

# MINUTES

of the

## COUNCIL OF THE COUNTY OF MAUI

March 24, 2017

THE REGULAR MEETING OF THE COUNCIL OF THE COUNTY OF MAUI, STATE OF HAWAII, WAS HELD IN THE COUNCIL CHAMBER, KALANA O MAUI BUILDING, WAILUKU, HAWAII, ON FRIDAY, MARCH 24, 2017, BEGINNING AT 10:03 A.M., WITH CHAIR MICHAEL B. WHITE PRESIDING.

CHAIR WHITE: This meeting of the Maui County Council shall please come to order.

Thank you for your patience. We probably should have had some of you kids up, or down here helping us with our internet connection.

Mr. Clerk, will you please call the roll.

### ROLL CALL

PRESENT: COUNCILMEMBERS ALIKA ATAY, ELEANORA COCHRAN, S. STACY CRIVELLO, DONALD S. GUZMAN, G. RIKI HOKAMA, KELLY T. KING, YUKI LEI K. SUGIMURA, VICE-CHAIR ROBERT CARROLL, AND CHAIR MICHAEL B. WHITE.

COUNTY CLERK DENNIS A. MATEO: Mr. Chair, there are nine Members present. A quorum is present to conduct the business of the Council.

CHAIR WHITE: Thank you, Mr. Clerk.

For this morning's opening remarks, we will have Ms. Sugimura.

### OPENING REMARKS

The opening remarks were offered by Councilmember Yuki Lei Sugimura.

CHAIR WHITE: Thank you, Ms. Sugimura.

Will you all please rise and recite the Pledge of Allegiance with me.

### PLEDGE OF ALLEGIANCE

The Members of the Council, and others in attendance, rose and recited the Pledge of Allegiance.

CHAIR WHITE: Thank you very much. And would you all please turn off your cellphones and put them on mute. And we will proceed with the meeting.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, we've received no request from individuals that wish to offer testimony on ceremonial resolutions. Shall we close testimony on the resolutions?

CHAIR WHITE: Members, any objection to closing public testimony on resolutions?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you. So ordered.

Thank you, Mr. Clerk.

COUNTY CLERK: Mr. Chair, proceeding with ceremonial resolutions.

### CEREMONIAL RESOLUTIONS

RESOLUTION  
NO. 17-51

CONGRATULATING PUKALANI ELEMENTARY  
SCHOOL STEM IMAGINEERS FOR WINNING  
THE HAWAII STATE VEX IQ ROBOTICS  
CHAMPIONSHIP

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA:

I MOVE TO ADOPT THE PROPOSED RESOLUTION ENTITLED, "CONGRATULATING PUKALANI ELEMENTARY SCHOOL STEM IMAGINEERS FOR WINNING THE HAWAII STATE VEX IQ ROBOTICS CHAMPIONSHIP".

VICE-CHAIR CARROLL:

SECOND.

CHAIR WHITE: We have a motion from Ms. Sugimura, and a second from Mr. Carroll.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Mr. Chair. May I please request that the Clerk read the resolution in its entirety?

CHAIR WHITE: Mr. Clerk.

*(The resolution was read in its entirety.)*

CHAIR WHITE: Thank you, Mr. Clerk.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you very much, Chair. Last year, I got to visit Pukalani Elementary as they have a Leader in Me "Leadership Day". And I got to see these students in action. We went and visited classrooms, and the students greeted us, they gave speeches.

And this Franklin Covey, 7 Habits of Effective People in Leadership, I could see it in action. And one of the things I got to do is try to be them and play with, you know, their robotics, in their robotics class. And I have to tell you it was not easy. And so what they have achieved, I'm so proud of them. I read earlier the 7 Habits of Effective Leadership, and I can see where these kids will be great leaders in the future. Thank you, Mr. Chair.

CHAIR WHITE: Thank you, Ms. Sugimura.

Members, any further discussion on this item?

Ms. King.

COUNCILMEMBER KING: Thank you, Chair. This is really close to my heart, because my own son was in the STEM Program. And I really want to thank these kids for marrying the technology and the idea of science with one of the biggest problems in elementary school. So I think bringing, it's almost like bringing the right brain and the left brain together. And I think it's really important that we start looking at these issues holistically. This was really an incredible project to me. So, congratulations again; look forward to honoring you.

CHAIR WHITE: Thank you.

Any more discussion?

Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair. Just to simply let them know how very proud we are of them. And even the people out in the television audience watching right now, that they too, and I have never seen a brighter, more hope for our future group of children that we have before us today. I tell them mahalo.

CHAIR WHITE: Thank you, Mr. Carroll.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: I, I'd just like to ditto the pride and the congratulations to the children of the, and the advisors. You know, it takes a lot. I know I take pride in some of the results that we've had coming from our schools on Molokai. And together, they brought, they put us on a map nationally. So, I'd like to say thank you and congratulations.

CHAIR WHITE: Thank you, Ms. Crivello.

COUNCILMEMBER ATAY: Chair.

CHAIR WHITE: Mr. Atay.

COUNCILMEMBER ATAY: You know, I have spent well over 30 years in the arena of youth development, working with the children of Maui. And one of the most important parts of youth development is allowing support and recognition towards, and when the youth achieve accomplishments. So this is an important part, that we honor them today, give them that recognition, give them that atta boy. This is big for them in their steps forward

in life. So, I applaud them in their accomplishments, and wish them well on the national challenge.

CHAIR WHITE: Thank you, Mr. Atay.

Any further discussion, Members?

Seeing none, I'll just add that you guys should be very proud of you. I know your parents are proud of you, your teachers are proud of you. And we're proud of the fact that you guys have gone to the State level and pulled out another win for Maui. And that takes great teachers and advisors. And it takes a lot of support from parents. So, to all of the grownups, we take off our hats and, and give you a big mahalo.

Seeing no further discussion, Members, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, KING,  
SUGIMURA, VICE-CHAIR CARROLL, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: At this time, may I ask, Chair, to have the students and the teachers come to the podium please?

CHAIR WHITE: Yes. Please come and join us.

COUNCILMEMBER SUGIMURA: So Chair, I hope you won't mind, I think one of the students wanted to say a few words.

CHAIR WHITE: We'd be more than happy to hear from them.

COUNCILMEMBER SUGIMURA: Okay, what are their names? Kiele and Max, you're going to say a few words on behalf of your program? Thank you.

MAX LOZADA: Aloha, Chair White, and Members of the Maui County Council. My name is Max Lozada.

KIELE KEPLER: And I'm Kiele Kepler.

MAX: We belong to the Pukalani School Robotics Team, also known throughout the world as the Pukalani STEM Imagineers. We wish to thank you for having us here today and recognizing our efforts in furthering the STEM education.

Next month we will be heading to Kentucky. Our team qualified to compete in the VEX IQ World's Championship through the success of our STEM research project.

KIELE: Our project incorporates innovative robotic technology and addresses the need for students to develop strong, emotional health which could help eliminate bullying from our schools.

Our project scored first place at the State of Hawaii tournament, and earned us a ticket to World's. Each one of us has worked extremely hard, and has dedicated over 250 hours of hard work to build and program our robot, and to research and create our STEM project.

MAX: We are extremely honored to stand here before all of you today and be given the opportunity to tell you our story. Thank you again for the support of the Pukalani STEM Imagineers Robotics Team.

KIELE: Thank you.

CHAIR WHITE: Thank you, Ms. Sugimura.

Mr. Clerk, may we proceed.

COUNTY CLERK: Mr. Chair, for the record, RESOLUTION 17-51.

RESOLUTION  
NO. 17-52

CONGRATULATING BRENDA REGO  
2017 HAWAII GOLF HALL OF FAME INDUCTEE

CHAIR WHITE: Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair.

MOVE TO ADOPT THE RESOLUTION READ BY THE CLERK.

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR WHITE: We have a motion from Mr. Guzman, and a second from Mr. Hokama.

Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. Would request the Clerk to read the resolution in its entirety, please.

*(The resolution was read in its entirety.)*

CHAIR WHITE: Thank you, Mr. Clerk.

Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. It is with great honor and distinction that I congratulate Ms. Brenda Rego for being inducted into the Hawaii Hall of Fame. It is, it's so touching to know that this, this lady, this woman has been an inspiration for the next generation. And what she does in her work, and what she continues to do to inspire our youth is amazing. To be the first woman in Hawaii to be a PGA professional says so much more than what it says on the record.

Since we're talking about this year, it's almost like the year of the woman. And with the national movements and everything, it's so fitting that we see this, this distinguished woman be honored.

I know she's very modest and humble in what she presents outwardly, and what people perceive her to be. But I'd like to share that she is from the pineapple camp in Kunia, and she's gone a long ways in, in rising to this level. As, although it wasn't mentioned in the reso, I wanted to at least state in the record some of her accomplishments.

In 1976, she also had the Jennie K. Wilson Invitational, she won that as a major amateur championship in the State. Also, she won the 1976 and 1978 Hawaii Women's Stroke Play Championship. In 1972, 1974, 1975, and 1976, the Maui Women's Invitational. 1973 and 1977, the Navy-Marine Women's Championship. And after turning professional in 1980, Brenda joined the LPGA Tour for the next two years.

In addition, she won the 1982 Hawaii Women's State Open. Also, played for the Florida International and two U.S. Women's Opens. In 1990, she became the first female Class A PGA professional, and the head pro of the Wailea Blue Golf Course.

As mentioned, she is an inspiration to the next generation as she continues to do her work. She is the coach of the Maui High School girls' team who is here to support her. Also, we have Michael Ban, the Athletic Director from Maui High, who does a lot of work with her and the youth. She also is the advisor of the Hawaii State Junior Golf Association since 2000. And she's the captain of the Hawaii girls golf competing team for the Junior America's Cup and the Mary Cave Cup, as well as the Junior PGA Championship.

It is my great honor to distinguish her today, and I ask our Members for full support of this resolution. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Guzman.

Members, any further discussion on this item?

COUNCILMEMBER HOKAMA: Chairman.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you, Chairman. I am happy to speak in favor of the resolution this morning. I know this lady's family for many, many years. Her parents are just outstanding models themselves. Her three brothers, great gentlemen. And that's pretty great accomplishment, when every single child you had became a professional golf pro.

I mean, that's pretty outstanding because it takes a lot to become a pro. There's classes, not just the playing skill, but there's a lot of other requirements in, understand how a golf operation works. And I had a great time with learning from Mr. Art Rego when he ran Mililani Golf Course for our old company; running about 100, 110,000 rounds a year. You know, that's, that's bringing in golfers.

But I would like to say why I want to speak in favor of this, Mr. Chairman, is this lady has dedicated herself to a sport, to an activity, to a livelihood that teaches many of life's skills. What other sport the player calls the penalty on themselves? That's honor. That's honor, discipline, and dedication to abide by the rules of the game. It says something about the athlete themselves. Because think about it, who else calls a penalty on themselves in any other sport? There's an official. But in golf, it is upon the honor of the player themselves to call that penalty on them knowing they had an

infraction. That's building character in our young people. That's building what I feel is the right characters and principles that would make our County even greater.

So I thank Ms. Rego for instilling those type of character traits through a sport that I think overall benefits the total community. So, to Brenda Rego, we thank you and we salute you for your dedication to our youth of our County. Thank you, Chairman.

CHAIR WHITE: Thank you, Mr. Hokama.

Ms. King.

COUNCILMEMBER KING: Thank you, Chair. Yeah, I want to add my congratulations and my support for this resolution. And my colleague almost got it right, it is the year of the woman, so, he came very close in saying that.

But I also want to thank Ms. Rego for supporting Maui High School. Both my kids graduated from Maui High and they weren't involved in sports, but there's always been this, like, attitude between the high schools that Baldwin High is sports, and Maui High School is the academic or the math and science. And you know, I don't think that's quite true. So thank you for bringing that expertise to Maui High School. And congratulations on bringing the pride of, of what you're bringing to golf.

I also wanted to say this is very timely based on some testimony we had earlier at the PRL Committee about the potential closing of Waiehu Golf Course. And we had so much testimony, Chair, on the importance of golf and what children and adults learn from this game; how many people use that golf course on a daily basis; and what an asset it is to our community. So I think this adds to that, that idea and that commitment that we have that this is part of our community. It's part of our, it's what our taxpayer dollars are for, this kind of activity. And I want to thank my colleague for bringing this, this resolution forward.

CHAIR WHITE: Thank you, Ms. King.

Any further discussion on the item?

Ms. Crivello.

COUNCILMEMBER CRIVELLO: I, I'd want to extend a personal congratulation and appreciation that her talents are extended to our young people.

But I also wanted to thank the Rego family, because Darrell maintains what, our only golf course on Molokai. So they continue to spread their gifts to, to our young people as well as our golfers. So, mahalo.

CHAIR WHITE: Thank you, Ms. Crivello.

Any further discussion?

I would just like to add that I also want to congratulate you for this honor that's been bestowed on you. And thank you for taking care of our kids, our local golfers, and our visitors. I know you take care of a variety of different golfers, and giving them inspiration. And in many cases like mine, your responsibility is giving them hope that they can actually hit the ball straight more often than not. And its a, it's one of the tougher games, because it is all on you.

Any further discussion, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, KING,  
SUGIMURA, VICE-CHAIR CARROLL, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. May I invite Ms. Rego and her team to the floor, as well as Mr. Ban, to receive the accolades and then to say a few words at the podium?

CHAIR WHITE: Certainly.

COUNCILMEMBER GUZMAN: Thank you.

CHAIR WHITE: Please join us.

COUNCILMEMBER GUZMAN: Thank you, thank you, Chair. On behalf of the County Council, we bestow on you the resolution and congratulations for being inducted into the Hall of Fame.

MS. BRENDA REGO: Good morning, Council Chair and Members of the County Council. Thank you for, thank you very much for recognizing me this morning. I am truly humbled by this honor. Back when I was learning the game of golf, then moving on to playing in college and also as a professional, I never dreamt that one day I would be inducted into something like the Hawaii Golf Hall of Fame, let alone be here today.

When I think back at what it was that made me into a successful golfer, I must say there were two things. The first was dedication, and the second was help from others. Yes, the dedication came from within me. I had the love of the game, a passion to play it and be the best that I could and be to compete. I use to love to compete and that was a driving force for me.

And again, the second thing was the help of others. I had my parents, my brothers, my coaches, and my friends, who all contributed to making me a good golfer. My parents made me, made it possible for me to practice and play tournaments when I was young. They made sure I received good coaching, even sending me to the Big Island every summer to learn from legendary Jackie Pung. My brothers, they were always by my side, either as a main competitor or my gallery cheering me on. I mention Jackie Pung as a coach, but I had several other coaches who taught me the game of golf and helped me build my character. I am so grateful to all of the people who had, have helped me along the way.

Now, at this point in my life, I hope that there are other young girls who can see me here and realize that they too can use the game of golf to propel them to great things in life. Golf is a game that opens so many doors for young people, way more than in my time, and I always encourage the youth to take advantage of what golf has to offer.

I hope someday we are, we are here recognizing the accomplishment of Reese Guzman, the daughter of Councilman Don Guzman. She is one of Hawaii's brightest young stars, and I have the honor of being her coach at Maui High School.

Before I close, I want to share, on Oahu when I was growing up, I played on municipal golf courses. I moved here in 1995, or 85, and I worked at Waiehu for 12 years. Today I'm at Wailea at the Blue Course, but I do coach Maui High at Waiehu. I come from Wailea to Waiehu to coach these young ladies. And I know you all have a tough task in front of you keeping the Waiehu Golf Course open, but I hope you really consider that, because it's for our youth and for our retirees there.

Again, it is an honor to be here this morning and I thank you very much for this recognition of my induction into the Hall of Fame. Thank you very much.

CHAIR WHITE: Congratulations again, Brenda. And thank you for being here.

Mr. Clerk, may we proceed.

COUNTY CLERK: For the record, RESOLUTION 17-52.

Mr. Chair, proceeding with the presentation of testimony on agenda items. We have established limited interactive communication that enables the individuals from Hana, Lanai, and Molokai, to provide testimony from our District Offices.

Individuals who wish to offer testimony from Hana, Lanai, and Molokai should now sign up with the District Office staff. Individuals who wish to offer testimony in the chamber, please sign up at the desk located on the eighth-floor lobby just outside of the chamber door. Testimony on all locations is limited to the items listed on today's agenda.

And when testifying, please state your name and the name of any organization you represent.

Hana Office, please identify yourself and introduce your first testifier.

MS. DAWN LONO: Good morning. This is Dawn Lono at the Hana Office and I have no one waiting to testify.

COUNTY CLERK: Thank you.

Lanai Office, please identify yourself and introduce your first testifier.

MS. DENISE FERNANDEZ: Good morning, Chair. This is Denise Fernandez on Lanai, and there is no one waiting to testify.

COUNTY CLERK: Thank you.

Molokai Office, please identify yourself and introduce your first testifier.

MS. ELLA ALCON: Good morning, Chair. This is Ella Alcon on Molokai and there is no one here waiting to testify.

COUNTY CLERK: Thank you.

Mr. Chair, we have six individuals who have signed up to provide testimony in the Council chamber. The first person to testify this morning is Byron Knight, testifying on Committee Report 17-39. To be followed by Rae Chandler-lao.

### PRESENTATION OF WRITTEN OR ORAL TESTIMONY

MR. BYRON KNIGHT (testifying on Committee Report 17-39):

Chair White, Councilmembers, thank you for letting me speak to you today. I am speaking on behalf of myself, individual, regarding the Committee Report 17-39, establishing ownership durational requirements for a Short-Term Rental Home Permit applications.

I purchased my home in Paia, this past December. And prior to doing so, I thoroughly studied the STRH code to make sure that I would be able to qualify. While the requirements were stringent, I was confident that my property qualified under the current rules and proceeded with the purchase.

The fact that Maui County already had a well thought out set of rules made me feel more comfortable in making an informed decision than I might have if no vacation rental ordinances had been established yet. I am presently in the process of performing some updates to the property, and had planned to submit my STRH application once complete. The proposed amendment would not allow me to proceed.

I understand the purpose of the amendment is to limit speculation. And I won't get into the merits of that argument, as I think others testimonies have provided facts and data to support the argument against. And I hope they will hear more from them today. But I only ask to please not punish those abiding by the existing set of rules.

