that more hotels is even being considered. Where are the workers going to live? Rents are sky high out of control and buying a home is completely out of reach for the majority. Please keep your stupidity in check and support this moratorium. Maui County does not need more hotels!!

Guest User

Location:

Submitted At: 8:33am 05-19-21

We have too many resorts and too many tourists already. We have to limit those coming as our resources are also limited! As a health care professional, an ER doctor, my wife and I are considering leaving as the housing crisis (which is NOT a separate issue) and the overcrowding is increasing the work and decreasing the available workforce. It all stems from a single root cause and that is We need to stop over tourism and a moratorium to hotel and any vacation rentals activities must be stopped

Guest User

Location:

Submitted At: 8:30am 05-19-21

A moratorium will allow us to rethink Maui_s tourism role and what type of tourists Maui wants to attract. If it_s

decided (I hope not) that we want more lodging for tourists, we can drop the moratorium. If we don't implement a moratorium NOW, we will never be able to undo any damage done. COVID has stolen the focus for the last year; it's time to focus on building the tourism Maui citizens want, not just what investors want.

I don't believe it's in Maui's interest to wholesale tourism, yet that's essentially what is being done. \$ spent per tourist has dropped substantially since the 1980's, yet the number of tourists has soared. We all see the impacts of overtourism, but it's especially obnoxious on the Hana-side. We can not continue to kill off the uniqueness of Hawai'i.

Guest User

Location:

Submitted At: 8:29am 05-19-21

Support this moratorium! We must set boundaries NOW! ENOUGH already catering to tourism like its your first born.

Guest User

Location:

Submitted At: 8:25am 05-19-21

I support CARE-50.

We must implement this immediately with an extension to all of Maui county.

The state and county have failed the local residents again and again by siding with the visitor industry. All I see is accommodating visitors and nothing benefiting the local people. We are crying out for help. Our land and housing our being take over by foreigners and making it impossible for a local family to own a house. Is this right? Would you like to see a Hawa'i with no locals living here? Why is Las Vegas our ninth island? Because no one can afford to live here at home anymore! It is a tragedy that will continue, unless our government decides to do something about it instead of just talking about it all the time.

Guest User

Location:

Submitted At: 8:14am 05-19-21

I support this Moratorium and ask that the whole county be included in this. The quality and way of life has been constantly degraded by the massive tourism influx, and the first step to addressing any problem is to press pause and re-evaluate. Thank you so much for your consideration.

Guest User

Location:

Submitted At: 8:14am 05-19-21

I support a moratorium on any building of hotels, timeshares, or homes to be used as vacation homes. Maui is in dire need of housing for residents who live and work here that is actually affordable and not located in undesirable locations. It has gotten to the point that residents are unable to have a good quality of life here on Maui and as healthcare professionals my family is looking to relocate out of Hawaii due to the overcrowding and overtourism.

Guest User

Location:

Submitted At: 8:06am 05-19-21

I support this Moratorium and ask that the whole county be included in this. The quality of life for residents here in Maui county are being significantly impacted in a negative way. We need more resources and focus to be on the very serious housing crisis as well as protecting the culture and nature, and managing the massive footprint happening on our island.

Tourism has gotten to the point where it's out of control. Better education and caps are a first step.

Please make this moratorium enforced immediately. Mahalo for your time

Guest User

Location:

Submitted At: 8:05am 05-19-21

The amount if visitor accommodations is ridiculous already. The illegal vacation rentals are everywhere. The larger hotels do not pay for the infrastructure needed to accommodate all these visitors. We will look like Oahu

soon!! Stop already!

Guest User

Location:

Submitted At: 8:01am 05-19-21

Council Member Kelly King, Chair

Council Member Shane Sinenci, Vice-Chair

Members of the Climate Action, Resilience, And Environment Committee

RE: MORATORIUM ON BUILDING PERMITS ON VISITOR ACCOMMODATIONS Hearing Date: Wednesday, May 19, 2021, at 9:00 AM

Aloha Chair King and members of the Committee,

Mahalo for the opportunity to submit testimony on behalf of the Fairmont Kea Lani.

Fairmont Kea Lani strongly opposes this bill and its proposed measure.

The Fairmont Kea Lani is a 450-unit all-suite and villa resort in the purpose built resort zoned area of south Maui (Wailea). We employ a staff base of approximately 700 people; all are Maui residents and contributing members of our community. Throughout the Island-wide closure of tourism last year due to COVID, I am proud to report that we spent multiple millions of dollars to ensure ALL our employees were able to maintain 100% health coverage through to year end 2020. Our dedication to supporting our community extended far beyond colleague health coverage – we conducted property-funded food drives of locally sourced items which directly assisted our neighbor farmers/fishermen/suppliers, as well as organized mass food and PPE donations. Fairmont Kea Lani has a long standing reputation of welcoming our Kama_aina community and of being a strong supporter of local commerce. From discount programs in our food outlets to purchasing roughly 90% of our fish and 80% of our produce from local Maui-based businesses, we have and will continue to be symbiotic with the environment within which we operate.

And specifically speaking to our environmental stewardship, during the closure we installed Phase 2 of our rooftop solar system to help mitigate our dependence on external energy sources. This phase nearly doubled our eco-friendly and sustainable solar generated power. Additionally, in order to minimize unnecessary food waste, we installed diversion technology to help us both measure and monitor food waste. Likewise, we have continued our efforts towards global sustainability by partnering with a local farmer who is using our raw waste product as animal feed. These are only a few of the initiatives underway at our property and represent only a fraction of our commitment to Maui, its people and our planet.

I share the above information not to brag as we are humble in our efforts and recognize there is always more we can (and will) do. The information is shared to help educate you, our County Council, on our efforts and to caution that policies such as the generic targeted Building Moratorium under consideration are detrimental to our ongoing ability to do what's pono. As I've noted in prior testimony, we recognize our responsibility to do what's right to minimize our environmental footprint and support our community. We are not riding a wave of popularity nor are we looking for quick real estate return, short term investment or tax avoidance. We are very committed to Maui and are heavily invested in its people. We sincerely believe we are an important part of Maui and have a responsibility to help manage tourism. Therefore, I respectfully call upon you to ask this question: Do illegal short term rentals (both visitor AND owner) share what I believe to be our collective vision of a better Maui?

Ultimately, restricting construction, expansion and renovation in resort zoned areas of Maui will adversely impact our business as well as those within the respective supporting trades across the island. The moratorium, as proposed, will stifle our industry's ability to continue efforts towards the development of an even more sustainable tourism infrastructure. Most importantly to note, pausing visitor accommodation development will not stop visitors from traveling. It is our earnest position that visitors should be encouraged to stay in Maui's purposely constructed and zoned resort areas. If development is paused in these resort areas, the already extensive proliferation of illegal short-term rentals in our residential communities will likely increase to fill the void. This must not be allowed to continue. Further, enforcement efforts that target illegal vacation rentals and unpaid taxes will help drive down tourist volumes and, as is evidenced by the efforts on O_ahu, is more than self-funding.

Redirecting tourists back into resort zoned areas and legal accommodation will create increased tax revenues, reduce mainland property ownership thereby allowing for more affordable-to-local housing options with viable long term rental opportunities, create healthier communities with the stated desired "quality over quantity" visitor and visitor experience.

For all these reasons, Fairmont Kea Lani strongly opposes this bill and its proposed measure.

Respectfully,
Michael

MICHAEL PYE
AREA GENERAL MANAGER, HAWAII
GENERAL MANAGER, FAIRMONT KEA LANI

Guest User

Location:
Submitted At: 7:59am 05-19-21

I support this moratorium. My name is Jody Bowman, I was born and raised in Haiku. Local residents don't want or need more hotels. We need affordable housing. We need a more balanced economy that is not mainly dependent on visitor dollars to survive. We want to enjoy Maui, our home, we don't want to feel trampled on by wave after wave of visitors. Let's put our energy, planning and tax dollars toward local residents and what is best for our community.

Ronelda Sofaly

Location:
Submitted At: 7:55am 05-19-21

Too many tourists. Private beachfront homes taking over our beaches and access. Residents who rent out a single u it, should not have higher home taxes, all trying to survive. Off island owners buying in residential neighborhoods and creating visitor accommodations, should pay higher taxes. Hotels use our water, roadways and utility systems . They do not accommodate local residents. Money money money...No true Aloha. Think of the community events the Intercontinental Hotel use to host years ago. Enough already. It was so peaceful, quiet and easy traffic while hotels were not open

Roberta Hodara

Location:
Submitted At: 7:49am 05-19-21

I support the CARE-50 CC 21-232 MORATORIUM ON VISITOR ACCOMMODATIONS DEVELOPMENT. I believe all counties of Maui should take a pause from giving out permits for new visitor accommodations. Maui is already stressed from the number of daily visitors. The roads have too many rental cars, there is not adequate parking or bathroom facilities at public beaches. New developments negatively impact the quality of the environment. More parking lots increase the amount of unfiltered runoff into the ocean. Hotel and condo developments require the use of more of Maui's precious water supply. Please let Maui's resources have a break from the stress of constant development.

Hannah Bernard

Location:
Submitted At: 7:48am 05-19-21

Please amend this proposed bill to add all of Maui County and not restrict it to just south and west Maui.

Guest User

Location:
Submitted At: 7:47am 05-19-21

Aloha! We support the long overdue implementation and enforcement of our Maui Island Plan, 2030 and our community plans. Over tourism is destroying the environment and degrading the lives of our communities. Please take actions.....Mahalo! Christel and John Blumer-Buell, Hana.

Guest User

Location:

Submitted At: 7:46am 05-19-21

please ask that the proposed bill be immediately implemented and modified to include all of Maui County, and not just South and West Maui. Otherwise development of visitor accommodations will just shift to the rest of the county creating further problems in other areas.

Guest User

Location:

Submitted At: 7:37am 05-19-21

Please use your good judgement in protecting Maui and finding a workable balance between tourists & locals... This is your responsibility!! If you don't act with this goodwill and love of Maui... resources will be drained, beaches will be ruined, Use your higher judgement...not greed!!!

Guest User

Location:

Submitted At: 7:27am 05-19-21

please ask that the proposed bill be immediately implemented and modified to include all of Maui County, and not just South and West Maui. Otherwise development of visitor accommodations will just shift to the rest of the county creating further problems in other areas.

Guest User

Location:

Submitted At: 7:24am 05-19-21

The existing Maui Plan said the visitor limit should be 50,000. In 2019 there were times we had 75,000 visitors here. What is the point of setting Plans if they are ignored. Entitlements in South Maui are allowing every square foot of land to be built upon. Congestion is untenable for residents like ourselves. When will enough be enough? Please pass a moratorium on new hotel/condo construction especially for Kihei/Wailea. Dave and Mary Reader 2531 S. Kihei Rd.

Guest User

Location:

Submitted At: 7:10am 05-19-21

I support this bill. No more hotels

Guest User

Location:

Submitted At: 7:06am 05-19-21

I would love to see Maui remain small scale in relation to Oahu. Please don't let greed and money cloud the local vibe that makes Maui so great!

Guest User

Location:

Submitted At: 6:57am 05-19-21

I am a home owner and resident of Kihei. I strongly support this bill for a moratorium on visitor accommodations. Our quality of life and the fragile state of the our environment are at stake. We should not be subjected to being the tourist capital of the world!

Guest User

Location:

Submitted At: 6:51am 05-19-21

Good morning, my name is Molly Jacobson and I am a Kihei resident. I fully support this bill, however, I think it should cover all of Maui. I also think it should apply to projects that are in progress. We are at a crisis point and we must give the island a break from growth. We should be building affordable homes and shoring up our infrastructure. And if developers want to build, they should be mandated to build for the people, first. We are

killing the golden goose.

Guest User

Location:

Submitted At: 6:38am 05-19-21

Hello, Councilpersons and committee members,

My name is David Dorn a Kihei Resident and co-founder of SaveKihei.Org a community group.

I support this bill for a moratorium on Hotel and VA building, and it should be for 10 years and be island-wide. We actually need a general moratorium on all building (with the exception of affordable housing and infrastructure).

There is way too much building going on, and it is pushing our population to breaking point. Estimates say that soon there will be 250 thousand people driving around on Maui every day. This horrendous number is because of increasing tourism and people moving here from the mainland. This is not a natural population increase from locals having children. Can you imagine how horrible that will be. We will be worse off than Waikiki. And it is happening right before our eyes.

We need this moratorium to stop unchecked growth, which will create problems going forward. We need this moratorium to send a clear message to the planning department about what kinds of developments we need right now. The planning department will keep approving Hotels and Visitor Accommodations indefinitely without any clear directives and rules with teeth.

Please support this moratorium.

Guest User

Location:

Submitted At: 6:28am 05-19-21

I think that it should also include all of Maui.

Guest User

Location:

Submitted At: 6:12am 05-19-21

Support

Guest User

Location:

Submitted At: 6:02am 05-19-21

Please protect and preserve Maui from overtourism. It is already too crowded and edging out the residents and destroying our land and sea. Moratorium should include the whole island and county.

Gwendolyn Etessami

Location:

Submitted At: 5:55am 05-19-21

I fully support the MORATORIUM ON VISITOR ACCOMMODATIONS DEVELOPMENT. It should be expanded to include all of Maui County. Furthermore, there should be a limit on the number of visitors allowed.

Guest User

Location:

Submitted At: 5:42am 05-19-21

I support the moratorium on visitor accommodations development and I also support expanding it to include all of Maui.

Guest User

Location:

Submitted At: 5:21am 05-19-21

It is Pono

Guest User

Location:

Submitted At: 5:01am 05-19-21

I fully support the bill to halt any further visitor accommodations, for all of Maui, not just the Southside and Westside. We need to take care of our land and resources to ensure longevity.

Barbara Zawacki

Location:

Submitted At: 3:44am 05-19-21

Please include all of Maui in the moratorium on visitor accommodations and development. Maui is being overbuilt and overtourism needs to halt.

Guest User

Location:

Submitted At: 2:47am 05-19-21

I SUPPORT of the proposed "MORATORIUM ON BUILDING PERMITS FOR VISITOR ACCOMMODATIONS (CARE-50)," I also ask that the proposed bill be modified to include ALL of Maui County and not just South and West Maui. Further tourism development needs to stop, Maui already has enough tourism housing. This continued development only continues to erode the Maui beauty.

Michael Byrne

Location:

Submitted At: 2:32am 05-19-21

I 100% endorse and support the Visitor Accommodation Moratorium bill. I have sent hundreds of families to Maui over the 40 years in the tourism industry. I saw what Maui was in the 70's, anything south of Lipoa was dirt road! Maui has enough tourism lodging, maybe too much already. Leave the rest of Maui to Maui residences! Mahalo nui loa! Michael Byrne

Guest User

Location:

Submitted At: 2:31am 05-19-21

Please extend the moratorium to the entire island of Maui. Otherwise, It feels like we are falling into the same rabbit hole we experienced before the pandemic.. i.e. overselling the island, Quantity of visitors over Quality, Residents impacted negatively by overcrowded roads and lack of goods and services.

Guest User

Location:

Submitted At: 1:14am 05-19-21

Please stop further tourism development. This is an island with limited space and resources.

Guest User

Location:

Submitted At: 11:55pm 05-18-21

I support this!

Guest User

Location:

Submitted At: 11:36pm 05-18-21

I've asked 'Ohana, friends, coworkers, neighbors, my keiki's teachers and coaches, folks around town, at the beach/parks, and every single person supports the proposed moratorium. I've even spoken to several VISITORS who support a moratorium on building more hotels! I'm not saying people think it's perfect- The most common complaint about the moratorium is that it's too short. The second most common complaint is that it's limited to South Maui and West Maui. For many years the community has been asking for action to stop overtourism; this measure will be a small step in the right direction. Please pass a moratorium and also find additional ways to reduce capacity for transient accommodations.

Guest User

Location:

Submitted At: 11:02pm 05-18-21

Aloha kakou, im a born and raised napili resident in support of the moratorium on visitor accommodations development. Jus look at what the tourism industry/development has really done in the past 2 decades. It's not hard to see

Guest User

Location:

Submitted At: 11:01pm 05-18-21

Enough already! We need housing for our residents!!!

Sara Tekula

Location:

Submitted At: 10:49pm 05-18-21

Aloha mai k_kou,

I'm a 17 year Maui resident and I reside in Makawao.

Just a quick observation: it's interesting to me that I have not seen ONE person testify as a private citizen who is in opposition to this moratorium. The only folks who have showed up in opposition so far are tourism industry accommodation lobbyists and hotel general managers testifying on behalf of their corporations. Regardless of what the corporate tourism sector says, we can clearly see that there is overwhelming support for the moratorium from our broader community. The people of Maui are fed up. Including me. While I used to enjoy regular time at the beach with my family on a weekend, now I worry that I won't be able to find a bit of sandy shoreline that isn't crowded with tourists and with overflowing parking. I keep asking myself lately, "what do we have left that is just for us, the citizens of Maui who are paying taxes and working hard to afford the higher and higher costs of living?" We need to have space outdoors to breathe and rest for our mental health—especially after the year we've had—and those spaces are becoming few and far between. Together, we must find a way to ensure that we can breathe and make room for wise decisions without being strong-armed by corporate hotel representatives backed by boatloads of money.

The lobbyists are purporting that this temporary moratorium will hurt industry, or is anti-hotel, but that is just not true. This moratorium does not shut down existing tourism related businesses, many of whom are currently seeing record numbers while paying their dedicated staff near-poverty wages. Existing workers will get to keep their jobs. Construction workers will take on other work. It's the current multinational corporate hotel owners (who want to add capacity and enlarge their already enormous properties) and also the new hotel developers that will take the hit. The moratorium won't affect local residents currently working in the industry. You'll hear from the hotels about their sustainability initiatives and their "aloha pledges" that sounds great on paper, but the truth is that our local hotel workers are grossly underpaid, often needing to work two jobs to make ends meet, not to mention the fact hotels are being built on sacred ground and are grossly over-using our precious water resources. How is that aloha? What we are seeing here is an obvious and frankly disingenuous PR spin from the WAY too powerful hotel lobby, and honestly, that reveals their true values. The lobbyists are trying to inspire fear if they say that it will hurt Maui County to have a temporary moratorium. That is just not true. It will help us in SO MANY WAYS. I ask the members of this committee to make sure you hear the community equally to this lobbyist, even when we show up unattached to large powerful organizations.

The testimony I saw from the builder's union on Monday gave me pause: the kind gentleman that was testifying on the union's behalf admitted that they need continual, non-stop growth in the hotel sector so they can continue getting their "luxury high end jobs" to install marble tile and such. Well, I'm here to say that if we have continual growth like that, going unchecked and with no plan but to allow more, I don't have to be a mathematician to add it up: more visitor accommodations equals more jet fuel, more shipping, more rental cars burning fossil fuels, more emissions and pollution, less fish in the reefs, water in our streams and wells, and less space for our families to enjoy the place that we love and support with our hard work and taxes. These are issues that this committee is dedicated to, are they not? Have we thought about all of these impacts? Do we need to study them more closely? The moratorium would create that opportunity for us to work together to get a clear picture, and put a pause on the potential for harm until we know more. It seems like a no-brainer, honestly.

The County Council unanimously approved a Sustainable Tourism resolution emphasizing quality over quantity, meaning that our focus should be on the quality of a visitor's experience as opposed to focusing on the number of visitors. This gave me and many in this community tremendous hope. What has happened instead? We are hitting record numbers, we are already at capacity and we're spending taxpayer money to promote Hawai'i tourism nationally on "Good Morning America," just last week while our island is at or near capacity. What does the resolution mean if we're not thinking about our sustainability commitments? If we're not focused on real problem solving?

A moratorium on visitor accommodations would give the Council an opportunity to further clarify how to alleviate the pressures and vulnerabilities created by over tourism, without allowing unchecked growth to continue. We need to pass this now, so we can address the issues immediately before everyone and their mother submits a building permit. Please do not delay, because it is already too late.

And finally, the moratorium on visitor accommodations must apply to the entire island, not just West and South Maui. Otherwise, visitor accommodations will be proposed in other communities outside of West and South Maui, which we do not want.

Mahalo for hearing our voices today, mahalo for thinking of what our community of hard working families truly needs, not just what the lobbyists and their industries want.

Sara Tekula
Makawao, HI

Susan Bradford

Location:
Submitted At: 10:38pm 05-18-21

I enthusiastically SUPPORT the Visitor Accommodation Moratorium bill.
We need to rethink how Maui can allow tourism sustainably and at the same time develop jobs in other fields to support our local population.
Please Declare an Immediate Moratorium on ALL new Visitor Accommodations.
Thank you for all your hard work on this.
Susan Bradford

Guest User

Location:
Submitted At: 10:36pm 05-18-21

The residents of Maui County are calling for investment in the __ina and future generations! How will that be possible if more and more hotel developments are to be built?! Maui county is overloaded with tourists every year, there needs to be more REGULATION rather than expansion.

