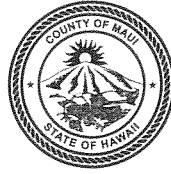


ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
City Director



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OFFICE OF THE MAYOR

COUNTY OF MAUI

DEPARTMENT OF PLANNING

OFFICE OF THE
COUNTY CLERK

October 26, 2016

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OFFICE OF THE
COUNTY COUNCIL

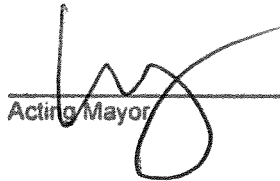
RECEIVED

Honorable Alan M. Arakawa
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Mike White, Chair
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL


Acting Mayor 10/27/16 Date

Dear Chair White:

SUBJECT: MR. WILLIAM SPENCE, PLANNING DIRECTOR, TRANSMITTING RESOLUTION NO. 16-94 ENTITLED, "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A DRAFT BILL AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO OWNERSHIP DURATIONAL REQUIREMENTS FOR SHORT TERM RENTAL HOME PERMIT APPLICATIONS"

The purpose of the draft bill is to require that Short-Term Rental Home (STRH) Permit Applicants own a property for at least five (5) years prior to applying for a permit, with three (3) exceptions. The first exception provides a grace period of six (6) months after the bill is adopted. The second is an exemption for structures valued high enough to take them out of the long-term residential housing market. The proposed bill lists that amount as a building value of one million dollars (\$1,000,000.00) or more. The third exception allows properties previously used for short-term rental home with a permit to be eligible for a permit again, if the new owner applies within three (3) years of purchasing the property.

As part of its review of the proposed ordinance, the Council Planning Committee asked the Department of Planning (Department) to compile a list of existing STRH properties and their real property tax information, including the building values of the STRH dwellings. That table is included as Exhibit 2 of the attached Staff Report.

COUNTY COMMUNICATION NO. 16-278

Honorable Alan M. Arakawa, Mayor
 For Transmittal to:
 Honorable Mike White, Chair
 October 26, 2016
 Page 2

Resolution No. 16-94 was received by the Department on July 7, 2016. Pursuant to Section 8-8.4 and Section 8-8.6 of the Charter of the County of Maui, the Department submitted the Resolution to the Planning Commissions for their review and recommendations.

The following table is a summary of the specific Planning Commission and Public Hearing Meetings, with dates, as well as the Commissions' comments and recommendations:

Commission and Public Hearing Date:	Comments and Recommendations:
<p>Hana Advisory Committee (HAC) to the Maui Planning Commission</p> <p>Aug. 30, 2016</p>	<p>The HAC voted to recommend approval of the bill, however, does not support exemptions 2 and 3 as follows.</p> <ul style="list-style-type: none"> ▪ The Committee does not support exempting high-end properties from the five-year ownership requirement. In Hana, the more expensive homes are rented for less than in other areas and thus are part of their long-term housing market. ▪ The Committee does not support exempting properties with a previous STRH permit from the five-year requirement. The Committee Members would like to see STRH homes return back into the long-term residential market. High-end properties rented long-term still provide jobs in landscaping and upkeep.
<p>Molokai Planning Commission (MoPC)</p> <p>Sept. 8, 2016</p>	<p>The MoPC unanimously voted to recommend denial of the draft ordinance and had the following comments:</p> <ul style="list-style-type: none"> ▪ The Council needs to address the larger issue of a lack of housing for long-term residents. The travel and tourism industry should not be punished. This Bill would temper the economic benefits of tourism which hurts local people. ▪ If approved, the Members would like to see legacy properties protected so that properties may pass down through the generations. Being allowed to short-term rent helps local families to keep properties when they are inherited. ▪ They acknowledged the difficulty of finding a balance between private property rights, the economic benefits of tourism, and protecting Molokai's unique character.

Honorable Alan M. Arakawa, Mayor
 For Transmittal to:
 Honorable Mike White, Chair
 October 26, 2016
 Page 3

	<ul style="list-style-type: none"> ▪ Members questioned whether the type of real estate speculation this bill is intending to limit is bad for Molokai.
<p>Maui Planning Commission (MPC) Sept. 13, 2016</p>	<p>The MPC voted to recommend approval of the bill, however, does not support exemptions 2 and 3 as follows:</p> <ul style="list-style-type: none"> ▪ The Commission does not support exempting high-end properties from the five-year ownership requirement. There will be a trickle-down effect if the high-end properties are not excluded which will produce more long-term residential housing. ▪ They disagree with the third exemption allowing the STRH properties to be allowed to come in for permits if sold. The Members did not think that property owners should be allowed to transfer the STRH permit with the property. ▪ The Commission asked that inherited properties be excluded from the five-year ownership requirement. <p>The Commission supports the bill because it will provide a much needed break to the rapidly expanding housing prices.</p>
<p>Lanai Planning Commission (LPC) Sept. 28, 2016</p>	<p>The LPC voted to recommend approval of the proposed bill, however, does not support exemption 3 as follows:</p> <ul style="list-style-type: none"> ▪ The Commission does not support the permit transferability clause which would allow previously permitted STRH properties an exemption from the five-year ownership requirement

TRANSMITTAL PACKAGE

In addition, the following items have been attached for your review:

1. Report Memorandum with Exhibits, including a table showing real property tax valuations for existing STRH properties, from William Spence, Planning Director, to the Maui, Molokai, and Lanai Planning Commissions, dated August 17, 2016; and
2. Written public testimony submitted after August 17, 2016.

Honorable Alan M. Arakawa, Mayor
For Transmittal to:
Honorable Mike White, Chair
October 26, 2016
Page 4

The Department will transmit the Minutes of the Hana Advisory Committee and the Planning Commissions in a subsequent transmittal. Should you have any questions, please feel free to transmit them to the Department of Planning via transmittal through the Office of the Mayor.