In the Land Use Committee meeting on March 8, it was stated repeatedly that one of the goals in drafting this amendment was to do no harm. There are several exemption options in the amendment that were discussed, but none of them would help someone in my situation. The most applicable one would be the six-month grace period. But unfortunately, even that would not be enough time to get appropriate SMA permits, complete construction, get final signoffs, in order to be able to submit the STRH application.

It seems very unfair that someone like myself, who is following the established code and trying to do everything legally should have the rules changed in the middle of the process. I admit that if the five-year rule was in effect prior to my purchase, I probably would have reconsidered.

Among the several sensible exceptions to the five-year rule proposed was one that seemed extremely fair. It was to have the amendment apply to homes purchased after the day of enactment. This way, anyone who had recently purchased or is currently in escrow wouldn't be unfairly subjected to a change in rules.

I implore the Council to please seriously consider this exception if indeed the amendment passes. It may not seem like a big deal, but this amendment, as is, would have a huge detrimental impact on me and those in my situation. Thank you.

CHAIR WHITE: Thank you, Mr. Knight.

Members, any need for clarification? Seeing none, thank you for being here this morning.

Mr. Clerk.

COUNTY CLERK: Next testifier is Rae Chandler-Iao, to be followed by Lawrence Carnicelli.

MS. RHIANNON "RAE" CHANDLER-IAO (testifying on County Communication No. 17-142):

Good morning, Council Chair, and County Councilmembers. So nice to be here and to see you all. And I thank you all sincerely for the work that you do. I'm here this morning to testify in favor of the appointment of Mimi Desjardins to the position of Council Services.

Mimi is a person who's been in our community for a very long time. She's helped so many families, including a friend of mine. Over ten years ago, she helped her on a case. There's a family law case, and I remember her working with like just, you know, so many papers. And so, being overwhelmed with like, that was my first exposure actually to what a lawyer was. And she was incredibly hard working and a person of integrity that I was so inspired by. And later, as you know, I decided to go to law school and she's the kind of person that I look up to.

She's a mediator. She's been in our community mediating for a very long time, and I think that she's going to help this Council through many struggles that are, unfortunately, facing our County in the future.

And I just wanted to say that, personally, she is a person that I think adds value to our Council Services program, that somebody that I would respect and trust in this position. And she's the person I'd like to see in this position. And I thank you for your consideration. Mahalo.

CHAIR WHITE: Thank you very much, Ms. Chandler-lao.

Any need for clarification, Members?

Seeing none, Mr. Clerk.

COUNTY CLERK: Next testifier is Lawrence Carnicelli with, representing the Realtor's Association of Maui, testifying on Committee Report 17-39.

MR. LAWRENCE CARNICELLI (testifying on Committee Report 17-39):

Good morning. Thank you, Chair, Members.

CHAIR WHITE: Good morning.

MR. CARNICELLI: Lawrence Carnicelli, speaking on behalf of the Realtor's Association of Maui on item CR 17-39. And I guess, I want to start by just saying, you know, I think that you guys have received a few emails from the Realtor's Association members on this. And I just wanted to say hopefully all of them were professional and courteous and respectful to, to everyone. And if they're not, please let me know and I'll address that.

We stand in opposition of this for a number of different reasons. And first is, that basically we just don't feel that it's going to accomplish what I think the intention is. Currently, the STRH law has a cap of 200 of these. So to try to put an additional requirement on there, I think that that's part of what, you know, say is one of the issues that we have with this.

You know, it was originally was supposed to be in Hana and it kind of grew to where it is now. There are also a couple of exemptions that were put in the original bill that were taken out in Committee. So we ended up with just like, you know, this one sentence that ends up being, there's some unintended consequences to it. One of which the first testifier talked about where is if somebody already owns a piece of property, there's a right that's actually taken away from them. You know, they have a right that then is suddenly gone.

The other part is, is you know, the, the language states that the property has been owned and not purchased. So if there's a transfer of title, let's say if you will it to your kids, you transfer it into a trust, that then triggers this.

The other part to the third part would be, oh my gosh, I'm losing my train of thought, sorry, is, oh it's on the issuance of the permit and not an application. So this is even like you can't even start the application process. As the gentleman stated earlier, sometimes it could take two, three years just to go through the application process. So you know, it's not on issuing the permit, but actually even starting the application. So you got to wait five years before you can even apply.

So those are some of the things with the actual language in the bill that, you know, we feel if you guys want to move this forward that's something that just needs to be addressed, because there's some, like I said, some unintended consequences.

The other part of this that I think needs to be addressed is, you know, I know some of the Members in Committee talked about how STRH's are overrunning our neighborhoods. And you know, there's roughly 130-something of them. But we know that out in the real world there's a lot more than that. So we're dealing with illegal versus legal. And the tighter we squeeze the legal people, the more that we're getting a competitive advantage to the illegal people. And we're actually promoting people to go to the black market. And so, you know, at some point in time we need to regulate.

You know, sitting on the Planning Commission, I see sometimes when people come through, they're going like, wow, that's dangerous. That shouldn't happen, that shouldn't happen. So those people, they can just keep doing their thing. But the legal people have to go through the process. So if we keep attacking the legal people what we're going to do is fuel the black market, which I don't think any of us really want. I think that we need to, you know, the, the dirty word that we keep talking about is enforcement, which I know is not, you know, something that we're doing here.

The, the other part too that I think is also another piece of this is in renewing, the Department, the Planning Department doesn't actually tell you that, you know, your property is coming up for renewal. If you miss by one day, your renewal, you're now kicked into the process of starting a whole new application again. So you could actually have one, miss your renewal date by a day, and then suddenly not be able to do this again for another five years.

So again, unintended consequences. I get the meaning behind this, and you know, I respect. And I also just in my testimony, written testimony, I did include, to me what are, say some solutions. I don't want to just be up here and say like no, no, no, no, no, but also provide some solutions for you guys. So thank you, Chair.

CHAIR WHITE: Thank you, Mr. Carnicelli.

Members, any need for clarification? Seeing none, thank you for sharing your thoughts this morning.

Mr. Clerk.

COUNTY CLERK: Next testifier is Robbie Dein, testifying on Committee Report 17-39. To be followed by Hayden Aluli.

MR. ROBBIE DEIN (testifying on Committee Report 17-39):

Aloha, Chairman White, and Councilmembers. My name is Robbie Dein. I've been a, I've lived on Halama Street in Kihei for the past 20 years. I have been practicing as a licensed Maui realtor for the last 20 years. I want to thank you for the opportunity to have my voice heard. I'm always amazed that so few of my fellow community members do not take this opportunity to testify and then complain about issues, but do not participate in creating a solution.

Please ask yourself what is your purpose on behalf of our community in legislating that a new homebuyer should not be allowed to apply for a vacation rental permit until they have owned a property for five years. If you are thinking that it will create more affordable rentals, then I am here to suggest that you, to suggest to you that I believe you are grasping at straws in trying to help solve the affordable housing issue by limiting short-term rental opportunities more than the original guidelines provided for.

As you have previously heard, the data on record shows that the number of new homebuyers who have applied for a vacation rental permit is less than one percent of the new properties purchased. The number of vacation rental permits allocated for the different geographic areas of Maui, which were carefully contemplated during the many years of formulating the permitting process are barely half of what was deemed viable. The type of home that is bought by a retiree or a seasoned, a seasonal occupant is not often the same type of residential property that will be suitable for an affordable unit.

In my real estate experience, the significant majority of people buying a home on Maui are doing so to retire and spend a part of their golden years here. They are not buying here to open a vacation rental business. I am in the field every day with people who are interested in all types of Maui real estate. And of those who are business oriented, a number of them have expressed an interest and a willingness to build an affordable housing residential project. Some have looked at my active listing of 256-acres on the mauka side of the Honoapiilani Highway just north of the aquarium in Maalaea.

The Spencer Family, who in past years built hundreds of affordable homes in Waikapu and Wailuku, have made many proposals to our Planning Department to build as many as 1100 affordable, environmentally, considerate homes. They have asked repeatedly for feedback from our government on how to move this forward, and offered their willingness to make, might I continue for one more minute?

CHAIR WHITE: Yes.

MR. DEIN: Thank you.

CHAIR WHITE: Please proceed.

MR. DEIN: Okay. They have asked repeatedly for feedback from our government on how to move this forward, and offered their willingness to make viable, affordable housing on Maui a reality. They have demonstrated many times their willingness to operate on a very small margin, and deliver homes at prices that our working family residents and community can afford. The Spencers and other developers who have looked at this very suitable central location have asked repeatedly, "What do you want us to do? What path can we follow to accomplish this for our community?"

I am here to urge you to focus on and delineate real clear guidelines that will provide a viable pathway for our County government to support the willing private sector to build affordable homes and solve this issue, hire professional consultants to evaluate the existing laws, and amend them so that these affordable homes can be built and occupied or affordably rented. Perhaps consider the requirements that allow for attached or detached ohanas.

As we look around it's obvious there are thousands of empty, suitable acres of which we need a minute portion that could be part of this solution. I remind you to think big, reach out to professional consultants, and ask the willing private sector for help, focusing your energy on creating more affordable homes and rentals efficiently by legislating viable guidelines instead of trying to create affordable rentals one home at a time by limiting the one percent or less of new homebuyers who might want to apply for a vacation rental permit to wait five years to apply. Thank you so much for the opportunity to speak.

CHAIR WHITE: Thank you, Mr. Dein.

Members, any need for clarification? Seeing none, thank you for sharing your thoughts this morning.

MR. DEIN: Thank you.

CHAIR WHITE: Mr. Clerk.

COUNTY CLERK: Next testifier is Hayden Aluli, attorney, testifying on County Communication 17-142. To be followed by Thomas Croly.

MR. HAYDEN ALULI (testifying on County Communication No. 17-142):

Good morning and aloha, Council--

CHAIR WHITE: Good morning.

MR. ALULI: --and Council White, Chairs. I'm really honored to be here to voice my strong support in my significant other, Mimi Desjardins appointment as an attorney for the Office of Council Services. I've known Mimi for about 20 years, when she just left being a Corporation Counsel, open up her private practice in Wailuku. Before that, she was a public defender here in Wailuku. And before that, she was also a deputy, Deputy Prosecuting Attorney.

And since 1997, I've shared many cases with Mimi. I've been upfront with her and seen her dedication and her loyalty to her clients. She is an awesome attorney.

And presently, she has committed herself to public service. She has co-founded the Collaborative Law Group over in Wailuku in Maui. That group wants to, instead of getting to adversarial litigation with families in distress, there's an alternative means to divorce and splitting up property, and children, and families. And Mimi was a leader and is a leader in that. She's also a mediator. And in my personal experience, she is a very loyal and dedicated attorney.

Your Council would be well served to have such an awesome attorney that I know personally. And I thank you for this opportunity to support Ms. Desjardins to the fullest. Does anybody want any clarifications?

CHAIR WHITE: Thank you, Mr. Aluli.

Any need for clarification, Members? Seeing none, thank you for being here this morning.

MR. ALULI: Mahalo. Thank you.

CHAIR WHITE: Mr. Clerk.

COUNTY CLERK: Next testifier is Thomas Croly, board member MVRA, testifying on Committee Report 17-39. To be followed by Terry Kristiansen.

MR. THOMAS CROLY (testifying on Committee Report 17-39):

Aloha, Chair. Aloha, Councilmembers. Tom Croly speaking on behalf of the Maui Vacation Rental Association.

The Maui Vacation Rental Association continues to oppose the proposed amendment to the short-term rental ordinance that would create a five-year ownership requirement before applying for a short-term rental permit. While to some people this may seem logical, it may seem logical to conclude that creating this requirement might lead to less speculation in real estate purchases. Just as for some people, a ban on Muslims entering the United States from certain countries might lead to greater national security. Yet, neither of these issues is as simple as they might seem, and in fact, might have the opposite effect.

Just as there is no data that indicates immigrants from specific countries have ever perpetrated any terroristic acts in the United States of America, the data on Maui real estate property sales fails to support that the availability of a Short-Term Rental Permit has led to greater real estate speculation than existed before a permit was available. Nevertheless, this is a policy decision for this body to make after considering all of the facts as to whether it is a good or bad decision.

But the measure and the discussion that took place in Committee did not clearly define some things, specifically how it might be administrated. For example, what is meant by owned? If an owner of a property chooses to set up a trust or set up an LLC for estate planning purposes, have they changed the ownership of the property? Technically they have. So, does that mean that they won't be able to apply for a permit because within their family they set up this different ownership scheme? And just as you already heard, what if someone in the family dies and there's an ownership change because of the death of that person within the family? Does that take away the person's ability now to apply for a permit?

So these are things that really should be considered, and you know, vetted before we hand it to the Administration and these things get just randomly decided. And that is what happens. They get randomly decided at an administrative level, and it's often not consistent what happens there.

These issues should be addressed specifically to prevent the property owners from unknowingly taking action that would further limit what they can do with their properties in the future. And there is the issue of the potential takings from the 5,025 property owners who purchase properties in the past five years.

So, I again, I urge you to not have this applied to previous purchases should you pass it, and only to purchases in the future.

If I can take a moment from a personal perspective. I would like to say that I can imagine how President Obama must feel today, as he sees much of his work and accomplishments of his Administration get tossed away by a new Administration. And a chief executive who says who knew healthcare could be so complicated. Just as I see 15 years of efforts to effectively regulate the short-term rental uses thrown away without a good understanding of the 50-plus carefully considered requirements that are part of applying for and complying with a Short-Term Rental Permit.

While President Obama can be assured that whatever the future brings, his healthcare law saved many lives. I can feel some solace in that the B&B and STR ordinances have helped create thousands of jobs, have facilitated payment of tens of millions of dollars in taxes, and have generated hundreds of millions of dollars in Maui visitor spending; all while helping to ensure minimal impacts to our island and its residents.

I ask you to--

COUNTY CLERK: Four minutes.

MR. CROLY: --to take this in careful consideration. Thank you.

CHAIR WHITE: Thank you, Mr. Croly.

Members, any need for clarification? Seeing none, thank you for being here this morning.

Mr. Clerk.

COUNTY CLERK: The last individual who has signed up to provide testimony this morning is Terry Kristiansen, testifying on Committee Report 17-39.

MR. TERRY KRISTIANSEN (testifying on Committee Report 17-39):

Thank you. Thank you, Chair Mike.

CHAIR WHITE: Good morning.

MS. KRISTIANSEN: Good morning, Councilmember and Councilmembers. I'm Terry Kristiansen and I live in Nahiku. I run a farm in Nahiku and have a permitted B&B. I'm speaking to you today on behalf of the five-year limitation of ownership prior to being able to apply for a short-term rental.

And I ask you because we've come so long, far in the last 15 years. We have more permits than ever before, and people are running very good short-term rentals and B&B's within the law that the County prescribed. I ask that you consider removing the five-year limit from your proposal so that we do not feel that we're being treated in a mean-spirited way by the laws that keep coming up.

There are people who have purchased their homes, they live here part-time, they rent their homes as short-term rentals when they're not here. And those people are not getting younger, they're getting older. And eventually, they want to be able to sell their homes, and some of them do have ohanas that are being used as short-term rentals. And it's going to make it very difficult to sell today.

I hope that you'll consider eliminating the five-year requirement, and proceed with continuing to support those businesses that are trying to be hospitable, and trying to make a living, and, and exist here in Hawaii, because it's not very easy financially. Thank you. Thank you.

CHAIR WHITE: Thank you, Ms. Kristiansen.

Members, any need for clarification? Seeing none, thank you for coming this morning.

MS. KRISTIANSEN: Thank you.

CHAIR WHITE: Mr. Clerk.

COUNTY CLERK: Mr. Chair, there is no further individuals who have signed up to testify in the Council chamber. If there is any individuals in the chamber or the District Offices who would like to provide testimony, please identify yourself to the appropriate staff and proceed to the testimony lectern or the District Office conference call area at this time.

Hana Office, are there any additional testifiers?

MS. LONO: There's no one waiting to testify in the Hana Office.

COUNTY CLERK: Thank you.

Lanai Office, are there any additional testifiers?

MS. FERNANDEZ: There is no one waiting to testify at the Lanai Office.

COUNTY CLERK: Thank you.

Molokai Office, are there any additional testifiers?

MS. ALCON: There is no one here on Molokai waiting to testify.

COUNTY CLERK: Thank you.

Mr. Chair, there is no other individual in the District Offices nor in the chamber who wish to offer testimony.

CHAIR WHITE: Thank you, Mr. Clerk.

Members, we have received written testimony. Without objection, we'll receive it into the record.

MEMBERS VOICED NO OBJECTION.

THERE BEING NO OBJECTION, WRITTEN TESTIMONY RECEIVED FROM THE FOLLOWING WERE MADE A PART OF THE RECORD OF THIS MEETING:

1. Lawrence Carnicelli, Realtors Association of Maui, Inc.;
2. Byron Knight;
3. Livit Callentine;
4. Russell Evans;
5. Helene and Paul Orsulak;
6. Tony Marterie;
7. Mark and Brooke McDonald;
8. Chris Smith;
9. Kammy Hodges; and
10. Sherri Williams.

CHAIR WHITE: Thank you.

And without objection, I'd like to close public testimony.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you. So ordered.

Mr. Clerk, you may proceed.

COUNTY CLERK: Mr. Chair, proceeding with minutes.

## MINUTES

The minutes of the Council of the County of Maui's regular meeting of January 20, 2017, and regular meeting of February 3, 2017, were presented at this time.

CHAIR WHITE: Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair.

I MOVE THAT THE MINUTES OF THE REGULAR MEETING OF  
JANUARY 20, 2017, AND THE REGULAR MEETING OF  
FEBRUARY 3, 2017, BE APPROVED.

COUNCILMEMBER CRIVELLO:

SECOND.

CHAIR WHITE: We have a motion from Mr. Carroll, and a second from Ms. Crivello.

Mr. Carroll, any discussion?

VICE-CHAIR CARROLL: No discussion.

CHAIR WHITE: Members, any need for discussion on these items? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, KING,  
SUGIMURA, VICE-CHAIR CARROLL, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Mr. Clerk

COUNTY CLERK: Mr. Chair, proceeding with county communications.

