

**RICHARD T. BISSEN, JR.**  
Mayor

**KATE L. K. BLYSTONE**  
Director

**ANA LILLIS**  
Deputy Director

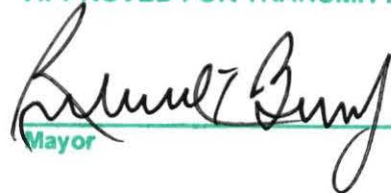


**DEPARTMENT OF PLANNING**  
COUNTY OF MAUI  
ONE MAIN PLAZA  
2200 MAIN STREET, SUITE 315  
WAILUKU, MAUI, HAWAI'I 96793

May 22, 2025

Honorable Richard T. Bissen, Jr.  
Mayor, County of Maui  
200 South High Street  
Wailuku, Hawai'i 96793

**APPROVED FOR TRANSMITTAL**

 5.23.25  
Mayor Date

For Transmittal to:

Honorable Tasha Kama, Chair  
Housing and Land Use Committee  
200 South High Street  
Wailuku, Hawai'i 96793  
via: [hlu.committee@mauicounty.us](mailto:hlu.committee@mauicounty.us)

Dear Chair Kama:

**SUBJECT: BILL 9 (2025), AMENDING CHAPTERS 19.12, 19.32, AND 19.37,  
MAUI COUNTY CODE, RELATING TO TRANSIENT VACATION  
RENTALS IN APARTMENT DISTRICTS (HLU-4)**

Thank you for your April 30, 2025 letter requesting information pertaining to Bill 9. The following identifies your request followed by the Planning Department's (Department) response:

- 1. On page 2 of your Department's report, you note that the Maui Planning Commission requested that the Council consider excluding properties that are community plan designated for hotel use and properties that are already partially hotel-zoned.*

*Could you please quantify those properties, specify which properties are affected, and provide an analysis that would enable the Committee to determine how this consideration might impact Bill 9?*



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The Maui Planning Commission's discussion on this issue was focused upon the current list of "Apartment District Properties Allowed to be Used for Short-Term Occupancy" (a.k.a. "Minatoya list"), which identifies specific properties along with their respective zoning and community plan designations. While the Department updates this list from time to time, it should be noted that the list was not originally created by the Department and therefore may have some inaccuracies, which is the reason for the note at the bottom of the list indicating that the list is subject to error.

Currently, this list shows five properties that have a zoning and/or community plan designation that in addition to their Apartment zoning designation also includes another designation that would allow for hotel type uses. These five properties are as follows:

Project Property	Master TMK	Address	Yr. Built	County Zoning	Community Plan Designation	Number of Units
Wailea Ekahi I	210080640000	3300 Wailea Alanui Dr.	1976	Apartment/Business Resort/Open Space/Planned Unit Development	Multi-family/Open Space	100
Wailea Ekahi III	210080650000	3300 Wailea Alanui Dr.	1976	Apartment/Hotel-1/Open Space/Planned Unit Development	Multi-family/Open Space	104
Papakea	440010550000	3543 Lower Honoapiilani Rd.	1977	Apartment-2/Hotel-2	Residential	364
Hale Kaanapali	440060110000	45 Kai Ala Dr.	1967	Apartment-2/Hotel/Open Space	Resort Hotel	258
Maui Eldorado	440080210000	2661 Kekaa Dr.	1968	Apartment-2	Resort Hotel	205
<b>Total</b>						<b>1,031</b>

Importantly, the list's zoning and community plan designations do not always portray what one might expect and as noted earlier there may be some inaccuracies. For example:

- **Wailea 'Ekahi I** – the list indicates that this property has multiple zoning designations. According to the zoning map, most of the property is zoned Apartment while a small portion is zoned Business Resort.
- **Wailea 'Ekahi III** – according to the zoning map this property has approximate equal amounts zoned Hotel-1 and Apartment.
- **Papakea** – While the list indicates this property as having Apartment-2 and Hotel-2 zoning designations, the County's current zoning map depicts this property as only having an Apartment zoning designation. However, prior to adoption of the

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current zoning map, this property did have a smaller portion of its property zoned Hotel-2 while the majority was zoned Apartment.