Sincerely,



 WILLIAM SPENCE
Planning Director

Attachments

xc: Clayton I. Yoshida, Planning Program Administrator (PDF)
John S. Rapacz, Planning Program Administrator (PDF)
Gina M. Flammer, Staff Planner (PDF)
Maui Planning Commission
via Carolyn Takayama-Corden, Secretary to the Boards and Commission (PDF)
Molokai Planning Commission
via Suzie Esmeralda, Secretary to the Boards and Commission (PDF)
Lanai Planning Commission
via Leilani Ramoran-Quemado, Secretary to the Boards and Commission (PDF)
Hana Advisory Committee
via Suzie Esmeralda, Secretary to the Boards and Commission (PDF)
Dawn Lono, Hana Council Office

WRS:GMF:lk:atw

Project File
General File

S:\ALLAPO\19.65 STRH\Reso 16-94 STRH 5-Year Ownership Req\Council Transmittal-102616.doc

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI

DEPARTMENT OF PLANNING

August 17, 2016

MEMO REPORT

TO: Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee

FROM: William Spence
Planning Director

A handwritten signature in blue ink, appearing to read "WS", is written over the printed name of William Spence.

SUBJECT: RESOLUTION NO. 16-94 ENTITLED "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A DRAFT BILL AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO OWNERSHIP DURATIONAL REQUIREMENTS FOR SHORT TERM RENTAL HOME PERMIT APPLICATIONS" (PC-42)

The Department of Planning (Department) received the above-referenced draft bill on July 20, 2016, from the Maui County Council (Council). The deadline for the planning commissions to transmit comments back to the Council is November 21, 2016. Attached is a copy of the bill transmittal letter, the Committee Report dated July 1, 2016, the Resolution referring it to the respective planning commissions, and the draft bill. (Exhibit 1)

The purpose of the draft bill is to amend Section 19.65.030(O), Maui County Code, to require that short-term rental home (STRH) permit Applicants own a property for at least five (5) years prior to applying for a permit, with three (3) exceptions. The first exception provides a grace period of six (6) months after the bill is adopted. The second is an exemption of the five (5) year ownership requirement for structures valued high enough to take them out of the long-term residential housing market. The proposed bill lists that amount at one million dollars (\$1,000,000.00). Any residential structure with a value less than \$1,000,000.00 will be eligible for a short-term rental home permit only after the owner has owned the property for at least five (5) years. The third exception allows properties previously used for short-term rental home with a permit to be eligible for a permit again, if the owner applies within three (3) years of purchasing the property.

GENERAL DESCRIPTION

The proposed bill establishes a five (5) year ownership requirement for Applicants applying for short-term rental home requirements with three (3) exceptions:

1. **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. **Houses with building values over \$1,000,000.00**
3. **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.

BACKGROUND

The short-term rental home ordinance creating a new category of legal vacation rentals became effective on May 23, 2012. The initial law had a two-year review clause. The original bill was reviewed by Department, planning commissions, and Hana Advisory Committee in 2014. The Council's Planning Committee discussed the bill in multiple committee meeting between November 2014 and February 2016. During the second reading of the proposed bill, Councilmember Bob Carroll proposed an amendment creating a five-year ownership requirement for properties applying for short-term rental home permits. At that time, the Council requested that instead of taking action at second reading of the bill, the proposed amendment be referred to the Planning Committee and discussed separately. The amendment was written as a proposed bill and was referred to the Planning Committee.

At the June 2, 2016 Planning Committee meeting, Councilmember Carroll, stated that the purpose of the measure is to discourage investors from speculating with long-term rental properties by buying them and immediately converting them into short-term rentals. We have limited land area for housing that is difficult for residents to obtain even before we allowed short-term rentals. There was recognition that Hawaii residents earn low wages but have high property values. This makes it difficult for current residents to buy property and increases the demand for rental housing. In addition, the demand for housing by off-shore buyers is strong and will continue to increase over time because Maui has the lowest property taxes in the country. It is anticipated that Maui's low residential property tax rate will continue to attract mainland investors due to the high property taxes on the West Coast. The proposed bill does not prevent an offshore investor from holding a home for five (5) years and then either selling it or turning it into a vacation rental. Councilmember Carroll believes this would lead to more housing being available for long-term rentals and that the proposal hurts no one. He stated that this is a policy decision that needs to be made and asked if we are going to have a housing policy that keeps more rentals for our current residents or one that encourages having more vacation rentals.

One Committee member expressed frustration over the issue of short-term rentals and the amount of time being spent on these policies. It was stated that tourism is a significant part of economy and that we should be concerned over unintended consequences of limiting this sector of our economy. The effect on housing was thought to be minimal because many of these rentals are high-end homes that do not contribute to the inventory of residential housing. There was a desire not to exclude high-end homes which pay a disproportionately high amount of taxes.

It was also stated that the root of the problem is that our housing inventory is not growing due to a lack of building new homes. This bill is just a band-aid and will not solve the inventory problem, but it is one of many small solutions.

The \$1,000,000.00 provision was added to allow high-end homes to be used for short-term rental, with the belief that homes with valuations of over \$1,000,000.00 are not used as long-term rentals. The building value of \$1,000,000.00 was specified so that land area is not included in the valuation which could include properties with a small affordable home, but on lots with large acreage.

The Committee asked the Department to prepare a chart showing assessment information about existing short-term rental home (STRH) properties. A copy of this table is included as **Exhibit 2**.

Department staff discussed the proposed bill with input from all divisions. Department planners supported a five-year ownership requirement and also encouraged the Council to continue to address the larger affordable housing problem. Planners also discussed the value of using property tax rates and exemptions as public policy tools and supported higher tax rates for properties used for short-term rental (as well as higher residential property tax rates overall, to be offset by larger homeowners' exemptions). There were concerns expressed about allowing STRH permits to effectively transfer with properties as it could increase the value of surrounding properties when private tax assessments include STRH homes that could then sell for a higher price due to the STRH permit being included. Allowing permit transfers will also discourage the return of these properties into the long-term housing market.