Guest User

Location:
Submitted At: 10:32pm 05-18-21

The residents of Maui County are calling for investment in the __ina and future generations! How will that be possible if more and more hotel developments are to be built?! Maui county is overloaded with tourists every year, there needs to be more REGULATION rather than expansion.

Guest User

Location:
Submitted At: 10:21pm 05-18-21

We cannot sustain our MauiCounty Community life, aina, schools, needs with unaccountability of Overload of Tourist running out of control NOW!

Guest User

Location:

Submitted At: 9:52pm 05-18-21

Stop building take it easy be grateful for what you've already gotten away with or you'll be sorry.

Guest User

Location:

Submitted At: 9:38pm 05-18-21

We are in support

Guest User

Location:

Submitted At: 9:26pm 05-18-21

I support the Moratorium and would like to see it encompass the entire county of Maui . -Our island infrastructure, waste management, beaches, houses, open spaces, communities, and workforce cannot support this unrelenting drive to develop blindly . We are losing the elements which make our island home so special and attracts visitors to come. The Hawaiian islands are not just another place with good weather and nice beaches to overdevelop. We have a culture ,the Hawaiian culture which has a language, a lifestyle, a way of living which is disappearing completely before our eyes. Our island Maui is being turned into another place with warm weather and nice beaches to frolic with crowds ,traffic, and pavement and private areas restricting access and making it impossible for us . The beaches are filled with hotel umbrellas stacked four to five layers wide and across half the beach or more.. At Makapua beach the new homes going in are putting a palm hedge along the rock wall which will completely block the view of Makena and the ocean. Look at West Maui -look what has become of those areas. We are so much more than that. Please stop- we had an opportunity during the pandemic to catch a breathe and remember the possibilities of what Maui can be . Diversify -lose the laser focus on tourism and developing. We are now importing so many people to come work at the hotels and come build them as well, they are taking away the housing and raising the prices for the local population. -there is not enough housing for the local families for the generations coming up-and at the rate things are going no one from here will be able to afford to stay here. The "workforce" housing in Kihei is stacking people in densely built apartment buildings with no open space - no regard for quality of life- so sad. nly the and most of those homes are selling to The quality of life for the average family is disappearing quickly. We do not need to continue on this path - but to take some more time to breathe and re-direct and find other opportunities for our islands resources -aquaculture, farming, technology ,alternative energy sources and on and on. Funny during the pandemic -we ere able to buy lots of local produce my favorites-baby romaine lettuce and baby cucumbers-cannot buy anymore anywhere-why all the produce is going to the hotels again - what about the residents? We need to produce enough food for the residents . If anythings are being built in association with tourism it should be cultural centers ,where visitors can talk story , see films , listen , learn experience what the Neative Hawaiian Culture is in this place they are visiting. Education about the sea life where they are swimming. Visitors cannot appreciate and respect the island if they are not able to learn about it . Stop -breathe- we are not a destination, we are a culture. Let's move forward with care for preserving all that is important and not be lead by greed alone.

Guest User

Location:

Submitted At: 9:23pm 05-18-21

Yes, please halt the development! We all agreed during the pandemic--our leaders as well as residents--that tourism has gotten out of hand. We have enough. Already the streets and roads feel mobbed. Please keep perspective. Anne Pierce, 31 year resident, Haiku.

Guest User

Location:

Submitted At: 9:09pm 05-18-21

I support the Moratorium on building

Guest User

Location:

Submitted At: 9:06pm 05-18-21

I support the moratorium on building/creating new tourist accommodations for all of Maui County.

Guest User

Location:

Submitted At: 9:04pm 05-18-21

I am writing in support of the moratorium and would like to see it extended to cover all of Maui County, not just South and West. I am 20 years old, born and raised in Wailuku, and have worked in the hospitality industry on Maui for many years. As I am heading off to the mainland for my senior year of college, I find myself wondering if I will ever return to Maui. Will ever afford to own a home here? By the time I have children, will they ever be able to experience Maui as I did growing up? Over development and a rampant, largely uncontrolled tourism industry has devastated this island and the lives and futures of residents. Maui is going to grow and change, that is inevitable, but a future for Maui is possible that prioritizes residents over outside corporations seeking profit. Please vote yes on the moratorium, as it is in the best interest of the local community and environment.

Lily Katz, Wailuku

Luanne Teoh

Location:

Submitted At: 8:48pm 05-18-21

Ua mau ke ea o'ka aina i ka pono. (The life of the land is perpetuated in righteousness)

Please heed the words on the state seal of Hawaii and its motto. Tourism is out of control. I support this moratorium on visitor accommodations on Maui. There is too much of it already and not enough homes for locals. Please focus on the community first.

There are ways for the state to make money that's not tourism related. All you have to do is ask. The community has plenty of ideas to contribute and help take action on these ideas.

Guest User

Location:

Submitted At: 8:38pm 05-18-21

Please enact this moratorium. Tourism is way out of hand! We don't need more tourist units in Maui County.

Amy Fonarow

Location:

Submitted At: 8:33pm 05-18-21

Aloha, Climate Action, Resilience, and Environment Committee:

I support the moratorium on visitor accommodation development, and I respectfully request that you do the same and extend its provisions to all of Maui County.

There are ways to make tourism simultaneously sustainable and profitable. In order to explore those ways, we must stop and examine the accommodations and numbers of visitors we have already accommodated, and compare them with the environmental, cultural, and societal carrying capacity of Maui County before considering adding even more.

Please use this moment in time to stop and think about the future without considering money. What will be important to the Islands twenty years from now? One hundred?

Thank you for your thoughtful consideration.

Mahalo nui and m_lama pono,
Amy Fonarow (former Maui resident)

Guest User

Location:

Submitted At: 8:29pm 05-18-21

Please recommend that the Council approve a moratorium for all of Maui County.
Mike Foley, retired Maui County Planning Director.

Guest User

Location:

Submitted At: 8:19pm 05-18-21

When is enough enough?

Guest User

Location:

Submitted At: 8:13pm 05-18-21

Enough excess already. Educate visitors, limit tourism.

Guest User

Location:

Submitted At: 8:02pm 05-18-21

My husband and I are in SUPPORT of the proposed "MORATORIUM ON BUILDING PERMITS FOR VISITOR ACCOMMODATIONS (CARE-50)," We have lived on Maui since 1970 and seen how the environment has eroded terribly over the years, while local families we have known for years can no longer find housing, and feel "pushed out" by the tourists. Enough is enough. Please, no more building! Cap the number of tourists, and let the environment recover. Thank you.

Guest User

Location:

Submitted At: 8:01pm 05-18-21

I support the Moratorium On Visitor Accommodations Development.

Guest User

Location:

Submitted At: 7:56pm 05-18-21

I am a former resident of Maui, now living in California. While I am anxious to visit the islands as soon as I feel it is really safe. I can see clearly that the current situation with tourists is that many tourists are uneducated as to the fact that they are in someone's community. Many tourists are behaving very disrespectful. They act as though they were in a private amusement park. The numbers of tourists at this point is overwhelming. A moratorium is a wise move in the right direction.

Jacqueline Ambrose

Location:

Submitted At: 7:48pm 05-18-21

Excessive tourism strains the islands resources, water, waste water/sewage, supplies, medical services etc. We've all seen what happened with the ocean mammals when the island was shutdown for a bit, it was wonderful. There needs to be a better balance between the have's & have not's,

Kathleen Aitchison

Location:

Submitted At: 7:36pm 05-18-21

There MUST be a moratorium on visitor accommodations! Maui cannot continue to support the huge influx of visitors we've been seeing. We do not have the infrastructure or natural resources to support the numbers to which we have grown. You all saw the number of rental cars parked during the shut down and we should learn from the pandemic. It's the perfect time to diversify and break free of the strangle hold of tourism. Put effort toward sustainable agriculture, clean industry and allow Maui to become a self supporting supplier of the Pacific. Learn from what happened to Oahu.

Guest User

Location:

Submitted At: 7:23pm 05-18-21

Please immediately enact a moratorium on new development of visitor accommodations. Over-tourism does not serve our community. We need to hit pause and think about what will best nourish our people, the aina and future generations.

Kapulani Antonio

Location:

Submitted At: 7:21pm 05-18-21

There are too many malihini as it is already, we certainly don't need more hotels. The quality of life for local residents suffers because of too many tourists. There's a mentality that we need the tourist industry so badly but who does it really benefit? As we learned in Pacific Business News, Hawai'i's tourist industry is the lowest paying in the country. A moratorium is needed badly. Please vote in support. Mahalo.

Guest User

Location:

Submitted At: 7:13pm 05-18-21

Please let's be proactive with the tourism and not wait until land, water, wildlife and reef is destroyed beyond repair

Guest User

Location:

Submitted At: 6:36pm 05-18-21

I strongly support this moratorium. Maui has changed so drastically in the past few years and not for the better. When is enough, enough? I believe the time is now and I know all of the real locals here feel the same. I hate that my keiki cannot enjoy many of the beaches and other parts of this island that I grew up at all because of the overwhelming amount of tourists and transplants here now. Quality over quantity please. Maui No Ka Oi

Laurie Valentine

Location:

Submitted At: 6:32pm 05-18-21

Please immediately enact the moratorium on any more visitor accommodations. Let's figure out our over tourism issue first!

Guest User

Location:

Submitted At: 6:24pm 05-18-21

Hi my name is Consuelo Apolo-Gonsalves I fully support this measure our infrastructure can't handle anymore hotels enough already this moratorium should be for the whole island of maui not just south kihei and westside Mahalo for your time

Guest User

Location:

Submitted At: 6:17pm 05-18-21

I wholeheartedly support this measure!! The island an it's infrastructure cannot sustain the same levels of tourism pre-pandemic. We're already feeling some of those pressures again. We need our economy more derversified, so as never to experience the same economic misfortune!!! This is our home and we need better! Mahalo

Guest User

Location:

Submitted At: 6:14pm 05-18-21

I SUPPORT a moratorium on all development and permitting of visitor accommodations for the entire island of Maui.

Guest User

Location:

Submitted At: 6:12pm 05-18-21

I'm writing in SUPPORT of the proposed "MORATORIUM ON BUILDING PERMITS FOR VISITOR ACCOMMODATIONS (CARE-50). It's important to slow down the growth of visitor hotels in ALL parts of Maui, too, for if stopped in the usual tourist areas, the growth will just move to the rest of the County, as we are witnessing in plans for hotels or hotel expansion in Wailuku and Kahului.
Mele Stokesberry, Kula

Hawaii Lodging and Tourism Association HLTA

Location:

Submitted At: 6:05pm 05-18-21

Testimony of

Mufi Hannemann

President & CEO

Hawai'i Lodging & Tourism Association

Maui County Council

Climate Action, Resilience, & Environment Committee

May 19, 2021

CC 21-232: AMENDING THE BUILDING CODE TO ADD CHAPTER 40 RELATING TO A MORATORIUM ON BUILDING PERMITS FOR HOTELS

Chair King and members of the Committee, mahalo for the opportunity to submit testimony on behalf of the Hawai'i Lodging & Tourism Association, the state's largest private sector visitor industry organization.

The Hawai'i Lodging & Tourism Association—nearly 700 members strong, representing more than 50,000 hotel rooms and nearly 40,000 lodging workers—advocates on behalf of an industry that has been disproportionately hamstrung by the COVID-19 pandemic. Our people and our businesses are just beginning to get back on their feet, and we, as community, should be trying to make it easier for businesses to recover safely especially during an economic downturn that has hurt our state's top economic driver. At its core, this proposed measure unfairly discriminates against a single industry that consistently contributes millions of dollars each year in State and county revenues.

It should also be noted that the findings of this proposed measure cite tourism statistics from 2019 that do not take into account the pandemic, or the year-long depression in visitor arrival numbers. These numbers will not rebound overnight- we will not see 10 million visitors statewide or 70,000 daily visitors to Maui County any time soon. This would provide both West and South Maui ample time to update their respective community plans without limiting measured growth and or renovation of aging properties.

Moreover, the proposed language of the measure cites several goals including the lowering of carbon emissions, climate change mitigation, and limiting global warming by "pausing visitor accommodation development and the related increase in tourism" but limiting development and renovation now would not accomplish this. Any restriction on hotel development would not in any effective manner lower the demand for travel to Maui County at this time. It would, however, severely limit a property's ability to retrofit or upgrade its infrastructure during planned rebuilding.

Finally, restricting construction, expansion, or renovation would only harm other sectors of our economy like construction and other trades that have survived the pandemic. Building permits of all types ultimately mean more projects and, by extension, more jobs for Maui residents. It would seem self-destructive to enact such limiting constraints on both the travel industry and the trades in Maui which is historically the county most reliant upon tourism for its economic well-being. This fact was made especially clear during and throughout a pandemic that has left Hawai'i with the highest unemployment rate in the nation.

For these reasons, HLTA strongly opposes this proposed measure.

Thank you for the opportunity to offer this testimony.

Guest User

Location:

Submitted At: 5:59pm 05-18-21

I support this ordinance.

Guest User

Location:

Submitted At: 5:48pm 05-18-21

Maui needs affordable HOUSING for RESIDENTS, not more hotel rooms and vacation condos. We need to downsize our tourism industry and diversify our economy, with a focus on clean, sustainable agricultural production for local consumption, and other small-scale clean industries like artisanal food products, technology development, and clean energy production. Climate change will force this on us eventually, by disrupting travel and shipping; let's get a head start and be prepared!

Guest User

Location:

Submitted At: 5:48pm 05-18-21

Aloha Chair King and members of the Committee,

Thank you for the opportunity to submit testimony on behalf of Hyatt Regency Maui Resort & Spa.

I am writing in opposition of the proposed bill that seeks to impose a moratorium on building permits for visitor accommodations. By ceasing all future development in hospitality, we are hindering future job opportunities for the community and limiting the positive impacts that the hotel industry can make on the island.

As an employer to over 685 Maui residents, Hyatt Regency Maui not only provides jobs directly within hospitality, but also indirectly supports jobs within other industries including construction, agriculture, entertainment, and more, many of which are small businesses or locally based or here on the island.

Hyatt Regency Maui, and the hotel industry as a whole, also positively impacts the community by supporting non-profit organizations and community service projects. Hyatt Regency Maui has been an active participant in Pu'u Kukui Watershed restoration efforts, volunteering for Ka Hale A Ke Ola Homeless Shelter, raising funds for Susan G. Komen Hawaii and Charity Walk, hosting food drives for Maui Food Bank, supporting the Sustainable Living Institute of Maui (SLIM), and so much more.

In addition, Hyatt Regency Maui is committed to being environmental stewards and has been long-time leader of sustainability within the industry. The resort's recent renovation, technologies and best practices have increased energy efficiency and energy production, minimized water usage, diverted waste and supported the decrease in traffic on the island. As the first resort in Hawaii to achieve the USGBC's Gold LEED-EBOM certification and the first resort in Hawaii to earn the USGBC's TRUE Waste Precertification award, Hyatt Regency Maui is an example of how we can continue to grow in responsible and eco-friendly ways.

By moving forward with the proposed Care-50 bill, we would be limiting the advancement of our economy and putting constraints on the positive contributions of the visitor industry, therefore I oppose this proposed moratorium.

Mahalo,

Fred Findlen

General Manager, Hyatt Regency Maui Resort and Spa

Guest User

Location:

Submitted At: 5:45pm 05-18-21

I cannot fathom the on-going over development that seems to continue and continue and have no end in sight. Lets preserve what is left of our aina by controlling future planning responsibly. No more ugly concrete high-rises that leave us less beauty and tranquility than before. This is no longer a beautiful, peaceful island, but a concrete jungle that looks like a mainland city. Enough with taking care of the tourist, how about taking care of our locals who were raised here. We are indebted to what our ancestors left us, but what beauty are we leaving the next generation. Our culture has been ruined. Stop the building, stop development now! There is no room. Cars are crowding our highways and we are being smothered by too many tourists on this small island.

Guest User

Location:

Submitted At: 5:41pm 05-18-21

I support a Moratorium on Building Permits for Visitor Accommodations! I would rather see a focus in building reasonable prices homes for the Local residents on Maui. Start turning the focus inward to REALLY support the Maui people. We have enough Hotels and accommodations for Tourists! It is the local residents who need help!

Patricia Gardner

800A East Kuiaha Rd.

Haiku, Maui, Hi 96708

(808) 572-7950

love@lightweavingjoy.com

Guest User

Location:

Submitted At: 5:37pm 05-18-21

The WHOLE Maui county: don't be shortsighted. Now is the time...now or never! Please be wise. Jo Kimm

Suzanne Fields

Location:

Submitted At: 5:37pm 05-18-21

We MUST take an intelligent approach to tourism and a smart move would be to enact a moratorium on visitor accommodations. Enough is enough! Please take this action for the sake of our keiki, our environment, and to ensure that Maui remains Maui!

Guest User

Location:

Submitted At: 5:35pm 05-18-21

Too many tourists are destroying Maui. And the locals have no place to live!

Guest User

Location:

Submitted At: 5:34pm 05-18-21

I support this moratorium on visitor accommodations.

Guest User

Location:

Submitted At: 5:33pm 05-18-21

I SUPPORT the Visitor Accommodations Moratorium Bill with modification to include all of Maui County. I request that the committee recommend an IMMEDIATE moratorium on all new visitor accommodations. Here_s to a new sustainable Maui.

Guest User

Location:

Submitted At: 5:33pm 05-18-21

I SUPPORT the Visitor Accommodations Moratorium Bill with modification to include all of Maui County. I request that the committee recommend an IMMEDIATE moratorium on all new visitor accommodations. Here_s to a new sustainable Maui.

Guest User

Location:

Submitted At: 5:24pm 05-18-21

As a resident of Maui for over 30 years, I support a moratorium on visitor accommodations development for all of Maui County. Enough is enough, we have enough hotels already. Our resources should now be directed to creating a sustainable environment for residents, including affordable housing, regenerative ag, improving our infrastructure, developing local businesses and attracting hi-tech businesses to the island. And, of course, maintaining the beauty and serenity that is a hallmark of Maui.

Sharon Smith

Location:

Submitted At: 5:13pm 05-18-21

The toll mass tourism is taking is ruining so much of our land and quality of life. For only a quarter of our GDP it is so inescapable and overwhelming and a pure extraction industry that provides nothing in return except wear and tear on our infrastructure and low wage jobs. The extreme housing costs if you can even find a rental is causing residents to move out of state. To sit by while you watch people who've been here for generations leave their families for deserts on the mainland is destroying the culture. Please enact a moratorium on transient accommodations now.

Guest User

Location:

Submitted At: 5:13pm 05-18-21

I support a moratorium to curb the unfettered, uncontrolled development in order to avoid over-building, over-crowding, stretching our already over-used, over-crowded roads, stores, limited supplies and our islands limited natural resources.

Guest User

Location:

Submitted At: 5:05pm 05-18-21

I SUPPORT a moratorium on all development and permitting of visitor accommodations for the entire island of Maui.

Guest User

Location:

Submitted At: 5:04pm 05-18-21

Aloha. I support the moratorium on visitor accommodations development for ALL of Maui for multiple reasons. First, our infrastructure and ecosystem is very fragile on Maui and cannot support more and more tourist arrivals. We see how our beaches are affected daily. During covid when there was less people the water was cleaner and you could see more algae and sea life. This has regressed since visitors are back. Another important reason is that our quality of life as locals has been affected. We have seen significant worsening in our traffic, less parking spots and the beaches are crowded and the ocean is being destroyed. Pls stop this madnesses and let's NOT be The next Oahu. Mahalo Nui

Guest User

Location:

Submitted At: 5:02pm 05-18-21

I am in support of the moratorium on new building permits for visitor rentals and urge the committee to expand the bill island wide. Tourism numbers are well beyond a level that is healthy for residents. We need to diversify the economy and reduce reliance on tourism to create a sustainable future.

David Kahn

Location:

Submitted At: 4:56pm 05-18-21

We already have more than enough visitor accommodations and we need to find creative ways to diversify our economy. Tourism will always be a part of our economy but even now we have too many visitors. The impact of

the visitor industry was clearly visible during the early days of the pandemic when all the rental cars on the island were parked at fields near the airport. We have enough hotels, condo-tels, timeshares, etc already, we don't need more and the island really can't handle anymore visitors.

Guest User

Location:

Submitted At: 4:53pm 05-18-21

Enough already - let's preserve what's left of Maui's beauty- we have plenty accommodations for tourists

Guest User

Location:

Submitted At: 4:50pm 05-18-21

I support the moratorium on visitor accommodations development because our infrastructure and ecosystem is fragile on Maui and cannot support more and more tourist arrivals. Also, our quality of life has declined as locals. More traffic, less parking spots at beaches, beaches are crowded.