- **Hale Kā'anapali** – this property currently has an accurate community plan designation of Resort Hotel.” However, the current zoning map depicts this property as having only an Apartment-2 zoning designation despite the list also indicating a Hotel zoning designation.
- **Maui Eldorado** – the zoning map accurately identifies this property as having an Apartment-2 zoning designation and the community plan designation is accurately identified as “Resort Hotel.”

In summary, it appears that all five properties currently or at some time in the past had a zoning and/or community plan designation of a hotel use type on all or a portion of their property. The Maui Planning Commission recommended that the Council consider excluding these properties from the proposed bill. These properties include a total of 1,031 units and thus if excluded from the bill, they would be able to continue operating transient vacation rentals.

If the Council decides to exclude these and/or other properties from the bill, the most effective process for doing so would be to change their respective zoning and/or community plan designation from apartment to hotel use. Such a process would require Planning Commission review and Council approval. When changing a zoning and/or community plan designation the Planning Commission and Council should evaluate each project's level of consistency with the General Plan and the purpose and intent of the relative zoning districts. In these specific cases, level of consistency may be weighed against their originally intended use and/or current/past operations of hotel/TVR versus long-term residential.

2. ***Has your Department researched the range and median monthly fees for the units on the Department's list, including association fees, maintenance fees, and insurance costs? If so, or if you are able to obtain that information, could you please share it with the Committee?***

While the Department has not conducted its own analysis of the range and median monthly fees for the units on the list, such an analysis can be found in the March 31, 2025 analysis prepared by the University of Hawai'i Economic Research Organization (UHERO), entitled, “An Economic Analysis of the Proposal to Phase Out Transient Vacation Rentals in Maui County Apartment Districts” (Analysis). Specifically, on page 12 of the Analysis, it indicates “*We define carrying costs as the predictable expenses associated with owning a unit. These include insurance premiums, maintenance fees, HOA*

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*dues, land leases, and property taxes.” The Analysis goes on to state, “The median monthly carrying cost for TVRs in the Apartment zones is \$917 and the mean is \$1,143.” For more detail and assumptions used in this calculation, the Department recommends reviewing the Analysis’ page 12 discussion on “Carrying Costs.”*

**3. *On page 3 of the Director of Finance’s correspondence dated May 29, 2024, the Director states:***

***There are 46 condominium projects, with 1,770 units, that are zoned apartment and were built before 1990 that are not on the “Apartment District Properties Allowed to be used for Short-Term Occupancy” list. Some of these projects may qualify to be on the list given the current criteria in the code. For example, in March of 2024, Kihei Villa, with 24 units, was added to the list. Four of these 46 projects were destroyed in the August wildfire. Seven of these projects are located in Lahaina.***

***a. Could you please advise whether any of these projects and associated units are able to operate transient vacation rentals “by right”? Would these projects and units also be impacted by Bill 9? Please explain.***

The “46 condominium projects, with 1,770 units, that are zoned apartment and were built before 1990” that are referenced in the Department of Finance’s letter could operate as transient vacation rentals (TVR) “by right” if they meet all criteria identified within Maui County Code (MCC) Section 19.12.020.G. Briefly, these criteria require that: the structure was lawfully permitted on April 20, 1989; TVR use was legally conducted in any unit within the building as of January 7, 2022; the number of rooms or units did not increase beyond those allowed as of January 7, 2022; the owner holds GET and TAT licenses and is current in payment; and advertisements for the TVR use must include the property’s tax map key number.

Thus, if any of these units meet the criteria in MCC Section 19.12.020.G, as discussed above, then they would be impacted by Bill 9 because Bill 9 would eliminate TVR use as a permitted use in the apartment districts. Further, the draft ordinance for Bill 9 includes Section 6, which proposes a revision to MCC Section 19.500.110.C – Nonconforming Uses. This revision would ensure that the existing TVR uses within the apartment districts could not continue as nonconforming uses since the TVR use is being phased out as permitted in Section 46-4(a) Hawai‘i Revised Statutes.