PROCEDURAL MATTERS

1. On August 12, 2016, thirty-two (32) days prior to the public hearing date, a Maui Planning Commission notice was published in the Maui News by the Maui Planning Department.
2. On August 26, 2016, thirty-four (34) days prior to the public hearing date, a Lanai Planning Commission notice of hearing on the application was published in the Maui News by the Maui Planning Department.
3. On August 8, 2016, thirty-one (31) days prior to the hearing date, a Molokai Planning Commission notice of hearing was published in the Maui News, and on August 10, 2016, thirty (30) days prior to the hearing in The Molokai Dispatch

STATE AND COUNTY POLICIES

1. **Hawaii State Plan: adopted in 1978.** The Hawaii State Plan, Chapter 226, Hawaii Revised Statutes is a statement of long-range, statewide policy for an array of economic, physical, and social development issues. The State Plan requires the conformance of state programs, land use decision-making, and budgetary processes with the goals, objectives, policies, and priority guidelines of the State Plan.

§226-5 Objectives and policies for population.

- (b) To achieve the population objective, it shall be the policy of this State to:
 - (2) Encourage an increase in economic activities and employment opportunities on the neighbor islands consistent with community needs and desires.

§226-6 Objectives and policies for the economy--in general.

- (a) Planning for the State's economy in general shall be directed toward achievement of the following objectives:
 - (2) A steadily growing and diversified economic base that is not overly dependent on a few industries, and includes the development and expansion of industries on the neighbor islands.

§226-8 Objectives and policies for the economy--visitor industry.

- (a) Planning for the State's economy with regard to the visitor industry shall be directed towards the achievement of the objective of a visitor industry that constitutes a major component of steady growth for Hawaii's economy.
- (b) To achieve the visitor industry objective, it shall be the policy of this State to:
 - (2) Ensure that visitor industry activities are in keeping with the social, economic, and physical needs and aspirations of Hawaii's people.
 - (5) Develop the industry in a manner that will continue to provide new job opportunities and steady employment for Hawaii's people.
 - (7) Foster a recognition of the contribution of the visitor industry to Hawaii's economy and the need to perpetuate the aloha spirit.
 - (8) Foster an understanding by visitors of the aloha spirit and of the unique and sensitive character of Hawaii's cultures and values.

- 2. **The County of Maui 2030 General Plan Countywide Policy Plan**, adopted by the Maui County Council on March 19, 2010, is the first component of the decennial General Plan update. The Countywide Policy Plan replaces the General Plan as adopted in 1990 and amended in 2002. The Countywide Policy Plan acts as an over-arching values statement and umbrella policy document for the Maui Island Plan and the nine (9) Community Plans that provides broad goals, objectives, policies, and implementing actions that portray the desired direction of the County's future. The plan includes:
 - 1. A vision statement and core values for the County to the year 2030
 - 2. An explanation of the plan-making process
 - 3. A description and background information regarding Maui County today
 - 4. Identification of guiding principles

5. A list of countywide goals, objectives, policies, and implementing actions related to the following core themes:
 - A. Protect the Natural Environment
 - B. Preserve Local Cultures and Traditions
 - C. Improve Education
 - D. Strengthen Social and Healthcare Services
 - E. Expand Housing Opportunities for Residents
 - F. Strengthen the Local Economy
 - G. Improve Parks and Public Facilities
 - H. Diversify Transportation Options
 - I. Improve Physical Infrastructure
 - J. Promote Sustainable Land Use and Growth Management
 - K. Strive for Good Governance

Expand Housing Opportunities for Residents

Goal: Quality, island-appropriate housing will be available to all residents.

Objectives:

1. Reduce the affordable housing deficit for residents.

Policies:

1. Ensure that an adequate and permanent supply of affordable housing, both new and existing units, is made available for purchase or rental to our resident and/or workforce population, with special emphasis on providing housing for low- to moderate-income families, and ensure that all affordable housing remains affordable in perpetuity.

Objectives:

2. Increase the mix of housing types in towns and neighborhoods to promote sustainable land use planning, expand consumer choice, and protect the County's rural and small-town character.

Policies:

- b. Design neighborhoods to foster interaction among neighbors.
- h. Encourage long-term residential use of existing and future housing to meet residential needs.

Strengthen the Local Economy

Goal: Maui County's economy will be diverse, sustainable, and supportive of community values.

Objectives:

1. Promote an economic climate that will encourage diversification of the County's economic base and a sustainable rate of economic growth.
3. Support a visitor industry that respects the resident culture and the environment.

Policies:

- e. Support policies, programs, and a tax structure that redirect the benefits of the visitor industry back into the local community.
- f. Encourage resident ownership of visitor-related businesses and facilities.
- i. Support the diversification, development, evolution, and integration of the visitor industry in a way that is compatible with the traditional, social, economic, spiritual, and environmental values of island residents.
- n. Recognize the important contributions that the visitor industry makes to the County's economy, and support a healthy and vibrant visitor industry.

Objectives:

4. Expand economic sectors that increase living-wage job choices and are compatible with community values.

Policies:

- a. Support emerging industries, including the following:
 - Health and wellness industry;
 - Sports and recreation industry;
 - Film and entertainment industry;
 - Ecotourism industry; and
 - Agritourism industry.

Promote Sustainable Land Use and Growth Management

Goal: Community character, lifestyles, economies, and natural assets will be preserved by managing growth and using land in a sustainable manner.

Objectives:

1. Improve land use management and implement a directed-growth strategy.

Policies:

- c. Limit the number of visitor-accommodation units and facilities in community plan areas.
- d. Maintain a sustainable balance between the resident, part-time resident, and visitor populations.

- 3. The Maui Island Plan (MIP) was adopted by the County Council on December 28, 2012. The MIP provides direction for future growth, the economy, and social and environmental decisions through the year 2030. The MIP looks comprehensively at many factors that influence the physical, social and economic development of the island. In addition to establishing a directed growth strategy to identify areas appropriate for future urbanization and revitalization, the MIP also identifies and addresses key environmental, housing, and economic development issues relevant to Maui's current and future generations. The MIP is intended by the County Council, Planning Department, and Maui Planning Commission as a policy foundation for day-to-day decisions and is specifically intended to be used to assist in reviewing discretionary permits.**

The following are relevant MIP goals, objectives, and policies:

Economic Development

Goal: 4.1 Maui will have a balanced economy composed of a variety of industries that offer employment opportunities and well-paying jobs and a business environment that is sensitive to resident needs and the island's unique natural and cultural resources.