### COUNTY COMMUNICATION

NO. 17-139 - CAROL K. REIMANN, DIRECTOR OF HOUSING AND HUMAN CONCERNS, (dated March 2, 2017)

Transmitting a Notice of Grant Award from the Federal Corporation for National and Community Service for the Retired & Senior Volunteer Program in the amount of \$65,850.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

MOVE TO FILE SAID COMMUNICATION.

COUNCILMEMBER COCHRAN:

SECOND.

CHAIR WHITE: We have a motion from Mr. Hokama, and a second from Ms. Cochran.

Mr. Hokama.

Members, any discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, KING,  
SUGIMURA, VICE-CHAIR CARROLL, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Mr. Clerk.

NO. 17-140 - DANILO F. AGSALOG, DIRECTOR OF FINANCE,  
(dated March 3, 2017)

Informing of the acquisition of Road Lot L, Waikapu East (Large-Lot) Subdivision No. 3,  
TMK: (2) 3-5-002:018 (Por).

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Aloha. Thank you, Chair. Chair, for this item, due to lack  
of some detailed information I feel could be very important and pertinent to passing  
this through, I'd like to recommend referral to my IEM Committee at this time.

CHAIR WHITE: Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Okay, so ordered.

COUNCILMEMBER COCHRAN: Thank you.

The recommended action is that County Communication No. 17-140 be referred to the  
Infrastructure and Environmental Management Committee.

CHAIR WHITE: Mr. Clerk.

NO. 17-141 - ALAN M. ARAKAWA, MAYOR,  
(dated March 10, 2017)

Informing of a vacancy on the Molokai Planning Commission due to the resignation of  
Diane Swenson on March 10, 2017.

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA:

MR. CHAIR, I MOVE TO FILE COUNTY COMMUNICATION  
17-141.

COUNCILMEMBER CRIVELLO:

SECOND.

CHAIR WHITE: We have a motion from Ms. Sugimura, and a second from Ms. Crivello.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. And thank you, I would like to thank Diane Swenson for her service on the Molokai Planning Commission and to our community.

CHAIR WHITE: Members, any further discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, KING,  
SUGIMURA, VICE-CHAIR CARROLL, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Mr. Clerk.

NO. 17-142 - MIKE WHITE, COUNCIL CHAIR,  
(dated March 6, 2017)

Transmitting a proposed resolution entitled "APPROVING THE APPOINTMENT OF MIMI DESJARDINS AS A LEGISLATIVE ATTORNEY IN THE OFFICE OF COUNCIL SERVICES".

CHAIR WHITE: Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair.

I MOVE TO ADOPT THE PROPOSED RESOLUTION ENTITLED "APPROVING THE APPOINTMENT OF MIMI DESJARDINS AS A LEGISLATIVE ATTORNEY IN THE OFFICE OF COUNCIL SERVICES", AND FILING OF THE COMMUNICATION.

COUNCILMEMBER CRIVELLO:

I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Carroll, and a second from Mr., I mean from Ms. Crivello.

Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair.

Min, Mindy Jardins *[sic]*.

CHAIR WHITE: I believe we need a vote for the waiver right? Was the motion on the waiver?

VICE-CHAIR CARROLL: No. There's no waiver.

COUNCILMEMBER CRIVELLO: No waiver.

CHAIR WHITE: Oh, that's right.

VICE-CHAIR CARROLL: There, there's no waiver for this, Chair.

CHAIR WHITE: Thank you. My mistake. Please proceed. Sorry to throw you off.

VICE-CHAIR CARROLL: Thank you. Min *[sic]* Desjardins obtained her law degree from--

COUNCILMEMBER GUZMAN: Chair. Just a point of clarification. Point of order. Why wouldn't there be a waiver of referral?

CHAIR WHITE: Because this is a, this is a, an issue that does not carry the weight of establishing law and there is no need for a waiver.

Mr. Baz.

DIRECTOR OF COUNCIL SERVICES SANANDA BAZ: Thank you, Mr. Chair. Yeah, appointments of staff do not require referral to Committee.

CHAIR WHITE: Thank you.

COUNCILMEMBER KING: Chair, point of order. We did a, we, there was a waiver proposed for the hiring of the supervising legislative attorney, which did not pass and so it went back to Committee. So, how is this one different?

CHAIR WHITE: Mr. Baz.

Okay, we'll take a quick recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 11:09 A.M., AND WAS RECONVENED AT 11:11 A.M., WITH ALL MEMBERS PRESENT.)

CHAIR WHITE: This meeting will please come back to order.

Mr. Baz.

DIRECTOR OF COUNCIL SERVICES: Thank you, Mr. Chair. Rule 7(E) of the Council is a referral to Committees and waiver requirements, and specifically excluded from the requirement of referral to Committee is the appointment of staff to the Office of Council Services. So, that's why there's no referral.

Member King's recollection was related to that in the prior resolution there was an attached bill. And so that bill needed to be waived for Committee referral. Thank you.

CHAIR WHITE: Thank you.

Members, any further discussion?

COUNCILMEMBER GUZMAN: Chair.

CHAIR WHITE: Let me, let Mr. Carroll make his comments first.

Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair. Min *[sic]* Desjardins obtained a law degree from the University of Puget Sound School of Law, was admitted to the state bar of both Hawaii and Washington.

She has extensive public service experience on Maui, having served in the past as a Deputy Corporation Counsel, Deputy Prosecuting Attorney, and Deputy Public Defender, and a Per Diem Judge, and a District Family Court Judge. Most recently she is an attorney for her own law office in Wailuku.

And is skilled in mediation services and is a member of the Board of Directors of the Maui Mediation Services. She is also a founding member of the Maui Collaborative Law Practice Group, a nonprofit organization dedicated to providing an alternative dispute resolution model.

Mim's *[sic]* experience make her a valuable addition to the Office of Council Services.

I urge Members support of this resolution. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Carroll.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. And, thank you, Mr. Carroll. I, I will support the appointment of Mimi Desjardins to this position. You know, I asked myself what is it that we look for, or what is it that we need? We need legal analysts from the Office of Council Services. And then when you look at the contributions of this individual, you, you can appreciate how we will be moving our efforts forward with this kind of, I would say, skills and background.

And you know, I always feel that the foundation of, of our lifestyle is family. And when an individual of such a profession puts forth the efforts to mediate and trying to mend instead of bend and breaking it up. So, I believe that, for me, it brings an extra ingredient of character to our support system.

And I think we need to, more especially, move forward in how we need to get our efforts as Councilmembers and getting the kind of professional support that we need from our Office of Council Services in the realm of our legal, the legalese world. Thank you. Thank you, Chair.

CHAIR WHITE: Okay. Thank you, Ms. Crivello.

Any further discussion?

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: I also wanted to support this hiring. And I must say that I may not know Mimi Desjardins personally, but I totally respect Rae, who came and spoke. And also was nice to see Hayden Aluli here, who over the years with my work in Wailuku, has always been a very credible and honorable, you know, family that I got to work with in my work with the Wailuku Town.

But, I too support what our fellow Councilmembers has shared in terms of adding a person who has that kind of depth to our office. As well as, I get impressed when I see people who may not have to, they provide nonprofit work, and reach out to people that way that they really do not. And it tells me about the integrity of the person and who they are. And I look forward to working with her. Thank you.

CHAIR WHITE: Thank you, Ms. Sugimura.

Members, any further discussion?

I'd like--

COUNCILMEMBER GUZMAN: Go ahead.

CHAIR WHITE: Ms. King.

COUNCILMEMBER KING: Thank you, Chair. I have some reservations about this. I do not know Ms. Desjardins. I have not seen a resume. And you know, this is another hiring we're doing with very little knowledge and, about the background.

I did receive some communications about a conviction in this person's past, and a, a suspension from practicing law.

CHAIR WHITE: I need to ask you to withhold making any statements. This is a personnel matter. And if you would like any further discussion, we need to go into executive session.

COUNCILMEMBER KING: Okay. Well, this is why I, I mean, I just have these concerns, and this is why I would like to see this go to Committee where we can fully discuss this appointment. Thank you.

CHAIR WHITE: Thank you. We did send out a memo on February 7, offering opportunities for each of the Councilmembers to interview Ms. Desjardins.

COUNCILMEMBER KING: No, I don't, I don't recall getting that memo.

CHAIR WHITE: Well, you can check on it then. And had you chosen to interview, we would have been happy to provide you with the appropriate information.

Mr. Guzman.

COUNCILMEMBER GUZMAN: Oh yeah, thank you. I asked some questions as to the process. Number one, I would agree with Ms. King that we would, I would support moving this into Committee for further discussion. I'm not sure if we have the appropriate time to get into all of the details.

But one of the areas that I'm looking at is the hiring process. I know that we, we are, we have our hiring manual and procedures for the Council Services, and whether those had been complied with. There is a hiring pool. I realize that we probably didn't, you know, send out an advertisement for this position to acquire a new pool. But as I recall when this candidate was up for the position about two years ago, there were four attorneys that actually made it through the several different various levels of our process to get to the final interview.

So out of that large pool, we had about four at the finals for interview. One of them was Mr. Garneau; and the other one was, I believe, Christine Trenholme who is now a Corporation Counsel Deputy. And the third one was Mimi, and the fourth one, I cannot recall her name, but she was an attorney that was working for the Whale Foundation. So out of that final interview, Mr. Garneau received the position.

In my recollection; it was Mr. Garneau was one, number two was Christine Trenholme, and the third was Mimi Desjardins, and the fourth was the attorney from the Whale Foundation. So, out of that applicant, final applicant, we picked the first one. So, how did number three position from that application process almost two years ago now get the first position? There, was there any other pool of applicants?

I'm just talking about fairness in terms of if we're going to just basically take the number third choice from a previous interview process and put them into the first position without opening it up to previous applicant pools. Because I know that we've, we've,

when we were hiring Sharon Brooks, and she was the number one position, there were several other attorneys in that pool that didn't get it. So why don't we put two, three, four, into this pool of applicants? So, I, I don't understand the rationale, how we went from number three position to number one position, and we're not left with any type of options or opening to, to compare the different qualifications, the different, you know.

So, those are the, the questions I have. I know that our backs are up against the wall because we are, we're going into budget, and all the Committees are going to be, I guess, suspended until the budget is over. But I believe that, you Chair, and I guess the administration knew that there would be an attorney position opening, because you gave notice to Sharon Brooks in early December. So why wouldn't we open up the pool of applicants? Why wouldn't we do that? Why, I just don't understand that.

Those are the questions I have. It may not be answered now. If we were to open up for the pool of applicants, if we're talking about budgetary purposes, I know the prosecutors do it, the Corporation Counsel does it, is that the formula for hire, for the salary is when you have, when you have less years of practice you come in at a lower salary? And one of the issues that, that came with our previous, I guess, legal analyst, was salary. And so, is, are we placing ourselves in the same position where it's a high, coming in at a higher salary and we don't have the budget for it?

So these are things that I have questions about, and I don't think it's appropriate to use Council time on the floor to do it. I think we should do it in Committee and, and really bring in, vet this through. It's an important position. There are other issues I have.

I did speak with Mr. Wong last week. And I'm not sure if he's here. And I would like to have him relay some of the things of his concerns as well. So, that's, that's my two cents.

I would like to support a motion. If Ms. King is going to motion to refer this to Committee, I would second that. So, thank you, Chair.

CHAIR WHITE: Thank you. Your recollection of the past activities is a little different from mine. This, well, if somebody would like to make a motion, I'm, I certainly wouldn't support this going to Committee because we won't have any meetings for the next--

COUNCILMEMBER KING:

CHAIR, I MOVE TO REFER THIS MATTER BACK TO COMMITTEE.

CHAIR WHITE: Well, it wouldn't be back to Committee.

COUNCILMEMBER KING:

OR TO COMMITTEE, IT HASN'T GONE TO COMMITTEE YET.

CHAIR WHITE: Do we have a second?

COUNCILMEMBER GUZMAN:

SECOND.

CHAIR WHITE: We have a motion from Ms. King.

Recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 11:23 A.M., AND WAS RECONVENED AT 11:24 A.M., WITH ALL MEMBERS PRESENT.)

CHAIR WHITE: This meeting will please come back to order.

Ms. King and Mr. Guzman, because the Rules don't count, don't call for staff appointments to go to Committee, we first have to ask for a waiver of the Rules. So, your first motion would have to be a request to waive the Rules of the Council.

COUNCILMEMBER KING:

SO MOVED.

COUNCILMEMBER GUZMAN:

SECOND.

CHAIR WHITE: Okay, we have a motion from Ms. King and a second from Mr. Guzman to waive the Rules of the Council.

Any discussion? Seeing none, oh, Ms. Crivello.

COUNCILMEMBER CRIVELLO: I can appreciate my colleagues. But you know, we are going into budget and, and it's just flowing us to go backwards, you know. I, I cannot support the waiving of the Rules. Thank you.

CHAIR WHITE: Thank you.

Mr. Carroll.

COUNCILMEMBER GUZMAN: Chair.

VICE-CHAIR CARROLL: Thank you, Chair. I too cannot support the waiver at this time.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And setting aside the person in this discussion, it's the process too that I have thoughts and questions about. So, if this venue is the way to go about settling those, then I am in support of this waiver at this time. Thank you, Chair.

CHAIR WHITE: Any further discussion?

COUNCILMEMBER ATAY: Chair.

COUNCILMEMBER GUZMAN: Chair.

CHAIR WHITE: Mr. Atay.

COUNCILMEMBER ATAY: --I sit here, and I really don't know the person in discussion for this position, but I primarily sit here, sitting and wondering, striving for a fair, open and transparent government. How do we, how do we go through the process? And so, my, I'm sitting here going, did we follow the hiring process? Did we advertise it publicly to all?

CHAIR WHITE: The answer to that is correct, is yes.

COUNCILMEMBER ATAY: And so, prior to ending up with this one applicant now, were, were there other applicants that applied? To, to vet it out, was there a true open process? I heard my earlier colleague saying that we definitely need legal support. And I'm sitting back and I'm going, we need some legal support, but three or four months ago, we let our legal teams go. And so, we've managed up to now. So, can we go through an open and transparent process of selecting lawyers and attorneys that will represent and work with us on a Council Services level? I'm just sitting there. So with that, I would support a waiver.

CHAIR WHITE: Ms. Crivello.

COUNCILMEMBER CRIVELLO: Chair, I heard you mention earlier, and I, we also, my office also got the request if we want to, to take an interest in the interview process with OCS as Councilmembers who will be making this decision today. So I guess, you know, did our, did my colleagues receive what you, you've made mention? Was it sent to every office?

CHAIR WHITE: The, the email was sent to all Members on February 7. And, and to provide a little background, as Mr. Guzman stated, Ms. Desjardins went through the testing, the interview process. And his recollection differs from mine. In my mind she was number two out of the folks that were interviewed. It is not required, if we have people who have gone through the process and they're willing to be considered, it's not required that we open it up again.

As you all know, it takes a very long time for us to go through the testing, the interview process and, and secure people to come to work for us. So, we followed the procedure. This is a very highly qualified candidate that fits the bill for us. And I understand that there are some concerns. But those concerns might have been allayed if there were opportunities for Ms. Desjardins to be interviewed.

So, okay.

COUNCILMEMBER ATAY: Chair.

CHAIR WHITE: Mr. Atay.

COUNCILMEMBER ATAY: So, following that thought, I'm trying to process this. I've asked my staff to look for that email on February 7, to have that opportunity to have interviewed her. But following that, were we also in receipt of other emails offering us that opportunity to interview other candidates? Or only, we only had a chance to interview that one?

CHAIR WHITE: No, we chose to go back to the pool that had been, had already gone through the process. So, that was the reason that we didn't open it up again because we felt we had a candidate that had already gone through the process, that was available and interested in the position.

COUNCILMEMBER ATAY: How long ago was that process?

CHAIR WHITE: It was not quite two years ago.

COUNCILMEMBER ATAY: Two years ago?

CHAIR WHITE: Right.

COUNCILMEMBER ATAY: And in two years, how many more attorneys we graduate?

CHAIR WHITE: I don't have that answer.

Okay, the move, or the motion is to waive the Rules of the Council. All those in favor, please signify by saying "aye".

COUNCILMEMBER GUZMAN: Chair.

COUNCILMEMBER KING: Chair.

COUNCILMEMBER GUZMAN: I, I--

CHAIR WHITE: Those opposed say "no".

COUNCILMEMBER CRIVELLO: No.

COUNCILMEMBER SUGIMURA: No.

COUNCILMEMBER GUZMAN: Chair.

CHAIR WHITE: I'm sorry, we--

COUNCILMEMBER GUZMAN: You know what, Chair. I, under the Rules I get two opportunities. I only had one. And you gave Ms. Crivella two, Crivello, excuse me. And Mr. Carroll had two.

CHAIR WHITE: Well, you, okay, please proceed.

COUNCILMEMBER GUZMAN: So, just to be fair, I would like to have my second and final.

CHAIR WHITE: It would be nice if you'd let me know a little before I call vote.

COUNCILMEMBER GUZMAN: Okay, if you weren't in such a, in a hurry, I was trying to wave you down. But that's okay, it's fine. I, what I wanted to point out is that during budget, as I recall as Vice-Chair, it was an opportunity for OCS to catch up on the PAF's, our assignments. So, there is some lull time wherein a lot of the legislative analysts and attorneys are able to catch up with their PAF assignments, and I recall that specifically.

So, in terms of the urgency, we're only talking about those who are actively engaged in the Budget Committee. And the other staff members, the other staff is, has that opportunity to catch up on outstanding projects or assignments. So, I don't think there's a, a real necessity or a need to speed this through. I think we should take our time and make sure that we're doing the process correctly, and that we open up the pool of candidates.

And I, I do differ from our recollection. I do recall Ms. Dar, Darjean [sic], Darjan [sic], being number three. So, if we're going to open up that type of process, then let's open up the previous candidates from that process. And I know there were attorneys that didn't get Ms. Brooks' position. So their applicants, applications might be on file as well.

So, I just want to have it a fair process. So, that's my two cents on that. So, thank you. You can call for the vote if you'd like.

CHAIR WHITE: Thank you.

Any further discussion, Members?

COUNCILMEMBER KING: Chair. Yes, Chair.

CHAIR WHITE: Ms. King.