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- b. ***If some or all of the above projects and units are able to operate TVRs “by right,” please explain why they were not included on the list, whether they are classified as TVR-STRH for real property tax purposes, and any other information you believe would be helpful to the Committee’s analysis of these properties.***

As noted earlier, the list of “Apartment District Properties Allowed to be Used for Short-Term Occupancy” (a.k.a. “Minatoya list”) was not originally created by the Department, although the Department updates the list from time to time. The list is not nor has ever been an exhaustive list of only those properties that may operate TVR use in the apartment districts. The Department has updated the list when it becomes aware of a property located in the apartment districts that is operating TVR and is not currently listed.

For example, as correctly noted in the Finance Director’s letter, in March 2024, Kīhei Villa, with 24 units, was added to the list by the Department. This was done at the request of owners within Kīhei Villa only after they provided proof to the Department that they met all the criteria within MCC Section 19.12.020.G (as summarized in the answer to question “a” above).

The Department is unable to confirm if all past verifications of allowable TVR use in the Apartment districts have been placed on the list. Additionally, there may be properties within the apartment districts that are operating TVR use that the Department has not been made aware of. These properties may or may not meet the MCC criteria to be allowed to operate a TVR use.

Furthermore, according to the Finance Department, all of the 46 projects/1,770 units have a tax classification of “Non-Owner-Occupied.”

4. ***Paragraph 9 on the attachment to the Director of Finance’s correspondence, entitled “Minatoya (Apartment Zoned) TVR Statistics from RPAD as of 4/29/24 (2024 assessment year),” states: “About 46% of the Minatoya condominiums are oceanfront with an average assessed value of \$937,300 for 840 SF of living area with an average bedroom and bath count of 1.6.” Could you please advise whether these condominiums are within the Sea Level Rise Exposure Area, and if so, the number of projects and associated units affected?***

In response to this question, the Department conducted a mapping exercise that overlayed the 3.2’ Sea Level Rise Exposure Area over building footprints taken from aerial photographs. This is a very preliminary analysis and subject to some error – verification



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should be through a detailed property analysis. As shown in the table below, structures within 43 project properties on the Minatoya list appear to be affected by the 3.2' Sea Level Rise Exposure Area within a range of "Very Minimal Exposure" to "Full Exposure." The 43 affected properties contain a total of 2,440 units.

The mapping exercise could not determine exactly how many of a project's units are within the exposure area as that effort would require a more detailed individual site analysis. Regarding exposure level categories in the table below, they should be considered subjective in interpretation. "Very Minimal to Minimal" typically means that a small portion of the property and/or structure(s) is affected. "Significant to Very Significant" typically means a larger portion of the existing structure(s) are affected. "Full," however, means that all structures on the property are within the exposure area.

Exposure Level	Number of Projects per Exposure Level	Total Number of Units in Projects per Exposure Level
Very Minimal	1	141
Minimal	3	328
Significant	8	735
Very Significant	15	666
Full	16	570
<b>Total</b>	<b>43</b>	<b>2,440</b>

**5. *Of the 6,208 parcels in the TVR-STRH Real Property Tax classification, how many are operating as Short-term Rental Homes and how many are actually operating as TVRs?***

To operate a Short-term Rental Home, a property owner must obtain approval of a Short-term Rental Home Permit from either the Planning Director or respective Planning Commission per the requirements of MCC Chapter 19.65. This is a different process than those persons desiring to operate a TVR use in the Apartment zoning districts, which is a "by-right" use provided that certain criteria are met as discussed in the answer to question #3a above. The Department tracks all Short-term Rental Home Permits issued because MCC Chapter 19.65 establishes limits on the total number of permits that can be issued per each Community Plan area.

The Department cross-checked the list of Short-term Rental Home Permits against the Minatoya List and discovered only one property that is on both lists. This property has a zoning district designation of Apartment-1 and a Community Plan designation of Single-family. There appears to be two units on the property with three bedrooms in each, however the recent renewal of the Short-term Rental Home Permit indicates one dwelling with 6 bedrooms. This Short-term Rental Home Permit was originally issued in 2015.

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Thus, besides this specific unit, all the remaining 6,208 units appear to be operating as TVR's and do not have an associated approved Short-term Rental Home Permit.