Objectives:

4.1.1 A more diversified economy.

Policy:

4.1.1.b Support the creation of new jobs and industries that provide a living wage.

Goal: 4.2 A healthy visitor industry that provides economic well-being with stable and diverse employment opportunities.

Objectives:

4.2.1 Increase the economic contribution of the visitor industry to the island's environmental well-being for the island's residents' quality of life.

Policies:

4.2.1.c Focus economic growth in the visitor industry through enhanced visitor experiences and an emphasis on attracting higher-spending.

4.2.1.d Provide a rich visitor experience, while protecting the island's natural beauty, culture, lifestyles, and aloha spirit.

4.2.1.e Diversify the tourism industry by supporting appropriate niche activities such as ecotourism, cultural tourism, voluntourism, agritourism, health and wellness tourism, educational tourism, medical tourism, and other viable tourism-related businesses in appropriate locations.

4.2.1.f Recognize the important economic contributions that the visitor industry makes and support a healthy and vibrant visitor industry.

Objective:

4.2.2 Comprehensively manage future visitor-unit expansion.

Policies:

- 4.2.2.a Mitigate the impact of tourism on the host culture, natural environment, and resident lifestyles.
- 4.2.2.c Manage impacts from transient vacation rentals, hotels, bed and breakfast units, timeshares, and resort condominiums on residential communities, public infrastructure, and community facilities.
- 4.2.2.d Discourage supplanting of existing island housing to visitor accommodations that may have a negative impact on long-term rental housing, price of housing, and price of land.

Implementing Actions:

- 4.2.2-Action 1: Manage transient vacation rentals through permitting in accordance with adopted regulations and community plan policies.
- 4.2.2-Action 3: Develop programs and/or regulations to:
 - (1) Allow for the development of small, locally-owned inns and B&Bs in the commercial cores of Maui's country towns and business districts if permitted, and as defined in the community plans;
 - (2) Cap the number and type of visitor accommodations that can be permitted; and
 - (3) Manage the number and type of visitor accommodations that can be permitted.

Housing

Goal: 5.1 Maui will have safe, decent, appropriate, and affordable housing for all residents developed in a way that contributes to strong neighborhoods and a thriving island community.

Objectives:

- 5.1.2 Better monitoring, evaluation, and refinement of affordable housing policy in conjunction with the economic cycle.

Policies:

- 5.1.2.b Utilize the following approaches to promote resident housing and to minimize off-shore market impacts:
 - (1) Ensure that the future housing stock is composed of a mix of housing types (multifamily, small lots, ohana units, co-housing, cottage houses, etc.);
 - (2) Encourage new housing in proximity to jobs and services, in places that are conducive/affordable to island residents; and
 - (3) Explore taxation alternatives and building fee structures.

Objectives:

- 5.1.3 Provide affordable housing, rental or in fee, to the broad spectrum of our island community.

Policies:

- 5.1.3.a Consider regulations that can help keep affordable housing available at affordable rents.

4. Community Plans

A. Kihei-Makena Community Plan adopted in 1998

Economic Activity

- Goal: A diversified and stable economic base which serves resident and visitor needs while providing long-term resident employment.

Housing and Urban Design

- Goal: A variety of attractive, sanitary, safe and affordable homes for Kihei's residents, especially for families earning less than the median income for families within the County. Also, a built environment which provides complementary and aesthetically pleasing physical and visual linkages with the natural environment.

Objectives and Policies:

- a. Provide an adequate variety of housing choices and range of prices for the needs of Kihei's residents, especially for families earning less than the median income for families within the County, through the project district approach and other related programs. Choices can be increased through public/private sector cooperation and coordinated development of necessary support facilities and services.

B. Pa'ia-Ha'iku Community Plan adopted in 1995

Land Use

- Goal: A well-planned community that preserves the region's small town ambiance and rural character, coastal scenic vistas, and extensive agricultural land use, and accommodates the future needs of residents at a sustainable rate of growth and in harmony with the region's natural environment, marine resources, and traditional uses of the shoreline and mauka lands.

Objectives and Policies:

3. Prohibit hotel/resort development within the region.
10. Discourage approvals of Special Permits in State Agricultural and Rural Districts unless: (a) necessary to serve the immediate community in remote areas; (b) supportive of agricultural uses; or (c) needed for the use or distribution of locally produced products and services that otherwise do not adversely affect the environment, surrounding agricultural uses, or public safety.

13. Limit visitor accommodations to owner-occupied "bed and breakfast" establishments that are residential in both scale and character. Any proposed "bed and breakfasts" should not be situated near the shoreline so as to avoid the proliferation of this use and subsequent changes in the character of the region's coast.

Implementing Actions

4. Establish and enforce regulations for "bed and breakfast" establishments conducted by owner occupants within single-family residential dwellings to ensure that they will be situated in appropriate areas and not adversely affect the surrounding neighborhood. The regulations should include, but not be limited to, criteria related to location, size of operation, off-street parking, and other appropriate mitigative measures.

Economic Activity

Goal: A stable economy that complements the rural character of the region and provides opportunities for economic diversification and community needs.

Objectives and Policies:

4. Consider "bed and breakfast" establishments as transient visitor facilities, provided that these are conducted by owner-occupants within a single-family residential dwelling and approved for such use.

Housing

Goal: A sufficient supply and choice of attractive housing accommodations with emphasis on affordable housing for a broad cross section of residents.

Government

Goal: Government that demonstrates the highest standards of fairness and is responsive to the needs of the community, fiscally responsible and prudent, effective in planning and implementing programs to accommodate anticipated growth, fair and equitable in taxation, strict in the implementation of the Community Plan, and managed efficiently to provide coordinated and timely responses and the delivery of necessary services and programs to the public.

Objectives and Policies:

4. Continue to investigate and pursue ways to streamline the permit process through means such as consolidated public hearings and concurrent processing of applications.
7. Utilize the County's real property tax assessment function as both a means to carry out the policies and priorities of the Community Plan and a mechanism for monitoring and updating the Community Plan.