Guest User

Location:

Submitted At: 4:49pm 05-18-21

I support the CARE-50 CC 21-232 MORATORIUM ON VISITOR ACCOMMODATIONS DEVELOPMENT (CARE-50). Building is out of control with high rise buildings and blocked open spaces. Here we are at" The Crossroads". You have the power to make a change. The train of Tourism will not stop. Maui is supposed to be Special. If we as a community care for this Special, Rare Jewel that is Maui County you will use your power and be on the Right side of the good that can Happen when you listen to the People that live here, wake up here to the changes that you could listen too. If we, the stewards of the island do the right thing we can be proud to share with Visitors our way of thinking. Quality for both the People that live here 365 days a year and the travelers that are only here for maybe 14 days. So lets make the change. Slow down the Island is already more tourist than people that live here. Thank you for your time. Kihei Resident and Voter...

Guest User

Location:

Submitted At: 4:42pm 05-18-21

We need schools, housing, and infrastructure before anymore vistor accommodations!

Guest User

Location:

Submitted At: 4:35pm 05-18-21

We need this moratorium urgently. Already the situation has gone too far with road congestion's, environmental pollution and no parking at beaches for local residents.

cheryl hendrickson

Location:

Submitted At: 4:32pm 05-18-21

I support a building permit moratorium for visitor accommodations for ALL of Maui. Our quality of life has been destroyed and the island can not take anymore visitors.

Guest User

Location:

Submitted At: 4:31pm 05-18-21

I support a moratorium on ALL VISITOR Accommodations (CARE-50) permits for ALL OF MAUI COUNTY. We must be good stewards - where all can thrive - including nature, residents and tourists.

Mark Deakos

Location:

Submitted At: 4:30pm 05-18-21

I support the ban on building any more buildings to accommodate more tourists. The number of tourists currently visiting Maui is unsustainable and putting enormous pressure on our natural resources, traffic and lessens the quality of life for the people of Maui. Until we are able to implement a sustainable tourism model (example: Palau), we need a moratorium on further tourism growth. We should also have a moratorium on rental cars as dealerships try to bring back all the rental cars that left the island during COVID. Traffic is starting to reach its breaking point again.

Barbara Mattson

Location:

Submitted At: 4:29pm 05-18-21

I SUPPORT a moratorium on all development and permitting of visitor accommodations for the entire island of Maui.

Guest User

Location:

Submitted At: 4:25pm 05-18-21

I support this moratorium to cease new building for visitors. Personally, my business and my husbands both depend on visitors, and I will say that at the moment the tourism industry is thriving, and we need more tourist management for our residents. Specifically for North Kihei, there is no place for the visitors to walk within the community there. It is a residential neighborhood. Also, while we depend on tourism now, we do not need that to be our main source of income. There are several islands, cities, that are not dependent on tourism. Being completely dependent on outside money leaves us beholden to whatever happens with the industry. We need to continue investment in our own economy here. The North Kihei location has two areas one directly on the beach, this location is simply bad for the environment. I support this moratorium and for it to be expanded to the whole island. I am not against tourism, just that it should be better managed.

Guest User

Location:

Submitted At: 4:23pm 05-18-21

I support a building permit moratorium on visitor accommodations for ALL of Maui.

Nicholas Drance

Location:

Submitted At: 12:37pm 05-18-21

Testimony from Nick Drance, The Maui Miracle

RE: CARE – 50, Committee Hearing May 19, 2021

I support this moratorium with the following provisions:

A. If Item 4000.6 indicates automatic repeal two years from the effective date of the ordinance, I do not support that. I do support 4000.5 which extends the moratorium until the approval of the West and South Maui Community Plan Updates, by Ordinance.

I do not support an automatic repeal date.

B. I request that Corporation Council use its due diligence in ensuring that there are no loopholes that would allow circumvention of this Ordinance as requested by the Chair of the CARE Committee and ask also that independent Counsel also review it, in anticipation of challenges to its validity from local and mainland business interests. I would expect those challenges to be formidable.

C. Should this become an Ordinance, I wish it to be made clear upon that occasion, that this is the will of the majority of constituents represented by each Council Member, based on the following:

1. Every widely accepted government and academic study related to tourism indicates that we are well outside the resident/tourist metric limits they establish, to the extreme. It's hard to argue with the volume and quality of those studies.

2. CARE-47 CC 21-190 indicates that the Lana'i, Maui and Moloka'i recommends that the Countywide Plan...which we are supposed to be following, include the following: "MITIGATE CLIMATE CHANGE AND WORK TOWARD RESILIENCE' AS A GOAL OF THE COUNTYWIDE POLICY PLAN"

3. The Maui Island Plan, effective through 2030 and Countywide Plan call for balance between necessary development and maintaining the character of the island. It's based on the Focus Maui Nui study, funded by A&B, State of Hawaii Department of Business, Economic Development and Tourism. It affirms this with greater specificity. As the highest quality, most professional survey, it's not fair to ignore it. Because it was established by Ordinance, it should be a binding document. Its primary vision refers to "livable communities and small towns that will protect and perpetuate a pono lifestyle for the future, applying sound natural resource management, retaining our unique identity and preservation of our rural and ag lands (often converted to an urban designation)

Full text appears below. There is no mention of business interests beyond the establishment of a diversified economy, which hotels have not encouraged.

4. It's obvious that tourist accommodations, retail and commercial development provide only the most minimal benefit to residents. Why on earth would residents want to maintain this sad status quo. It changes our unique identity and reduces our quality of life with traffic and mainland values like endless shopping, instead of an appreciation of the abundant characteristics of "nature"...which everyone would agree, has been diminishing for years.

5. We need a breather. We need to take stock of where we are going and how we are getting there. We appear to be on a self-destruct course. A surprising amount of prior testimony in the Water, Infrastructure and Transportation Committee Hearing called out issues with the Planning Department and Planning Commission. That assumes the need to re-evaluate those entities with regard to the subject at hand.

Condensed summary of the Core Values

The first is to apply sound natural resource management. Ostensibly, that puts our natural resources as a priority of other things..like development for example. It encompasses our watersheds, streams and wastewater treatment.

The fourth requirement is to retain our unique identity and sense of place (which does not include seemingly endless hotel construction and more).

The fifth requirement is to preserve our rural and agricultural lands and encourage sustainable agriculture. The remaining requirements include efforts to diversify our economy, create a political climate that is responds to citizen input, and respect the dignity of residents.

VISION STATEMENT AND CORE VALUES

Ua mau ke ea o ka `ina i ka pono

Maui Island will be environmentally, economically, and culturally sustainable with clean, safe, and livable communities and small towns that will protect and perpetuate a pono lifestyle for the future.

Core Values

To achieve our island's vision, we will be guided by the following values:

- A. Adopt responsible stewardship principles by applying sound natural resource management practices.
- B. Respect and protect our heritage, traditions, and multi-cultural resources.
- C. Plan and build communities that include a diversity of housing.
- D. Retain and enhance the unique identity and sense of place;
- E. Preserve rural and agricultural lands and encourage sustainable agriculture.
- F. Secure necessary infrastructure concurrently with future development.
- G. Support efforts that contribute to a sustainable and diverse economy for Maui.
- H. Create a political climate that seeks and responds to citizen input.
- I. Respect and acknowledge the dignity of those who live on Maui.
- J. Establish a sustainable transportation system that includes multiple modes, including walking, biking, and mass

transit, as well as automobile-based modes; and

K. Recognize and be sensitive to land ownership issues and work towards resolution.

Pat Mukai

Location:

Submitted At: 11:41am 05-18-21

Please find attached the testimony of JP Oliver, Managing Director, Grand Wailea, a Waldorf Astoria Resort in opposition to CARE-50. Please let us know if the committee needs any additional information.

Guest User

Location:

Submitted At: 9:51am 05-18-21

Aloha Esteemed Chair and Committee,

I submit this testimony in support of the proposed Moratorium on Building Permits for Visitor Accommodations. It is now fully recognized that the pre-pandemic level of tourism is not sustainable. The degradation and damage being done to the islands in terms of the ecology, health and lifestyle became glaringly clear. Priorities must shift to maintain and improve the natural beauty and health of our environment not only so tourists will come but so residents will want to stay and can enjoy the peaceful lifestyle that the islands offer. Quality over quantity is a reasonable slogan but there needs to be a plan of action in place to achieve this goal. If we can't regulate the number of flights that come to the islands, we have to do it by limiting accommodations. The proposed visitor accommodations moratorium will pause further development of new hotel, resort, timeshare, short-term rental homes, bed and breakfast homes, and transient vacation rental units until a permanent solution is vetted and enacted. Another consideration to the problem of over tourism is the reality of food scarcity for our islands. Until and unless we develop a thriving agricultural economy that provides food to feed the population, we will be without sufficient food to feed the local population let alone the added thousands of tourists that will be here when a catastrophic event or shipping strike or some other likely disruption occurs. We have no stockpiles of food or water to depend on. It will be survival of the fittest. It's time to take the blinders off and get our priorities straight in order to survive.

Thank you for your consideration.

Patricia Stillwell

Kihei

Virus-free. www.avast.com

Charmaine Ross

Location:

Submitted At: 8:57am 05-18-21

Please find attached ARDA Hawaii Letter and Memorandum. Thank you.

Sherry Pollack

Location:

Submitted At: 11:36pm 05-17-21

Council of the County of Maui

The Committee on Climate Action, Resilience, and Environment

RE: MORATORIUM ON BUILDING PERMITS FOR VISITOR ACCOMMODATIONS (CARE-50)

Hearing date and time: Wednesday, May 19, 2021 at 9:00 a.m.

Aloha Chair King and members of the Climate Action, Resilience, and Environment Committee,

I am Co-Founder of the Hawaii chapter of 350.org, the largest international organization dedicated to fighting climate change. 350Hawaii.org supports the proposed moratorium on building permits for visitor accommodations. This proposed bill would amend the building code to place a moratorium on visitor accommodations development in West and South Maui, an action which would help ensure the County stays on

track to implement critical plan action items relating to the visitor-industry impact on the County's environment. By doing so, this bill would help preserve the County's environment and efforts towards climate change mitigation and resilience-building.

Just last month the State Legislature followed Maui County's lead and officially declared a Climate Emergency for Hawaii. But it is not enough to acknowledge the crisis we face, meaningful actions to address the climate crisis must be taken. This moratorium would do just that by providing the County with clear policy direction to mitigate climate change and work toward resilience.

Mahalo for the opportunity to testify in support of the proposed moratorium on building permits for visitor accommodations.

Sherry Pollack, Co-Founder, 350Hawaii.org

Evan Oue

Location:

Submitted At: 4:40pm 05-17-21

May 17, 2021

Council of the County of Maui
The Committee on Climate Action, Resilience,
And Environment
Councilmember Kelly T. King, Committee Chair
Councilmember Shane Sinenci, Committee Vice-Chair

RE: MORATORIUM ON VISITOR ACCOMMODATIONS DEVELOPMENT (CARE-50)

Hearing date and time: Monday, May 19, 2021 at 9:00 a.m.

Aloha Chair King, Vice-Chair Sinenci and Honorable members of Climate Action, Resilience, and Environment Committee,

Mahalo for the opportunity to provide comments on behalf of Hawaii Hotel Alliance ("HHA") regarding the County's consideration of a moratorium on building permits for visitor accommodations.

Like so many industries, the pandemic was a game-changer for tourism. The COVID-19 economic recession left Hawaii's hotels the hardest hit market in the country. For a year, most hotels throughout the county were shut down and/or at occupancy levels that have left many properties operating at a significant loss. Despite the devastating impact that COVID-19 has had on Maui's hotels, the industry doubled down on our commitment to our island home and to the most valuable assets we have: the men and women of Hawaii who work in and around our hotels.

Throughout the pandemic, our hotels extended the health and welfare benefits for our furloughed employees and developed life-saving 'Safe Stay' protocols to protect our workers, our guests, and the communities we serve. Our hotels invested directly in community food drives, supported kupuna care, and engaged in countless acts of support for churches, schools, and relief programs. The legitimate visitor industry has worked tirelessly to keep kama'aina safe and healthy while working towards the safe reopening of our hotels. Simply put: our hotel industry will continue its generational commitment to being an integral part of the health of thriving communities across Maui County and across our State because the legitimate visitor industry believes that tourism is additive to support the well-being of those of us who call Hawaii home. The same cannot be said of illegal short-term rentals.

At the heart of this matter of a moratorium on building permits for visitor accommodations appears to be a desire to control the negative impacts of tourism across Maui County. At HHA and throughout the legitimate visitor industry, we share this concern. We believe the conversation should focus on the causes of the negative impacts of tourism and not the parts of the visitor industry that are crucial to our health, our culture, and our way of life here in the islands.

In 2009, Hawaii had 43,000 hotel rooms which ran at high occupancy with seven million visitors to our shores. In 2019, we had the same number of hotel rooms but more than 10.2 million visitors. In the last 20 years, our total hotel room count on Maui has actually fallen, while at the same time legal and illegal short-term rentals have exploded, effectively permitting a 6,000 room hotel and a 10,000 room illegal, unhosted B&B directly into the

heart of some of our most coveted neighborhoods and fragile ecosystems across the county. The vast majority of these short-term rental operators do not live in Maui County. While we have made progress in putting tougher laws on the books to deter this criminal activity of operating illegal hotels in our neighborhoods, our hardworking partners at the county have admitted that we still lack the resources and tools to rollout effective and critical enforcement.

In contrast to these illegal short-term rentals, our hotels consist of entire ecosystems that consider the needs of our guests and our guests' impact on the communities in which our hotels are situated. Hotels are self-contained environments that, with tremendous input from our community members, permitting authorities, employees, and cultural advisors, are designed to minimize the cost and footprint of our visitors while maximizing visitor spend and contribution to our economy. From maintenance of the beaches our visitors use to the promotion of voluntourism and ecotourism opportunities for our guests, hotels are actively engineering positive visitor impact for the benefit of Hawaii.

If it is the intent of the Council to align the interests of kama'aina and the visitor industry, then a moratorium on 'permits for visitor accommodations' (which reads as no more hotel rooms) is, in my belief, a misinformed approach. Rather than single out hotels, which contribute to our communities in countless ways, we should focus our ire on enforcement against the literal thousands of illegal short-term rentals that are taking housing away from local families, clogging our streets, breaking the law, not contributing to our tax base, skirting environmental compliance, non-compliant with basic health and safety regulations, lacking in community contributions, and destroying neighborhoods across Maui County and throughout Hawaii.

Yes, it is time to revisit our relationship with our visitors. And on behalf of HHA and our membership, we welcome every opportunity to continue our work with the Council and our communities in developing projects that put locals to work, invest in environmental stewardship, and promote local business, schools, and non-profits while honoring our host culture. Thank you for your time and consideration of these comments.

With Aloha,

Jerry Gibson, President
Hawaii Hotel Alliance
Jerry@hawaiihotelalliance.com

Maui HLA

Location:

Submitted At: 11:19am 05-17-21

Dear Chair King and members of the Committee,

Mahalo for the opportunity to submit testimony on behalf of the Maui Hotel & Lodging Association.

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes 195 property and allied business members in Maui County – all of whom have an interest in the visitor industry. Collectively, MHLA's membership employs over 25,000 residents and represents over 19,000 rooms. The visitor industry is the economic driver for Maui County. We are the largest employer of residents on the Island - directly employing approximately 40% of all residents (indirectly, the percentage increases to 75%).

It should be noted that the findings of this proposed measure cite tourism statistics from 2019 that do not take into account the pandemic. The industry will continue to face challenges to recover after a year-long depression in visitor arrival numbers.

Restricting construction, expansion, or renovation would only harm other sectors of our economy like construction and other trades that have survived the pandemic. Building permits of all types ultimately mean more projects and, by extension, more jobs for Maui residents. It would seem self-destructive to enact such limiting constraints on both the travel industry and the trades in Maui which is historically the county most reliant upon tourism for its economic well-being. This fact was made especially clear during and throughout a pandemic that has left Hawai'i with the highest unemployment rate in the nation.

The moratorium as proposed will stifle our industry's ability to continue efforts towards the development of more sustainable infrastructure. Most importantly to note, pausing visitor accommodation development will not stop visitors from traveling. It is our position that visitors should be encouraged to stay in Maui's purposely constructed and zoned resort areas. If development is paused in these resort areas, the already extensive proliferation of

illegal short-term rentals in our residential communities will likely increase to fill the void. This must not be allowed to continue.

For all these reasons, MHLA strongly opposes this bill and its proposed measures.

Mahalo again for the opportunity to offer this testimony.

Guest User

Location:

Submitted At: 9:26am 05-17-21

-----Original Message-----

From: Maria Scafidi <fntsees@gmail.com>

Sent: Monday, May 17, 2021 9:05 AM

To: County Clerk <County.Clerk@mauicounty.us>

Subject: T-54...

Proposed tourist accommodations moratorium....

I wholeheartedly support the moratorium and ask that the planning commission of the Maui County Council not only "Pause" but "Stop" all building permits for ALL OF MAUI COUNTY.

MAHALO NUI...

Maria Scafidi

I

Guest User

Location:

Submitted At: 8:34am 05-17-21

Chair King and members of the CARES Committee,

We are writing in strong opposition to the proposed bill to "amend the building code to add Chapter 40 relating to a moratorium on building permits for visitor accommodations."

The bill is overreaching and unnecessary given that the County, through the existing process, can already decide which proposed developments are good for the community without imposing a moratorium.

Implementing a moratorium on building permits for new hotel, resort, timeshare, short-term rental homes, bed and breakfast homes, and transient vacation rental units for an undefined period of time will have far-reaching and long-term negative impacts on real estate, construction, tourism and the whole island economy.

While the intent is to place a pause on the development of visitor accommodations and any increase in visitors, it also will have a negative impact on much-needed employment opportunities for our Maui residents who work in construction, tourism and in other related fields such as transportation and retail. Other unintended consequences include the negative impact on other areas of our economy that rely on the trickle-down effects of employment and tourism, such as suppliers of products that support such accommodations.

Our timeshare industry cares about the environment, and we recognize the need for responsible tourism and better management of our precious resources. Due consideration should be given to the broader impacts of the proposed measure, however. We as a community need to look to some sort of resolution that provides our local residents with the ability to continue to work to provide for their families while at the same time addressing the impacts of the influx of visitors until Maui can transition to a more diversified economic base.

We respectfully request that you defer this measure and instead convene a task force with representatives from all stakeholders to address these concerns in a deeper and more meaningful way.

Thank you for your consideration.

Respectfully submitted,

Ryan Nobriga
ARDA Hawaii
Maui Task Force Chair

Guest User

Location:

Submitted At: 8:07am 05-17-21

-----Original Message-----

From: David Mulinix <ourrevolutionhawaii@yahoo.com>

Sent: Monday, May 17, 2021 12:17 AM

To: County Clerk <County.Clerk@mauicounty.us>

Subject: TESTIMONY: MORATORIUM ON BUILDING PERMITS FOR VISITOR ACCOMMODATIONS (IT-54)

Aloha Chair and Committee Members,

On behalf of Our Revolution Hawaii's 7,000 members and supporters statewide we stand in strong support of the proposed moratorium on building permits for visitor accommodations. This bill will help the County implement an action plan relating to the visitor-industry impact on Maui County's environment.

As the Chair and Committee are well aware we are already in a climate emergency. Due to the growing Climate Crisis it's time to take meaningful steps to address it. This moratorium will provide the County with an opportunity to take action and develop clear policy direction to mitigate climate breakdown and work toward resilience.

Mahalo Nui Loa for your kind attention.

Dave Mulinix, Cofounder & Hawaii State Community Organizer Our Revolution Hawaii

**HAWAII OPERATING ENGINEERS
INDUSTRY STABILIZATION FUND**



Affiliated AFL-CIO
OPEIU - 3 - AFL-CIO (3)

*Uniting our strengths and working together
for a better tomorrow.*

Honorable Kelly Takaya King, Chair
Honorable Shane Sinenci, Vice Chair
Honorable Members of the Climate Action, Resilience,
And Environment Committee

May 19, 2021

RE: **MORATORIUM ON BUILDING PERMITS ON VISITOR ACCOMODATIONS**

Dear Chair King and members of the Committee,

My name is Dwight Burns and I am the Maui Island Representative representing the Hawaii Operating Engineers Industry Stabilization Fund (HOEISF). We are a labor management fund representing 3000 unionized members in the heavy engineering site work and 500 general contractors specializing in heavy site and vertical construction. Hawaii Operating Engineers Industry Stabilization Fund **strongly opposes the Moratorium on Building Permits on Visitor Accommodations.**

Imposing a moratorium would severely impact the residents of Maui, many of whom are struggling to make ends meet. A large percentage of our Maui residents work in the construction or tourism related industry and after the pandemic hit, cannot possibly survive another setback.

If there's a moratorium on building permit for future visitor accommodations, it would open the door for illegal vacation rentals to rise and operate, thereby making it even more difficult for local people to rent or buy housing.

On a more personal note, I feel that it is overall a better solution to have tourists stay in the resorts instead of vacation rentals. Kamaaina workers in the resorts serve as reliable sources of information for visitors. Resorts have worked tirelessly over the years to minimize their footprint, educate visitors on environmental impacts and have made a concentrated effort to promote, buy and sell local. Tourists that stay in vacation rentals will not have access to these types of valuable information.