6. ***Thank you for transmitting a copy of the UHERO report, entitled "An Economic Analysis of the Proposal to Phase Out Transient Vacation Rentals in Maui County Apartment Districts," dated March 31, 2025. Please provide any comments the Department may have in response to the report that may help the Committee's analysis of Bill 9.***

We have reviewed the UHERO report and offer some observations for the Council to consider. First, it is important to preface that from a land use perspective, the Department believes that the provision of long-term ownership and rental uses should be a priority in the County's Apartment districts as outlined in the "Purpose and intent" section (MCC 19.12.010) of the Apartment District. Further, the General Plan acknowledges our current housing shortage and provides policy direction on the importance of expanding housing opportunities and balancing the potential impacts of TVR uses on the provision of long-term housing. The General Plan also provides policy direction related to the economic value of visitor-serving uses. As noted in the Department's June 25, 2024 report to the Planning Commissions, achieving an appropriate balance between resident needs and visitor-serving uses and accommodations is a delicate endeavor.

As discussed in the Department's June 25, 2024 report to the Planning Commissions, the Department identified potential issues related to affordability, loss of employment, and reduced tax revenue to the County and discussed these items with the commissions. While the commissions did not have the UHERO Analysis as part of their deliberations, the Analysis confirms that these issues are valid and the potential social and economic impacts may be significant. The Department notes that the UHERO report did not explore the economic impact of maintaining TVR use in the Apartment district. The long-term impacts of allowing this use to continue while local residents struggle to find housing could also be significant. The Department recommends that the Council invite experts on the economic impact of this proposal to help weigh these potential impacts in its policy discussion of the proposed bill along with any alternatives to achieve the balance implied through General Plan policy.

7. ***Attached is a copy of the proposed CD1 version of Bill 9 (2025) pending with the Department of the Corporation Counsel for review. Please provide any comments you would like to share on the proposed CD1 version.***

The Department worked closely with Corporation Counsel on the version that was transmitted by the Planning Department to the County Council Chair on December 30,



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2024. Given the high probability that the proposed ordinance may be challenged, the Department is encouraged that you are also requesting review of the CD1 version by Corporation Counsel. While the CD1 version appears consistent with the intent and purpose of the December 30, 2024 version, the Department has identified the following items that may need further consideration.

- Generally, Sections 1, 9 and 10 of the CD1 version differ substantially from Sections 1, 7 and 8 of the December 30, 2024 version. As noted above, Corporation Counsel should opine upon these differences from a legal perspective.
- The last sentence of the first paragraph of Section 1 of the CD1 version references the terms “multi-unit” and “nonconforming” regarding Ordinance 1797’s exception, but Ordinance 1797 does not utilize these terms.
- The second to last paragraph in Section 1 of the CD1 version indicates that *“As of May 3, 2024, Subsection 46-4(a), Hawai‘i Revised Statutes, provides that, “over a reasonable period of time,” uses that allow transient accommodations “may be phased out or amortized in any zoning district by county zoning regulations.”* While this is a correct statement, as it specifically relates to this Bill, it should be noted that HRS already allowed this to occur in Apartment Districts prior to May 3, 2024. As such, reference to the May 3, 2024 date may be misleading.

Thank you for the opportunity to provide this information. If you have any further questions, please do not hesitate to contact me.

Sincerely,



KATE L. K. BLYSTONE  
Director

cc: Ana Lillis, Deputy Director (pdf)  
Laksmi Abraham, Director of Communications & Government Affairs  
Mimi Desjardins, Corporation Counsel  
Kristin Tarnstrom, Corporation Counsel  
Gregory Pfof, Administrative Planning Officer (pdf)

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## HLU Committee

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**From:** Michelle L. Santos <Michelle.Santos@co.maui.hi.us>  
**Sent:** Tuesday, May 27, 2025 9:27 AM  
**To:** HLU Committee  
**Cc:** Cynthia E. Sasada; Erin A. Wade; Josiah K. Nishita; Kelii P. Nahooikaika; Ana L. Lillis; joy.paredes@co.maui.hi.us; Katie L. Blystone  
**Subject:** MT#11071 Bill 9  
**Attachments:** MT#11071-HLU Committee.pdf