COUNCILMEMBER KING: Yeah, thank you. You know, I agree with my colleague, Mr. Guzman. And I think a lot of times we do things in the interest of time. I'm, I'm worried about this and I have no personal interest in this one way or the other. But, I'm worried about pushing this through and having some issues with the background of this candidate.

I, like Mr. Atay, I'm try, I'm trying to ask my staff to find an email which I don't recall seeing. I think at the very least there should have been, along with an email, a resume for those that was, especially for those of us who were, are new and who haven't, weren't here when, when in the previous two years when these candidates came forward. So, I'm just hoping that people will give us some time to do the right thing and go through the process, which we seem to be skipping over a lot in this Council. Thank you.

CHAIR WHITE: I, I wouldn't agree with that last statement, but you're open to your feelings.

Any further discussion, Members?

COUNCILMEMBER ATAY: Member, one last. Chair, one last.

CHAIR WHITE: Mr. Atay.

COUNCILMEMBER ATAY: I'm just sitting here kind of going through the process again of how do we be open and fair? We're going back to a pool that was two years old. Did we announce to the general public, all the available attorneys that's out there, that we have legal positions open in Council Services up until the, you know, normal, going through a normal procedure of a hiring practice?

Just like the Fire Department, every year they vet out. Every year they open up opportunities. Every year everybody makes a deadline and applies. That's my question is, were we open and transparent in offering other attorneys that opportunity. And not only attorneys that beckon the call two years ago and was sitting on the list. What happened, what if there's more attorneys that move to our County within the two years? Were they given that opportunity?

CHAIR WHITE: The answer to that is we chose from the list. And you know, you have a right to vote up or down as you see fit.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. So, I did a search on our email, and I do have, that was sent out to Council, from the Council message center, and it has the, it has the announcement, has the resume or write-up of, you know, of, of the candidate, and information that everybody's talking about. So, I just wanted you to know that it is here. And thank you very much for sending it. I did see it earlier. I just wanted to confirm by seeing it in my email. Thank you.

CHAIR WHITE: Thank you, Ms. Sugimura.

Any more discussion on the waiver, Members? Okay, the motion is to, or the vote is to waive the Rules of the Council. All those in favor, please signify by saying "aye".

COUNCILMEMBER ATAY: Aye.

COUNCILMEMBER COCHRAN: Aye.

CHAIR WHITE: Those opposed say "no".

COUNCILMEMBER CRIVELLO: No.

COUNCILMEMBER SUGIMURA: No.

VICE-CHAIR CARROLL: No.

CHAIR WHITE: Roll call vote please.

COUNTY CLERK: Councilmember Alike Atay.

COUNCILMEMBER ATAY: AYE.

COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: NO.

COUNTY CLERK: Councilmember Elle Cochran.

COUNCILMEMBER COCHRAN: AYE.

COUNTY CLERK: Councilmember Riki Hokama.

COUNCILMEMBER HOKAMA: NO.

COUNTY CLERK: Councilmember Don S. Guzman.

COUNCILMEMBER GUZMAN: AYE.

COUNTY CLERK: Councilmember Kelly T. King.

COUNCILMEMBER KING: AYE.

COUNTY CLERK: Council Pro Temp Stacy Crivello.

COUNCILMEMBER CRIVELLO: NO.

COUNTY CLERK: Council Vice-Chair Robert Carroll.

VICE-CHAIR CARROLL: NO.

COUNTY CLERK: Council Chair Mike White.

CHAIR WHITE: NO.

AYES: COUNCILMEMBERS ATAY, COCHRAN, GUZMAN,  
AND KING.

NOES: COUNCILMEMBERS CRIVELLO, HOKAMA,  
SUGIMURA, VICE-CHAIR CARROLL, AND  
CHAIR WHITE.

COUNTY CLERK: Mr. Chair, four "ayes", five "noes".

CHAIR WHITE: Measure fails.

We're back to the main motion. Any further discussion on the main motion?

COUNCILMEMBER GUZMAN:

CHAIR, I MOVE TO GO INTO EXECUTIVE SESSION.

COUNCILMEMBER KING:

SECOND.

CHAIR WHITE: We have a motion to go into executive session from Mr. Guzman, and a second from Ms. King.

Any discussion, Members?

Please state your reason for the executive session.

COUNCILMEMBER GUZMAN: There's some issues that my colleagues may have regarding the background of the candidate, as well as some of the procedures that were conducted prior to this hitting the floor. Thank you.

CHAIR WHITE: Any other discussion, Members?

The Chair does not feel that this, it's appropriate for us to go into executive session at this point. There's been plenty of time for the issues to have been vetted during the interview process. It was unfortunately not--

COUNCILMEMBER GUZMAN: Chair, you can't make that. I've made a motion. It's via vote.

CHAIR WHITE: I'm not, I'm not, I'm going to put it to a vote. I'm just suggesting that I'm not, there was no other discussion so I'm just sharing my feelings. Any further discussion, Members? Seeing none, all those--

COUNCILMEMBER KING: Chair, Chair, just, just real quickly. I, you know, I appreciate that Ms. Yuki Lei, Ms. Sugimura found that email. I don't know if she actually responded herself. I think some of us, if we did see the email and didn't respond and didn't, didn't fulfill our fiduciary responsibility by asking for that interview, have, there's some issues with that.

Earlier, I mentioned some issues I had with the candidate that are a matter of public record. So, but I was told that we have to go into executive session. And I don't know if that email that you're talking about that you sent out had those, that information on it. But I think it's, it's incumbent upon every Councilmember to know the entire background before making a decision on this candidate.

CHAIR WHITE: Okay, thank you.

Any further discussion, Members? Seeing none, all those in favor of going into executive session, say "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, KING,  
SUGIMURA, VICE-CHAIR CARROLL, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Is anyone saying "no"? I don't hear any "noes". Okay, measure passes.

COUNTY CLERK: Mr. Chair.

CHAIR WHITE: Yes. Okay, we need to cite the section. Yeah, short recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 11:39 A.M., AND WAS RECONVENED AT 11:56 A.M., WITH ALL MEMBERS PRESENT.)

CHAIR WHITE: Thank you. I apologize for this. Members, we did not state the reason for going into executive session.

Mr. Guzman, will you please provide the, the cite?

COUNCILMEMBER GUZMAN: Yes, thank you, Chair. The basis would be under pursuant to HRS 92-5(a)(2) to consider the hiring, evaluation, dismissal, discipline of an officer or employee of the charges brought against, or to consider the matters affecting privacy will be involved; as well as 92-5(a)(4) to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities.

CHAIR WHITE: Thank you.

Members, any questions? With that, we will be closing the doors for executive session. And we're in recess.

(THE CHAIR DECLARED THE OPEN SESSION IN RECESS AT 11:57 A.M., AND CONVENED IN EXECUTIVE SESSION. THE OPEN SESSION WAS RECONVENED AT 1:18 P.M., WITH ALL MEMBERS PRESENT.)

CHAIR WHITE: Sorry. This meeting will please come back to order.

And Members, we're back to the main motion. Any discussion? Seeing none, all those in favor please signify by saying "aye".

COUNCILMEMBER GUZMAN: Chair, Chair, Chair. Chair, yeah, is this the, can you repeat?

CHAIR WHITE: Wait. Just. Recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 1:19 P.M., AND WAS RECONVENED AT 1:20 P.M., WITH ALL MEMBERS PRESENT.)

CHAIR WHITE: We're back in session. The Chair has called for the vote. All those in favor please signify by saying "aye".

COUNCILMEMBER SUGIMURA: Aye.

VICE-CHAIR CARROLL: Aye.

CHAIR WHITE: Those opposed say "no".

COUNCILMEMBER GUZMAN: No. What, what are we voting on, Chair?

COUNCILMEMBER CRIVELLO: Yeah.

CHAIR WHITE: We're back to the main motion.

COUNCILMEMBER CRIVELLO: Which is, again, please refresh, Chair.

CHAIR WHITE: It is the appointment of Ms. Desjardins.

COUNCILMEMBER CRIVELLO: Okay.

COUNTY CLERK: And the filing.

CHAIR WHITE: Pardon.

COUNTY CLERK: And the filing of this.

CHAIR WHITE: Yeah, and the filing of this communication.

So, all those in favor please signify by calling "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, HOKAMA, SUGIMURA,  
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: COUNCILMEMBERS GUZMAN AND KING.

CHAIR WHITE: I believe I heard one "no".

COUNCILMEMBER KING: Two "noes".

CHAIR WHITE: Two "noes". Measure passes with seven "ayes", two "noes"; Mr. Guzman and Ms. King.

Thank you, Members.

CHAIR WHITE: Mr. Clerk.

NO. 17-143 - YUKI LEI K. SUGIMURA, CHAIR, POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE,  
(dated March 15, 2017)

Transmitting a proposed resolution entitled "RELATING TO THE APPOINTMENT OF CASSIOPIA YAMASHITA TO THE COMMISSION ON CHILDREN AND YOUTH".

CHAIR WHITE: Thank you. Before I go to Ms. Sugimura, I just want to say thank you to Ms. Desjardins for sticking with us. And, and thank you, Members, for the long deliberation. Thank you. Thank you.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA:

MR. CHAIR, I MOVE TO DISCHARGE THE POLICY, ECONOMIC DEVELOPMENT, AGRICULTURE COMMITTEE FROM FURTHER CONSIDERATION OF THE PROPOSED RESOLUTION ENTITLED "RELATING TO THE APPOINTMENT OF CASSIOPIA YAMASHITA TO THE COMMISSION ON CHILDREN AND YOUTH" ATTACHED TO COUNTY COMMUNICATION 17-143.

VICE-CHAIR CARROLL:

SECOND.

CHAIR WHITE: We have a motion from Ms. Sugimura, and a second from Mr. Carroll.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. Pursuant to Section 13-2(16) of the Revised Charter of the County of Maui (1983), as amended, and Section 2.41.050, Maui County Code, the deadline for the Council to approve or disapprove the nomination of Cassiopo *[sic]*, Cassiopia Yamashito *[sic]*, Yamashita is March 31, 2017.

Discharge is needed to enable the Council to consider action today on the proposed resolution.

CHAIR WHITE: Thank you.

Members, any further discussion on the discharge? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, KING,  
SUGIMURA, VICE-CHAIR CARROLL, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Ms. Sugimura.

COUNCILMEMBER SUGIMURA:

MR. CHAIR, I MOVE TO WAIVE THE REQUIREMENT OF  
COMMITTEE REFERRAL AND REPORT PURSUANT TO  
RULE 7(E) OF THE RULES OF THE COUNCIL.

VICE-CHAIR CARROLL:

SECOND.

CHAIR WHITE: We have a motion from Ms. Sugimura, and a second from Mr. Carroll.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. Approval of my motion by a two-thirds vote of the entire membership of the Council will enable the Council to consider the proposed resolution today.

CHAIR WHITE: Okay. Members, any other discussion on the waiver? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, KING,  
SUGIMURA, VICE-CHAIR CARROLL, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair.

MR. CHAIR, I MOVE TO ADOPT THE RESOLUTION,  
PROPOSED RESOLUTION ATTACHED TO THE COUNTY  
COMMUNICATION 17-143; AND TO FILE COUNTY  
COMMUNICATION 17-143.

COUNCILMEMBER CRIVELLO:

SECOND.

VICE-CHAIR CARROLL: Second.

CHAIR WHITE: We have a motion from Ms. Sugimura, and a second from Ms. Crivello.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. Your Policy, Economic Development, Agriculture Committee met on March 20, 2017, to discuss the proposed resolution to nominate and approve the appointment of Cassiopia Yamashita to the Commission on Children and Youth for a term expiring March 31, 2020.

Based on her current employment as Director of Youth Services at MEO, Ms. Yamashita shows she has a vested interest in the youth of our community, and will be a fine addition to this board.

I ask for the Members full support of my motion.

CHAIR WHITE: Thank you, Ms. Sugimura.

Members, any further discussion? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, KING,  
SUGIMURA, VICE-CHAIR CARROLL, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes".

Mr. Clerk.

COUNTY CLERK: Mr. Chair, would that include the filing of Communication 17-143?

CHAIR WHITE: Without objection, Member, we'll include the filing.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you.

COUNTY CLERK: Thank you. Mr. Chair, proceeding with county communications for referral. The following communications are being recommended for referral to the following Committees:

NO. 17-144 - DANILO F. AGSALOG, DIRECTOR OF FINANCE,  
(dated March 3, 2017)

Reporting on transfers/loans from the General Fund and Department of Water Supply Revenue Fund to the 2017 Proposed General Obligation Bond Fund as of January 31, 2017.

The recommended action is that County Communication No. 17-144 be referred to the Budget and Finance Committee.

NO. 17-145 - DANILO F. AGSALOG, DIRECTOR OF FINANCE,  
(dated March 15, 2017)

Reporting on transfers/loans from the General Fund and Department of Water Supply Revenue Fund to the 2017 Proposed General Obligation Bond Fund as of February 28, 2017.

The recommended action is that County Communication No. 17-145 be referred to the Budget and Finance Committee.

NO. 17-146 - RIKI HOKAMA, COUNCILMEMBER,  
(dated March 10, 2017)

Relating to funding and costs of the proposed County Service Center located in the Maui Business Park.

The recommended action is that County Communication No. 17-146 be referred to the Budget and Finance Committee.

NO. 17-147 - RIKI HOKAMA, COUNCILMEMBER,  
(dated March 16, 2017)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 3.48.305, MAUI COUNTY CODE, RELATING TO THE CLASSIFICATION OF LAND AND BUILDING".

The recommended action is that County Communication No. 17-147 be referred to the Budget and Finance Committee.

NO. 17-148 - LYNN ARAKI-REGAN, BUDGET DIRECTOR,  
(dated March 17, 2017)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO THE OFFICE OF THE MAYOR, ECONOMIC DEVELOPMENT PROGRAM".

The recommended action is that County Communication No. 17-148 be referred to the Budget and Finance Committee.

NO. 17-149 - STACY CRIVELLO, COUNCILMEMBER,  
(dated March 16, 2017)

Relating to the County of Maui Kulamalu Affordable Rental Housing Project.

The recommended action is that County Communication No. 17-149 be referred to the Housing, Human Services, and Transportation Committee.

NO. 17-150 - ELLE COCHRAN, COUNCILMEMBER,  
(dated March 15, 2017)

Transmitting a proposed resolution entitled "AUTHORIZING THE COUNCIL CHAIR TO CONTRACT FOR A PERFORMANCE AND EFFICIENCY AUDIT OF THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT'S MAINTENANCE DIVISION".

The recommended action is that County Communication No. 17-150 be referred to the Infrastructure and Environmental Management Committee.

NO. 17-151 - KELLY T. KING, COUNCILMEMBER,  
(dated March 15, 2017)

Relating to Department of Planning Permits.

The recommended action is that County Communication No. 17-151 be referred to the Planning Committee.

NO. 17-152 - YUKI LEI K. SUGIMURA, COUNCILMEMBER,  
(dated March 13, 2017)

Relating to the "Federal Food Safety Modernization Act (FSMA)".

The recommended action is that County Communication No. 17-152 be referred to the Policy, Economic Development, and Agriculture Committee.

NO. 17-153 - DAVID TAYLOR, DIRECTOR OF WATER SUPPLY,  
(dated March 3, 2017)

Transmitting the Department of Water Supply's Monthly Source and Groundwater Use Reports for the month ending February 2017.

The recommended action is that County Communication No. 17-153 be referred to the Water Resources Committee.

CHAIR WHITE: Thank you, Mr. Clerk.

Members, are there any objections to the referrals as read by the Clerk?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: No objections. Thank you. So ordered.

Members, with that, we're going to take a short recess. Mr. Carroll needs to take over the meeting.

(THE MEETING WAS RECESSED BY THE CHAIR AT 1:28 P.M., AND WAS RECONVENED AT 1:32 P.M., WITH ALL MEMBERS PRESENT, EXCEPT COUNCILMEMBER CRIVELLO AND CHAIR WHITE, EXCUSED.)

VICE-CHAIR CARROLL: This Council meeting of March 24 is now back in session.

Members, just a note that we do have a Land Use Committee meeting scheduled for two o'clock, and I'm not too sure how we'll, if we get to that point and we're still in session, I'll recess and then convene, and then recess that again.

Alright, Mr. Clerk.

COUNTY CLERK: Mr. Chair, proceeding with committee reports.

## COMMITTEE REPORTS

COMMITTEE REPORT  
NO. 17-30 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 22 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANT REVENUE – SCHEDULE OF GRANTS BY DEPARTMENTS AND PROGRAMS, DEPARTMENT OF HOUSING AND HUMAN CONCERNS (SECTION 8 HOUSING PROGRAM)," be PASSED ON FIRST READING and be ORDERED TO PRINT;
2. That County Communication 16-136, from the Director of Housing and Human Concerns, be FILED; and
3. That County Communication 16-224, from the Budget Director, be FILED.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, if the Members don't object, I'm going to ask the Clerk to bring up all committee reports up to and including 17-37.

VICE-CHAIR CARROLL: Any objections?

MEMBERS VOICED NO OBJECTION.

VICE-CHAIR CARROLL: No objection. Mr. Clerk.

COMMITTEE REPORT  
NO. 17-31 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 23 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF PUBLIC WORKS, KIHEI-MAKENA COMMUNITY PLAN AREA, DRAINAGE, SOUTH KIHEI ROAD CULVERT REPLACEMENT AT WAIAKOA; TOTAL CAPITAL IMPROVEMENT

PROJECT APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)," be PASSED ON FIRST READING and be ORDERED TO PRINT;

2. That Bill 24 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 4331, BILL NO. 59 (2016), RELATING TO THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI (SOUTH KIHEI ROAD CULVERT REPLACEMENT AT WAIAKOA)," be PASSED ON FIRST READING and be ORDERED TO PRINT;
3. That Bill 25 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX C – CAPITAL IMPROVEMENT PROJECTS, DEPARTMENT OF PUBLIC WORKS, KIHEI-MAKENA COMMUNITY PLAN AREA, SOUTH KIHEI ROAD CULVERT REPLACEMENT AT WAIAKOA," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
4. That County Communication 17-41, from the Budget Director, be FILED.