A moratorium on building permits on visitor accommodations will be detrimental to the housing, construction and retail industries, just to name a few. It will affect the local residents, who have already suffered so many challenges this year. I respectfully ask the Council to please reconsider this measure. Thank you for your time and consideration.

Sincerely,

Dwight K Burns
Maui Island Representative
Hawaii Operating Engineers
Industry Stabilization Fund





Testimony of
Mufi Hannemann
President & CEO
Hawai'i Lodging & Tourism Association

Maui County Council
Climate Action, Resilience, & Environment Committee
May 19, 2021

CC 21-232: AMENDING THE BUILDING CODE TO ADD CHAPTER 40 RELATING TO A
MORATORIUM ON BUILDING PERMITS FOR HOTELS

Chair King and members of the Committee, mahalo for the opportunity to submit testimony on behalf of the Hawai'i Lodging & Tourism Association, the state's largest private sector visitor industry organization.

The Hawai'i Lodging & Tourism Association—nearly 700 members strong, representing more than 50,000 hotel rooms and nearly 40,000 lodging workers —advocates on behalf of an industry that has been disproportionately hamstrung by the COVID-19 pandemic. Our people and our businesses are just beginning to get back on their feet, and we, as community, should be trying to make it easier for businesses to recover safely especially during an economic downturn that has hurt our state's top economic driver. At its core, this proposed measure unfairly discriminates against a single industry that consistently contributes millions of dollars each year in State and county revenues.

It should also be noted that the findings of this proposed measure cite tourism statistics from 2019 that do not take into account the pandemic, or the year-long depression in visitor arrival numbers. These numbers will not rebound overnight- we will not see 10 million visitors statewide or 70,000 daily visitors to Maui County any time soon. This would provide both West and South Maui ample time to update their respective community plans without limiting measured growth and or renovation of aging properties.

Moreover, the proposed language of the measure cites several goals including the lowering of carbon emissions, climate change mitigation, and limiting global warming by “pausing visitor accommodation development and the related increase in tourism” but limiting development and renovation now would not accomplish this. Any restriction on hotel development would not in any effective manner lower the demand for travel to Maui County at this time. It would, however, severely limit a property's ability to retrofit or upgrade its infrastructure during planned rebuilding.

Finally, restricting construction, expansion, or renovation would only harm other sectors of our economy like construction and other trades that have survived the pandemic. Building permits of all types ultimately mean more projects and, by extension, more jobs for Maui residents. It would seem self-destructive to enact such limiting constraints on both the travel industry and the trades in Maui which is

historically the county most reliant upon tourism for its economic well-being. This fact was made especially clear during and throughout a pandemic that has left Hawai'i with the highest unemployment rate in the nation.

For these reasons, HLTA strongly opposes this proposed measure.

Thank you for the opportunity to offer this testimony.



May 17, 2021

Council Member Kelly Takaya King, Chair
Council Member Shane M. Sinenci, Vice-Chair
Members of the Climate Action, Resilience,
And Environment Committee

RE: MORATORIUM ON BUILDING PERMITS ON VISITOR ACCOMMODATIONS
Hearing Date: Wednesday, May 19, 2021, at 9:00 AM

Aloha Chair King and members of the Committee,

My name is JP Oliver, managing director of Grand Wailea, a Waldorf Astoria Resort. I am writing to ask the Committee to defer decision making and closely study the implications of CARE-50. The proposed measure would prohibit the planning department from issuing any building permits for the development of transient accommodations for a period of up to two years.

Please know, at the Grand Wailea, we believe that responsible tourism, respecting our host culture, and environmental sustainability can – and must – coexist. As all businesses and residents in an island community must be, we are deeply committed to achieving a bright and more sustainable future we all want to see for Maui.

That's why we launched the Aloha Pledge, a resort-wide education initiative asking guests to take an oath to respect Hawai'i's natural resources, culture and people, in 2019. The Aloha Pledge – which we place in each guest room – outlines a code of respectful conduct, provides information about safety and protected species, educates guests about cultural values and shares resources about etiquette in areas of special interest.

Grand Wailea is committed to continuing to be a model for Hawai'i's hospitality industry, and we recognize our role as a catalyst for responsible tourism and economic opportunity on Maui. Our economic impact extends beyond being one of the island's largest employers to the countless small businesses we support. For our restaurants, we source fresh produce, beef and fish from Maui farmers and fishermen. We feature Maui Brewing Company at our restaurants and bars, and the flower arrangements for our lobby are also locally grown. Above all, our commitment to supporting the Maui community runs deep.

We are also leading the way for the County to take real action on environmental sustainability by investing more than \$4 million in innovative new technology and infrastructure upgrades at Grand Wailea to conserve precious natural resources. The resort is phasing out single-use plastics, and year-to-date, we have replaced 259,000 plastic water bottles with recycled aluminum bottles. We reduce our food waste by sharing our leftovers to be used as animal feed or to be composted through partnerships with local farms and organizations. We also installed one of Maui's largest solar panel arrays to harness the abundant sunshine to power our

operations. Through these comprehensive initiatives, we strive to do our part to encourage responsible tourism and make sustainable decisions that are good for local businesses and the health of our island.

Grand Wailea is also committed to doing our part in reducing the traffic on Maui's roadways. We offer free Maui bus passes to our team members and a cash incentive to commute to work via carpool, bike or motorcycle.

Looking forward, we stand ready to work together with our partners at the County and the community to identify and address the challenges and opportunities facing Maui's hospitality industry. One such challenge is the increasing trend of visitors opting to stay in vacation rental homes that were built for local families in neighborhoods never intended to accommodate tourism.

We can promote a sustainable tourism future by following the guiding vision of the Maui Island Plan and working together to minimize the impacts of visitors through thoughtful planning and conservation efforts and maximize the benefits of tourism for local communities and families. To that end, the plan identifies resort areas like the Wailea-Makena region, where Grand Wailea is located, and responsible tourism development is encouraged. The plan notes that properties like Grand Wailea are well-placed to achieve our goal of attracting the right guests to visit, saying, "higher average spending can best be achieved by marketing focused on visitors who stay in hotels."

In conclusion, I respectfully ask the Council to defer this measure so that members can fully understand the economic impact of the moratorium, and so you may seek community input – including our hospitality industry – on how we can responsibly manage tourism together.

Mahalo for your consideration,

A handwritten signature in black ink, appearing to read "JP Oliver". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

JP Oliver
Managing Director
Grand Wailea, a Waldorf Astoria Resort



May 18, 2021

TO: Councilmember Kelly King, Chair
Councilmember Shane Sinenci, Vice-Chair
Members of the Climate Action,
Resilience, and Environment Committee

FR: AMERICAN RESORT DEVELOPMENT ASSOCIATION - HAWAII (ARDA-Hawaii)
Mitchell Imanaka, Chair

RE: CARE-50– Moratorium on Visitor Accommodations Development

(Sent via e-mail to care.committee@mauicounty.us)

Dear Chair King and Members of the CARES Committee:

Attached please find a memo regarding the legality of certain aspects of the proposed measure on a moratorium on the issuance of building permits in certain districts on Maui. Your kind consideration of the points raised would be greatly appreciated.

Yours Very Truly,

A handwritten signature in black ink, consisting of a stylized 'M' followed by a horizontal line that ends in an arrowhead pointing to the right.

Mitchell Imanaka
Chair
ARDA Hawaii

c/o Mitchell Imanaka • 745 Fort Street, Suite 1700 • Honolulu, HI 96813 • (808)521-9500
mimanaka@imanaka-asato.com

DATE: May 5, 2021
TO: ARDA Hawaii c/o Mitchell A. Imanaka, Esq.
FROM: Cades Schutte LLP
RE: CC 21-191 (Amending The Building Code To Add Chapter 40 Relating To A Moratorium On Building Permits For Hotels) and CC 21-232 (Amending The Building Code To Add Chapter 40 Relating To A Moratorium On Building Permits For Visitor Accommodations)

We were asked to review CC 21-191 (“**Bill 191**”) and CC 21-232 (“**Bill 232**”) (together, the “**Bills**”) to assist our client in its evaluation of the Bills. This memorandum offers our preliminary assessment.

I. INTRODUCTION

Bill 191. On April 8, 2021, Councilmember King transmitted proposed Bill 191 to the Maui County Council (“**Council**”). Bill 191 seeks to add Chapter 40 (Moratorium on Building Permits for Hotels) to the Maui County Building Code. Under Bill 191, Chapter 40 (Moratorium on Building Permits for Hotels) would provide in material part as follows:

4000.4 Prohibition on building permits for hotel development in West Maui and South Maui. No building permit applications for **hotel development** in West Maui or South Maui may be accepted.

Section 4000.4 (emphasis added).

The term “hotels” is defined as “transient accommodations.” Section 4000.3. The term “development” is defined as “any **new** units used for transient accommodations.” *Id.* (emphasis added). Although the term “new” is not defined in the Bill, the plain meaning of the word is a “thing recently come into being.” Black’s Law Dictionary (11th ed. 2019). Hawai‘i courts construe statutes according to their plain meaning. *Peer News LLC v. City & County of Honolulu*, 138 Hawai‘i 53, 60, 376 P.3d 1, 9 (2016) (where the language is plain and unambiguous, a “court’s sole duty when construing [ordinances] is to give effect to its plain and obvious meaning”). In accordance with the plain meaning of the word “new,” the Bill does not apply to the renovation of existing “transient accommodations.”

The term “transient accommodations” is not defined in Bill 191 or the Maui County Code. It appears that the use of the term “transient accommodations” in the Bill is intended to capture hotels, time share units, transient vacation rentals and bed and breakfast homes. Under this construction, Bill 191 would prohibit the acceptance of building permit applications for the construction of units intended to service “transients,” which Maui County Code defines as “any visitor or person who owns, rents or uses a lodging or dwelling unit, or portion thereof, for less than one hundred eighty days and whose permanent address for legal purposes is not the lodging or dwelling unit occupied by the visitor.” Maui County Code 19.04.040.

The prohibition on the “development” of “transient accommodations” in West Maui and South Maui would automatically lift at the earlier of two years from the effective date of the law or when the ordinance approving the South Maui Community Plan update takes effect **if** that date is later than the effective date of the ordinance approving the West Maui Community Plan update. Given the anticipated timing of the South Maui Community Plan updated, Bill 191 would apply in West Maui and South Maui until the South Maui Community Plan has been updated.

Under Bill 191, there are no exemptions as of right. Instead, “the Council may authorize exceptions from [the prohibition] by resolution upon request by the director of public works.” Section 4000.5.

The findings presented in the Bill contain three parts. First, the findings imply that the development of transient accommodations has increased the ratio of visitors to residents. Second, according to the findings, a large percentage of these transient accommodations are in West Maui and South Maui, for which updated community plans are under review. Third, as support, the findings assert that prior moratoria on construction—specifically, Maui County Ordinances 1997 (1991) and 5125 (2020), City and County of Honolulu Ordinance 18-6 (2018) and City of Asheville, North Carolina, Ordinance 4766 (2019)—have been used as tools to temporarily preserve the status quo.

Bill 191 was placed on the agenda for the April 16, 2021 meeting of the Council and again on the agenda for the May 7, 2021, meeting of the Council.

Bill 232. On April 29, 2021, Councilmember King transmitted proposed Bill 232 to the Council. Bill 232 also seeks to add Chapter 40 (Moratorium on Building Permits for Visitor Accommodations) to the Maui County Building Code. Under Bill 232, Chapter 40 (Moratorium on Building Permits for Visitor Accommodations) would provide in material part as follows:

4000.4 Prohibition on building permits for visitor accommodation development in West Maui and South Maui. No building permit applications for **visitor accommodations** in West Maui or South Maui may be accepted.

Section 4000.4 (emphasis added). “Development” is defined as “any new units **expressly** designated to be used for visitor accommodations.” Section 4000.3

(emphasis added). The term “visitor accommodation” is defined as “any kind of transient accommodations, including hotels, resorts, timeshares, short-term rental homes, bed and breakfast homes, and transient vacation rentals.” *Id.* As is true with Bill 191, Bill 232 would not apply to the renovation of existing “visitor accommodations.”

The prohibition on the “development” of “visitor accommodations” in West Maui and South Maui would automatically lift at two years from the law’s effective date. Alternatively, the prohibition would automatically end in West Maui on the effective date of the West Maui Community Plan update **if** the West Maui Community Plan update becomes effective in less than two years. Similarly, the prohibition would automatically end in South Maui on the effective date of the South Maui Community Plan update **if** the South Maui Community Plan update becomes effective in less than two years.

Unlike Bill 191, Bill 232 “does not apply to any development that has received its last discretionary approval prior to the effective date of the ordinance establishing the chapter.” Section 4000.5. Like Bill 191, “the Council may authorize exceptions from [the prohibition] by resolution upon request by the director of public works.” *Id.*

Bill 232 presents the same findings as Bill 191. In addition, Bill 232 claims that the development of visitor accommodation and the presumed related increase in tourism cause negative impacts on the environment. To preserve the County’s environment, mitigate climate change and work toward resilience, visitor accommodation development must be prohibited. Thus, the stated “purpose of the moratorium . . . is to lower carbon-emission levels, mitigate climate-change impacts and limit the rate of global warming.” Section 1 (Findings and purpose).

Bill 232 has been placed on the agenda for the May 7, 2021 meeting of the Council.

II. ANALYSIS

A. The Maui Planning Commission Must Review the Bills. The Maui County Charter provides in relevant part:

The [Maui] planning commission shall:

1. Advise the mayor, council, and the planning director in matters concerning planning programs.

...

3. Review other proposed land use ordinances and amendments thereto prepared by the director or the council and, after public hearings, transmit such ordinances with its findings and recommendations thereon to the council for consideration and action no later than one hundred twenty (120) days after the final public hearing.

Maui County Charter Section 8-8.4.

The Bills prohibit a specific kind of development—“transient accommodations” or “visitor accommodations”—in specific community planning districts of Maui—West Maui and South Maui. Prohibiting specific uses in specific districts is quintessentially a zoning power under the Hawai‘i Zoning Enabling Act. *See* HRS § 46-4(a) (“zoning” is the “establishment of districts . . . and **the adoption of regulations** for each district”) (emphasis added). Furthermore, the Bills connect the prohibition on development to the adoption of updates to the West Maui and South Maui Community Plans. Planning is a fundamental part of zoning and, in Hawai‘i, must precede the adoption of zoning regulations. *Id.* (“Zoning in all counties shall be accomplished within the framework of a long-range, comprehensive general plan prepared or being prepared to guide the overall future development of the county . . . [and] shall be one of the tools available to the county to put the general plan into effect in an orderly manner.”). Finally, the findings in the Bills expressly assert that they are intended “to temporarily maintain the status quo by establishing a moratorium on building permits . . . in West Maui and South Maui until both community plans are updated.” Bill 191, Section 1; Bill 232, Section 1. Thus, from the findings to the moratorium itself and to the end of the moratorium, the Bills purport to exercise the County’s zoning power and materially involve “planning programs” and “land use.”

In accordance with the Maui County Charter, if the Council advances the Bills, the Council is required to submit the Bills to the Maui Planning Commission. Public hearings must be held on the Bills. The Council may not act until the hearings have been completed and the Commission’s findings and recommendations have been adopted.

B. The Bills Fail to Substantially Advance a Legitimate State Interest. The Due Process Clause of the Fourteenth Amendment provides that no State shall “deprive any person of life, liberty, or property, without due process of law.” U.S. CONST. amend. XIV; *accord* HAW. CONST. art I, § 5. “The Due Process clause confers both procedural and substantive rights.” *Richardson v. City & Cty. of Honolulu*, 124 F.3d 1150, 1162 (9th Cir. 1997). Substantive due process protects individuals from arbitrary acts of government and ensures that “the government does not exercise power without any reasonable justification in the service of a legitimate government objective.” *County of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). A “regulation that fails to serve any legitimate governmental objective may be so arbitrary or irrational that it runs afoul of the Due Process Clause.” *Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528, 542 (2005); *see also id.* at 549 (Kennedy, J. concurring) (noting that the *Lingle* decision “does not foreclose the possibility that a regulation might be so arbitrary and irrational as to violate due process”).

The Bills fail to serve a legitimate governmental objective in two ways. First, an increase in hotel rooms and other visitor accommodations has not caused an increase in the daily visitor population. On the contrary, hotel rooms on Maui have declined

from 8,577 units in 2000 to 7,251 units in 2020. Only a handful of hotels have been built during the last 25 years. Yet the daily visitor count has continued to increase.

Second, hotels and other visitor accommodations, such as timeshares, may only be developed in areas that are designated for hotel use (not in residential neighborhoods) consistent with existing zoning laws. Accordingly, the development of hotel and other visitor accommodations avoids the potentially adverse effects on neighborhood character, area infrastructure and the availability of on-street parking.

Furthermore, the assertion in Bill 232 that the prohibition on the development of visitor accommodations is intended to address negative impacts on the environment does not withstand scrutiny. No rational review leads to the conclusion that developing visitor accommodations in two areas of Maui over a period that would not exceed two years has any effect on carbon-emission levels, climate change or global warming.

Resting the Bills on demonstrably flawed factual premises severs the connection between the purported purposes of the Bills and the actual effect of the Bills. With the failure of the purposes of the Bills, the prohibition becomes arbitrary and the Bills are invalid. *See, e.g., New Jersey Shore Builders Ass'n v. Township Committee of Dover Tp.*, 468 A.2d 742 (N.J. 1983) (holding that a moratorium on issuance of building permits for construction of multi-family housing and for conversion of motels into condominiums was invalid due to lack of factual justification for moratorium in regard to problems of water supply and water pressure and explaining that “[t]he situation must be exigent, the causes must be adequately explored, and it must be demonstrated that other less extreme solutions have been investigated and found to be not feasible. None of these requisite proofs is before the court. Stripped to its essentials, the ordinance is nothing more than an expedient legislative reaction”).

C. The Trigger for Ending the Moratorium in West Maui in Bill 191 Lacks a Rational Basis. As explained above, a law must bear “a rational relationship to a legitimate governmental purpose.” *Romer v. Evans*, 517 U.S. 620, 635 (1996) (a law must bear “a rational relationship to a legitimate governmental purpose”). Bill 191 rests in large part on the need to adopt revisions to the community plans before new units are developed. Accepting this premise as true, it is irrational to prohibit the development of units in West Maui until the revised South Maui Community Plan has been adopted.

D. The Bills Violate Vested Rights. The right to proceed with a project despite a change in the law vests upon reliance on the last discretionary approval for a project. *Kauai County v. Pacific Standard Life Ins. Co.*, 65 Haw. 318, 328, 653 P.2d 766, 774 (1982) (a “final discretionary action constitutes official assurance”). While Bill 232 exempts “any development that has received its last discretionary approval prior to the effective date of the ordinance establishing the chapter,” neither Bill exempts projects that do not require discretionary approval to proceed. If a project does not require discretionary approval before applying for a building permit, the right to proceed has vested, whether or not an application for the building permit has

been accepted. To conform to the law of vested rights, Bill 232 would need to exempt any development that has received its last discretionary permit and any development that does not require discretionary approval. As explained in the next section, Bill 191 has an additional flaw.

E. Bill 191 Compounds the Violation of Vested Rights. Bill 191 does not exempt projects for which the owner has obtained its last discretionary approval, such as an Special Management Area (“SMA”) permit. Prohibiting the issuance of building permits for vested projects, subject only to a “discretionary exception” left in the hands of the Council, is invalid. *See Allen v. City & Cty. of Honolulu*, 58 Haw. 432, 439, 571 P.2d 328, 331 (1977); *Waikiki Marketplace Inv. Co. v. Chair of Zoning Bd. of Appeals of City & County of Honolulu*, 86 Hawai‘i 343, 949 P.2d 183.

F. The Bills Violate the Equal Protection Clause. The Equal Protection Clause “keeps governmental decision-makers from treating differently persons who are in all relevant respects alike.” *Nordlinger v. Hahn*, 505 U.S. 1, 10 (1992). Where the challenged government action does not implicate a suspect class or burden a fundamental right, the action is unconstitutional if it does not “rationally further a legitimate state interest.” *Nordlinger*, 505 U.S. at 10.

Here, the Bills respectively single out “transient accommodations” or “visitor accommodations” in West Maui and South Maui and treat such accommodations differently from the rest of the County. There is no rational basis for treating developers of such accommodations in West Maui and South Maui differently from similarly situated developers in the rest of the County. Because there is no rational basis for the regulation, the classifications drawn in the Bill violate The Equal Protection Clause.