C. Wailuku-Kahului Community Plan adopted in 2002

Economic Activity

Goal: A stable and viable economy that provides opportunities for growth and diversification to meet long-term community and regional needs and in a manner that promotes agricultural activity and preserves agricultural lands and open space resources.

Objectives and Policies:

5. Recognize the importance of small businesses to the region's economy.

Housing

Goal: A sufficient supply and choice of attractive, sanitary and affordable housing accommodations for the broad cross section of residents, including the elderly.

Objectives and Policies:

2. Provide sufficient land areas for new residential growth which relax constraints on the housing market and afford variety in type, price, and location of units. Opportunities for the provision of housing are presently constrained by a lack of expansion areas. This condition should be relieved by a choice of housing in a variety of locations, both rural and urban in character.

Government

Goal: Government that demonstrates the highest standards of fairness; responsiveness to the needs of the community; fiscal integrity; effectiveness in planning and implementation of programs and projects; a fair and equitable approach to taxation and regulation; and efficient, results-oriented management.

Objectives and Policies:

2. Utilize the County's real property tax assessment function as both a means to carry out the policies and priorities of the Community Plan and a mechanism for monitoring and updating the Community Plan.
3. Streamline the land use, building permit and subdivision approval processes.

Land Use

Goal: An attractive, well-planned community with a mixture of compatible land uses in appropriate areas to accommodate the future needs of residents and visitors in a manner that provides for the social and economic well-being of residents and the preservation and enhancement of the region's environmental resources and traditional towns and villages.

D. Makawao-Pukalani-Kula Community Plan adopted in 1996

Economic Activity

Goal: A stable and diverse economic environment which supports a level of community prosperity in order to provide social services and environmental amenities and which respects the region's rural and agricultural lifestyle, open space and natural resources.

Objectives and Policies:

11. Develop a stable and balanced employment base which will provide opportunities for increasing the standard of living for all of the region's residents.

Land Use

Goal: The maintenance and enhancement of Upcountry's unique and diverse rural land use character with sensitivity to existing land use patterns, natural resource values, and economic and social needs of the region's residents.

Objectives and Policies:

3. Discourage speculation in agricultural lands.

13. Support requests for special permits in the State Agricultural and Rural Districts as follows: (a) limited public and quasi-public uses in the more remote areas; (b) public facility uses such as utility installation, landfills, and wastewater treatment plants whose location is determined by technical considerations; (c) uses which are clearly accessory and subordinate to a permitted agricultural use on the property; and (d) extractive industries, such as quarrying, where the operation does not adversely effect the natural environment or upcountry character.

Housing

Goal: Housing opportunities for the residents of Makawao-Pukalani-Kula, to include all income and age groups, which are affordable, safe, and environmentally and culturally compatible.

E. Hana Community Plan adopted in 1994

Land Use

Goal: An efficient distribution of urban, rural and agricultural land uses in order to provide for the social and economic well-being of residents in the Hana Community Plan region. Preservation and enhancement of the current land use patterns which establish and enrich the Hana Community Plan region's unique and diverse qualities.

Objectives and Policies:

5. Encourage the availability of agriculturally suitable lands to provide opportunities for small diversified agricultural activities with residential tenancy for farmers.

8. Discourage urban land uses and Special Use Permits outside of the Hana Town area except to allow those activities which are essential to the region's economic well-being, which provide essential services for the residents of the Hana District, or which provide for the essential domestic needs of remote communities such as Ke'anae, Kipahulu and Kaupo. Such activities shall not adversely affect surrounding neighborhoods and shall be supportive of the agricultural activities of the area.
9. Discourage transient rental accommodation uses outside of the Hana urban area.
13. Encourage community-based dialogue regarding proposed land use changes in order to avoid unwarranted conflict.

Implementing Actions

5. Conduct an inventory and study of existing non-conforming uses, including vacation rentals, to determine: (1) their numbers; (2) geographic distribution; and (3) effects upon the local housing and real estate markets and the local economy, and identify recommendations for resolving non-conforming use issues.

Economic Activity

Goal: A balanced local economy which provides long-term viability and sustainability while meeting residents' needs and respecting the cultural and natural resources of Hana.

Objectives and Policies:

1. Encourage a local economy which provides employment choices for the region's residents and which provides future employment opportunities for the region's youth.
2. Utilize existing components of the local economy to establish a framework for balanced regional economic development.
3. Encourage economic activities which are: of substantive economic benefit to the residents of the area; environmentally benign; and compatible with the cultural sensitivities of the residents of the Hana region.
7. Maintain the visitor industry as a major economic activity, encouraging commercial activities which focus on the "day" visitor market and/or complement the "overnight" visitor market.

Housing

Goal: The provision of housing opportunities to the residents of Hana, for all income and age groups, which are affordable, safe, and environmentally and culturally compatible.

F. West Maui Community Plan adopted in 1996

Land Use

Goal: An attractive, well-planned community with a mixture of compatible land uses in appropriate areas to accommodate the future needs of residents and visitors in a manner that provides for the stable social and economic well-being of residents and the preservation and enhancement of the region's open space areas and natural environmental resources.

Objectives and Policies for the West Maui Region in General:

6. Special Permits in the State Agricultural Districts may be allowed only: (1) to accommodate public and quasi-public uses; (2) public facility uses such as utility installation, landfills and sewer treatment plants whose location is determined by technical considerations; (3) uses which are clearly accessory and subordinate to a principal agricultural use on the property; and (4) extractive industries, such as quarrying, where the operation does not adversely affect the environment or nearby agricultural uses.

Economic Activity

Goal: A diversified economy that provides a range of stable employment opportunities for residents, allows for desired commercial services for the community, and supports the existing visitor and agricultural industries, all in a manner that will enhance both the community's quality of life and the environment.