COMMITTEE REPORT

NO. 17-32 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 26 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, SEWER KIHEI NO. 16 PUMP STATION REHABILITATION AND FORCE MAIN REPLACEMENT, LAHAINA WASTEWATER PUMP STATION NO. 3 MODIFICATIONS; TOTAL CAPITAL IMPROVEMENT PROJECT APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)," be PASSED ON FIRST READING and be ORDERED TO PRINT;
2. That Bill 27 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX C – CAPITAL IMPROVEMENT PROJECTS, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, KIHEI NO. 16 PUMP STATION REHABILITATION AND FORCE MAIN REPLACEMENT, LAHAINA WASTEWATER PUMP STATION NO. 3 MODIFICATIONS," be PASSED ON FIRST READING and be ORDERED TO PRINT;

3. That Bill 28 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 4320, BILL NO. 48 (2016), AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS FOR LOANS FROM THE STATE OF HAWAII'S WATER POLLUTION CONTROL REVOLVING FUND FOR VARIOUS WASTEWATER PROJECTS, FISCAL YEAR 2017 BUDGET ORDINANCE," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
4. That County Communication 17-42, from the Budget Director, be FILED.

COMMITTEE REPORT  
NO. 17-33 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 29 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF PUBLIC WORKS, MOLOKAI COMMUNITY PLAN AREA, GOVERNMENT FACILITIES, MOLOKAI BASEYARD; TOTAL CAPITAL IMPROVEMENT PROJECT APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)," be PASSED ON FIRST READING and be ORDERED TO PRINT;
2. That Bill 30 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 4331, BILL NO. 59 (2016), RELATING TO THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI (MOLOKAI BASEYARD)," be PASSED ON FIRST READING and be ORDERED TO PRINT;
3. That Bill 31 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX C – CAPITAL IMPROVEMENT PROJECTS, DEPARTMENT OF PUBLIC WORKS, MOLOKAI COMMUNITY PLAN AREA, MOLOKAI BASEYARD," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
4. That County Communication 17-40, from the Budget Director, be FILED.

COMMITTEE REPORT

NO. 17-34 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 32 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF PARKS AND RECREATION, WAIEHU GOLF COURSE PROGRAM – GOLF FUND; TOTAL OPERATING APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 17-49, from the Budget Director, be FILED.

COMMITTEE REPORT

NO. 17-35 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 33 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO CAPITAL IMPROVEMENT PROJECTS; DEPARTMENT OF PARKS AND RECREATION, WAILUKU-KAHULUI COMMUNITY PLAN AREA, PARKS AND RECREATION, WAIKAPU COMMUNITY CENTER BASKETBALL COURT IMPROVEMENTS, WAIKAPU COMMUNITY CENTER EXPANSION," be PASSED ON FIRST READING and be ORDERED TO PRINT;
2. That Bill 34 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX C – CAPITAL IMPROVEMENT PROJECTS, DEPARTMENT OF PARKS AND RECREATION, WAILUKU-KAHULUI COMMUNITY PLAN AREA, WAIKAPU COMMUNITY CENTER BASKETBALL COURT IMPROVEMENTS, WAIKAPU COMMUNITY CENTER EXPANSION," be PASSED ON FIRST READING and be ORDERED TO PRINT;

3. That Bill 35 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 4331, BILL NO. 59 (2016), RELATING TO THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI (WAIKAPU COMMUNITY CENTER EXPANSION)," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
4. That County Communication 17-95, from the Budget Director, be FILED.

COMMITTEE REPORT

NO. 17-36 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 36 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF MANAGEMENT, WAILUKU-KAHULUI COMMUNITY PLAN AREA, GOVERNMENT FACILITIES, COUNTY SERVICE CENTER; TOTAL CAPITAL IMPROVEMENT PROJECT APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)," be PASSED ON FIRST READING and be ORDERED TO PRINT;
2. That Bill 37 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 4331, BILL NO. 59 (2016), RELATING TO THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI (COUNTY SERVICE CENTER)," be PASSED ON FIRST READING and be ORDERED TO PRINT;
3. That Bill 38 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX C – CAPITAL IMPROVEMENT PROJECTS, DEPARTMENT OF MANAGEMENT, WAILUKU-KAHULUI COMMUNITY PLAN AREA, COUNTY SERVICE CENTER," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
4. That County Communication 17-39, from the Budget Director, be FILED.

COMMITTEE REPORT  
NO. 17-37 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 39 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX C – CAPITAL IMPROVEMENT PROJECTS, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, DEPARTMENT OF PARKS AND RECREATION, DEPARTMENT OF PUBLIC WORKS, DEPARTMENT OF WATER SUPPLY," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 17-38, from the Budget Director, be FILED.

VICE-CHAIR CARROLL: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT COMMITTEE REPORTS 17-30 THROUGH 17-37, ALONG WITH ITS RECOMMENDATIONS, BE ADOPTED, ALLOWING FIRST READING AND BE ORDERED TO PRINT.

COUNCILMEMBER KING:

SECOND.

VICE-CHAIR CARROLL: Been moved and seconded by Mr. Hokama and Ms. Sugimura [*sic*].

Mr. Hokama.

COUNCILMEMBER HOKAMA: No further discussion, Chairman.

VICE-CHAIR CARROLL: Any discussion? All those in favor of the motion signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN, GUZMAN, HOKAMA, KING, SUGIMURA, AND VICE-CHAIR CARROLL.

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: COUNCILMEMBER CRIVELLO AND CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried. Seven "ayes", two "excused"; Mr. White and Ms. Crivello.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, for the record, Committee Report 17-30, BILL NO. 22 (2017). Committee Report 17-31, BILLS 23, 24, 25 (2017), respectively. Committee Report 17-32, BILLS 26, 27, 28 (2017), respectively. Committee Report 17-33, BILLS 29, 30, 31 (2017), respectively. Committee Report 17-34, BILL NO. 32 (2017). Committee Report 17-35, BILLS NO. 33, 34, 35 (2017), respectively. Committee Report 17-36, BILLS NO. 36, 37, 38 (2017), respectively. Committee Report 17-37, BILL NO. 39 (2017).

COMMITTEE REPORT  
NO. 17-38 - LAND USE COMMITTEE:

Recommending that County Communication 13-207, from Councilmember Donald G. Couch, Jr., transmitting a proposed resolution entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO SHORT-TERM RENTAL HOMES", be FILED.

VICE-CHAIR CARROLL: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you.

ON YOUR BEHALF, I MOVE THAT COMMITTEE REPORT  
17-38, WITH ITS RECOMMENDATIONS, BE ADOPTED.

COUNCILMEMBER COCHRAN:

SECOND.

VICE-CHAIR CARROLL: Been moved by Mr. Hokama, seconded by Ms. Sugimura [sic].

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. Your Committee took this up on March 8, 2017, which is recommending filing of the proposed resolution. This proposal was never sent to Planning Commissions by the Council as a land use consideration. But it is noted, Mr. Chairman, that Council passed Ordinance 4315, I believe that amended Chapter 19.65 of the Maui County Code, which included agricultural districts to include short-term rental homes permitted under the Code. Therefore, your Committee recommends that this communication be filed.

VICE-CHAIR CARROLL: Thank you. Any further discussion? Seeing none, all those in favor of the motion signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN, GUZMAN,  
HOKAMA, KING, SUGIMURA, AND VICE-CHAIR  
CARROLL.

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: COUNCILMEMBER CRIVELLO AND CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; seven "ayes", two "excused".

Mr. Clerk.

#### COMMITTEE REPORT

NO. 17-39 - LAND USE COMMITTEE:

Recommending the following:

1. That Bill \_\_\_\_\_ (2017), entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.65.030, MAUI COUNTY CODE, TO ESTABLISH OWNERSHIP DURATIONAL REQUIREMENTS FOR SHORT-TERM RENTAL HOME PERMIT APPLICATIONS," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 16-278, from the Planning Director, be FILED.

VICE-CHAIR CARROLL: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, MOVE THAT COMMITTEE REPORT 17-39, WITH ITS RECOMMENDATIONS, BE ADOPTED.

COUNCILMEMBER SUGIMURA:

SECOND.

VICE-CHAIR CARROLL: Been moved by Mr. Hokama, seconded by Ms. Sugimura.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Okay, Chairman. You, I know that you had your Committee meet on March 8, 2017, that reviewed a bill that would establish a five-year requirement prior to applying for a permit. The bill also allows exemptions if the property was valued over one million dollars, and if the property was previously a short-term rental home within three years of the purchase of the property.

Your Committee felt that the five-year requirement would help to reduce loss of long-term rentals available to families. Your Committee also noted that exempting only higher valued homes from the requirement would discriminate against families with lesser valued homes. Therefore, your Committee removed the two exemptions while maintaining the five-year ownership requirement prior to applying for a Short-Term Rental Home Permit.

Thank you, Chairman. And if you have other comments you could use, help with clarifying your Committees actions, that would be helpful, Chairman.

VICE-CHAIR CARROLL: Thank you.

Further discussion?

COUNCILMEMBER GUZMAN: Thank you, Chair. I know that we had a long discussion in your Committee. And part of it was my two proposals for the exemptions. And one of the exemptions wasn't able to pass out. And so in further studying the testimony that was presented today on the floor, I, I truly believe that we need to go back to Committee and re-look at some of these other amendments or proposed exemptions.

So at this time, Chair, I cannot support this bill. Thank you.

VICE-CHAIR CARROLL: Just for the record, excuse me, two of the exemptions were, that we did not pass, one of them was to make sure that if the person, if we had okayed that exemption, if the owner had passed away it couldn't be passed over to the next of kin and it could not operate. And that way, now they can operate and what not, that is . . . they can apply immediately for another one. And that was the reason why we deleted that exemption.

And the million dollar one was because it was felt that it was unfair to people that was below a million dollars. Just for clarification. The floor is still open for discussion.

COUNCILMEMBER KING: Chair.

VICE-CHAIR CARROLL: Ms. King.

COUNCILMEMBER KING: I think one of the other amendments that came up and probably didn't get vetted well enough was the idea of starting with any new home purchased after a certain date. So you know, that this would apply to any home purchased after a certain date so that it didn't, so that it gave that, you know, the firm grace period, and allowed folks to go into the process of applying before this thing takes effect. So I'm not sure if that needs further vetting or, you know, if there, if there's an appetite for doing that amendment.

But I do agree with the testifiers, that probably one of the bigger issues is enforcement. And that's one of the issues that will be looked at. I actually put in a PAF for, to hold a meeting on, to discuss enforcement on the Planning Committee. So I'm a, I'm just expressing that I'm kind of torn between going ahead with this or, either sending it back to Committee or, I mean, I think it's a bigger deliberation that we might be able to make in this Council meeting.

VICE-CHAIR CARROLL: Thank you. And I think we all agree that enforcement is probably the biggest problem we have in this County.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: I think all of us have been, oh thank you, Chair, I think all of us have been in receipt of a lot of testimonies that have come by email by the real estate, by RAM. Lawrence has been pretty diligent in terms of keeping us informed from a bigger perspective, I think, and, and valuable information. I've been hearing there's 300 from Planning. And then he testified there's actually 200 allowable short-term rentals. And there's, I mean that kind of information, I think, is valuable. I think I

need to probably go look at the Planning Department's website to get actual numbers as to where we are per districts. So there seems to be more discussion needed, Chair.

VICE-CHAIR CARROLL: The facts about which one and the districts and all that is, was available to the Committee and to the public . . .

COUNCILMEMBER SUGIMURA: Thank you.

VICE-CHAIR CARROLL: Mr. Atay.

COUNCILMEMBER ATAY: Chair. Yeah, I have several thoughts on this. And, and, and one is that there already exists a cap of, I think 200, which covers a lot of the different concerns. I think also, some of the people that I've met, some that are opposed to this, most of the people opposed would be okay and appeased if there were proper adjustments. Not sure if those adjustments should be made here today, and possibly be considered to go back to Committee to hash that out.

For the record, I've got about 37 opposed emails, and I've got one in support; and that coming from a certified residential appraiser. Usually this proposed bill is, I guess would be a good idea, and could be a good start to dealing with the illegal short-term rental homes with amendments. Some of the thoughts was how to deal with the death of an original owner, and property ownership within their own immediate family, vetting that out, having previous licensed short-term rental homes who have been compliant and who have been licensed for many years.

You know, some of the questions were asked, is, you know, they're, they're getting older, can they sell it? And, and, but that business was in business for many, many years. And the new owner or son who has taken over is getting penalized. So for me, there's still a lot of questions and amendments that got to be addressed. And I would suggest conferring back to Committee.

COUNCILMEMBER COCHRAN: Chair.

VICE-CHAIR CARROLL: Further discussion? Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And I think, and I hear Mr. Atay's concern. And I have a really good friend that sent in some testimony too who has a legal rental, and was afraid they could not someday hand it down to their children. But your opening comments and me rereading this states that immediate family members are entitled to have the permit transferred to them.

VICE-CHAIR CARROLL: True.

COUNCILMEMBER COCHRAN: Right? Okay. Just to clear, make it super clear, loud and clear. So just to allay the fears of my friend who sent in testimony too. But, yeah, I'm, you know, these kind of things, there's always kinks and, and wrinkles to work out. I'm in favor of sending it back if so.

But as I digested all the testimony and then went and reread, and tried to, you know, soak all this in, I voted no during the Committee. And then I thought, I kind of like it and was willing to push it forward today. So, now I'm on the opposite side from everybody again. But, I will go with, we all want further discussion, I'm up for further discussion with short-term rentals anytime.

So, Chair, it's your call and where people, what you want to do with this is up to you folks cause I'm just.

VICE-CHAIR CARROLL: Members, any further discussion? Alright, Members, it seems like there's a fairly clear consensus over here that would like this referred back to Committee.

Mr. Hokama, are you willing to withdraw your motion?

COUNCILMEMBER HOKAMA: I can do that on your behalf, Chairman. You're the Committee Chairman, so, I will be happy to take your lead.

But, if you'll allow me to make a comment please first, Chairman.

VICE-CHAIR CARROLL: Yes.

COUNCILMEMBER HOKAMA: You know, nothing is ever easy for Council. And this is a, for me at least, over a 20-year concern and issue of the community. And now we're moving into STR's in agriculture. So, for me, during budget, I'm going to tell you I'm going to look at reducing the subsidy for agriculture. And I am definitely looking at now a changing and adjusting so that these type of activities will be in the right tax category so we don't continue bastardizing our zoning categories.

We're talking about allowing non-permitted uses by zoning to happen in a category, okay. So, I don't know, understand about the takings.

(Councilmember Crivello returned to the meeting at 1:54 p.m.)

COUNCILMEMBER HOKAMA: There is nothing guaranteed for us to have to approve a permit, okay. It's a discretionary decision by the body, if we feel it meets the appropriate litmus test of each Members decision making.

So, for me, Chairman, you know, the way things are moving, and this County needs to have the proper resources to fund what the Committee is asking for, this is where I'm going to make a stand with agriculture, and STR's in ag. Thank you.

VICE-CHAIR CARROLL: The motion is still on the floor. Any further discussion?

COUNCILMEMBER KING: Do we have a motion? I don't think we--

COUNCILMEMBER HOKAMA: There's no motion, Chairman. The motion before you is whether or not we're going to move this Committee Report for a vote or not. And so what I'm asking you as our Committee Chairman, if that is of your preference, Chair, I'm happy to then withdraw the motion and have the Members make a consideration of recommitment.

VICE-CHAIR CARROLL: Thank you, Mr. Hokama.

COUNCILMEMBER KING: Second.

VICE-CHAIR CARROLL: Members.

COUNCILMEMBER HOKAMA: So, Chairman, I await your direction.

COUNCILMEMBER KING: Oh.

VICE-CHAIR CARROLL: I would, after the discussion, it seems clear, and with all of the concerns that we've had, that we will refer it back to the Land Use Committee.

COUNCILMEMBER HOKAMA:

OKAY THEN, CHAIRMAN, I WITHDRAW THE ORIGINAL MOTION AND MOVE TO RECOMMIT COMMITTEE REPORT 17-39 TO THE LAND USE COMMITTEE.

COUNCILMEMBER KING:

SECOND.

VICE-CHAIR CARROLL: Been moved and seconded by Ms. Sugimura *[sic]*.

Further discussion, Mr. Hokama?

COUNCILMEMBER HOKAMA: No, Chairman, none.

COUNCILMEMBER KING: I think it was, I think it was myself that seconded.

VICE-CHAIR CARROLL: Yes, Ms. King.

COUNCILMEMBER KING: Yeah, no, I just, that's okay. I just wanted to make it clear that I was the one who seconded the motion.

VICE-CHAIR CARROLL: Oh, oh, sorry. Excuse me.

COUNCILMEMBER KING: That's okay. I don't know if you're getting us mixed up.

VICE-CHAIR CARROLL: Been seconded by Ms. King. Your voices are too much alike.

Alright, we have the motion on the floor. No further discussion. All those in favor signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, KING,  
SUGIMURA, AND VICE-CHAIR CARROLL.

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; oh excuse me, eight "ayes", one "excused". Alright. Thank you, Members.

Mr. Clerk.

COMMITTEE REPORT  
NO. 17-40 - LAND USE COMMITTEE:

Recommending that County Communication 16-202, from the Planning Director, transmitting a request from Julie Steiner and the Steiner Family Trust 2010, for a Conditional Permit to establish and operate a transient vacation rental home at 100 Pulelehua Street, Pineapple Hill Subdivision, Kapalua, Maui, Hawaii, be FILED.

VICE-CHAIR CARROLL: Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you, Chairman.

I MOVE THAT COMMITTEE REPORT 17-40, WITH ITS  
RECOMMENDATIONS, BE ADOPTED.

COUNCILMEMBER SUGIMURA:

SECOND.

VICE-CHAIR CARROLL: It's been moved by Mr. Hokama, seconded by Ms. Sugimura.

Mr. Hokama.

COUNCILMEMBER HOKAMA: No further discussion.

VICE-CHAIR CARROLL: Any further discussion? All those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, KING,  
SUGIMURA, AND VICE-CHAIR CARROLL.

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; eight "ayes", no "noes", one "excused".

Mr. Clerk.

COMMITTEE REPORT  
NO. 17-41 - PARKS, RECREATION, ENERGY, AND LEGAL AFFAIRS  
COMMITTEE:

Recommending that Resolution 17-55, entitled "AUTHORIZING SETTLEMENT IN THE MATTERS OF THE TAX APPEALS OF KAHEAWA WIND POWER, LLC AND KAHEAWA WIND POWER II, LLC, TAX APPEAL NOS. 14-1-0266, 16-1-0272, 16-1-0326, 14-1-0267, 16-1-0273, 16-1-0327," be ADOPTED.