G. The Examples of Moratoria Cited in the Bills Do Not Support the Bills. The Hawai‘i examples of moratoria cited in support of the Bill materially differ from the moratorium proposed in the Bill. Beginning with Maui Ordinance No. 1997, the measure (1) only applied to “hotels,” (2) applied to the “issu[ance]” of a permit and not the “accept[ance]” of an application and (3) included express exemptions for, among other things, (a) pending applications (“19.82.979 Exemptions. This ordinance shall not prevent the following: 1. The processing, approval, or granting of any permit or approval application for hotel development which is complete and has been properly filed with the county prior to the effective date of this ordinance . . .”), (b) projects that had received SMA approval (“19.82.979 Exemptions. This ordinance shall not prevent the following: . . . 2. The processing, approval, or granting of any permit or approval application for hotel development for which a special management area permit has been granted prior to the effective date of this ordinance.”) and (c) permits or approvals necessary for the renovation of guest rooms (“19.82.979 Exemptions. This ordinance shall not prevent the following: . . . 5. The granting of necessary permits or approvals for maintenance, repair and alteration which do not create additional guest rooms.”).

Similarly, Maui Ordinance No. 5125 (2020) (1) only applied to the issuance of transient vacation rental permits, bed and breakfast home permits, short-term rental home permits, County special use permits, State special permits, conditional permits and building permits that would allow transient vacation rental use or transient accommodations, except in any zoning district where transient vacation rental use was a permitted use (Section 19.97.020), (2) only applied on Lānaʻi (*id.*), (3) only lasted until the earlier of one year or the adoption of a cap on the maximum under bed and breakfast and short term rental permits (Section 19.97.030) and (4) included exemptions for permit applications that had been completed prior to the effective date of the ordinance (Section 2).

Turning to Honolulu Ordinance No. 18-6, the measure only applied to “large detached dwellings,” “accessory dwelling unit[s] located on the same lot as an existing large detached dwelling” and “two family detached dwelling[s]” in one residential district on lots with an area of less than 10,000 square feet. (Section A.) Even in this limited application, the Ordinance contained (1) a general exception for “large detached dwellings” meeting specific characteristics (Section B), (2) exemptions for certain kinds of developments, including projects with SMA approval, “for which a discretionary permit has been lawfully issued by any government agency, and is in effect on the effective date of this ordinance” (Section C) and (3) and “exemptions for any development for which a building permit application has been submitted to and accepted as complete by any government agency for processing as of the effective date of this ordinance” Section C.

We could not locate the mainland example—City of Asheville, North Carolina, Ordinance 4766 (2019).



May 17, 2021

Council of the County of Maui
The Committee on Climate Action, Resilience,
And Environment
Councilmember Kelly T. King, Committee Chair
Councilmember Shane Sinenci, Committee Vice-Chair

RE: MORATORIUM ON VISITOR ACCOMMODATIONS DEVELOPMENT (CARE-50)
Hearing date and time: Monday, May 19, 2021 at 9:00 a.m.

Aloha Chair King, Vice-Chair Sinenci and Honorable members of Climate Action,
Resilience, and Environment Committee,

Mahalo for the opportunity to provide comments on behalf of Hawaii Hotel Alliance ("HHA") regarding the County's consideration of a moratorium on building permits for visitor accommodations.

Like so many industries, the pandemic was a game-changer for tourism. The COVID-19 economic recession left Hawaii's hotels the hardest hit market in the country. For a year, most hotels throughout the county were shut down and/or at occupancy levels that have left many properties operating at a significant loss. Despite the devastating impact that COVID-19 has had on Maui's hotels, the industry doubled down on our commitment to our island home and to the most valuable assets we have: the men and women of Hawaii who work in and around our hotels.

Throughout the pandemic, our hotels extended the health and welfare benefits for our furloughed employees and developed life-saving 'Safe Stay' protocols to protect our workers, our guests, and the communities we serve. Our hotels invested directly in community food drives, supported kupuna care, and engaged in countless acts of support for churches, schools, and relief programs. The legitimate visitor industry has worked tirelessly to keep kama'aina safe and healthy while working towards the safe reopening of our hotels. Simply put: our hotel industry will continue its generational commitment to being an integral part of the health of thriving communities across Maui County and across our State because the legitimate visitor industry believes that tourism is additive to support the well-being of those of us who call Hawaii home. The same cannot be said of illegal short-term rentals.

At the heart of this matter of a moratorium on building permits for visitor accommodations appears to be a desire to control the negative impacts of tourism across Maui County. At HHA and throughout the legitimate visitor industry, we share this concern. We believe the conversation should focus on the causes of the negative impacts of tourism and not

the parts of the visitor industry that are crucial to our health, our culture, and our way of life here in the islands.

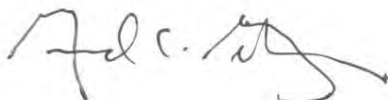
In 2009, Hawaii had 43,000 hotel rooms which ran at high occupancy with seven million visitors to our shores. In 2019, we had the same number of hotel rooms but more than 10.2 million visitors. In the last 20 years, our total hotel room count on Maui has actually fallen, while at the same time legal and illegal short-term rentals have exploded, effectively permitting a 6,000 room hotel and a 10,000 room illegal, unhosted B&B directly into the heart of some of our most coveted neighborhoods and fragile ecosystems across the county. The vast majority of these short-term rental operators do not live in Maui County. While we have made progress in putting tougher laws on the books to deter this criminal activity of operating illegal hotels in our neighborhoods, our hardworking partners at the county have admitted that we still lack the resources and tools to rollout effective and critical enforcement.

In contrast to these illegal short-term rentals, our hotels consist of entire ecosystems that consider the needs of our guests and our guests' impact on the communities in which our hotels are situated. Hotels are self-contained environments that, with tremendous input from our community members, permitting authorities, employees, and cultural advisors, are designed to minimize the cost and footprint of our visitors while maximizing visitor spend and contribution to our economy. From maintenance of the beaches our visitors use to the promotion of volunteerism and ecotourism opportunities for our guests, hotels are actively engineering positive visitor impact for the benefit of Hawaii.

If it is the intent of the Council to align the interests of kama'aina and the visitor industry, then a moratorium on 'permits for visitor accommodations' (which reads as no more hotel rooms) is, in my belief, a misinformed approach. Rather than single out hotels, which contribute to our communities in countless ways, we should focus our ire on enforcement against the literal thousands of illegal short-term rentals that are taking housing away from local families, clogging our streets, breaking the law, not contributing to our tax base, skirting environmental compliance, non-compliant with basic health and safety regulations, lacking in community contributions, and destroying neighborhoods across Maui County and throughout Hawaii.

Yes, it is time to revisit our relationship with our visitors. And on behalf of HHA and our membership, we welcome every opportunity to continue our work with the Council and our communities in developing projects that put locals to work, invest in environmental stewardship, and promote local business, schools, and non-profits while honoring our host culture. Thank you for your time and consideration of these comments.

With Aloha,

A handwritten signature in black ink, appearing to read "Jerry Gibson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jerry Gibson, President
Hawaii Hotel Alliance
Jerry@hawaiihotelalliance.com



Testimony of
Maui Hotel Lodging & Association
on
MORATORIUM ON VISITOR ACCOMMODATIONS DEVELOPMENT - (CARE-50)

CLIMATE ACTION, RESILIENCE, AND ENVIRONMENT COMMITTEE
May 19, 2021 at 9AM

Dear Chair Sugimura and members of the Committee,

Mahalo for the opportunity to submit testimony on behalf of the Maui Hotel & Lodging Association.

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes 195 property and allied business members in Maui County – all of whom have an interest in the visitor industry. Collectively, MHLA’s membership employs over 25,000 residents and represents over 19,000 rooms. The visitor industry is the economic driver for Maui County. We are the largest employer of residents on the Island - directly employing approximately 40% of all residents (indirectly, the percentage increases to 75%).

It should be noted that the findings of this proposed measure cite tourism statistics from 2019 that do not take into account the pandemic. The industry will continue to face challenges to recover after a year-long depression in visitor arrival numbers.

Restricting construction, expansion, or renovation would only harm other sectors of our economy like construction and other trades that have survived the pandemic. Building permits of all types ultimately mean more projects and, by extension, more jobs for Maui residents. It would seem self-destructive to enact such limiting constraints on both the travel industry and the trades in Maui which is historically the county most reliant upon tourism for its economic well-being. This fact was made especially clear during and throughout a pandemic that has left Hawai’i with the highest unemployment rate in the nation.

The moratorium as proposed will stifle our industry’s ability to continue efforts towards the development of more sustainable infrastructure. Most importantly to note, pausing visitor accommodation development will not stop visitors from traveling. It is our position that visitors should be encouraged to stay in Maui’s purposely constructed and zoned resort areas. If development is paused in these resort areas, the already extensive proliferation of illegal short-term rentals in our residential communities will likely increase to fill the void. This must not be allowed to continue.

For all these reasons, MHLA strongly opposes this bill and its proposed measures.



Maui Hotel & Lodging
ASSOCIATION

On behalf of the MHLA Board of Directors, thank you for the opportunity to offer this testimony.

Michael Pye, MHLA Chair
Area General Manager, Hawaii
General Manager, Fairmont Kea Lanai

Mufi Hannemann
President & CEO
Hawai'i Lodging & Tourism Association.

Angela Vento, MHLA Vice Chair
General Manager
Wailea Beach Resort

Michael Cuthbertson
Area Vice President
Destination Residences Hawaii

Fred Findlen
General Manager
Hyatt Regency Maui

Diane Haynes Woodburn
Publisher
Haynes Publishing Group

Gregg Lundberg
General Manager
Westin Maui Resort & Spa

Gregg Nelson
General Manager
Napili Kai Beach Resort

Aaron Placourakis
President & CEO
Tri-Start Restaurant Group

Tetsuji Yamazaki
General Manager
Sheraton Maui Resort & Spa

CARE Committee

From: County Clerk
Sent: Friday, May 14, 2021 9:09 AM
To: CARE Committee
Subject: FW: Testimony in support, MORATORIUM ON VISITOR ACCOMMODATIONS DEVELOPMENT(CARE-50)

From: David Dorn <daviddorn808@gmail.com>
Sent: Friday, May 14, 2021 9:02 AM
To: County Clerk <County.Clerk@mauicounty.us>; Yukilei Sugimura <Yukilei.Sugimura@mauicounty.us>; Keani N. Rawlins <Keani.Rawlins@mauicounty.us>; Tamara A. Paltin <Tamara.Paltin@mauicounty.us>; Kelly King <Kelly.King@mauicounty.us>; Mike J. Molina <Mike.Molina@mauicounty.us>; Alice L. Lee <Alice.Lee@mauicounty.us>; Tasha A. Kama <Tasha.Kama@mauicounty.us>; Gabe Johnson <Gabe.Johnson@mauicounty.us>; Shane M. Sinenci <Shane.Sinenci@mauicounty.us>
Subject: Testimony in support, MORATORIUM ON VISITOR ACCOMMODATIONS DEVELOPMENT(CARE-50)

To: CLIMATE ACTION, RESILIENCE, AND ENVIRONMENT COMMITTEE
meeting 9:00 a.m. day, May 19, 2021

Item: MORATORIUM ON VISITOR ACCOMMODATIONS DEVELOPMENT (CARE-50)

Testimony in support of a proposed bill entitled, “AMENDING THE BUILDING CODE TO ADD CHAPTER 40 RELATING TO A MORATORIUM ON BUILDING PERMITS FOR VISITOR ACCOMMODATIONS.”

Dear Councilpersons and committee members,
My name is David Dorn and I support this proposed moratorium.
A Moratorium on Hotel building is needed to maintain a sustainable level of tourism Maui,
and to limit the negative effects of over-tourism on climate, and natural resources.

Maui has already exceeded its predetermined level of “sustainable” tourism.

There is now 1 tourist for every 2.4 locals on Maui. This is beyond the maximum 1:3 ratio that was set previously.

Amenities: Tourists use all of the same amenities, facilities, and services that local residents need and pay for. Tourists fill up our roads, create traffic problems, parking problems, crowd beaches, and take a toll on natural resources.

Water: Huge amounts of freshwater are diverted into tourist resorts, hotels, and visitor accommodations, while many natural streams are robbed of all of their water and no longer flow. This is an environmental disaster. How can you justify watering the lush non-native landscaping in a tourist resort while natural streams wetlands and ecosystems are allowed to run dry?

Carbon Footprint: The carbon footprint of every person on Maui is about 5 times the world average. Because most everything consumed here has to be transported here across the ocean over vast distances. A large portion of Maui’s electricity is produced with diesel generators that are run on diesel fuel that has been transported across the ocean in diesel-powered tankers. Every person or thing that flies here uses up an enormous amount

of aviation fuel, which further increases their carbon footprint. The biggest polluters are the visitors that travel the most for the least amount of time on the island. Tourists are the biggest polluters.

Money: Money from tourists does not all stay on Maui. There is a “TAT” transient accommodation tax that is charged on each hotel room. The TAT is 10.25% and that now mostly goes to the State. Also, hotels are mostly owned by mainlanders or foreign companies so the profits do not stay here on Maui.

Locals pay for the amenities that tourists use: Locals pay for their local amenities and infrastructure through Income tax, GE tax, and Land tax. Tourists do pay GE tax, but no income tax or land tax.

Managed Tourism: Tourism has to be managed and limited to stop the further degradation of Maui. There needs to be a stop to uncontrolled development, overuse of water, land, and the destruction of the environment.

Tourism after Covid has rebounded with a vengeance. And we are being overwhelmed with the number of tourists here already. Maui has not fully reopened from Covid. Keep in mind that many businesses like restaurants still have a mandated reduced capacity, and can only serve 30 to 50 percent of capacity. Locals cannot get seats at restaurants and many hotels are understaffed already. The competition for tourists and the pressure on locals from the visitors is greater than before the pandemic. There is too much demand for a reduced supply of services. Visitor numbers are rising sharply and we are predicting levels that will exceed pre-covid levels.

Temporary Travel Trends: These covid-related travel trends are temporary. We are seeing a huge influx of mainland visitors because they have few other choices. Travel restrictions have created a temporary travel bubble. And also because airlines are heavily discounting airfares to stimulate travel after covid-related reductions in demand. This too is temporary. So there is no point in building more hotels to accommodate this current bubble.

Overdependence on Tourism: We learned during the covid shutdown that we were far too over-dependent on tourism. But this recent surge has investors itching to cash-in on this temporary bubble. But after this bubble bursts, the locals will be left with an oversupply of hotels and far too many workers for fewer customers. We will be left paying for the short-term greed of developers.

Hotels and businesses are understaffed: Currently, most hotels and other kinds of businesses cannot get enough staff to run their normal operations. As a result, visitors are overwhelming the hotel’s ability to manage them and cater to them. Many local people cannot return to work because of limited childcare, closed schools, or reduced schooling schedules. Also many are struggling with caring for family members, or even dealing with evictions, predatory rent increases, and increasingly, homelessness. Also, there are many people with increased health risks who are not ready to return to work yet.

We do not need more hotels. We do not have enough hotel workers. And the hotels we have are already trying to make back some lost income from the pandemic. More hotels are bad for these existing businesses that are already struggling to recover.

Construction Jobs: The construction guys will tell you that they need these jobs to make hotels. But these are not jobs, these are “contracts”. And when finished, they need another project, and then another. This relentless “construction for its own sake” is unsustainable. There are already at least 22 large-scale projects in the works, so there is not a shortage of construction of work.

Outside Workers: And many of these construction projects will be awarded to outside contractors or to local contractors that will hire workers and tradesmen from the mainland or from other islands. Construction projects like this do not guarantee local jobs.

*Hotels developments are being “green-lighted” while affordable housing is being delayed.

Building Hotels creates a hardship on the rest of the community. New hotels will be in competition with existing hotels. They will compete for customers and staff. More hotel rooms competing for the same number of visitors means that they will have to charge less per room and discount. Or they will have to increase marketing and promotion to bring in more people to fill their hotel rooms. This is the opposite of “quality over quantity”.

Hotels are already understaffed: Hotels are already understaffed. New hotels will need to recruit staff from other hotels or they will import them from the mainland. Top management positions in hotels are usually filled by people from the mainland. And many other types of hotel jobs will be filled by imported workers. Hotels will not pay more to locals to give them a living wage, because a living wage in Hawaii is far more than they are prepared to pay local workers. So they will bring in workers that are prepared to work cheaply.

Quality of Life: In short, building any more hotels or visitor accommodation means less quality of life for residents and more stress on our island’s limited resources. Building more hotels hurts the community and harms our environment.

The current level of tourism is unsustainable and it is unchecked. We need to put some measures in place to ensure that our home is not destroyed, and is not “loved to death” by the visitor industry.

Moratorium: There needs to be a moratorium on all building of tourism accommodation until our balance is restored. We need to stop the expansion of tourism accommodations. We need to reduce the number of tourists on the island to get back to a sustainable level.

Please support this bill for a moratorium, and help us restore the balance on our island.

Aloha,
David Dorn

CLIMATE ACTION, RESILIENCE, AND ENVIRONMENT COMMITTEE

Wednesday, May 19, 2021, 9:00 a.m.

Phone testimony: 1-408-915-6290, meeting code 470 076 045

Video testimony: <https://bluejeans.com/470076045>

View live: Akaku, Channel 53 or mauicounty.us/agendas

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CARE Committee

From: Evan K. Oue <eoue@imanaka-asato.com>
Sent: Monday, May 17, 2021 5:19 PM
To: CARE Committee
Cc: Michael Iosua; Kim W. Yoshimoto; Mitchell A. Imanaka; Lauren R. Wright; Charmaine "Missy" Ross
Subject: ARDA Hawaii Letter and Memorandum
Attachments: ARDA Hawaii Ltr re CARE-50.pdf; ARDA Hawaii Moratorium Memo re CARE-50.docx

Follow Up Flag: Follow up
Flag Status: Completed

Aloha,

Please find attached the ARDA Hawaii letter and memorandum regarding the proposed moratorium on visitor accommodations development. Please let me know if you have any questions or need additional information.

Mahalo,
Evan K. Oue



Imanaka Asato

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May 18, 2021

TO: Councilmember Kelly King, Chair
Councilmember Shane Sinenci, Vice-Chair
Members of the Climate Action,
Resilience, and Environment Committee

FR: AMERICAN RESORT DEVELOPMENT ASSOCIATION - HAWAII (ARDA-Hawaii)
Mitchell Imanaka, Chair

RE: CARE-50– Moratorium on Visitor Accommodations Development

(Sent via e-mail to care.committee@mauicounty.us)

Dear Chair King and Members of the CARES Committee:

Attached please find a memo regarding the legality of certain aspects of the proposed measure on a moratorium on the issuance of building permits in certain districts on Maui. Your kind consideration of the points raised would be greatly appreciated.

Yours Very Truly,

A handwritten signature in black ink, consisting of a stylized 'M' followed by a horizontal line that ends in an arrowhead.

Mitchell Imanaka
Chair
ARDA Hawaii

c/o Mitchell Imanaka • 745 Fort Street, Suite 1700 • Honolulu, HI 96813 • (808)521-9500
mimanaka@imanaka-asato.com

DATE: May 5, 2021

TO: ARDA Hawaii c/o Mitchell A. Imanaka, Esq.

FROM: Cades Schutte LLP

RE: CC 21-191 (Amending The Building Code To Add Chapter 40 Relating To A Moratorium On Building Permits For Hotels) and CC 21-232 (Amending The Building Code To Add Chapter 40 Relating To A Moratorium On Building Permits For Visitor Accommodations)

We were asked to review CC 21-191 (“**Bill 191**”) and CC 21-232 (“**Bill 232**”) (together, the “**Bills**”) to assist our client in its evaluation of the Bills. This memorandum offers our preliminary assessment.

I. INTRODUCTION

Bill 191. On April 8, 2021, Councilmember King transmitted proposed Bill 191 to the Maui County Council (“**Council**”). Bill 191 seeks to add Chapter 40 (Moratorium on Building Permits for Hotels) to the Maui County Building Code. Under Bill 191, Chapter 40 (Moratorium on Building Permits for Hotels) would provide in material part as follows:

4000.4 Prohibition on building permits for hotel development in West Maui and South Maui. No building permit applications for **hotel development** in West Maui or South Maui may be accepted.

Section 4000.4 (emphasis added).

The term “hotels” is defined as “transient accommodations.” Section 4000.3. The term “development” is defined as “any **new** units used for transient accommodations.” *Id.* (emphasis added). Although the term “new” is not defined in the Bill, the plain meaning of the word is a “thing recently come into being.” Black’s Law Dictionary (11th ed. 2019). Hawai’i courts construe statutes according to their plain meaning. *Peer News LLC v. City & County of Honolulu*, 138 Hawai’i 53, 60, 376 P.3d 1, 9 (2016) (where the language is plain and unambiguous, a “court’s sole duty when construing [ordinances] is to give effect to its plain and obvious meaning”). In accordance with the plain meaning of the word “new,” the Bill does not apply to the renovation of existing “transient accommodations.”