Objectives and Policies:

1. Promote a diversified economic base which offers long-term employment to West Maui residents, and maintains overall stability in economic activity in the areas of:
 - a. Visitor accommodations.
 - b. Visitor-related service/commercial services.
 - c. Recreation-related service/commercial services.
 - f. Agriculture.
2. Provide for the preservation and enhancement of agriculture.
 - d. Discourage use of agricultural lands for non-agricultural purposes.
4. Maintain a stable and viable visitor industry.
5. Promote the use of local products, and encourage the employment of local residents.

Housing

Goal: A sufficient supply and choice of attractive, sanitary and affordable housing accommodations for a broad cross section of residents.

Objectives and Policies:

1. Accommodate the twenty (20) year housing needs of the planning region.

Government

Goal: Government that demonstrates the highest standards of fairness, responsiveness to the needs of the community, fiscal integrity, effectiveness in planning and implementing programs and projects to accommodate a stable social and economic well-being for residents, a fair and equitable approach to taxation, and efficient and results-oriented management.

Objectives and Policies:

3. Remove unnecessary delays in the permit process through means such as consolidated public hearings and concurrent processing of applications.

G. Lana`i Community Plan adopted in 2016

Economic Development

Goal: A stable, sustainable, and diverse economy that is consistent and compatible with Lāna`i's rural island lifestyle.

Policies:

1. Support diversification of Lāna`i's economy.
5. Support the growth of kama`āina tourism, cultural tourism, eco-tourism, agritourism, sports tourism, hunting tourism, and other alternative tourism ventures.
6. Support the growth of permitted B&Bs, small inns, guest houses, and other alternative lodging units.

Housing

Issue 1: There is a lack of affordable housing and affordable residential building sites on Lāna`i.

Issue 3: There is a lack of housing choices at different price levels and housing sizes.

Goal: A diverse supply of housing that meets the needs of all Lāna`i residents.

H. Moloka'i Community Plan adopted in 2001

Land Use

Goal: Enhance the unique qualities of the island of Moloka'i to provide future generations the opportunity to experience rural and traditional lifestyles.

Objectives and Policies:

4. Discourage developing or subdividing agriculturally designated lands for "gentlemen estates or "Pseudo Agricultural" uses in which the residence would be the primary use and any non-intrusive agricultural activities would be secondary.

9. Limit the visitor accommodation center to West Moloka'i and require that any expansion approvals reflect the employment needs of the island's resident workforce.
18. Reduce unnecessary expense and time in land use permit processing.

Economic Activity

Goal: A balanced local economy which provides preferred employment levels, long-term viability and sustainability while meeting residents' needs, respecting cultural and natural resources, and is in harmony with Moloka'i's rural quasi-subsistence lifestyle.

Objectives and Policies:

19. Allow expansion of the visitor industry within the existing tourist destination area at the West End to the extent that it does not infringe upon the traditional, social, economic and environmental qualities of the island.
10. Support develop and encourage cottage and mini-industries such as garment and craft production as residentially-based economic activities, provided such activities are compatible with the surrounding neighborhood.

Objectives and Policies:

1. Investigate and pursue ways to streamline the permit process through means such as consolidating public hearings, concurrent processing of applications and coordination of permits between State, Federal and County governments.

Molokai Draft Community Plan – submitted to the County Council May, 2016

Economic Development

Goal: A stable, balanced, diversified, and sustainable economy, respecting cultural and natural resources, that is compatible with Moloka'i's rural island lifestyle.

Policies:

1. Support diversification of Moloka'i's economy.
5. Support expansion of complementary tourism markets including kama'aina, cultural, religious pilgrimage, eco, agricultural, sports, and hunting in a manner that supports the conservation of Moloka'i's natural and cultural resources, the protection of Moloka'i's rural lifestyle and cultural traditions, and the sustainability of the island.
6. Support redevelopment projects such as Kaluako'i Hotel and golf courses, and the reopening of Moloka'i Ranch Lodge with community input to incorporate community *8 culture and lifestyle*.
7. Support the limited growth of permitted alternative lodging units that do not create an adverse impact on the neighborhood.
8. Support increased enforcement of the County's Short-Term Rental Home Ordinance to address the adverse impacts unpermitted rentals have on neighborhoods.

Housing

Issue 1: There is a need for more affordable housing and affordable residential building sites.

Goal: A diverse supply of housing for Moloka'i residents that is affordable, safe, and environmentally and culturally compatible.

Policies:

1. Support regulations to maintain an adequate supply of affordable housing.

Implementing Actions

6.2.06 Establish a cap on Transient Vacation Rentals (TVRs) and Short Term Rental Homes (STRHs).

ANALYSIS

Our government policies speak to both growing our economy and our visitor sector, as well as providing adequate housing for residents. Government policies are often competing, and public policy is developed through a process of balancing community needs. The proposed bill seeks to address the need for long-term residential housing by limiting the issuance of short-term rental home permits to long-term property owners. It seeks to discourage the purchase of housing for short-term vacation rental use.

The initial short-term rental home bill passed in May 2012 includes a provision requiring all homes to have been constructed five (5) years prior to an STRH application being submitted. The intent of this provision is to ensure that future residential construction is dedicated to long-term residential housing. The proposed bill intends to expand the protection provided to long-term housing by limiting the houses that may be used for STRH use by not just how long they have been built, but by how long an owner has owned it. The bill provides that newly purchased homes, just as newly built homes, are used for long-term residential use for five (5) years.

The bill provides three (3) exceptions to the five-year requirement. The first exception provides a six (6) month grace period to allow those working on applications time to come in for their permits. This seems a reasonable exemption and provides notice to the public.

The second exemption, which allows properties valued at over \$1,000,000 to come in for permits without waiting for five (5) years, allows houses which are intended to be outside the residential housing market to be used for the best overall economic good of the County. The MIP states a desire to attract visitors that spend a high dollar amount while on vacation. High-value homes attract these type of visitors and those properties provide the highest economic benefit to local residents in terms of employment (property management fees, cleaners, landscapers, and concierge service providers).

