

PSLU Committee

From: SEAN KADING <seankading@sbcglobal.net>
Sent: Tuesday, April 27, 2021 11:58 AM
To: PSLU Committee
Subject: West Maui - Resort Destination Areas

Aloha Committee,

My neighbors and I built our homes in the Ka'anapali resort area expecting to occasionally offer our vacation homes as short term rentals pursuant to the approved CC&Rs that explicitly allow transient rental use.

Unfortunately, the Planning Department has refused to recognize our grandfathered rights and is refusing to issue permits. This bad policy is costing the State of Hawaii millions of dollars in lost tax revenue annually.

During your review of the community plan, please clearly define the resort area and correct the Planning Department's erroneous determination that owners in the Ka'anapali Golf Estates (resort area) are somehow not entitled to rent their homes short term or on a month to month (30 day) basis and, instead, must submit to an arduous and arbitrary permit process in order to rent our homes for less than 180 days. My STRH permit application (that I should not need) was recently denied because a handful of full time residents in my community don't want to follow the CC&Rs or a Court-issued Injunction that confirmed the 30 day lease provision is binding on owners. Worth noting, an equal number of my neighbors expressed support for the issuance of my permit. An audit of this permit process would reveal it is entirely arbitrary and capricious.

Importantly – the governing Declaration of Covenants, Conditions and Restrictions for the Ka'anapali Golf Estates was approved by the County of Maui and State of Hawaii over 30 years ago - and at 9 phases of development thereafter – KGE is a planned development and part of the resort area - and the covenants have always expressly allowed owners to lease their homes for terms of 30 days or more. The Lanikeha sub-association covenants explicitly allow both residential and transient rental uses. Many other planned developments (condos and homes) have been recognized as grandfathered by the County of Maui, why is the Ka'anapali Golf Estates being treated differently?

I believe the law is very clear – the KGE and Lanikeha CC&Rs are valid and enforceable and those covenants have not been altered or superseded by any of the subsequent zoning regulation. Vacation homes in the resort area should be used like vacation homes.

Nevertheless, the ZAED is threatening initial fines of \$21,000 and \$11,000 per day (\$330,000 a month) for advertising or offering a KGE vacation home for rent on a monthly basis, for 30, 60, or 90 days, to allow a family to live and work remotely for a few months during a pandemic. The threatened fines interfere with the highest and best use of the property, are punitive in nature and could exceed the value of the home in one year. Why?

Requiring vacation homes in the resort area to sit empty when not in use by the owner's family and friends does not create affordable housing but Maui County could take their share of the considerable annual TAT and GET and the increased property taxes (double – on multi-million dollar homes) that would be generated from each registered short term rental home in the Ka'anapali Golf Estates and use those funds to subsidize many more affordable housing units.

Please help free the vacation homes in KGE so that these off island resort property owners can pay more taxes and contribute to the local economy as intended by decades of planning by the State of Hawaii and County of Maui, perhaps help to define the Ka'anapali resort area like the Visitor Destination Areas on Kauai, and help restore our 30 day rental and transient use rights.

The Ka'anapali Golf Estates was approved as part of the "Ka'anapali Beach Resort, South Mauka." Since 1990 the CC&Rs have allowed rentals of 30 days or more.

Mahalo for your time.

Sean Kading
Kaanapali Golf Estates
Should you wish to have more information, please do not hesitate to call (949) 378-8710.