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COUNTY COUNCIL

COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

October 30, 2024

Ms. Kate Blystone, Director
Department of Planning
County of Maui
Wailuku, Hawaii 96793

Dear Ms. Blystone:

**SUBJECT: BILL 105 (2024), AMENDING SECTION 19.500.110,
MAUI COUNTY CODE, REGARDING
NONCONFORMITIES (HLU-34)**

Thank you for your participation in the Housing and Land Use Committee's meeting of October 23, 2024, where the Committee discussed Bill 105.

May I please request your response to the following:

1. Please explain the differences between a nonconforming structure and a nonconforming use.
2. Please explain the differences between "nonconforming" and "legally nonconforming," if any.
3. To the extent possible, please provide a list of all known nonconforming structures and uses in West Maui that would be allowed to be repaired, reconstructed, or reestablished under Bill 105.
4. Please explain how the Department intends to notify the public of opportunities available under Bill 105.

5. Please explain how the Department will implement Bill 105, including coordination with the Office of Recovery, Department of Public Works, and Department of Fire and Public Safety.
6. Please explain how Bill 105 will affect the following:
 - a. Transient vacation rental properties, such as Lahaina Inn, Pioneer Inn, and The Plantation Inn.
 - b. Condominium properties, such as Āina Nalu, Puamana, and The Spinnaker.
 - c. Properties along Front Street, particularly those located directly adjacent to the ocean or had structures located above the ocean.
 - d. Properties located in the Historic districts, including the ability to repair and reconstruct the historical aspects of the property.
 - e. Properties in the Apartment districts.
 - f. Properties in the Business districts.
7. Please explain how Bill 105 ensures Lahaina will be rebuilt safely, including addressing density issues and accounting for Fire Code and Building Code requirements.
8. Please explain whether nonconforming structures will impact the installation of underground power lines.
9. Will Bill 105 impact United States Representative Tokuda's initiative to designate Lahaina as a National Heritage Area? Why or why not?
10. Please define "setback" and explain how setbacks are measured.
11. How does Bill 105 affect a property's setbacks? For example, could a property be reconstructed with the same nonconforming setbacks it had prior to being damaged or destroyed? Or could the property be reconstructed with different setbacks than what it had before but

that are still nonconforming? Are there any nonconforming setbacks that would not be allowed?

12. Please explain how “more than 50 percent of [a structure’s] replacement cost” is determined. Is the “cost” used from prior to after the disaster?
13. Please provide the types of “proof” property owners may use to show that their structure was destroyed due to accidental means.
14. Please provide the types of “proof” property owners may use to show their nonconforming structure or use existed prior to a disaster.
15. Please explain how a use or structure is determined to be “reestablished.”
16. If a structure is being reconstructed but does not receive final inspection within the initial five-year deadline or the two-year extension, what happens to the structure? Will it need to be demolished?
17. Please provide examples of “good cause” that would allow the Director to grant a two-year extension for a nonconforming structure to receive its building permit, complete repair or reconstruction, and receive final inspection.
18. If transient vacation rental uses are excluded from Bill 105, please explain the impact it would have on transient vacation rentals. In particular, please explain how this would impact Ordinance 5473. To the extent possible, provide a list of properties that would be impacted.
19. If the amount of short-term rental permits issued exceeds the amount of permits authorized by the Maui County Code, are permit holders considered nonconforming?
20. As it relates to Maui Guest House at 1620 Ainakea Road, Lahaina:
 - a. Please identify the nonconformity that allowed bed and breakfast operations at this facility prior to the August 2023 Maui wildfires.

- b. If the nonconformity does not exist under Bill 105, can the property owner apply for a Bed and Breakfast home permit? Please explain why or why not.
 - c. If the owner can apply for a Bed and Breakfast home permit, when can they apply? What must be included in the rebuilt structure, if anything, to qualify?
21. Please explain how the Department will address the lack of parking in Lahaina if nonconforming properties do not need to meet current off-street parking requirements.
 22. Is there an opportunity to create an agency similar to the Maui Redevelopment Agency for Lahaina? Please explain why or why not.
 23. How do nonconformities affect insurance costs?
 24. Does the Department recommend incorporating Insurance Institute for Business & Home Safety standards into the Maui County Code? Please explain why or why not. Furthermore, would incorporating these standards affect insurance costs?
 25. Please explain what options owners have with their properties if Bill 105 is not enacted.
 26. Please provide your feedback on comments the Committee has received from other Departments relating to Bill 105.

May I further request you transmit your response to hlu.committee@mauicounty.us by **November 15, 2024**. To ensure efficient processing, please include the Committee item number in the subject line.

Should you have any questions, please contact me or the Committee staff (James Krueger at ext. 7761, or Jennifer Yamashita at ext. 7143).

Ms. Kate Blystone
October 30, 2024
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Sincerely,

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

TASHA KAMA, Chair
Housing and Land Use Committee

hlu:ltr:034apl04:jgk

cc: Mayor Richard T. Bissen, Jr.
Deputy Planning Director

HLU Committee

From: HLU Committee
Sent: Wednesday, October 30, 2024 9:30 AM
To: Kate Blystone
Cc: HLU Committee; Ana Lillis; joy.paredes@co.maui.hi.us; Michelle Santos; 'Zeke Kalua'
Subject: PLEASE READ attached letter re: HLU-34; reply by 11/15/2024
Attachments: 034apl04_TK.pdf

Importance: High

Director Blystone: Please refer to the attached letter from the Housing and Land Use Committee Chair, dated October 30, 2024. Please respond by **November 15, 2024**.

Mayor's Office: Please forward the attached letter to Mayor Bissen for his information.

Thank you,
HLU Committee Staff