VICE-CHAIR CARROLL: Mr. Guzman.

COUNCILMEMBER GUZMAN: Chair, may I request, without objections, that the Clerk call up 17-42 as well?

MEMBERS VOICED NO OBJECTION.

VICE-CHAIR CARROLL: Mr. Clerk

COMMITTEE REPORT  
NO. 17-42 - PARKS, RECREATION, ENERGY, AND LEGAL AFFAIRS  
COMMITTEE:

Recommending that Resolution 17-56, entitled "AUTHORIZING SETTLEMENT IN THE MATTERS OF THE TAX APPEALS OF AUWAHI WIND ENERGY, LLC, TAX APPEAL NOS. 15-1-0238, 16-1-0275, 16-1-0328," be ADOPTED.

VICE-CHAIR CARROLL: Mr. Guzman.

COUNCILMEMBER GUZMAN:

CHAIR, I MOVE TO ADOPT THE RECOMMENDATIONS AND THE RESOLUTIONS IN COMMITTEE REPORT 17-41 AND 17-42.

COUNCILMEMBER COCHRAN:

SECOND.

VICE-CHAIR CARROLL: Been moved by Mr. Guzman, seconded by Ms. Cochran.

Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. In 17-41, as well as 17-42, your Committee met on March 7, 2017, to consider the settlement of the, or the options for the tax appeals as listed in the case numbers in the agenda.

The purpose of the proposed resolutions was to authorize the settlement of the tax appeals based upon the recommendation of the Department of Corporation Counsel.

A Deputy Corporation Counsel did say that the, these tax appeals were based off of whether the wind turbines have been properly assessed for real property tax purposes.

Your Committee, in executive session, met with Corporation Counsel, and then entered into open, open session and voted 7-0 to recommend adoption of the proposed resolutions in 17-41; as well as a vote was taken in 17-42, a 7-0 vote for adoption of this resolution and the report.

Chair, I'd ask the Members to support this motion. Thank you.

VICE-CHAIR CARROLL: Thank you, Mr. Guzman.

Discussion? Seeing none, all in favor of the motion signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, KING,  
SUGIMURA, AND VICE-CHAIR CARROLL.

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; eight "ayes", one "excused".

Mr. Clerk.

COUNTY CLERK: For the record, for Committee Report 17-41, RESOLUTION 17-55. For Committee Report 17-42, RESOLUTION 17-56.

COMMITTEE REPORT  
NO. 17-43 - PLANNING COMMITTEE:

Recommending the following:

1. That Bill 40 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.28, MAUI COUNTY CODE, RELATING TO PLANNING COMMISSION AND HANA ADVISORY COMMITTEE MEMBERSHIP REQUIREMENTS," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 17-76, from Councilmember Kelly King, be FILED.

VICE-CHAIR CARROLL: Ms. King.

COUNCILMEMBER KING: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN PLANNING  
COMMITTEE REPORT NO. 17-43.

COUNCILMEMBER COCHRAN:

SECOND.

VICE-CHAIR CARROLL: Been moved by Ms. King, seconded by Ms. Cochran.

Discussion, Ms. King.

COUNCILMEMBER KING: Thank you, Chair. At our, at the, your Planning Committee meeting on March 9, 2017, we voted 5-0 to recommend approval of a bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.28, MAUI COUNTY CODE, RELATING TO THE PLANNING COMMISSION AND HANA ADVISORY COMMITTEE MEMBERSHIP REQUIREMENTS".

The purpose of the proposed bill is to require at least one member of each planning commission and the Hana Advisory Committee to have certain qualifications in native Hawaiian traditional and cultural practices.

Your Committee, and the importance of at least one member, noted the importance of at least one member from each planning commission and the Hana Advisory

Committee having experience in native Hawaiian traditional and customary practices when reviewing land use proposals and applications.

Your Committee declined to require planning commissions and the Hana Advisory Committee to have one member qualified in conservation and natural resources. So, this takes the bill from last year and shortens it.

Also, I'd like to note that we had quite a bit of testimony in favor of this; no testimony opposing it. Well, we had, we had two persons who, one person who had previously opposed it who actually changed his testimony.

VICE-CHAIR CARROLL: Thank you, Ms. King.

Further discussion?

COUNCILMEMBER COCHRAN: Chair.

VICE-CHAIR CARROLL: Ms. Cochran.

COUNCILMEMBER COCHRAN: Yeah, thank you, Chair. And yes, this has been going on for quite a while. And, I'm just excited to see it here today for consideration by my fellow Members, and hoping to get support. And, I think we really hashed through this quite a bit. So, I just thank you for that opportunity to have it here for a vote.

VICE-CHAIR CARROLL: Any further discussion?

COUNCILMEMBER ATAY: Chair.

VICE-CHAIR CARROLL: Mr. Atay.

COUNCILMEMBER ATAY: Yeah, I would support this. You know, just as a reminder, you know, I look at, you know, I think was, was it just yesterday we had that similar discussion about a wellness center in Kihei and, and my thought was back then if we had a, a cultural practitioner sitting on the Planning Commission to, to bring that enlightenment of the connection of our, our traditional cultural practices before and over having allow developments occur.

So, you know, the consideration, my thought would be Planning Commission, Hana Advisory Committee, Molokai Commission, and Lanai Commission, making sure that in all land use or planning changes that a representative from the native Hawaiian traditional and customary practices has input. But, thank you.

VICE-CHAIR CARROLL: Thank you.

Any further discussion? Seeing none, all in favor of the motion signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, KING,  
SUGIMURA, AND VICE-CHAIR CARROLL.

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; eight "ayes", one "excused".

Mr. Clerk.

COUNTY CLERK: For the record, BILL 40 (2017).

VICE-CHAIR CARROLL: Mr. Clerk, one moment.

Members, I'm going to recess this meeting for a moment, for about two minutes. This meeting stands in recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 2:03 P.M., AND WAS RECONVENED AT 2:09 P.M., WITH ALL MEMBERS PRESENT, EXCEPT COUNCILMEMBER KING AND CHAIR WHITE, EXCUSED.)

VICE-CHAIR CARROLL: This Maui County Council meeting is now back in session.

Mr. Clerk.

COMMITTEE REPORT  
NO. 17-44 - POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE  
COMMITTEE:

Recommending the following:

1. That Bill 41 (2017), entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN

INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION FOR A SIXTY-FIVE YEAR LEASE OF CERTAIN LAND IN THE DISTRICT OF LAHAINA, ISLAND OF MAUI, DESIGNATED AS TAX MAP KEYS (2) 4-5-021:018 AND 019, CONSISTING OF APPROXIMATELY 20.137 ACRES," be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That County Communication 16-322, from the Mayor, be FILED.

VICE-CHAIR CARROLL: Ms. Sugimura.

COUNCILMEMBER SUGIMURA:

I MOVE TO ADOPT THE RECOMMENDATION IN COMMITTEE REPORT 17-44, CHAIR.

COUNCILMEMBER CRIVELLO:

SECOND THE MOTION.

VICE-CHAIR CARROLL: Been moved by Ms. Sugimura, seconded by Ms. Crivello.

Ms. Sugimura, discussion?

COUNCILMEMBER SUGIMURA: Thank you, Chair. Your Policy, Economic Development, Agriculture Committee met on March 6, 2017, to consider the proposed bill.

The purpose of the proposed bill is to enter into an intergovernmental agreement with the Hawaii Housing Finance and Development Corporation for the lease of Lots 1-A and 1-B of the Villages of Leiali'i, surrounding the Lahaina Civic Center, at a cost of \$1 per year for a lease term of 65 years, for the purpose of public parking, a baseyard, and expansion of County facilities.

The intergovernmental agreement would continue the County's use of land for overflow parking for the Lahaina Civic Center. It would also allow for the expansion of the nearby Lahaina Fire and Police stations, construction of a larger Public Works baseyard, and development of additional parks-related activities and recreational facilities.

The land is not suitable for affordable housing since the landscaping consists of mainly rocks and gulch.

However, the State has plans to expand the Villages of Leiali'i project mauka of Lot 1-A, to include single and multi-family residential uses; park space; and an elementary school.

Your Committee voted 8-0 to recommend passage of a revised proposed bill incorporating, incorporating a non-substantive revision on first reading and filing of county communication.

I respectfully ask for the Council's full support. Thank you, Chair.

VICE-CHAIR CARROLL: Thank you.

Further discussion?

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And I just want to thank the Administration for looking into lands to expand those County services of Fire and Police, and parking, and what have you, in this area.

The HHFDC's role in, hopefully, you know, providing housing to the, to our people is definitely important at this time. So, if they're willing to give up certain amount of lands, you know, instead of housing at this time for our County core service expansions, that's a great thing. But sure would like to have them utilize a lot of the lands too for their purpose, which is housing for the people. Thank you.

VICE-CHAIR CARROLL: Any further discussion? Seeing none, all in favor of the motion on the floor signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, SUGIMURA, AND  
VICE-CHAIR CARROLL.

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: COUNCILMEMBER KING AND CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried. Seven "ayes", two "excused"; Ms. King and Mr. White.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, for the record, BILL 41 (2017).

COMMITTEE REPORT  
NO. 17-45 - POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE  
COMMITTEE:

Recommending that Resolution 17-57, entitled "RELATING TO THE APPOINTMENT OF PAULA HEISKELL TO THE COST OF GOVERNMENT COMMISSION," be ADOPTED.

VICE-CHAIR CARROLL: Ms. Sugimura.

COUNCILMEMBER SUGIMURA:

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 17-45, CHAIR.

COUNCILMEMBER CRIVELLO:

SECOND THE MOTION.

VICE-CHAIR CARROLL: Been moved by Ms. Sugimura, seconded by Ms. Crivello.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. Your Policy, Economic Development, and Agriculture Committee met on February 13, 2017, and March 6, 2017, to consider the nomination of Paula Heiskell to the Cost of Government for a term expiring March 31, 2019.

The Council has until March 25, 2017, to approve or disapprove the Acting Mayor's nominee, or the nominee will be deemed appointed.

Your Committee was assured by Ms. Heiskell's availability to attend scheduled meetings, and was told she was a former member of the Kula Agriculture Parks Committee.

Your Committee voted 8-0 to recommend adoption of the proposed resolution. I respectfully ask for the Council's full support. Thank you, Chair.

VICE-CHAIR CARROLL: Thank you.

Further discussion? Seeing none, all in favor of the motion signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, SUGIMURA, AND  
VICE-CHAIR CARROLL.

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: COUNCILMEMBER KING AND CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; seven "ayes", two "excused".

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 17-57.

COMMITTEE REPORT

NO. 17-46 - POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE  
COMMITTEE:

Recommending the following:

1. That Resolution 17-58, entitled "APPOINTMENT OF A MEMBER TO THE MAUI REDEVELOPMENT AGENCY," be ADOPTED; and

*Disapproving the appointment of Reid Kawabata to the Maui Redevelopment Agency.*

2. That Resolution 17-59, entitled "APPOINTMENT OF MEMBERS TO THE URBAN DESIGN REVIEW BOARD FOR THE COUNTY OF MAUI," be ADOPTED.

*Approving the appointment of Mikal Torgerson (Architect), Darren Unemori (Engineer), and Tammy Yeh (Civil Engineer)(Alternate) to the Urban Design Review Board for term beginning April 1, 2017 and expiring March 31, 2022.*

VICE-CHAIR CARROLL: Ms. Sugimura.

COUNCILMEMBER SUGIMURA:

I MOVE TO ADOPT THE RECOMMENDATIONS IN COMMITTEE REPORT 17-46.

COUNCILMEMBER CRIVELLO:

SECOND.

VICE-CHAIR CARROLL: Been moved by Ms. Sugimura, seconded by Ms. Crivello.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Your Policy, Economic Development, Agriculture Committee met on February 13, 2017, and March 6, 2017, to consider the nominations of: 1) Reid Kawabata to Maui Redevelopment Agency for a term beginning April 1, 2017, and expiring March 31, 2022; and 2) Mikal Torgerson (Architect), Darren Unemori (Engineer)(Alternate) *[sic]*, and Tammy Yeh (Civil Engineer)(Alternate) to the Urban Design Review Board for terms beginning April 1, 2017, and expiring March 31, 2022.

There is no time limit for the Council to approve or disapprove the nominees.

By correspondence dated February 22, 2017, the Mayor transmitted a letter received from nominee Reid Kawabata withdrawing his nomination to the Maui Redevelopment Agency due to personal circumstances.

Your Committee voted 8-0 to recommend disapproval of Reid Kawabata's nomination to the Maui Redevelopment Agency and adoption of the revised proposed resolution.

Your Committee discussed the merits of the Urban Design Review Board nominees and was assured of their availability to attend scheduled meetings. Your Committee

voted 8-0 to recommend approval of the nominations of Mikal Torgerson, Darren Unemori, and Tammy Yeh, and adoption of the revised proposed resolution.

I respectfully ask for the Council's full support. Thank you, Chair.

VICE-CHAIR CARROLL: Thank you. Any further discussion to the motion of the floor?

Mr. Atay.

COUNCILMEMBER ATAY: I'm just getting ready for the vote.

VICE-CHAIR CARROLL: Oh, okay. Seeing none, all in favor of the motion signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, SUGIMURA, AND  
VICE-CHAIR CARROLL.

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: COUNCILMEMBER KING AND CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; seven "ayes", two "excused".

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTIONS 17-58 and 17-59.

COMMITTEE REPORT

NO. 17-47 - POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE:

Recommending that Resolution 17-60, entitled "RELATING TO THE APPOINTMENT OF LUANA KAWA`A TO THE MAUI COUNTY CULTURAL RESOURCES COMMISSION," be ADOPTED.

*Approving the appointment of Luana Kawa`a to the Maui County Cultural Resources Commission for term expiring March 31, 2018.*

VICE-CHAIR CARROLL: Ms. Sugimura.

COUNCILMEMBER SUGIMURA:

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 17-47.

COUNCILMEMBER CRIVELLO:

I SECOND THE MOTION.

VICE-CHAIR CARROLL: Been moved by Ms. Sugimura, seconded by Ms. Crivello.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. Your Policy, Economic Development, and Agriculture Committee met on March 6, 2017, to consider the nomination of Luana Kawa`a to the Maui County Cultural Resources Commission, for a term expiring March 31, 2018.

The Council has until April 24, 2017, to approve or disapprove the Mayor's nominee, or the nominee will be deemed appointed.

Your Committee learned that Ms. Kawa`a's extensive knowledge of Hawaiian culture and language, and felt her background would be an asset to the Commission.

Your Committee voted 8-0 to recommend adoption for the, of the proposed resolution. And I respectfully ask for the Council's full support. Thank you, Chair.

VICE-CHAIR CARROLL: Thank you.

Further discussion to the motion? Seeing none, all in favor signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, SUGIMURA, AND  
VICE-CHAIR CARROLL.

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: COUNCILMEMBER KING AND CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; seven "ayes", two "excused".

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 17-60.

COMMITTEE REPORT

NO. 17-48 - POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE:

Recommending the following:

1. That Resolution 17-61, entitled "RELATING TO THE APPOINTMENT OF SHARRON COURTER TO THE COST OF GOVERNMENT COMMISSION," be ADOPTED;

*Approving the appointment of Sharron Courter to the Cost of Government Commission for term expiring March 31, 2018.*

2. That Resolution 17-62, entitled "RELATING TO THE APPOINTMENT OF MAYA ROSS TO THE HANA ADVISORY COMMITTEE," be ADOPTED;

*Approving the appointment of Maya Ross to the Hana Advisory Committee for term beginning April 1, 2017 and expiring March 31, 2022.*

3. That Resolution 17-63, entitled "RELATING TO THE APPOINTMENT OF DAVID KAINA TO THE HANA ADVISORY COMMITTEE, be ADOPTED; and

*Approving the appointment of David Kaina to the Hana Advisory Committee for term beginning April 1, 2017 and expiring March 31, 2022.*

4. That Resolution 17-64, entitled "RELATING TO THE APPOINTMENT OF RICKY SANCHES TO THE MAUI COUNTY COMMISSION ON PERSONS WITH DISABILITIES," be ADOPTED.

*Approving the appointment of Ricky Sanches (Lanai) to the Maui County Commission on Persons with Disabilities for term beginning April 1, 2017 and expiring March 31, 2022.*

VICE-CHAIR CARROLL: Ms. Sugimura.

COUNCILMEMBER SUGIMURA:

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 17-48.

COUNCILMEMBER CRIVELLO:

SECOND.

VICE-CHAIR CARROLL: Been moved by Ms. Sugimura, seconded by Ms. Crivello.

Discussion, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Thank you, Chair. Your Policy, Economic Development, and Agriculture Committee met on March 6, 2017, to consider the nominations of: 1) Sharron Courter to the Cost of Government Commission for a term expiring March 31, 2018; 2) Maya Ross and David Kaina to the Hana Advisory Committee for terms beginning April 1, 2017, and expiring March 31, 2022; and 3) Ricky Sanches from Lanai to the Maui County Commission on Persons with Disabilities for a term beginning April 1, 2017, and expiring March 31, 2022.

The Council has until April 1, 2017, to approve or disapprove the nominations to the Hana Advisory Committee and Maui County Commission on Persons with Disabilities; and until April 18, 2017, to approve and disapprove the nominations to the Cost of Government Commission.

Your Committee was satisfied with the nominees' backgrounds and their willingness to serve.

Your Committee voted 8-0 to recommend approval of the four nominees. I respectfully ask for the Council's full support. Thank you, Chair.

VICE-CHAIR CARROLL: Any further discussion to the motion on the floor? Seeing none, all in favor signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, SUGIMURA, AND  
VICE-CHAIR CARROLL.

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: COUNCILMEMBER KING AND CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; seven "ayes", two "excused".

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 17-61, 17-62, 17-63, and 17-64, respectively.

Mr. Chair, proceeding with ordinances for second and final reading.