The term “transient accommodations” is not defined in Bill 191 or the Maui County Code. It appears that the use of the term “transient accommodations” in the Bill is intended to capture hotels, time share units, transient vacation rentals and bed and breakfast homes. Under this construction, Bill 191 would prohibit the acceptance of building permit applications for the construction of units intended to service “transients,” which Maui County Code defines as “any visitor or person who owns, rents or uses a lodging or dwelling unit, or portion thereof, for less than one hundred eighty days and whose permanent address for legal purposes is not the lodging or dwelling unit occupied by the visitor.” Maui County Code 19.04.040.

The prohibition on the “development” of “transient accommodations” in West Maui and South Maui would automatically lift at the earlier of two years from the effective date of the law or when the ordinance approving the South Maui Community Plan update takes effect **if** that date is later than the effective date of the ordinance approving the West Maui Community Plan update. Given the anticipated timing of the South Maui Community Plan updated, Bill 191 would apply in West Maui and South Maui until the South Maui Community Plan has been updated.

Under Bill 191, there are no exemptions as of right. Instead, “the Council may authorize exceptions from [the prohibition] by resolution upon request by the director of public works.” Section 4000.5.

The findings presented in the Bill contain three parts. First, the findings imply that the development of transient accommodations has increased the ratio of visitors to residents. Second, according to the findings, a large percentage of these transient accommodations are in West Maui and South Maui, for which updated community plans are under review. Third, as support, the findings assert that prior moratoria on construction—specifically, Maui County Ordinances 1997 (1991) and 5125 (2020), City and County of Honolulu Ordinance 18-6 (2018) and City of Asheville, North Carolina, Ordinance 4766 (2019)—have been used as tools to temporarily preserve the status quo.

Bill 191 was placed on the agenda for the April 16, 2021 meeting of the Council and again on the agenda for the May 7, 2021, meeting of the Council.

Bill 232. On April 29, 2021, Councilmember King transmitted proposed Bill 232 to the Council. Bill 232 also seeks to add Chapter 40 (Moratorium on Building Permits for Visitor Accommodations) to the Maui County Building Code. Under Bill 232, Chapter 40 (Moratorium on Building Permits for Visitor Accommodations) would provide in material part as follows:

4000.4 Prohibition on building permits for visitor accommodation development in West Maui and South Maui. No building permit applications for **visitor accommodations** in West Maui or South Maui may be accepted.

Section 4000.4 (emphasis added). “Development” is defined as “any new units **expressly** designated to be used for visitor accommodations.” Section 4000.3

(emphasis added). The term “visitor accommodation” is defined as “any kind of transient accommodations, including hotels, resorts, timeshares, short-term rental homes, bed and breakfast homes, and transient vacation rentals.” *Id.* As is true with Bill 191, Bill 232 would not apply to the renovation of existing “visitor accommodations.”

The prohibition on the “development” of “visitor accommodations” in West Maui and South Maui would automatically lift at two years from the law’s effective date. Alternatively, the prohibition would automatically end in West Maui on the effective date of the West Maui Community Plan update **if** the West Maui Community Plan update becomes effective in less than two years. Similarly, the prohibition would automatically end in South Maui on the effective date of the South Maui Community Plan update **if** the South Maui Community Plan update becomes effective in less than two years.

Unlike Bill 191, Bill 232 “does not apply to any development that has received its last discretionary approval prior to the effective date of the ordinance establishing the chapter.” Section 4000.5. Like Bill 191, “the Council may authorize exceptions from [the prohibition] by resolution upon request by the director of public works.” *Id.*

Bill 232 presents the same findings as Bill 191. In addition, Bill 232 claims that the development of visitor accommodation and the presumed related increase in tourism cause negative impacts on the environment. To preserve the County’s environment, mitigate climate change and work toward resilience, visitor accommodation development must be prohibited. Thus, the stated “purpose of the moratorium . . . is to lower carbon-emission levels, mitigate climate-change impacts and limit the rate of global warming.” Section 1 (Findings and purpose).

Bill 232 has been placed on the agenda for the May 7, 2021 meeting of the Council.

II. ANALYSIS

A. The Maui Planning Commission Must Review the Bills. The Maui County Charter provides in relevant part:

The [Maui] planning commission shall:

1. Advise the mayor, council, and the planning director in matters concerning planning programs.

...

3. Review other proposed land use ordinances and amendments thereto prepared by the director or the council and, after public hearings, transmit such ordinances with its findings and recommendations thereon to the council for consideration and action no later than one hundred twenty (120) days after the final public hearing.

Maui County Charter Section 8-8.4.

The Bills prohibit a specific kind of development—“transient accommodations” or “visitor accommodations”—in specific community planning districts of Maui—West Maui and South Maui. Prohibiting specific uses in specific districts is quintessentially a zoning power under the Hawai‘i Zoning Enabling Act. *See* HRS § 46-4(a) (“zoning” is the “establishment of districts . . . and **the adoption of regulations** for each district”) (emphasis added). Furthermore, the Bills connect the prohibition on development to the adoption of updates to the West Maui and South Maui Community Plans. Planning is a fundamental part of zoning and, in Hawai‘i, must precede the adoption of zoning regulations. *Id.* (“Zoning in all counties shall be accomplished within the framework of a long-range, comprehensive general plan prepared or being prepared to guide the overall future development of the county . . . [and] shall be one of the tools available to the county to put the general plan into effect in an orderly manner.”). Finally, the findings in the Bills expressly assert that they are intended “to temporarily maintain the status quo by establishing a moratorium on building permits . . . in West Maui and South Maui until both community plans are updated.” Bill 191, Section 1; Bill 232, Section 1. Thus, from the findings to the moratorium itself and to the end of the moratorium, the Bills purport to exercise the County’s zoning power and materially involve “planning programs” and “land use.”

In accordance with the Maui County Charter, if the Council advances the Bills, the Council is required to submit the Bills to the Maui Planning Commission. Public hearings must be held on the Bills. The Council may not act until the hearings have been completed and the Commission’s findings and recommendations have been adopted.

B. The Bills Fail to Substantially Advance a Legitimate State Interest. The Due Process Clause of the Fourteenth Amendment provides that no State shall “deprive any person of life, liberty, or property, without due process of law.” U.S. CONST. amend. XIV; *accord* HAW. CONST. art I, § 5. “The Due Process clause confers both procedural and substantive rights.” *Richardson v. City & Cty. of Honolulu*, 124 F.3d 1150, 1162 (9th Cir. 1997). Substantive due process protects individuals from arbitrary acts of government and ensures that “the government does not exercise power without any reasonable justification in the service of a legitimate government objective.” *County of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). A “regulation that fails to serve any legitimate governmental objective may be so arbitrary or irrational that it runs afoul of the Due Process Clause.” *Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528, 542 (2005); *see also id.* at 549 (Kennedy, J. concurring) (noting that the *Lingle* decision “does not foreclose the possibility that a regulation might be so arbitrary and irrational as to violate due process”).

The Bills fail to serve a legitimate governmental objective in two ways. First, an increase in hotel rooms and other visitor accommodations has not caused an increase in the daily visitor population. On the contrary, hotel rooms on Maui have declined

from 8,577 units in 2000 to 7,251 units in 2020. Only a handful of hotels have been built during the last 25 years. Yet the daily visitor count has continued to increase.

Second, hotels and other visitor accommodations, such as timeshares, may only be developed in areas that are designated for hotel use (not in residential neighborhoods) consistent with existing zoning laws. Accordingly, the development of hotel and other visitor accommodations avoids the potentially adverse effects on neighborhood character, area infrastructure and the availability of on-street parking.

Furthermore, the assertion in Bill 232 that the prohibition on the development of visitor accommodations is intended to address negative impacts on the environment does not withstand scrutiny. No rational review leads to the conclusion that developing visitor accommodations in two areas of Maui over a period that would not exceed two years has any effect on carbon-emission levels, climate change or global warming.

Resting the Bills on demonstrably flawed factual premises severs the connection between the purported purposes of the Bills and the actual effect of the Bills. With the failure of the purposes of the Bills, the prohibition becomes arbitrary and the Bills are invalid. *See, e.g., New Jersey Shore Builders Ass'n v. Township Committee of Dover Tp.*, 468 A.2d 742 (N.J. 1983) (holding that a moratorium on issuance of building permits for construction of multi-family housing and for conversion of motels into condominiums was invalid due to lack of factual justification for moratorium in regard to problems of water supply and water pressure and explaining that “[t]he situation must be exigent, the causes must be adequately explored, and it must be demonstrated that other less extreme solutions have been investigated and found to be not feasible. None of these requisite proofs is before the court. Stripped to its essentials, the ordinance is nothing more than an expedient legislative reaction”).

C. The Trigger for Ending the Moratorium in West Maui in Bill 191 Lacks a Rational Basis. As explained above, a law must bear “a rational relationship to a legitimate governmental purpose.” *Romer v. Evans*, 517 U.S. 620, 635 (1996) (a law must bear “a rational relationship to a legitimate governmental purpose”). Bill 191 rests in large part on the need to adopt revisions to the community plans before new units are developed. Accepting this premise as true, it is irrational to prohibit the development of units in West Maui until the revised South Maui Community Plan has been adopted.

D. The Bills Violate Vested Rights. The right to proceed with a project despite a change in the law vests upon reliance on the last discretionary approval for a project. *Kauai County v. Pacific Standard Life Ins. Co.*, 65 Haw. 318, 328, 653 P.2d 766, 774 (1982) (a “final discretionary action constitutes official assurance”). While Bill 232 exempts “any development that has received its last discretionary approval prior to the effective date of the ordinance establishing the chapter,” neither Bill exempts projects that do not require discretionary approval to proceed. If a project does not require discretionary approval before applying for a building permit, the right to proceed has vested, whether or not an application for the building permit has

been accepted. To conform to the law of vested rights, Bill 232 would need to exempt any development that has received its last discretionary permit and any development that does not require discretionary approval. As explained in the next section, Bill 191 has an additional flaw.

E. Bill 191 Compounds the Violation of Vested Rights. Bill 191 does not exempt projects for which the owner has obtained its last discretionary approval, such as an Special Management Area (“SMA”) permit. Prohibiting the issuance of building permits for vested projects, subject only to a “discretionary exception” left in the hands of the Council, is invalid. *See Allen v. City & Cty. of Honolulu*, 58 Haw. 432, 439, 571 P.2d 328, 331 (1977); *Waikiki Marketplace Inv. Co. v. Chair of Zoning Bd. of Appeals of City & County of Honolulu*, 86 Hawai‘i 343, 949 P.2d 183.

F. The Bills Violate the Equal Protection Clause. The Equal Protection Clause “keeps governmental decision-makers from treating differently persons who are in all relevant respects alike.” *Nordlinger v. Hahn*, 505 U.S. 1, 10 (1992). Where the challenged government action does not implicate a suspect class or burden a fundamental right, the action is unconstitutional if it does not “rationally further a legitimate state interest.” *Nordlinger*, 505 U.S. at 10.

Here, the Bills respectively single out “transient accommodations” or “visitor accommodations” in West Maui and South Maui and treat such accommodations differently from the rest of the County. There is no rational basis for treating developers of such accommodations in West Maui and South Maui differently from similarly situated developers in the rest of the County. Because there is no rational basis for the regulation, the classifications drawn in the Bill violate The Equal Protection Clause.

G. The Examples of Moratoria Cited in the Bills Do Not Support the Bills. The Hawai‘i examples of moratoria cited in support of the Bill materially differ from the moratorium proposed in the Bill. Beginning with Maui Ordinance No. 1997, the measure (1) only applied to “hotels,” (2) applied to the “issu[ance]” of a permit and not the “accept[ance]” of an application and (3) included express exemptions for, among other things, (a) pending applications (“19.82.979 Exemptions. This ordinance shall not prevent the following: 1. The processing, approval, or granting of any permit or approval application for hotel development which is complete and has been properly filed with the county prior to the effective date of this ordinance . . .”), (b) projects that had received SMA approval (“19.82.979 Exemptions. This ordinance shall not prevent the following: . . . 2. The processing, approval, or granting of any permit or approval application for hotel development for which a special management area permit has been granted prior to the effective date of this ordinance.”) and (c) permits or approvals necessary for the renovation of guest rooms (“19.82.979 Exemptions. This ordinance shall not prevent the following: . . . 5. The granting of necessary permits or approvals for maintenance, repair and alteration which do not create additional guest rooms.”).

Similarly, Maui Ordinance No. 5125 (2020) (1) only applied to the issuance of transient vacation rental permits, bed and breakfast home permits, short-term rental home permits, County special use permits, State special permits, conditional permits and building permits that would allow transient vacation rental use or transient accommodations, except in any zoning district where transient vacation rental use was a permitted use (Section 19.97.020), (2) only applied on Lānaʻi (*id.*), (3) only lasted until the earlier of one year or the adoption of a cap on the maximum under bed and breakfast and short term rental permits (Section 19.97.030) and (4) included exemptions for permit applications that had been completed prior to the effective date of the ordinance (Section 2).

Turning to Honolulu Ordinance No. 18-6, the measure only applied to “large detached dwellings,” “accessory dwelling unit[s] located on the same lot as an existing large detached dwelling” and “two family detached dwelling[s]” in one residential district on lots with an area of less than 10,000 square feet. (Section A.) Even in this limited application, the Ordinance contained (1) a general exception for “large detached dwellings” meeting specific characteristics (Section B), (2) exemptions for certain kinds of developments, including projects with SMA approval, “for which a discretionary permit has been lawfully issued by any government agency, and is in effect on the effective date of this ordinance” (Section C) and (3) and “exemptions for any development for which a building permit application has been submitted to and accepted as complete by any government agency for processing as of the effective date of this ordinance” Section C.

We could not locate the mainland example—City of Asheville, North Carolina, Ordinance 4766 (2019).

CARE Committee

From: Maui_County Council_mailbox
Sent: Tuesday, May 18, 2021 8:52 AM
To: CARE Committee
Subject: FW: Written Testimony Re: MORATORIUM ON VISITOR ACCOMODATIONS DEVELOPMENT (CARE-50)
Attachments: 5.18.21 HGV Testimony_Moratorium on Visitor Accomodations.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

From: Matthew Kollinger <mkollinger@STARNLAW.COM>
Sent: Tuesday, May 18, 2021 8:33 AM
To: Maui_County Council_mailbox <county.council@mauicounty.us>
Cc: Duane Fisher <dfisher@starnlaw.com>
Subject: Written Testimony Re: MORATORIUM ON VISITOR ACCOMODATIONS DEVELOPMENT (CARE-50)

Dear Chair King and Members of the CARE Committee,

Attached, please find written testimony from our client, Hilton Grand Vacations, in connection with the MORATORIUM ON VISITOR ACCOMMODATIONS DEVELOPMENT (County Communication No. 21-232)(CARE-50). Thank you for the opportunity to submit this testimony.

Respectfully,

Matt Kollinger
Attorney at Law

Starn O'Toole Marcus & Fisher
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Pacific Guardian Center, Makai Tower
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May 18, 2021

VIA EMAIL AND ONLINE SUBMISSION

Chair Kelly Takaya King and Members of the
Climate Action, Resilience, and Environmental Committee
County of Maui
One Main Plaza
2200 Main Street
Wailuku, Hawaii 96793

Re: ***Testimony Concerning MORATORIUM ON VISITOR
ACCOMMODATIONS DEVELOPMENT (County Communication No.
21-232)(CARE-50) (the “Moratorium”)***

Dear Council and Committee Members:

Thank you for the opportunity to provide testimony concerning the above-referenced Moratorium. My name is Matthew Sparks, and I am Chief Development Officer of Hilton Grand Vacations (“**HGV**”). As members of the Committee may know, HGV is the owner of the Maui Bay Villas resort presently underway in Kihei, located on the site of the original “Maui Lu” resort (the “**Project**”). We write to request a small, but important, clarification to the Moratorium bill’s language regarding “exceptions.” Before I suggest the clarifying language for the bill, please allow me to provide a little background about the Project.

The Project includes 388 total units spread over twelve low-rise buildings. The Project will be constructed in three phases and is scheduled to be completed in 2027. We have already received the SMA Permit, several building permits, and have begun construction with the first phase projected to open in September 2021. Almost all of the SMA-required community benefits, including traffic improvements, will be delivered in the first phase.

We anticipate the Project will provide approximately 280 – 340 local construction jobs over the three phases of construction. In addition, we anticipate 60 full-time jobs for resort operations when phase one opens in September 2021, and 210 full-time hospitality jobs once the project is complete in 2027. The Project will also generate millions in tax revenue for Maui County and the State of Hawaii.

The stated purpose of the Moratorium is to preclude the development of new “visitor accommodations” on Maui for two years, or until the West Maui and South Maui community plans have been updated, whichever occurs first. The Moratorium would prohibit the acceptance of building permit applications for visitor accommodations development in West Maui or South Maui. The Moratorium contains a critical exception for any development that has received its last

discretionary permit before adoption of the Moratorium (such as our Project). (*See* Section 4000.5 of the proposed Moratorium). While that exception makes good sense, we believe it would be very helpful, and provide important guidance to all stakeholders, to further clarify that exception.

It is common practice for SMA permit conditions to be amended, or to make other changes to SMA permits. Sometimes the County itself may wish to seek changes to permit conditions due to unforeseen site conditions or other circumstances that arise after the issuance of the SMA permit. We believe it is very important that all parties (owners, developers, and the County) have the flexibility to make such changes to address unforeseen or changed circumstances. While we hope and believe that the County would, in practice, allow changes in permit conditions for permits issued before the Moratorium takes effect, we respectfully request that you add the following language to the Moratorium bill, to ensure that there are no misunderstandings going forward (new language is underscored):

4000.5 Exceptions. A. This chapter does not apply to any development that has received its last discretionary approval prior to the effective date of the ordinance establishing the chapter. A development that has received its last discretionary approval shall not be precluded from obtaining changes to conditions, or other amendments to such discretionary approval after the effective date of this ordinance, so long as such changes or amendments do not increase the total visitor accommodation unit count of the development.

We believe that this proposed language maintains the objective of the Moratorium in its entirety, while providing important guidance that will undoubtedly help avoid legal disputes later. The proposed additional language makes it clear that, as long as the unit count for visitor accommodations *does not increase*, an already approved project, (*i.e.*, a project that has its last discretionary permit before the Moratorium becomes effective), could be modified without becoming subject to the Moratorium.

We respectfully ask the Committee to include our suggest language above. Thank you for the opportunity to provide this testimony, and for your consideration.

Respectfully,



Matthew Sparks
Executive Vice President & Chief Development Officer

CARE Committee

From: Evan K. Oue <eoue@imanaka-asato.com>
Sent: Tuesday, May 18, 2021 11:56 AM
To: CARE Committee
Cc: Pono Sukanuma; Michael Iosua; Kim W. Yoshimoto; Charmaine "Missy" Ross; Pat Mukai
Subject: Testimony for CARE-50
Attachments: GWM-Testimony of JP Oliver Grand Wailea-CARE 50.pdf

Aloha,

Please find attached the testimony of JP Oliver, Managing Director, Grand Wailea, a Waldorf Astoria Resort in opposition to CARE-50. Please let us know if the committee needs any additional information.

Mahalo,
Evan K. Oue



Imanaka Asato

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May 17, 2021

Council Member Kelly Takaya King, Chair
Council Member Shane M. Sinenci, Vice-Chair
Members of the Climate Action, Resilience,
And Environment Committee

RE: MORATORIUM ON BUILDING PERMITS ON VISITOR ACCOMMODATIONS
Hearing Date: Wednesday, May 19, 2021, at 9:00 AM

Aloha Chair King and members of the Committee,

My name is JP Oliver, managing director of Grand Wailea, a Waldorf Astoria Resort. I am writing to ask the Committee to defer decision making and closely study the implications of CARE-50. The proposed measure would prohibit the planning department from issuing any building permits for the development of transient accommodations for a period of up to two years.

Please know, at the Grand Wailea, we believe that responsible tourism, respecting our host culture, and environmental sustainability can – and must – coexist. As all businesses and residents in an island community must be, we are deeply committed to achieving a bright and more sustainable future we all want to see for Maui.

That's why we launched the Aloha Pledge, a resort-wide education initiative asking guests to take an oath to respect Hawai'i's natural resources, culture and people, in 2019. The Aloha Pledge – which we place in each guest room – outlines a code of respectful conduct, provides information about safety and protected species, educates guests about cultural values and shares resources about etiquette in areas of special interest.

Grand Wailea is committed to continuing to be a model for Hawai'i's hospitality industry, and we recognize our role as a catalyst for responsible tourism and economic opportunity on Maui. Our economic impact extends beyond being one of the island's largest employers to the countless small businesses we support. For our restaurants, we source fresh produce, beef and fish from Maui farmers and fishermen. We feature Maui Brewing Company at our restaurants and bars, and the flower arrangements for our lobby are also locally grown. Above all, our commitment to supporting the Maui community runs deep.