The third exemption in the bill effectively allows for the transfer of STRH permits. Allowing the ability to permanently attach an STRH bill to a property will likely increase the value of the property and could affect the surrounding property values. Properties with transferable STRH permits could sell for more money and their higher sales prices will be included in the appraisals of surrounding properties, thus perpetuating a cycle of rising home values further pushing housing prices out of the reach of local residents. Allowing STRH permits to transfer will also discourage the likelihood of STRH homes returning to the residential market.

TESTIMONY

As of August 26, 2016, the Department has received one item of testimony which is included as **Exhibit 3**.

DEPARTMENT RECOMMENDATION AND OPTIONS

Based upon the forgoing analysis, the Department supports the proposed bill, with a revision to the valuation exception and without the transferability exception. The Department recognizes the need to balance competing policies; at this point in time, the need to protect the residential housing market is a greater need than the need to grow the visitor economy. The bill does not restrict the total number of permits that may be issued for short-term rental use; instead, it restricts the type of homes that may be used. When the permit caps have been reached, they will be held by owners who have a long-term investment in Maui housing and they likely will be for homes that have provided long-term residential housing either for the owners previously or for tenants. The permits will also be held by high-value homes that provide a higher economic value in terms of tax assessments and local employment opportunities while also attracting high-end visitors who spend more tourism dollars per day than budget travelers.

The Department supports the proposed bill and recommends that the Hana Advisory Committee and planning commissions support the bill, with the exception of the transferability provision.

The Commission has the following options:

1. Recommend approval of the proposed bill to the Maui County Council.
2. Recommend approval of the proposed bill with amendments to the Maui County Council.
3. Recommend denial of the proposed bill to the Maui County Council.
4. Vote to defer action on the proposed bill in order to gather specific additional information.

DANNY A. MATEO
County Clerk

JOSIAH K. NISHITA
Deputy County Clerk



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RECEIVED

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COUNTY OF MAUI
DEPT. OF PLANNING
ADMINISTRATION

OFFICE OF THE COUNTY CLERK

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/county/clerk

OFFICE OF THE MAYOR

July 5, 2016

Honorable Alan M. Arakawa
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

Env Mgmt	
Finance	
Fire	
Hsq&HC	
Liquor	
Parks&R	
Personnel	
Planning	/
Police	
Prosecutors	
Public W	
Transp'n	
Water S	
Mgmt	
Mayor	
Budget	

Dear Sir:

We respectfully transmit for your information and attention as may be required, Committee Report No. 16-105, adopted by the Council of the County of Maui at its meeting on July 1, 2016.

- Resolution(s) attached.
- Grant application returned.
- Document(s) attached.
- Please return document upon execution.
- Please provide recorded copy for our files.

BILL FOR AN ORDINANCE:

- Final reading on
- Recommitted to committee following first reading.

Respectfully,

DANNY A. MATEO
County Clerk

Enclosure

EXHIBIT

1

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

July 1, 2016

Committee
Report No. 16-105

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Planning Committee, having met on June 2, 2016, makes reference to County Communication 16-95, from Councilmember Robert Carroll, transmitting a proposed amendment to Section 19.65.030(O), Maui County Code, to require that applicants own a property for at least five years before applying for a Short-Term Rental Home permit, subject to stated exceptions.

By correspondence dated May 27, 2016, the Chair of your Committee transmitted a proposed resolution entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL AMENDING SECTION 19.65.030, MAUI COUNTY CODE, TO ESTABLISH OWNERSHIP DURATIONAL REQUIREMENTS FOR SHORT-TERM RENTAL HOME PERMIT APPLICATIONS."

The purpose of the proposed resolution is to refer to the planning commissions a proposed bill 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."

The purpose of the proposed bill is to amend Section 19.65.030(O), Maui County Code, to require that applicants own a property for at least five years before applying for a Short-Term Rental Home permit, subject to stated exceptions.

Your Committee notes, pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, any proposed land use ordinance shall be referred to the appropriate planning commissions for review.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

Page 2

Committee
Report No. 16-105

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a proposed resolution, approved as to form and legality, with a proposed bill attached as an exhibit.

Your Committee notes Short-Term Rental Homes are limited to single-family structures that are existing and constructed at least five years prior to the date of application for a permit. This restriction prevents an owner from building a new home with the intent to use it immediately for Short-Term Rental Home purposes. There is no similar restriction against purchasing an older home with the intent of converting the home immediately to Short-Term Rental Home use.

Your Committee notes this makes older homes attractive to investors wishing to establish Short-Term Rental Home businesses. Often, older homes are owner-occupied or are available for long-term rental. The proposed bill amends the Code to treat new and existing homes similarly by requiring an applicant for a Short-Term Rental Home permit to have owned the subject property for at least five years prior to submitting a permit application. Requiring applicants to own a home for five years before they apply for a permit should help to discourage speculation and keep older properties as long-term housing.

Your Committee recommended amending the proposed bill to allow a period of six months after the date of enactment of the ordinance within which an owner having less than five years ownership may apply for a permit. The reason for this amendment was to give owners, who have purchased existing homes with the intent of converting them to Short-Term Rental Home use, a six-month grace period to apply for a permit.

Your Committee notes the proposed bill includes an exception to the five-year ownership requirement for existing homes for properties that have had a Short-Term Rental Home permit within three years of the date of purchase by the owner who is applying for a permit. The policy behind this exception is that homes with permits have been reviewed and determined to be appropriate for Short-Term Rental Home use.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

Page 3

Committee
Report No. 16-105

Your Committee recommended adding an exception to the five-year ownership requirement for homes with an assessed building value as determined by the Director of Finance of \$1,000,000 or more. The policy behind this exception is a recognition that homes with high valuations are well-suited for Short-Term Rental Home use and less likely to be used for long-term rental purposes.

Your Committee voted 5-0 to recommend adoption of the revised proposed resolution and filing of the communication. Committee Chair Couch, Vice-Chair Carroll, and members Baisa, Cochran, and Victorino voted "aye." Committee members Guzman and White were excused.