## ORDINANCES

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 17 (2017)

A BILL FOR AN ORDINANCE AMENDING  
THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI  
AS IT PERTAINS TO APPENDIX A, PART I, GRANT REVENUE –  
SCHEDULE OF GRANTS BY DEPARTMENTS AND PROGRAMS,  
DEPARTMENT OF POLICE  
(DEPARTMENT OF TRANSPORTATION HIGHWAY SAFETY GRANTS)

VICE-CHAIR CARROLL: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, with no objections from the Members, I would request the Clerk bring up Bill No. 20.

MEMBERS VOICED NO OBJECTION.

VICE-CHAIR CARROLL: No objections.

Mr. Clerk.

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 20 (2017)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.62, MAUI  
COUNTY CODE, RELATING TO FLOOD HAZARD AREAS DISTRICTS

VICE-CHAIR CARROLL: Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you, Chairman.

I MOVE THAT BILL NO. 17 AND BILL 20 OF 2017 PASS  
SECOND AND FINAL READING.

COUNCILMEMBER SUGIMURA:

SECOND.

VICE-CHAIR CARROLL: Been moved by Mr. Hokama, seconded by Ms. Sugimura.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, Bill 17 is, just quickly, placing in our Budget ordinance the Federal dollars for this Highway Safety Grant.

And Bill 20, the Council is just taking care of recommendations by FEMA as it relates to the National Flood Insurance Program.

VICE-CHAIR CARROLL: Any further discussion to the motion on the floor? Seeing none, all in favor signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, SUGIMURA, AND  
VICE-CHAIR CARROLL.

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: COUNCILMEMBER KING AND CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; seven "ayes", two "excused".

Mr. Clerk.

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 18 (2017)

A BILL FOR AN ORDINANCE AMENDING SECTION 10.56A.010,  
MAUI COUNTY CODE, RELATING TO LOADING ZONES

VICE-CHAIR CARROLL: I'm sorry. Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. Without objections, may I have the Clerk also pull up Bill 19?

VICE-CHAIR CARROLL: Any objections?

MEMBERS VOICED NO OBJECTION.

COUNCILMEMBER COCHRAN: Thank you.

VICE-CHAIR CARROLL: Mr. Clerk.

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 19 (2017)

A BILL FOR AN ORDINANCE AMENDING SECTION 10.44.050,  
MAUI COUNTY CODE, RELATING TO STOPS REQUIRED AT NON-THROUGH  
STREET INTERSECTIONS AT MEHA ROAD AND KEALALOA AVENUE,  
MAKAWAO, MAUI, HAWAII

VICE-CHAIR CARROLL: Ms. Cochran.

COUNCILMEMBER COCHRAN: Chair, thank you very much.

I MOVE TO PASS BILLS 18 AND 19 ON SECOND AND FINAL  
READING.

COUNCILMEMBER CRIVELLO:

SECOND.

VICE-CHAIR CARROLL: Been moved by Ms. Cochran, seconded by Ms. Crivello. We'll get it right.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Chair, thank you very much.

So, Bill 18 would establish two loading zones and eliminate one on North Market Street in Wailuku. And the two loading zones are fronting the Request Music store and the Iao Theater. The loading zone proposed for removal is located at 130 North Market Street, also in Wailuku.

And your Committee noted that the proposed changes have been reviewed and approved by Public Works Commission, the Maui Redevelopment Agency, and the Department of Police.

Bill 19, this Bill would delete a required stop on Meha Road, before entering Kealaloa Avenue in Makawao. And the intersection is a "T" intersection with a stop control on both Meha Road and Kealaloa Avenue. And so because most of the traffic is on Meha Road, the Department of Public Works and Public Works Commission both recommended removal of the stop on Meha Road.

So, I respectfully ask for my Members full support of both of these bills. Thank you, Chair.

VICE-CHAIR CARROLL: Thank you, Ms. Cochran.

Further discussion to the motion on the floor? Seeing none, all in favor signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, SUGIMURA, AND  
VICE-CHAIR CARROLL.

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: COUNCILMEMBER KING AND CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; seven "ayes", two "excused".

Mr. Clerk.

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 21 (2017)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR  
OF THE COUNTY OF MAUI TO ENTER INTO  
INTERGOVERNMENTAL AGREEMENTS WITH THE BOARD OF WATER SUPPLY  
OF THE DEPARTMENT OF WATER, COUNTY OF KAUAI AND WITH THE  
BOARD OF WATER SUPPLY, CITY AND COUNTY OF HONOLULU

VICE-CHAIR CARROLL: Mr. Atay.

COUNCILMEMBER ATAY: Thank you, Chair.

MOVE TO PASS BILL NO. 21 (2017) ON SECOND AND FINAL  
READING.

COUNCILMEMBER COCHRAN:

SECOND.

VICE-CHAIR CARROLL: Been moved by Mr. Atay, seconded by Ms. Cochran.

Discussion, Mr. Atay.

COUNCILMEMBER ATAY: Thank you, Chair. The purpose of Bill 21 (2017) is to authorize the Mayor to enter into intergovernmental agreements with the Boards of Water Supply for Kauai County and the City and County of Honolulu, related to customer billing.

Section 2.20.020, Maui County Code, prohibits the Mayor from entering into any intergovernmental agreement that places a financial obligation on the County or one of its departments, unless authorized by ordinance.

I respectfully request the Council's consideration of this motion.

VICE-CHAIR CARROLL: Thank you, Mr. Atay.

Any further discussion? Hearing none, all in favor of the motion on the floor signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, SUGIMURA, AND  
VICE-CHAIR CARROLL.

VICE-CHAIR CARROLL: Opposed.

NOES: NONE.

EXCUSED: COUNCILMEMBER KING AND CHAIR WHITE.

VICE-CHAIR CARROLL: Motion carried; seven "ayes", two "excused".

Mr. Clerk.

COUNTY CLERK: Mr. Chair, there is no further business before the Council.

VICE-CHAIR CARROLL: Seeing there is no further business before the Council, thank you for staying so late. It's really appreciated. And this Council meeting is adjourned.

## ADJOURNMENT

The regular meeting of March 24, 2017 was adjourned by the Chair at 2:26 p.m.



DENNIS A. MATEO, COUNTY CLERK  
COUNTY OF MAUI, STATE OF HAWAII



Lawrence Carnicelli  
Government Affairs Director  
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March 24, 2017

TESTIMONY CR17-39

Good afternoon and aloha Chair and members. My name is Lawrence Carnicelli, speaking on behalf of the REALTORS Association of Maui's 1550 licensed, professional REALTORS on Committee Report 17-39.

As you know the Land Use Committee recently passed LU-7 out of committee with one small sentence about short-term rental homes restrictions and standards; "*The dwelling unit has been owned by the applicant for at least five years prior to the date of application.*" It's a simple and seemingly innocuous sentence. This would fundamentally be a Prohibition on LEGAL Short Term Rental Housing discouraging homeowners from legally running an STRH and fueling the illegal "black market" to new heights.

History has shown that prohibition (of anything) does not work. This bill will harm the real estate industry and attacks the rights of property owners... our clients. Therefore RAM is in OPPOSITION.

While I understand some are fundamentally opposed to any and all short term rentals, the fact of the matter is that genie is already out of the bottle whether we like it or not. They are part of the new shared-economy and it is the way people now travel. Vacation rental homes are here to stay... even if we outlaw them. Therefore, we can chose to allow them, regulate them and collect the benefits, or we can strangle them to the point of fueling the illegal black market.

Therefore, I think that it is very important to separate out the conversation about the illegal operators and the legal ones. This bill would, one again, put legal operators at a competitive disadvantage and incentivize illegal rentals.

Problems with this bill:

- 1) A Cap already exists – The ordinance already has a cap of 200 short term rental homes.
- 2) A removal of property rights - The roughly 5,000 property owners that purchase a home within the last five years will have a basic right stripped and taken away from them.
- 3) Fuels "Black Market" rentals – The County's permitting process is wrought with numerous hurdles and obstacles. Lengthening the process will only increase the illegal rentals that proliferate our communities and take away needed housing for our local families.
- 4) Disclosure issues - This could potentially create disclosure issues for REALTORS® and the County. REALTORS® who represented buyers within the past 5 years may have to retroactively disclose their client's rights have been stripped.
- 5) No ownership transfers – As the bill reads now, any transfer of ownership (even into a family trust or children) would trigger the owner into the 5-year moratorium and a loss of their livelihood.
- 6) Loss of renewals – Currently the Planning Department treats homeowners that apply late for renewals as if it is a new application. Should an owner miss their deadline by one day, they would then have to wait five years to reapply under this type of enforcement.
- 7) No just cause - There has never been a study nor any statistics showing that new purchasers of homes are a cause of any harm to short term or long term housing. This bill will not solve any problems and do nothing to help the families of Maui. However, it will cause harm to the economy.
- 8) Safeguards already in place - The current law was vetted by many in the community and already has many protective provisions built into the law. Mainly there are already caps on maximum amount of LEGAL STRH's.
- 9) Attacks legitimate operators not illegal - This bill does nothing to address the growing number of illegal operators and is specifically geared to stop legally operating STRH's.
- 10) SEVEN-year Ban – The bill proposes that a new homeowner has to wait five years to even apply for a permit. The application process can take upwards of two years which, for all intents and purposes, makes this a 7-year prohibition.

- 11) Enforcement - The real issue with short term housing springing up all over our neighborhoods is the lack of enforcement of current law. While there needs to be a remedy for that. This does not do such.
- 12) Unformulated time frame - There is no justification nor connection for the five year banishment.
- 13) Loss of revenue to the County - By forcing more home owners to operate illegally the County is losing out on collected GET and TAT. Also, there is no gain in revenues from legal operators who must remove the exemption from their real property tax bill.
- 14) Overreaching issues – Less than ½ of 1% of new home sales become STRH.

While RAM opposes this bill in defense of property rights and support of legal proprietorship of short term housing we understand that this measure may still pass. If that is the case we urge these amendments.

Mandatory Amendments (if passed):

- 1) *"The dwelling unit has been owned by the applicant for at least five years prior to the date of application starting with any new home purchase six months after the date of enactment of the ordinance;"*

There are several unintended consequences to this bill. The most egregious is the stripping of rights from current homeowners. There needs to be additional language included to protect current homeowner's rights and the rights of new buyer's that are in escrow. It only makes sense this take effect on sales after enactment.

- 2) *"The dwelling unit has been owned by the applicant for at least five years prior to the date of [application] issuance of the permit;"*

As stated above the permitting process can take years for some people. We contend that even if this becomes law homeowners should still have right to apply prior to 5 years. However, the issuance of the permit takes place at the 5 year mark.

- 3) *"The dwelling unit ~~has been owned~~ was purchased by the applicant for at least five years prior to the date of application;"*

Many people transfer title to their properties for numerous reasons. The current language used would automatically disqualify harmless assignment of title transactions even though it was not a sale.

Suggested Amendments (if passed):

- 1) Exception of a six (6) month grace period. Applications submitted within six (6) months after the date of enactment of the ordinance are not subject to the five-year ownership requirement.
- 2) Exception for houses with a building value over \$3,200,000 ...OR... Exception for houses only within the Kapalua, Kaanapali, Wailea, Makena districts or reside directly oceanfront.
- 3) Exception for previously permitted properties. Properties that already have had a short-term rental home permit where the new owner applies for a new permit within three (3) years of purchasing the property are exempt from the five-year ownership requirement. Currently the permits are non-transferable so the existing permits are no longer valid once a property is sold to a new owner. In this case, the new owner would have three (3) years to apply for a new STRH permit. The reasoning behind this was to allow properties already vetted as appropriate short-term rentals and not in the long-term residential housing market when sold to continue as a short-term rental.
- 4) Decrease the moratorium timeline from 5 years to 3 years. If the intent is to curb speculation 3 years is a long enough time on the real estate cycle timeline.

Again, RAM stands in strong opposition. However, if the Council chooses to move this forward; the community would be best served if this were to be referred back to committee to insert the proper language and safeguards as there are some unintended consequences that need to be addressed.

March 20, 2017

To: Land Use Committee, County Council

RE: ESTABLISHING OWNERSHIP DURATIONAL REQUIREMENTS FOR SHORT-TERM RENTAL HOME PERMIT APPLICATIONS (LU-7, CR 17-39)

Please consider this testimony on behalf of myself, an individual property owner.

I was just made aware of the recent hearings regarding an amendment to the STRH ordinance in LU-7 and would like to provide testimony. I have viewed the video of Council Land Use Committee meeting and testimonies from 3/8/17, which I was unfortunately unaware of at the time and did not attend.

I purchased my home in Paia this past December and prior to doing so I thoroughly studied the STRH code to make sure that I would be able to qualify. While the requirements were stringent, I was confident that my property qualified under the current rules and proceeded with the purchase. The fact that Maui County already had a well-thought out set of rules made me feel more comfortable in making an informed decision than I might have if no vacation rental ordinances had been established yet. I am presently in the process of performing some updates to the property and had planned to submit my STRH application once complete. The proposed amendment would not allow me to proceed. I understand the purpose of the amendment is to limit speculation, and I won't get into the merits of that argument as I think others' testimonies have provided facts and data to support the argument against, but I only ask to please not punish those abiding by the existing set of rules.

In the Land Use Committee meeting from 3/8/17, it was stated repeatedly that one of the goals in drafting this amendment was to "do no harm". There are several exemption options in the amendment that were discussed, but none of them would help someone in my situation. The most applicable one would be the six month grace period, but unfortunately, even that will not be enough time to get the appropriate SMA permits, complete construction, get final sign-offs, etc. in order to be able to submit the STRH application.

It seems very unfair that someone like myself who is following the established code and trying to do everything legally should have the rules changed in the middle of the process. I admit that if the five year ownership rule was in effect prior to my purchase, I probably would have reconsidered my purchase.

Among the several sensible exceptions to the five year rule proposed in Tom Croly's testimony was one that seemed extremely fair. It was to have the amendment **apply to homes purchased after the date of enactment**. This way, anyone who had recently purchased or is currently in escrow wouldn't be unfairly subjected to a change in rules.

I implore the Council to please seriously consider this exception. It may not seem like a big deal, but this amendment as-is would have a huge detrimental impact on me and those the in my situation.

Thank you,

Byron Knight  
P.O. Box 791055  
Paia, HI 96779

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2017 MAR 20 AM 10:58  
OFFICE OF THE  
COUNTY CLERK

# FW: LU-7 OWNERSHIP DURATION REQUIREMENT FOR STRH

Mike White

Wed 3/22/2017 8:45 AM

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

**From:** byron knight [mailto:knight\_byron@yahoo.com]  
**Sent:** Tuesday, March 21, 2017 2:25 PM  
**To:** Mike White <Mike.White@mauicounty.us>  
**Subject:** LU-7 OWNERSHIP DURATION REQUIREMENT FOR STRH

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2017 MAR 22 AM 8:48  
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COUNTY CLERK

Council Member White,

I am writing you with regard to the above mentioned proposal to enact a five-year ownership requirement on a property prior to application for an STRH permit. I am a property owner who purchased my property in Paia in December 2016 with the intent of applying for an STRH under the current ordinance.

While I disagree with the proposal in general, I am most affected by it in the way it is to be enacted. It is currently written to take effect within 6 months. For someone like myself who is working to complete improvements, I will never be able to have permits, and final inspections within this timeframe.

I will be denied the current right I have to apply for the STRH if this bill is approved as-is. I see that the first-reading of this bill is on the agenda for this Friday 3/24/17 regular Council meeting. I only ask that consideration be made to enact this bill so that it applies to homes purchased after the date of enactment. This seems to be a fair way not to unjustly punish those who have abided by the current ordinances.

Thank you for your consideration and please let me know if I can provide any further information,  
Byron Knight

# Committee Report 17-39, Amendments to Section 19.65, Short-Term Rental Homes

Livit Callentine <livit.callentine@gmail.com>

Tue 3/21/2017 7:50 PM

To: County Clerk <County.Clerk@mauicounty.us>; LU Committee <LU.Committee@mauicounty.us>;

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2017 MAR 22 AM 7:54  
OFFICE OF THE  
COUNTY CLERK

Dear Chair White and Maui County Council Members,

I am writing to urge you to adopt pending legislation requiring applicants for short-term rental home (STRH) permits to have owned the dwelling unit for at least five years prior to the date of application. You'll be voting on this matter on March 24, 2017. I wish to applaud the Land Use Committee for conducting a thorough review of the matter on March 8, 2017, for your sound amendments to the bill, and recommendation of approval.

I have worked as a planner for the County of Maui, Department of Planning for more than twelve years. Approximately ninety percent of my time is spent processing applications for STRH and bed & breakfast (B&B) permits. I frequently field calls from long-term tenants in crisis because they've been notified by their landlord of intention to apply for STRH. I am asked for help, and I have no help to offer, which is distressing. I also take many calls from eager mainland and international would-be purchasers asking how they can apply for a STRH permit. Everyone wants to cash in on Maui.

We are out of balance. I am acquainted with County employees who live out of a car because they cannot find affordable housing. It was recently reported that approximately forty percent of the properties sold in Maui County were sold to off shore purchasers. There are no controls on rent, so many landlords, particularly those owners who do not live here, raise rents sky high.

Please, take this one small step, and put the brakes on STRH proliferation, by requiring five year ownership prior to application, while we continue to seek solutions to the affordable housing crisis. This is a reasonable requirement that would prevent rampant speculation. I would be happy to discuss this matter further any time.

Mahalo nui loa,

Livit Callentine  
Work 808.270.5537  
Mobile 808.268.5568  
Fax 808.442.0289  
Wailuku, Hawaii

# Written Testimony to the Maui County Council re Short Term Rental Home Ordinance

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2017 MAR 22 AM 7:54

OFFICE OF THE  
COUNTY CLERK

russell.evans@ubs.com

Wed 3/22/2017 5:58 AM

To: ohana@revans.com <ohana@revans.com>;

Cc: County Clerk <County.Clerk@mauicounty.us>; Mike White <Mike.White@mauicounty.us>; Robert Carroll <Robert.Carroll@mauicounty.us>; Stacy S. Crivello <Stacy.Crivello@mauicounty.us>; Alika A. Atay <Alika.Atay@mauicounty.us>; Elle Cochran <Elle.Cochran@mauicounty.us>; Donald S. Guzman <Donald.Guzman@mauicounty.us>; Kelly King <Kelly.King@mauicounty.us>; Riki Hokama <Riki.Hokama@mauicounty.us>; Yukilei Sugimura <Yukilei.Sugimura@mauicounty.us>; mvra08@gmail.com <mvra08@gmail.com>;

📎 1 attachments (692 bytes)

Legal Disclaimer.txt;

Dear esteemed Maui County Council members:

I believe that the Council Land Use committee passed an amendment to the Short-Term Rental House (STRH) ordinance on to the Maui County Council that would require a property owner to own the subject property for (at least) 5 years before applying for a STRH permit and may also require a 5 year waiting period for an operator who has been renting their home on an "un-permitted" basis to apply for a permit.

