

## LU Committee

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**From:** Tom Croly <tcroly@maui.net>  
**Sent:** Friday, February 16, 2018 11:20 AM  
**To:** LU Committee  
**Subject:** Testimony for LU-7  
**Attachments:** Testimony for LU7.pdf

Aloha Land Use Committee,  
Please find attached and reprinted below testimony from the Maui Vacation Rental association regarding LU-7 for the Land use committee meeting of Tuesday February 20.

The Maui Vacation Rental association does not support the proposed amendment to the Short term rental ordinance that would require applicants to have owned a property for 5 years before they would be eligible to apply for a short term rental permit. The MVRA was formed in 2002 to help ensure that only legal Short term rental uses would take place in Maui County and today all members of the MVRA permitted. We continue to believe that this new 5-year ownership requirement will only result in greater numbers of unpermitted operations.

The Short Term rental home and Bed and Breakfast home permit ordinances were created to ensure that visitors staying in these accommodations would be safe and that these types of accommodations would not cause negative impacts on neighborhoods and would not negatively affect the availability of resident housing. And when the ordinances are allowed to work, they do exactly that. But further restricting the already very difficult path to a permit for the owner who wishes to follow the rules and do things the right way, only emboldens the unpermitted operator who does not care about doing things the right way.

In the past 5 years there has been 5191 single family homes sold in Maui County. To date just 42 of those 5191 homebuyers have been granted a short term rental home permit. Certainly, we know that many of the 5191 homebuyers are operating illegally as short term rentals without permits. How many, we do not know. But why would we seek to tell those who wish to follow the rules and permitting process that they may not do so for 5 years and just allow those who would choose not to the opportunity to fill the market demand for vacation rentals.

Maui County showed leadership to the other Hawaii counties in the creation of the Bed and Breakfast and Short term rental ordinances that allowed these uses to be tracked, taxed and regulated. Maui County continues to struggle with enforcement of unpermitted short term rental uses. And this measure does nothing to help address that problem.

In the 5.5 years that the STRH ordinance has been part of Maui County code, approximately 271 permits have been issued and 230 are currently active. Some properties previously granted short term rental permits are now in long term use as the primary home of their current owners, some are in second home use and sit empty for most of the year no longer generating the taxes, visitor spending and jobs that they did while they were operated as short term rentals.

We cannot stress strongly enough that this proposed measure is wrong and will serve to undermine the intent and effectiveness of our vacation rental ordinances, but since the chair has brought this measure back from the dead, he seems intent on pushing it thru, we wish to point out the flaws in this current version that would have several unintended but very predictable consequences besides increasing unpermitted unregulated short term rental uses.

First, it would exclude many property owners from making application just because they

have changed the way that they hold title to their property for estate planning or limiting personal liability, because they changed their property ownership to a trust or LLC in advance of making application for a permit. It would also exclude family members who took ownership of a property thru inheritance.

Second it would be unfair to property owners who have purchased their homes during the past 5 years and have the intent or have already applied for a permit.

These unintended consequences could be addressed by amending the change to read:

0. Short-term rental homes shall be limited to single family dwelling units and accessory dwelling units [existing and] constructed at least five years prior to the date of application for the short-term rental home permit[.] that also meet at least one of the following criteria:

1. The applicant purchased the dwelling unit prior to June 30, 2018; or

2. The dwelling unit has been owned by the applicant for at least five years prior to the date of application; or

3. The last change of ownership was within a family and was not part of a fair market sale. The ownership change could result from (but is not limited to):

a) Inheritance; or

b) Family planning ownership change to a trust, LLC, LLP, or corporation; or

c) Family members purchasing the ownership share of other family member; or

4. The dwelling had a valid Short Term rental home permit in place immediately preceding the most recent sale of the property.

We believe that the changes noted above would create a greater fairness and more clearly help this measure better meet its intent to curb speculative purchases of dwellings for short term rental uses.