We are also leading the way for the County to take real action on environmental sustainability by investing more than \$4 million in innovative new technology and infrastructure upgrades at Grand Wailea to conserve precious natural resources. The resort is phasing out single-use plastics, and year-to-date, we have replaced 259,000 plastic water bottles with recycled aluminum bottles. We reduce our food waste by sharing our leftovers to be used as animal feed or to be composted through partnerships with local farms and organizations. We also installed one of Maui's largest solar panel arrays to harness the abundant sunshine to power our

operations. Through these comprehensive initiatives, we strive to do our part to encourage responsible tourism and make sustainable decisions that are good for local businesses and the health of our island.

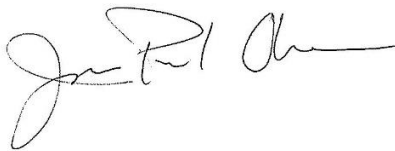
Grand Wailea is also committed to doing our part in reducing the traffic on Maui's roadways. We offer free Maui bus passes to our team members and a cash incentive to commute to work via carpool, bike or motorcycle.

Looking forward, we stand ready to work together with our partners at the County and the community to identify and address the challenges and opportunities facing Maui's hospitality industry. One such challenge is the increasing trend of visitors opting to stay in vacation rental homes that were built for local families in neighborhoods never intended to accommodate tourism.

We can promote a sustainable tourism future by following the guiding vision of the Maui Island Plan and working together to minimize the impacts of visitors through thoughtful planning and conservation efforts and maximize the benefits of tourism for local communities and families. To that end, the plan identifies resort areas like the Wailea-Makena region, where Grand Wailea is located, and responsible tourism development is encouraged. The plan notes that properties like Grand Wailea are well-placed to achieve our goal of attracting the right guests to visit, saying, "higher average spending can best be achieved by marketing focused on visitors who stay in hotels."

In conclusion, I respectfully ask the Council to defer this measure so that members can fully understand the economic impact of the moratorium, and so you may seek community input – including our hospitality industry – on how we can responsibly manage tourism together.

Mahalo for your consideration,

A handwritten signature in black ink, appearing to read "JP Oliver". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

JP Oliver
Managing Director
Grand Wailea, a Waldorf Astoria Resort

CARE Committee

From: Kelly King
Sent: Tuesday, May 18, 2021 3:08 PM
To: CARE Committee
Subject: FW: ILWU Statement on County Communication 21-232
Attachments: County Communication 21-232.pdf

With Aloha,



Office of Councilmember Kelly Takaya King

South Maui Residency
Office: 808.270.7108
200 South High Street, 8th Fl
Wailuku HI 96793
mauicounty.us

From: Joyce Naruse <jnaruse@ilwulocal142.org>
Sent: Tuesday, May 18, 2021 1:31 PM
To: Kelly King <Kelly.King@mauicounty.us>; Shane M. Sinenci <Shane.Sinenci@mauicounty.us>
Subject: ILWU Statement on County Communication 21-232

Good afternoon, Council Chair King and Council Member Sinenci. Attached please find the Statement of the ILWU Local 142 on County Communication 21-232 Moratorium on Visitor Accommodations Development.

Joyce Naruse

Division Clerk

ILWU Local 142 – Maui

896 Lower Main Street | Wailuku, HI 96793
Main: (808) 244-9191 | Fax: (808) 244-7870



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LOCAL OFFICE • 451 ATKINSON DRIVE • HONOLULU, HAWAII 96814 • PHONE 949-4161

HAWAII DIVISION: 100 West Lanikaula Street, Hilo, Hawaii 96720 • OAHU DIVISION: 451 Atkinson Drive, Honolulu, Hawaii 96814
MAUI COUNTY DIVISION: 896 Lower Main Street, Wailuku, Hawaii 96793 • KAUAI DIVISION: 4154 Hardy Street, Lihue, Hawaii 96766

LOCAL 142

May 19, 2021

Maui County Council
Climate Action, Resilience, and Environment Committee
Kalana O Maui Building, 8th Floor
Councilmember Kelly King, Chair
Councilmember Shane Sinenci, Vice Chair
Wednesday, May 19, 2021; 9:00 a.m.

STATEMENT OF THE ILWU LOCAL 142 ON COUNTY COMMUNICATION 21-232 MORATORIUM ON VISITOR ACCOMMODATIONS DEVELOPMENT

The ILWU Local 142 opposes the proposed bill County Communication 21-231 which would place a moratorium on visitor accommodations development.

The Covid-19 pandemic caused record unemployment throughout Hawaii and affected Maui County the most. At the height of the pandemic, Maui County exceeded 32 percent unemployment. As of March 2021, the unemployment rate on Maui is still near a record high with 12.2 percent of the workforce unemployed. Today, there are still thousands of workers without jobs. While the economy is slowly recovering and some workers are returning to work, it is going to take a few years before the economy may reach pre-pandemic levels.

We understand the need for a sustainable and green Hawaii as it is our responsibility to protect our home, its natural resources and beauty. However, we cannot do this at the expense of jobs and working families. We have not seen any adequate economic diversification proposals from the Maui Council that would address the workforce and help working families. What we have seen unfortunately, is a systematic attack on the visitor industry that employs thousands with good-paying jobs for local residents born and raised on Maui, Lanai, or Molokai. Instead, local residents are leaving the islands which is the last thing we want to see. This is their home, where they went to school, raised their family.

It is easy to scrutinize a particular economic sector, but it does not help working families and it should be the last thing the Maui County Council should consider. We need to ensure that jobs are available to all Maui residents. A moratorium on hotel construction and visitor accommodations will limit jobs and hurt the economic recovery. Workers are struggling and we should not make it worse. Let us keep our families in Hawaii and work on how to address an economy that works for them.

For those reasons, we strongly oppose County Communication 21-232. Economic recovery should be paramount during this time.

Thank you for the opportunity to testify.

Sincerely,

ILWU Local 142
Maui Division

A handwritten signature in black ink, appearing to read 'Roberto Andrion', with a long horizontal flourish extending to the right.

Roberto Andrion
Division Director

CARE Committee

From: County Clerk
Sent: Wednesday, May 19, 2021 7:41 AM
To: CARE Committee
Subject: FW: PRP Testimony re Moratorium On Visitor Accommodations Development (CARE-50)
Attachments: PRP Testimony_Communication 21-232_Moratorium _CARES_19 May 2021.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

From: Christopher Delaunay <cdelaunay@prp-hawaii.com>
Sent: Tuesday, May 18, 2021 5:47 PM
To: County Clerk <County.Clerk@mauicounty.us>
Cc: Delfin Yoshida <Dellfin.Yoshida@mauicounty.us>
Subject: PRP Testimony re Moratorium On Visitor Accommodations Development (CARE-50)

Aloha,

Attached please find PRP's testimony for tomorrow's CARE committee meeting.

Thank you,

Christopher Delaunay

Government Relations Manager
DIRECT 808.380.8838
EMAIL cdelaunay@prp-hawaii.com



Pacific Resource Partnership

1100 Alakea Street, 4th Floor
Honolulu, HI 96813
www.prp-hawaii.com

Testimony of
Pacific Resource Partnership

City Council
Council of the County of Maui
Climate Action, Resilience, And Environmental Committee
Councilmember Kelly Takaya King, Chair
Councilmember Shane M. Sinenci, Vice Chair

Communication No. 21-232—Moratorium On Visitor Accommodations Development

Friday, May 19, 2021
9:00 A.M.

Aloha Chair King, Vice Chair Sinenci, and Members of the Committee.

Pacific Resource Partnership (PRP) is a non-profit market recovery trust fund which represents approximately 7,000 men and women union carpenters and 240 large and small contractors. With our expertise in research, compliance, marketing, and project advocacy, we are committed to building a stronger, more sustainable Hawaii in a way that promotes a vibrant economy, creates jobs, and enhances the quality of life for all residents of Hawaii.

Hawaii has the highest cost of living in the nation. Too many residents live month to month, unsure if they can make it financially until the next paycheck arrives. The COVID-19 pandemic has served to increase the challenges residents face, and pushed unemployment to dangerously high levels. Maui's economy has endured the greatest disruption in a state that continues to suffer even as pandemic controls have been relaxed.

Imposing a moratorium on the construction of visitor accommodations will only further damage Maui's tenuous economic recovery. Maui's economy benefits tremendously from the visitor industry. In Fiscal year 2021, 79% of Maui's property tax revenue came from visitor-use properties. Twenty-five years ago, visitor-use properties accounted for only a third of property tax revenue. Maui's visitor industry has been essential to the growth in overall tax revenues, and shifted much of the burden of taxes from individual homeowners to an industry which has been allowed to thrive.

The industry has transformed Maui by providing vital jobs. Prior to the pandemic, the accommodations industry was the county's largest employer. A total of 12,900 residents were employed directly, with many more working in accommodations-related jobs. Accommodations industry employment plunged by 60 percent and has yet to rebound.

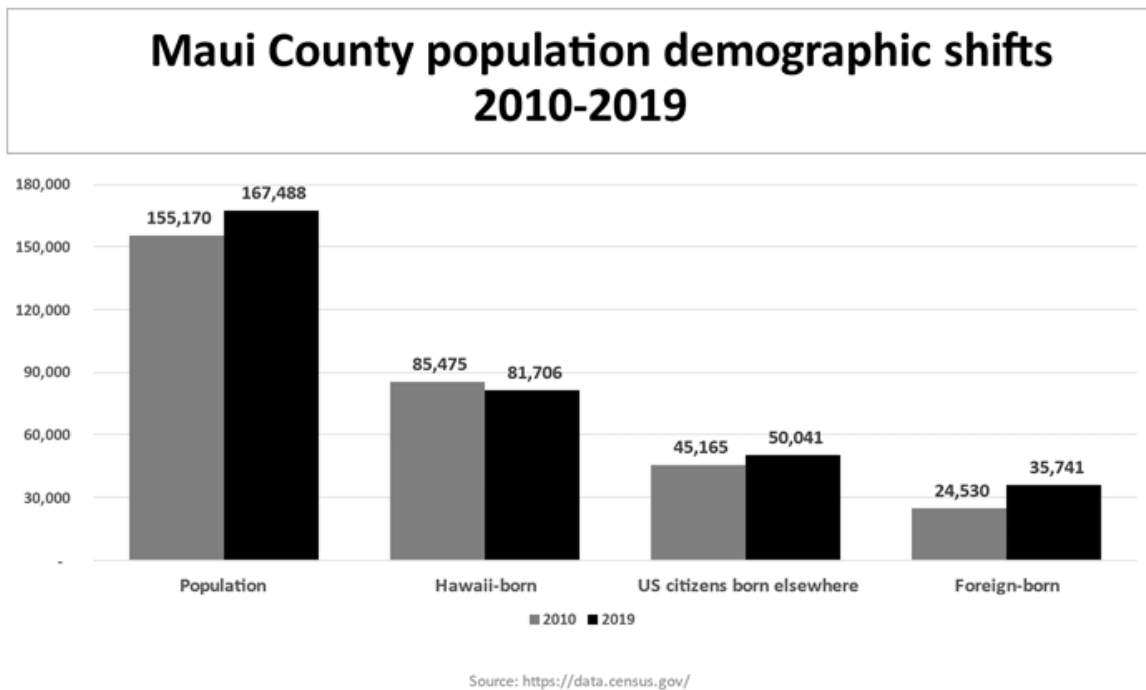
Maui County owes its economic success to the growth of this industry. Limiting visitor accommodations supply through a moratorium on new construction and renovation work will have the wrong effect at exactly the wrong time. It will serve to limit the growth of other industries including construction, retail, restaurants,



(Continued From Page 1)

and many of our small businesses. By trying to limit the growth of its most important industry Maui threatens to undermine the future livelihoods of local residents.

Even before the pandemic’s arrival Maui was struggling to keep local residents. Between 2010 and 2019, Maui lost nearly 4,000 Hawaii-born residents. Imposing a moratorium on efforts to support the accommodation industry will only accelerate this trend, causing Hawaii-born residents and their families to leave Maui for job opportunities and better lives elsewhere.



Let’s work to create policies that will help revive an ailing economy, get more community members back to work, and keep local residents in Maui. As such, we respectfully request that this committee defer this measure.

CARE Committee

From: County Clerk
Sent: Wednesday, May 19, 2021 7:41 AM
To: CARE Committee
Subject: FW: Testimony Against MORATORIUM ON BUILDING PERMITS FOR VISITOR ACCOMMODATIONS (IT-54)
Attachments: May 18, 2021 Testimony of Thomas Fairbanks Against MORATORIUM ON BUILDING PERMITS FOR VISITOR ACCOMMODATIONS (IT-54).docx

Follow Up Flag: Follow up
Flag Status: Completed

From: Mauibandb <mauibandb@aol.com>
Sent: Tuesday, May 18, 2021 10:15 PM
To: County Clerk <County.Clerk@mauicounty.us>
Subject: Testimony Against MORATORIUM ON BUILDING PERMITS FOR VISITOR ACCOMMODATIONS (IT-54)

To Maui County Council

Re: Testimony against MORATORIUM ON BUILDING PERMITS FOR VISITOR ACCOMMODATIONS (IT-54)

Government should always tread cautiously on legislation that will have many unintended consequences on our prime revenue resource. Faulty justification in the communication presented to the Council compel you to reconsider moratorium on new hotel development.

1. Our high unemployment and the dependency on the visitor industry to provide the jobs needed are fragile. Most of our residents feel that return to 2020 Visitor levels is not desirable and want to be sure whatever action taken will not diminish their future employment opportunities and children.

2. The bill would be perceived that Maui is anti-investment, and this could impact us economically for far more than two years. The years it takes for a project on Maui from concept through permitting is already enough of a deterrent to investment.

3. The 30% ratio of the visitor to resident is an arbitrary number chosen to codify. It isn't significant. The 30% is a number selected without reviewing the actual impact. It does not consider any measures already implemented and in the future to mitigate the effects on the community.

It does not consider the dynamics of timeshare units and illegal vacation rentals' entry into the marketplace and their contribution to incursions on our community. It is not a valid number to mandate the growth of our Economy, Jobs, and future opportunities. The Council should use a better measurement developed from carefully and mindfully segmented data considering the impacts of hotels, Timeshare, and Illegal vacation rental units.

4. Climate change impacts are not measurable and minimal in any significant way. Climate Change should not be a throttle for determining the best use of our resources. Managing the effect on the environment by Development can be addressed in legislation.

5. The number of hotel rooms has gone down significantly rather than gone up. The significant Increase in visitor units has come from Timeshare and illegal vacation rentals. Hotels are not contributing to our problem. There should be no moratorium on hotel development.

6. Economists predict we will not be able to achieve pre-pandemic levels of visitors till 2024. There is less incentive to add new visitor accommodations. There is no urgency.

Timeshares

The substantial Increase in hotel-like room inventory has been Hotel conversions to and Development of timeshares over the past 20 years. Sprawling luxury timeshare resorts have gobbled up our best remaining beaches in resort areas, robbing our resources for our future prematurely.

Timeshare Units are quite a different animal from a hotel even though they look identical. Developers easily justify time Share development as thousands of buyers share in the

Developments risks and pay the monthly maintenance. Conversion of hotels to time share allowed big corporations to suck all their investment out of State and transfer the risk to the unaccountable thousands of Time Share unit owners.

The Development of a hotel has a 30-year risk before return with few investors to carry the risk. Timeshares hire significantly fewer employees and contribute less to our economy, resident welfare, and our state income taxes than a comparable visitor unit of a similar hotel merely by the number of staff per available room. Hotel development is not the driving force for change in Hotel like visitor units in the past 20 years. And not in the future either.

Hotel Development Going Forward

A prudent approach is to establish High legislative hurdles visitor accommodation developments must meet before consideration. The limitations, or mitigators of impact, should be precisely what the Council determines are the residents' wishes to see addressed. They could come from and be added to the community plan as well. All hotel developments must come before Council before approval.

Vacation Rentals

Anecdotally, we have heard residents of west Maui share vacation rentals in many neighborhoods in West Maui outnumber residents. We took a drive in May 2020 around the areas in West Maui, and it was a ghost town.

Your tax rate plan addresses the Vacation rental proliferation by taxing them at hotel rates. Higher taxes push up attrition in homes remaining in vacation inventory. The bonus to County in back taxes and the future will make it worthwhile to enforce compliance or conversion to residential use.

The massive incursion of illegal vacation rentals is the compelling reason why residents feel crowded out. Bringing the proliferation of illegal vacation rentals under control will significantly improve the quality of life for residents. We have ordinances in place that limit legal vacation rentals' impact on the community.

Summary

In summary, the proposed moratorium is draconian and based on constraints that are arbitrary and emotional. The decision affecting the economic health in the present and the future must use facts and data. The Council should do A study to measure all the impacts of our visitor industry. With the data in hand, Council members can wisely address the genuine problems without diminishing opportunities for growth.

Thomas Fairbanks
Wailuku, Hawaii

CARE Committee

From: Evan K. Oue <eoue@imanaka-asato.com>
Sent: Wednesday, May 19, 2021 8:25 AM
To: CARE Committee
Cc: David M. Raatz
Subject: HHA Supplement Comments on CARE-50
Attachments: HHA Supplemental Comments on CARE-50-051821.pdf

Aloha CARE Committee,

Mahalo, for the opportunity to submit supplemental testimony. Please find attached a cover letter and memorandum to supplement Jerry Gibson's previous testimony submitted on May 17, 2021. The attached memorandum includes a legal analysis of the proposed bill.

Please let me know if the committee needs any additional information.

Mahalo,
Evan K. Oue



Imanaka Asato

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May 18, 2021

Council of the County of Maui
Committee on Climate Action, Resilience, And Environment
Councilmember Kelly Takaya King, Committee Chair
Councilmember Shane M. Sinenci, Committee Vice-Chair

RE: MORATORIUM ON BUILDING PERMITS FOR VISITOR ACCOMMODATIONS
Hearing date and time: Wednesday, May 19, 2021, at 9:00 a.m.

Aloha Chair King, Vice-Chair Sinenci and Honorable members of the Climate Action,
Resilience, And Environment Committee,

Mahalo for the opportunity to provide comments on behalf of Hawaii Hotel Alliance ("HHA") regarding the County's consideration of a moratorium on building permits for visitor accommodations.

I am writing to supplement my previous testimony, filed on May 17, 2021, to include the attached legal analysis of the proposed bill by the law firm McCorriston Miller Mukai MacKinnon LLP, which raises some important questions for the Council to consider.

Thank you, again, for your time and consideration of these comments.

With Aloha,

Jerry Gibson, President
Hawaii Hotel Alliance
Jerry@hawaiihotelalliance.com

MEMORANDUM

DATE: May 18, 2021

TO: Hawaii Hotel Alliance

FROM: Randall F. Sakumoto
Sae M. Lee

RE: CRC 21-191 and CRC 21-232 – Amending the Building Code to Add Chapter 40
Relating to a Moratorium on Building Permits For Hotels / Visitor
Accommodations

You have asked us to comment on the legality of CRC 21-191 (“**Bill 191**”) and CRC 21-232 (“**Bill 232**”) (collectively, the “**Bills**”) introduced to the Maui County Council by Councilmember Kelly King in April 2021. While there are several legal issues raised by the Bills, for purposes of this memorandum, we have focused our analysis on the specific issue of whether the Bills violate the Due Process Clause of the Fourteenth Amendment under the Hawaii Constitution and the United States Constitution. We also note the irreparable economic harm that the enactment of the Bills is likely to cause; and we point out a procedural requirement of the Maui County Charter that must be followed in this case.

I. Background

A. *Bill 191 – “Amending The Building Code To Add Chapter 40 Relating To A Moratorium On Building Permits For Hotels”*

Bill 191 seeks to amend Title 16 of the Maui County Code (the “**MCC**”) by adding a new Chapter 40 (titled “Moratorium on Building Permits for Hotels”). Bill 191 provides in relevant part as follows:

4000.4 Prohibition on building permits for hotel development in West Maui and South Maui. No building permit applications for hotel development in West Maui or South Maui may be accepted.

Bill 191, Section 4000.4 (emphasis added).¹

¹ Per Section 4000.3 of Bill 191, “hotels” means “transient accommodations” and “development” means “any new units used for transient accommodations.” Bill 191, Section 4000.3. “Transient” means “any visitor or person who owns, rents or uses a lodging or dwelling unit, or portion thereof, for less than

If enacted, Bill 191 will temporarily prohibit the acceptance of building permit applications for the construction of new units for transient accommodations including hotels, resorts, timeshares, short-term rental homes, bed and breakfast homes, and transient vacation rentals. The prohibition on the development of hotel/transient accommodations in West Maui and South Maui would be automatically repealed at the earlier of (i) two years from the effective date of the law or (ii) when the ordinance approving the South Maui Community Plan update takes effect if that date is later than the effective date of the ordinance approving the West Maui Community Plan update. Under Bill 191, there are no exceptions to the moratorium on hotel development – only “the council may authorize exceptions from this [prohibition] by resolution upon request by the director of public works.” Bill 191, Section 4000.5.