I am writing to ask that you consider voting against the proposed changes to the STRH ordinance or send the proposed change back to committee for further review.

These proposed changes will make it more difficult to obtain a STRH permit and goes against the spirit to increase compliance with the County STRH measure. If homeowners are prevented from obtaining permits they will be more likely to operate illegally, they may not collect GET & TAT taxes, (which deprives the County and State of revenue) and may not operate under the safety standards of the STRH ordinance. Moreover, un-permitted operators will put an unnecessary burden on the enforcement efforts of the County.

The County ordinance allows for a specific number of permits to be issued. It is my belief that those permits should be allowed to be applied for and if approved, they should be issued. The ordinance should not be changed or amended in a way that alters or hinders the original plan to issue the specific number of permits.

One question I asked is "what's the magic about 5 years"? In BOTH cases, the ownership clause and the un-permitted operator, this length of time seems unnecessarily punitive.

I argue that if you have owned a house (for any period of time) before any changes are made to the ordinance and NOT operated a non-permitted STRH the waiting period to apply should be waived.

I argue that if you buy a house and wish to apply for an STRH permit the waiting period should be 12 months before you can apply. During this time owners must NOT operate illegally. If they do a monetary penalty will be added to the STRH application fee.

I argue that if you have operated illegally, and owned a home for any period of time there should be a "stiff" monetary penalty to apply for a permit in addition to the normal application fees. (For new homeowners the 12 month minimum would still apply.)

To re-state, I believe there should NOT be a 5 year wait for non-permitted operators (who have owned their homes for more than 1 year). The penalty should be monetary, not a waiting period. The waiting period only serves to push people back to operating illegally. In my opinion the penalty could be \$1000 to \$2500 and non-permitted operators who have been cited as such will pay the penalty to "get legal".

I hope you will consider my testimony. I am permitted owner who supports and complies with the County STRH ordinance and all other laws of the State of Hawaii in every manner. I have been regularly visiting Maui since 1984 with my wife and family. We care about the island, the aina, and the community.

Warm aloha,  
Russell Evans  
16 Holomakani Place  
Lahaina, HI 96761

# FW: 5 Year Ownership Requirement for STRH

Robert Carroll

Wed 3/22/2017 11:17 AM

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

Cc: Joyce Murashige <Joyce.Murashige@mauicounty.us>;

Testimony for CR 17-39

**From:** Helene [<mailto:horsulak@aol.com>]  
**Sent:** Tuesday, March 21, 2017 3:35 PM  
**To:** Robert Carroll <[Robert.Carroll@mauicounty.us](mailto:Robert.Carroll@mauicounty.us)>  
**Subject:** 5 Year Ownership Requirement for STRH

Aloha Bob,

My wife and I live in Hana and operate a permitted vacation rental. We are alarmed and disheartened to learn that the Council is planning to remove the exemption for current permit holders that allows a new owner to apply for a vacation rental permit immediately and will now require five years of ownership before application can be made.

We are asking you to oppose this change. Our property has been a rental property for over twenty five years; we have owned it for the last seventeen and have always paid the appropriate taxes, obtained the necessary permits and employed local people to maintain the property.

With the lack of current enforcement of the ordinance we find ourselves at a competitive disadvantage. We made the effort to follow the law in obtaining our permit with the expectation that the total number of STRH's would be reduced to those with permits through active enforcement. Now we find that we are one of even more rentals in Hana, most of them non-permitted, with increased costs and reduced bookings the only result of our labor.

Our only consolation was that when it came time to sell, a new owner could again apply for a permit and be legal. You are removing the one last benefit of our permit. To ask a new owner of a current vacation rental to wait five years when all history of the property as a rental is gone is unacceptable and will destroy all of the business value and good will which can never be recovered. And why would new owners even bother to apply when there is no enforcement?

In our time on Maui we have seen the years of no permits, no way to get a permit and finally in the last few years, a reasonable compromise of standards and requirements for permitting. Now we seem to be returning to a time of no permits.....making it so difficult or impossible that no one can apply because they know they will fail, along with same lax enforcement effort of the past that makes it unreasonable to even pursue a permit.

In all fairness, we oppose the entire concept of not permitting new owners (of all properties) to apply for vacation rental permits because it attacks the actual value of our property, possibly making it more difficult to sell. The reduced value will be reflected in a lower valuation of every property. I cannot imagine that anyone in Hana

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would find this acceptable given the current poor market conditions for home sales. I am sure the majority would not.

*We also find this action discriminatory.* For what other businesses will the Council prohibit a new owner from selling their products for five years? Such action would make many properties worth a lot less than they are now. We feel we are being singled out only because some people do not see the benefits that accrue from the visitors staying in STRH's.

We have been in the Hana community for over fifteen years, now as full time residents. With the exception of a mortgage payment to Bank of America, all of the income from our property, plus a very sizable infusion of cash from our own bank account, stays in Hana and Hawaii in the form of purchases, payments to local contractors and donations to Hana's organizations. *There are no profits* beyond the one we hope to gain upon the sale of our property, when and if that day ever comes.

Please feel free to contact us at any time if you have any questions.

Respectfully,  
Helene and Paul Orsulak  
2925 Hana Highway  
808-248-7775  
[horsulak@aol.com](mailto:horsulak@aol.com)

# Vacation Rental - Committee Report item 17-39

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2017 MAR 24 AM 7:55

Tony Marterie <tjm@norcoast.com>

Thu 3/23/2017 4:00 PM

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

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COUNTY CLERK

Aloha

I have been the owner of our home property for almost 40 years. A few years ago we became a vacation rental and our permit number is STMP 2014-0001.

I am very concerned that the new measures that are being consider, such as not allowing someone to purchase our property, and have the permit transferred in their name immediately, is not fair. If someone has a business in good standing as we do, and they sell their property, they should not have to lose the goodwill that they created. They are not taking advantage of the system but actually bringing goodwill to the Island because of the positive experiences the visitors have being at our Princess Estate in Kula. If we have never been in any violation then I do not feel that this is a just decision for our situation.

Our home is valued at over 4 million dollars so I do not think that keeping this as a vacation rental, whether we own it- or sell it- will take away from the housing needs of the Island.

I would like to see the enforcement of the illegal establishments become the focus of correcting the current system and if there is anything we can do to make it better, I am with you to accomplish this.

Thank you for your consideration in this matter.

Mahalo,



Tony Marterie  
Princess Estate- Kula  
cell: 415 987 5781  
[tjm@norcoast.com](mailto:tjm@norcoast.com)

# STRH- Committee Report Item 1720

mark mcdonald <mmcdonald@hawaii.rr.com>

Thu 3/23/2017 7:07 AM

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

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2017 MAR 24 AM 7:55

OFFICE OF THE  
COUNTY CLERK

MARCH 23, 2017

TO: , Maui County, County Clerk

RE: Testimony by Email

FROM: Mark and Brooke McDonald ([mmcdonald@hawaii.rr.com](mailto:mmcdonald@hawaii.rr.com))

RE: STRH Permit – Proposed Amendment. Committee Report Item 17-39

Dear County Clerk,

We are writing to urge you to please not amend the STRH ordinance requiring 5 years of ownership before a permit could be applied for.

Requiring any new owner of a previously licensed STR from applying for a license for 5 years is un-fair and penalizes people for complying with the law, obtaining a permit and doing the right thing. It also encourages people to operate illegally and has a negative economic impact on the people of Maui.

We used to live full time on Maui and when our children went to college we began to spend more time on the mainland. My wife and I, our children and now grandchildren use our house and are back on Maui as often as we can be. We never rented our house long term and wouldn't because we would not be able to use it ourselves. Also, it is an expensive property and you could not rent it at amount that would justify the value of the property. If we couldn't offer vacation rentals we would have sell our house.

We plan for our children to someday inherit and hopefully keep our family home.

If they could not obtain a permit for 5 years they would not be able to justify or afford the cost to keep the house. They would have to sell it. They would not even be able to legally honor future committed rentals some of which are booked over 1 year in advance.

A property that is currently licensed has complied with all requirements to be licensed including obtaining tax clearances, notifying neighbors within 500 feet and safety inspections. Someone inheriting or purchasing a licensed property should be allowed to honor future committed rentals and be able to continue as a licensed STRH.

If someone buys a home and can't apply for a permit for 5 years, it limits buyers to mostly a small number of people who want a vacation home and can afford to leave it empty when they or their Ohana are not using it. That is a very limited market and will reduce real estate sales, prices and revenue from many sources for the County and the people of Maui. It also encourages anyone who has not owned their home for more than 5 years to rent without a license. This means that they are not paying the licensing fees to the County or the higher property tax rate that those of us who obtained licenses pay. It is also likely that they may not be paying GET and TAT taxes.

As you know, in the past Maui County was concerned about vacation rentals being un-licensed and un-regulated. They encouraged homeowners to obtain licenses. We were among the first to apply and among the first to obtain a license. The licensing procedure took a great deal of time, effort and expense. Once licensed, we began paying an annual license fee, higher property taxes and higher expenses. This is an economic benefit to the people of Maui.

However, those who remain un- licensed don't pay these expenses or add this revenue to Maui.

Our vacation rental has a very positive effect on Maui's economy. In 2016 the expenses for our home were over \$130,000.00. Most of that money stayed on Maui supporting the economy and providing income for the families of the people who work on, manage and maintain our home as well as the taxes generated. If there are 185 licensed STRH's in Maui County and their expenses are even just 25% of ours that is over \$6 million dollars per year that is added to Maui's economy. In addition to this, visitors staying in licensed STRH's spend considerable money each day they are on Maui further adding to the economy.

Requiring any new owner to wait 5 years to apply, encourages more illegal and un-licensed STR's to remain un-licensed. As stated above it also reduces tax and licensing revenue and harms the families on Maui to rely on the income generated from licensed STRHs.

Less than ½ of 1% of single family homes on Maui are licensed STR's. I believe there are 185 licenses issued. Most are costly homes that would not be long term rentals and don't take away from the long term rental inventory.

We respectfully urge you to not amend the STRH ordinance and to send it back to Committee for further amendments to not require 5 year ownership to be licensed or to exempt properties that are currently licensed or are high value homes that would never be a long term rental.

Sincerely- Mark and Brooke McDonald

# CR17-39 Non Support

Chris Smith <chriswsmithla@gmail.com>

Thu 3/23/2017 6:09 PM

To: County Clerk <County.Clerk@mauicounty.us>; Mike White <Mike.White@mauicounty.us>; Robert Carroll <Robert.Carroll@mauicounty.us>; Stacy S. Crivello <Stacy.Crivello@mauicounty.us>; Alike A. Atay <Alike.Atay@mauicounty.us>; Elle Cochran <Elle.Cochran@mauicounty.us>; Donald S. Guzman <Donald.Guzman@mauicounty.us>; Kelly King <Kelly.King@mauicounty.us>; Riki Hokama <Riki.Hokama@mauicounty.us>; Yukilei Sugimura <Yukilei.Sugimura@mauicounty.us>;

Aloha Council Members,

My name is Chris Smith and I live at 106 Halelo Street, Lahaina, Hi, 96761 and I am not in favor of CR17-39.

Thank you,

Chris

--

Chris Smith  
106 Halelo Street, Lahaina, Hi, 97661

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**LU Committee**

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**From:** Robert Carroll  
**Sent:** Thursday, March 23, 2017 4:57 PM  
**To:** LU Committee  
**Subject:** FW: Item CR 17-39

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2017 MAR 24 AM 8:12  
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COUNTY CLERK

**From:** Kammy Hodges [mailto:kammy@kammyhodes.com]  
**Sent:** Thursday, March 23, 2017 4:51 PM  
**To:** Robert Carroll <Robert.Carroll@mauicounty.us>  
**Subject:** Item CR 17-39

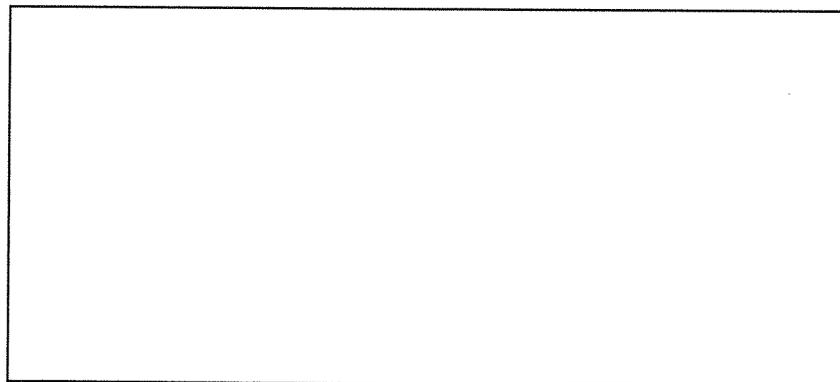
Aloha Councilmember,

Thank you for taking the time to read my testimony. As a voting member of the community and a practicing REALTOR®, I am writing in **OPPOSITION** of **CR17-39**.

This bill substantially limits the rights of all property owners. If this bill were to become law it would discourage people that want to legally participate in the new shared-economy of vacation rentals and fuel the Black Market of illegal rentals. Maui already has a limit on STRH to address this very issue. Lastly, this bill would not benefit our local families nor address our affordable housing crisis. Please **VOTE NO** on this bill.

Should you be in favor of this bill the community would be best served if you send it back to committee to 1) add language protecting current owners, 2) exclude family transfers, 3) address timeline issues.

Mahalo,



**Kammy Hodges**

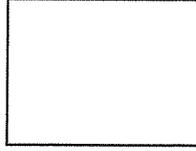
REALTOR (R) at Coldwell Banker Island Properties | RS 79216

(808) 781 - 4465

100 Wailea Ike Dr. 6, Wailea, HI 96753

**[www.kammyhodes.com](http://www.kammyhodes.com)**

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**LU Committee**

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**From:** Robert Carroll  
**Sent:** Thursday, March 23, 2017 10:38 AM  
**To:** LU Committee  
**Subject:** FW: Short Term Rentals Bill  
**Attachments:** S-T RENTAL LETTER.docx

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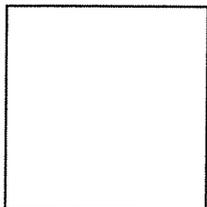
**From:** Sherri Williams [mailto:sherriwilliams@hawaiilife.com]  
**Sent:** Thursday, March 23, 2017 9:41 AM  
**To:** Riki Hokama <Riki.Hokama@mauicounty.us>; Robert Carroll <Robert.Carroll@mauicounty.us>  
**Subject:** Short Term Rentals Bill

I am submitting the attached letter in opposition of this bill passing in its current state. Please read and take into consideration the economy of the island of Lana'i. We are very different from Maui and even from Molokai, we want and need affordable rentals to support our economy.

Thank you. See attached

*Sherri Williams (R) S 74127*  
*Island of Lana'i Realtor*  
**HAWAII LIFE REAL ESTATE BROKERS**  
*Sherriwilliams@Hawaiilife.com*  
*<http://www.sherri@hawaiilife.com>*

*Direct: 415 302-9894 / 808 565-7688*  
*161 Wailea Ike Place, Ste C-103B*  
*Wailea, HI 96753*



March 23, 2017

TO: Ricki Hokama, Councilmember for Lana'i  
Robert Carroll, Councilmember and Chair Land Use Committee

RE: Short Term Rental Standards and Restrictions Bill

The County Council's Land Use Committee recently passed a bill out of committee targeting short-term rental homes with new restrictions and standards; *"The dwelling unit has been owned by the applicant for at least five years prior to the date of application."* This bill would establish a 5-year ownership requirement for Applicants applying for short-term rental home permits. This would fundamentally be a **Prohibition on Short-Term Rental Housing** discouraging homeowners from legally running an STRH and fueling the illegal "black market" to new heights.

The island of Lana'i depends on legal rentals as an offering for affordable rentals in order to enable tourists and Kamaaina alike to visit our island. The recent renovation of The Four Seasons Hotel Lana'i has risen to a price point that does not fit into every budget. Hotel Lana'i, with a limited number of rooms, is constantly full and many would-be visitors go elsewhere on their vacation. Additionally, the Historic District of our City is a place that many people prefer to the big Hotels and have embraced Lana'i over the years and wish to return time and time again.

Our retail community located around Dole Square depends on visitors and already have seen a slow down due to not enough affordable rentals available, particularly in high season. The island of Lana'i and our economy would be **NEGATIVELY EFFECTED** by a bill such as this proposed restriction. We urge the County Council to vote No and consider modifications and/or exceptions to the proposed language to exclude the island of Lana'i from this type of restriction.

**THIS BILL COULD CRIPPLE THE ISLAND OF LANAI'S ECONOMY AND FORCE THE CLOSURE OF MANY BUSINESSES THAT DEPEND ON TOURISM TO SUPPORT THEIR RETAIL STORE, RESTAURANT, OR ACTIVITY.**

**WHAT IS DRIVING THIS NEW RESTRICTION?** There are no studies or statistics that show new purchasers of homes are a cause of any harm to short-term or long-term housing. This bill will not solve any problems and does nothing to help the families of Maui or Lana'i. However, it will cause harm to the economy. There is no justification or connection for the 5-year banishment. By forcing more homeowners to operate illegally, the County is losing out on collected GET and TAT. Also, there is no gain in revenue from legal operators who must remove the exemption from their real property tax bill.

The real issue with short-term housing springing up all over our neighborhoods is the lack of enforcement of current law. While there needs to be a remedy for that, this does not do such. This bill does nothing to address the growing number of illegal operators and is specifically geared to stop legally operating STRHs.

Sincerely,

Sherri Williams, (12 year full-time resident of Lana'i)  
R (S) Hawaii Life Real Estate Brokers (808) 565-7688