B. Bill 232 – “Amending The Building Code To Add Chapter 40 Relating To A Moratorium On Building Permits For Visitor Accommodations”

Bill 232 also seeks to add Chapter 40 (titled “Moratorium on Building Permits for Visitor Accommodations”) to Title 16 of the MCC. Bill 232 provides in relevant part:

4000.4 Prohibition on building permits for visitor accommodation development in West Maui and South Maui. No building permit applications for **visitor accommodations** in West Maui or South Maui may be accepted.

Section 4000.4 (emphasis added).

Under Bill 232, “development” is defined as “any new units expressly designated to be used for visitor accommodations.” Bill 232, Section 4000.3. The term “visitor accommodation” is defined as “any kind of transient accommodations, including hotels, resorts, timeshares, short-term rental homes, bed and breakfast homes, and transient vacation rentals.” *Id.* The prohibition on the “development” of “visitor accommodations” in West Maui and South Maui will be automatically repealed two years from the law’s effective date. Bill 232, Section 4000.6. Otherwise, this prohibition ends in West Maui on the effective date of the West Maui Community Plan update and in South Maui on the effective date of the South Maui Community Plan update. Bill 232, Section 4000.5.

Like Bill 191, “the Council may authorize exceptions from this [prohibition] by resolution upon request by the director of public works.” Bill 232, Section 4000.5. In contrast with Bill 191, Bill 232 “does not apply to any development that has received its last discretionary approval prior to the effective date of the ordinance establishing the chapter.” *Id.*

one hundred eighty days and whose permanent address for legal purposes is not the lodging or dwelling unit occupied by the visitor.” MCC 19.04.040.

C. Findings and Purposes of the Bills

The Bills claim that (1) the development of transient accommodations has dramatically increased the ratio of visitors to residents, (2) a large percentage of these transient accommodations are in West Maui and South Maui, for which updated community plans are under review for comprehensive updates, and (3) the purpose of the Bills is to temporarily maintain the status quo by establishing a moratorium on building permits for hotel/visitor accommodation development in West Maui and South Maui until both community plans are updated. Bills 191 and 232, Section 1. Additionally, Bill 232 claims that the development of visitor accommodations and the presumed related increase in tourism cause negative impacts on the environment. Bill 232, Section 4000.1. Per Bill 232, visitor accommodation development must be prohibited for an interim period in order to “to preserve the County’s environment, mitigate climate change and work toward resilience.” *Id.* Thus, the stated purpose of Bill 232 “is to lower carbon-emission levels, mitigate climate-change impacts and limit the rate of global warming by pausing visitor accommodation development and the related increase in tourism.” *Id.*

II. Analysis

A. The Bills Fail to Serve a Legitimate State Interest

Under the Due Process Clause of the Fourteenth Amendment, the State shall not “deprive any person of life, liberty, or property, without due process of law.” U.S. CONST. amend. XIV; HAW. CONST. art I, § 5. “The prohibition against deprivation of property without due process of law reflects the high value, embedded in our constitutional and political history, that we place on a person’s right to enjoy what is his, free of governmental interference.” *Fuentes v. Shevin*, 407 U.S. 67 (1972). The Due Process Clause confers both procedural and substantive rights, protecting the individual against arbitrary or irrational acts of the government and “the exercise of power without any reasonable justification in the service of a legitimate governmental objective.” *County of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998); *see also Richardson v. City & Cty. of Honolulu*, 124 F.3d 1150, 1162 (9th Cir. 1997).

Government action violates substantive due process rights when it is shown that such action is not “rationally related to a legitimate governmental purpose.” *Richardson*, 124 F.3d at 1162; *see also Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528, 542 (2005) (recognizing that “a regulation that fails to serve any legitimate governmental objective may be so arbitrary or irrational that it runs afoul of the Due Process Clause”). In other words, a law is invalid on substantive due process grounds if it is arbitrary and irrational. *Id.* In essence, this “means-ends test” asks “whether a regulation of private property is **effective** in achieving some legitimate public purpose.” *Lingle*, 544 U.S. at 542 (emphasis added). The “failure of a regulation to accomplish a stated or obvious objective would be relevant to that inquiry.”² *Id.*

² *See, e.g., New Jersey Shore Builders Ass’n v. Township Committee of Dover Tp.*, 468 A.2d 742 (N.J. 1983) (invalidating a moratorium on construction of multi-family housing in relevant part because the municipality failed to offer expert testimony to support its factual justification for the moratorium that

Here, the Bills fail to advance a legitimate governmental interest because of the irrational and arbitrary means set forth to achieve the Bills' objectives. The first governmental objective of the Bills – to temporarily maintain the “status quo” by establishing a two-year moratorium on building permits for hotel/visitor accommodation development — largely rests on the assumption that the “status quo” will be maintained because the interim restriction will deter tourism. This purpose, however, fails to withstand scrutiny for several reasons.

First, the Bills incorrectly assume that the “status quo” to be maintained by the moratorium is the 2019 pre-pandemic visitor arrival count. Largely because of the COVID-19 pandemic, visitor arrivals decreased significantly in 2020. And while Maui visitor arrivals have increased through the first quarter of 2021, the Maui visitor arrival rate for 2021 is still on pace to fall well short of the Maui visitor arrivals for 2019. See *Maui County Fact Sheet With March 2021 Data*, Hawaii Tourism Authority (Apr. 29, 2021).³ In short, the reference in the Bills to the 2019 pre-pandemic Maui visitor count is flawed as an assumption for the 2021 Maui visitor count.

Second, the Bills cite no evidence that the number of tourists has increased in proportion to the number of visitor accommodations developed on Maui. Regardless of the Bills' prohibition on the acceptance of building permits for new visitor accommodation units, this prohibition will do nothing to prevent airlines and cruise ships from continuing to bring tourists to Maui, many of whom may stay in existing visitor accommodations or other newly established visitor accommodations outside of West and South Maui. Without depressing the entire tourism industry, the interim restriction on development of new visitor accommodations will have little to no effect.

Lastly, the Bills do not prevent the development of new visitor accommodation units, as projects which have received their last discretionary approval prior to the effective date of the Bills are exempt from the moratorium and may develop new units.⁴ Furthermore, new visitor accommodations such as short-term rental homes, and bed and breakfast homes may still be established without requiring a building permit. Accordingly, because the means applied to further the purpose of the Bills fail, the prohibition is arbitrary and irrational.

construction contributed to water pressure problems and explaining that “power to enact such moratorium is strictly limited and must be exercised with great caution, and such legislation must have a real, legitimate and substantial relationship to objective being sought and must accomplish its goals with due consideration of all alternative methods and rights of everyone to be affected by the ordinance.”

³ See <https://www.hawaiitourismauthority.org/media/7196/maui-county-fact-sheet-with-march-2021-data.pdf>.

⁴ The right to proceed with a project despite a change in the law vests upon reliance on the last discretionary approval for a project. *Kauai County v. Pacific Standard Life Ins. Co.*, 65 Haw. 318, 328, 653 P.2d 766, 774 (1982). Prohibiting the issuance of building permits for vested projects is invalid. *Allen v. City & Cty. of Honolulu*, 58 Haw. 432, 439, 571 P.2d 328, 331 (1977).

With respect to the stated purpose of Bill 232 – “to lower carbon-emission levels, mitigate climate-change impacts and limit the rate of global warming” – Bill 232 cites no evidence or empirical data to support the conclusion that Bill 232 will actually serve such purposes. In other words, no evidence has been provided that prohibiting the acceptance of building permits for visitor accommodation for the next two years will lower carbon-emission levels, mitigate climate-change impacts and limit the rate of global warming. With the obvious lack of fit between the stated purposes of the Bills, the chosen means to advance the Bills’ purposes, and the actual effect of the Bills, the Bills simply fail to further their own objectives through rational means.

B. State and Local Tourism Industry will Suffer Irreparable Economic Harm

Due to the COVID-19 pandemic, businesses have been failing at an unprecedented rate with record unemployment rates as entire industries have been heavily impacted. Significantly, tourism and the related hotel and visitor accommodations industry – “Hawaii’s main economic driver” – have been hit hardest by the pandemic. *See Hawai’i v. Trump*, 241 F. Supp. 3d 1119, 1130 (D. Haw. 2017). The industry’s struggle to recover will be dealt a significant setback, as the enactment of the Bills will likely result in irreparable harm to hotel and resort owners and the thousands of people who rely upon these properties, directly or indirectly, in connection with their employment.

For the owners and developers of these hotels, resorts and other visitor accommodations, a moratorium on development will frustrate their reasonable investment-backed expectations to develop their lands located in areas that are designated for hotel use (not in residential neighborhoods) and consistent with existing zoning laws. “[R]eal property and its attributes are considered unique and loss of real property rights generally results in irreparable harm.” *Dixon v. Thatcher*, 103 Nev. 414, 742 P.2d 1029, 1030 (1987).

For the thousands of people who rely upon these properties, directly or indirectly, in connection with their employment – including housekeeping, front desk, bell desk, maintenance, food and beverage, landscaping, security and banquet staff -- the enactment of the Bills will likely have consequences such as (i) reduced employment opportunities; (ii) reduced work hours; (iii) reduced levels of compensation; and (iv) a loss of medical, retirement and other benefits for those who suffer a demotion from full-time employment to part-time employment.

C. The County Charter Requires the Planning Commission to Review the Bills.

Finally, we note that the Maui County Charter provides in relevant part that:

The [Maui] planning commission shall:

1. Advise the mayor, council, and the planning director in matters concerning planning programs.

...

3. Review other proposed land use ordinances and amendments thereto prepared by the director or the council and, after public hearings, transmit such ordinances with its findings and recommendations thereon to the council for consideration and action no later than one hundred twenty (120) days after the final public hearing.

Maui County Charter Section 8-8.4.

Therefore, for the County Council to advance the Bills, they must submit the Bills to the Maui Planning Commission, who will hold public hearings on the Bills. The Council is prohibited from acting on the Bills until these public hearings have been completed and the Planning Commission has submitted its findings and recommendations on the Bills.

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CARE Committee

From: County Clerk
Sent: Wednesday, May 19, 2021 10:16 AM
To: CARE Committee
Subject: FW: Testimony is for Bill for a Moratorium on Hotel and Visitor accommodations building permits (item 50) - Climate Action and Resilience Committee

From: David Dorn <daviddorn808@gmail.com>
Sent: Wednesday, May 19, 2021 10:09 AM
To: Kelly King <Kelly.King@mauicounty.us>; Shane M. Sinenci <Shane.Sinenci@mauicounty.us>; Gabe Johnson <Gabe.Johnson@mauicounty.us>; Alice L. Lee <Alice.Lee@mauicounty.us>; Mike J. Molina <Mike.Molina@mauicounty.us>; Tamara A. Paltin <Tamara.Paltin@mauicounty.us>; Tasha A. Kama <Tasha.Kama@mauicounty.us>; Yukilei Sugimura <Yukilei.Sugimura@mauicounty.us>; Keani N. Rawlins <Keani.Rawlins@mauicounty.us>; County Clerk <County.Clerk@mauicounty.us>
Subject: Testimony is for Bill for a Moratorium on Hotel and Visitor accommodations building permits (item 50) - Climate Action and Resilience Committee

Testimony is Support of Bill for Moratorium on Hotel and Visitor accommodations , building permits (item 50)
Climate Action and Resilience Committee

Hello Councilpersons and committee members, “hai-sai” to you all.
My name is David Dorn a Kihei Resident and co-founder of SaveKihei.Org a community group.

I support this bill for a moratorium on Hotel and Visitor Accommodation building, and it should be for 10 years and be island-wide. We actually need a general moratorium on all building (with the exception of affordable housing and infrastructure).

Maui already has more tourists per resident than Oahu:

According to the HTA, Maui, has the state's highest ratio of visitors to residents. We have more tourists per resident than Oahu. We have more visitor accommodation per resident than Oahu.

On Monday, We heard a lot of testimony about this bill, but everyone agreed upon is that there is over-tourism and over-crowding on beaches roads, and public spaces. Even the hotel industry reps, said the legitimate hotel industry was “hyper-aware” of that.

We may disagree on exactly what has causes the over-tourism, but we all agree that there is over-tourism.

There is way too much building going on, and this is pushing our population to breaking point. Estimates say that by 2045 the de facto population on Maui will be almost 300 thousand people. Think about it, there people will be twice as many people as today driving around and crowding out all public spaces.

Because of tourism, and migration: This horrendous number is because of increasing tourism and people moving here from the mainland. This is not a natural population increase from locals having children. Can you imagine how horrible that will be? And this is far beyond our islands capacity to sustain it.

Maui has a house-building boom, but this is in response to the mainland market. Locals are not the intended market for most of the million-dollar and up, market-priced houses.

Locals mostly need affordable houses to rent and buy. Building houses to cater to a hot real-estate market, is not sustainable environmentally.

We need this moratorium to stop unchecked growth, which will create problems going forward. We need this moratorium to send a clear message to the planning department about what kinds of developments we need right now. The planning department will keep approving Hotels and Visitor accommodations indefinitely without any clear directives or rules with teeth.

The planning dept has repeatedly shown that they are deaf to guidelines, policies, and recommendations. They do not follow the community plan, or the island plans, or the recent ordinance for quality over quantity. They may not have even read them.

This Council needs to set the rules, and create clear ordinances that tell the planning commission how to proceed. If it isn't an enforceable rule, then they will ignore it. That is why we need this moratorium.

We know we need tourism, and we are not against it, but we now have too much of it, We are against over-tourism, and against over-exploitation of our resources.

Our Island is already out of balance with too many tourists to locals.

- We have already exceeded the islands water supply, and streams are running dry.
- We are not resilient to climate change, if we are over-dependant on tourism.
- What happens when we have no more beaches, and the tourists stop coming?
- What happens when our reefs die and our oceans break down?
- What happens when our seawater is too polluted to swim in?
- What happens when the costs of air travel goes up and people stop flying here?

We do not have the infrastructure to handle more Hotels, We do not have enough water, our roads are bad, crowded beaches, and substandard sewerage treatment facilities. We are still pumping wastewater into the ocean. We need to take better care of what we have now. And have a pause to assess the right amount of growth to have later.

We do not have proper drainage infrastructure to handle the stormwater problems we have now, and we have problems mauka to makai managing floods and polluted runoff from entering the ocean and damaging reefs. According to the SM Watershed Plan and SMDMP, We need to invest at least 50 – 90 million dollars into our drainage infrastructure in South Maui alone, just to handle the issues we have now. More hotels and visitor accommodations add to the stormwater production, create drainage issues, contaminate rainwater, and make finding solutions much harder.

Many parts of the North Kihei flood plain doesn't even have basic stormwater drains, or gutters, and sidewalks. Some roads flood every time it rains now. Yet building more hotels will put more traffic onto our roads, and more people onto our beaches. Climate change will make flooding more frequent, and sea-level rise will put sections of south Kihei road underwater.

0.5 – 1ft SLR:

As little and 0.5 to 1 foot of sea-level rise will put more of our roads within the reach of waves and high water events. Storm surge, large swell events, kona storms, hurricanes, will cause more damage to more areas. And we will not be able to keep repairing the damage. It is a losing battle if we fight nature and try to ignore the changes.

Small Tsunamis:

On Maui, we have survived many small tsunamis that have had minimal impacts. Like shoreline inundation and standing seawater. But these kinds of events will be reaching farther inland and be causing more damage each time.

Sea Level Rise, doesn't only affect the shoreline. It also means rising saltwater tables, that will contaminate our aquifer. Seawater already reaches far inland, and SLR will reduce the amount of freshwater that can be accessed for drinking water. More wells and more water extraction (for resorts and golf courses) will only hasten the collapse of the aquifer. In the future, we could have less freshwater available than we have now.

IN 10-20 YEARS WE MAY NOT HAVE THE DEMAND FOR HOTELS THAT WE HAVE NOW.

On Monday, one Hotel industry rep said that the “legitimate” hotel and visitor industry is hyper-aware of the impact of tourism, and the impact of overcrowding at public beaches and public spaces. And that they are aware of over-tourism.

But what they didn't say was that Even “legitimate Hotels” use a disproportionate amount of Maui's resources, for the benefit of their corporate owners and customers. There is usually very little benefit to the local community, and the environment suffers also.

Even the hotels that claim to be “going green” are still huge resource hogs. They use prime land, and precious water, they create pollution, sewerage, trash, and produce greenhouse gasses.

No hotel or Visitor accommodation can make the own water, and even if they can pump it from a well, that still impacts the aquifer, and weakens wetlands and streams.

- They can have solar power, but that also creates pollution at the end of its service life.
- Hotels and guests use massive amounts of transportation, which causes pollution.
- They use chemicals, and create unspeakable amounts of sewerage.

All hotels contribute to ocean pollution because all sewerage goes into the ocean. Even the hotels with their own wastewater treatment systems and injection wells, and cesspools, and septic systems are polluters because all this leaches down to the water table and flows into the sea. Stormwater runoff from Hotel parking structures and rooftops, and driveways contributes a significant amount of polluted runoff that harms our local reefs.

Most Hotels are poorly situated, many hotels and Visitor accommodations near the shoreline will be affected by SLR, and in the next few decades. Some are in tsunami evacuation zones, some in flood zones. They are building in the SMA and CMZ. They are close to the inundation zone caused by sea-level rise. And they are vulnerable to coastal hazards, such as severe storms and the extreme weather events brought on by Climate change.

On Maui, several hotels have already lost their beaches and are at risk of falling into the ocean. We even have a hotel currently being built in Kihei is already flooding because it is built in a wetland and a major flood zone. It is just a few feet above sea level.

Fairly soon a large number of Hotels on Maui will be needing to relocate away from the shoreline, Who will pay for that? Or will they be asking us to allow them to harden their shorelines, put rock groins, and jetties. As you know hardening the shoreline accelerates erosion and beach loss.

Sea level rise also means that infrastructure is at risk. Sewer, stormwater, electricity, roads, will have to be relocated and rebuilt.

Scientists tell us that we are going to have 3.2 feet sea level rise in 40 years, maybe sooner.

Hotel Life Expectancy:

Hotels being built today will have a service life of 50/80/100 years. So they will be operating for most of their life on a “post sea-level-rise” Maui.

When most of the beaches will be gone, and the sea level will continue to rise.

Sea Level Rise:

Honopiilani Highway is already affected by rising sea levels and is being relocated due to SLR. We could see our only trans-pali access road cut off in a few years.

More Hotels bring more tourists.

- And Air-travel is one of the biggest polluters and contributors to greenhouse gasses, and consumers of fossil fuel.
- Every tourist that rents a car, burns gas, pollutes and jams up our roads.
- Every tourist that catches a bus, takes an Uber, boat tour, or road trip, helicopter ride, burns gas and pollutes.

Maui’s water resources are limited. When we withdraw from the aquifer we allow the saltwater table to rise, this contaminates the freshwater stocks and it causes the drying out of wetlands, springs, and streams.

Overuse of water means that we lose streams, and stream life. We lose the beneficial wetlands, that help protect the ocean from stormwater runoff. We lose the balance of stream life and marine species that rely on freshwater spawning grounds.

- The health of the stream life impacts the health of the sea life.
- When we overuse water we harm our wetlands and in turn we harm our reefs.
- Our reef health is critically tied to its ability to protect shorelines from high waves, We need healthy reefs to protect our shorelines.

Climate change will bring heavy rains and more severe storms, more flooding, and more runoff. So we must do everything we can to preserve open spaces, natural areas shorelines, wetlands, reef health.

Hotels and Visitor accommodations are an unnecessary burden on our water resources, and natural environment. Tourists are the biggest polluters and the biggest contributors to global warming.

Mahalo for hearing my testimony.

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SOURCES:

- In the last decade, the speed at which Hawaii's sea level is rising has increased, and is rising by as much as 1 inch every 4 years. Around Hilo Bay, it took 17 years for the sea level to rise around 6 inches. Scientists now forecast that in just the next 12 years, the sea level will have risen by another 6 inches. <https://sealevelrise.org/states/hawaii/>
- Sea Level Rise Viewer: <http://www.soest.hawaii.edu/coasts/sealevel/>

- Hawaii Sea Level Rise Vulnerability and Adaptation Report https://energy.hawaii.gov/wp-content/uploads/2018/06/Dr.-Brad-Romine_VH18.pdf
- Maui, with a population of roughly 152,000, also boasts the state's highest ratio of visitors to residents. On any given day some 30% of the people on the island are visitors, according to Hawaii Tourism Authority estimates from 2018. Aug 25, 2019, <https://www.staradvertiser.com/2019/08/25/hawaii-news/as-impacts-mount-some-wonder-whether-managed-tourism-is-possible-on-maui/>.
- <https://www.hawaii-guide.com/hawaii-tourism-statistics>
- Population and Economic Projections for the State of Hawaii to 2045. Maui De facto Population 2045 - 293,300. <https://www.mauicounty.gov/DocumentCenter/View/84676/Chapter-1>