Your Committee is in receipt of a revised proposed resolution, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Planning Committee **RECOMMENDS** the following:

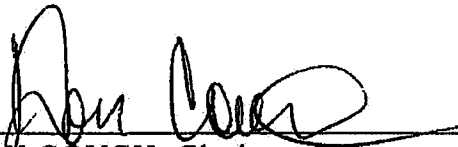
1. That Resolution 16-94, attached hereto, entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL AMENDING SECTION 19.65.030, MAUI COUNTY CODE, TO ESTABLISH OWNERSHIP DURATIONAL REQUIREMENTS FOR SHORT-TERM RENTAL HOME PERMIT APPLICATIONS," be ADOPTED; and
2. That County Communication 16-95 be FILED.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

Page 4

Committee
Report No. 16-105

This report is submitted in accordance with Rule 8 of the Rules of the Council.



DON COUCH, Chair

pc:cr:16042aa:gig

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that the recommendations contained in COMMITTEE REPORT NO. 16-105 were adopted by the Council of the County of Maui, State of Hawaii, on the 1st day of July, 2016, by the following vote:

MEMBERS	Michael B. WHITE Chair	Donald S. GUZMAN Vice-Chair	Gladys C. BAISA	Robert CARROLL	Eleanora COCHRAN	Donald G. COUCH, JR.	S. Stacy CRIVELLO	G. Riki HOKAMA	Michael P. VICTORINO
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye



COUNTY CLERK

Resolution

No. 16-94

REFERRING TO THE LANAI, MAUI, AND
MOLOKAI PLANNING COMMISSIONS A
PROPOSED BILL AMENDING SECTION
19.65.030, MAUI COUNTY CODE, TO
ESTABLISH OWNERSHIP DURATIONAL
REQUIREMENTS FOR SHORT-TERM RENTAL
HOME PERMIT APPLICATIONS

WHEREAS, Ordinance 4315, effective May 23, 2016, amended the requirements and procedures for permitting Short-Term Rental Homes; and

WHEREAS, during second reading on Bill 43, Draft 1 (2016), which became enacted as Ordinance 4315, the Council considered a proposed amendment to the bill that would have established ownership durational requirements for Short-Term Rental Home permit applications; and

WHEREAS, specifically, the proposed amendment would have added a provision to require applicants to have owned their property for five years before applying for a Short-Term Rental Home permit, subject to certain exceptions; and

WHEREAS, the proposed amendment was not approved because of concerns the amendment had not been appropriately vetted, its anticipated impacts had not yet been evaluated, and the proposal had been presented too late in the process of considering the bill; and

WHEREAS, the proposed amendment was referred to the Council's Planning Committee for further consideration and has been incorporated into a proposed bill; and

WHEREAS, the Planning Committee revised the proposal to allow a six-month grace period before the ownership durational requirements would apply; and

WHEREAS, the Planning Committee further revised the proposal so that the ownership durational requirements would only apply to dwelling units having a building value of less than \$1,000,000; and

Resolution No. 16-94

WHEREAS, the Council is now considering the attached proposed bill to amend Section 19.65.030, Maui County Code, incorporating the Planning Committee's revisions, to establish an ownership durational requirement of five years for Short-Term Rental Home Permit applications, subject to certain exceptions; and


WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require that the appropriate planning commissions review proposed land use ordinances and amendments thereto, and provide findings and recommendations to the Council; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby refers the proposed bill, 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," a copy of which is attached hereto as Exhibit "1" and made a part hereof, to the Lanai, Maui, and Molokai planning commissions for appropriate action, pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended;
2. That it respectfully requests that the Lanai, Maui, and Molokai planning commissions transmit their findings and recommendations to the Council as expeditiously as possible; and
3. That certified copies of this resolution be transmitted to the Mayor, the Planning Director, the Lanai Planning Commission, the Maui Planning Commission, and the Molokai Planning Commission.

Resolution No. 16-94

APPROVED AS TO FORM AND LEGALITY



MICHAEL J. HOPPER
Department of the Corporation Counsel
County of Maui

pc:misc:042areso02:gjg

ORDINANCE NO. _____

BILL NO. _____ (2016)

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 IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Section 19.65.030, Maui County Code, is amended to read as follows:

“19.65.030 Restrictions and standards. Short-term rental homes are subject to the following restrictions and standards:

A. The short-term rental home use is permitted in no more than two single-family dwelling units, or one single-family dwelling unit and one accessory dwelling unit, per lot. No more than one short-term rental home permit shall be approved for any lot, except when lots are subject to a condominium property regime pursuant to chapter 514A or 514B, Hawaii Revised Statutes, the following shall apply:

1. If the applicant owns all condominium units on the lot, only one permit may be granted for that lot.

2. If the applicant does not own all condominium units on the lot, each condominium unit will be considered a lot for purposes of this chapter and each unit owner will be eligible to apply for a short-term rental home permit, except that no owner may hold more than one short-term rental home permit.

3. Irrespective of ownership, each condominium unit shall be considered a separate lot for purposes of notification and planning commission review thresholds pursuant to subsection 19.65.060(A)(2).

4. For the purposes of this chapter, any reference to a short-term rental home property shall mean a property, lot, or condominium unit.

B. Each permitted dwelling unit on a short-term rental home property shall be rented to one group with a single rental agreement, except:

EXHIBIT “1”

1. On the island of Lanai; or
2. Any short-term rental home where the owner resides on an adjacent lot.

C. The permit holder shall have a current transient accommodations tax license and general excise tax license for the short-term rental home.

D. The permit holder shall:

1. Hold a minimum of a fifty percent interest in the legal title to the lot on which the short-term rental home is located, except as provided in subsection G of this section.

2. Serve as manager of the short-term rental home; provided that, the permit holder may designate:

- a. An immediate adult family member of the permit holder to serve as manager. Immediate family includes a person's parents, spouse, [or partner through a civil union,] children and their spouses, siblings, stepparents, stepchildren, adopted children and their spouses, and hanai children;

- b. An individual with an active State of Hawaii real estate license to serve as manager, except for properties located in the Hana or Lanai community plan areas, where an individual may act as a manager as allowed by State law; or

- c. An adult to serve as a temporary manager for up to forty-five days in a twelve-month period.

3. The permit holder shall notify the department and the immediate adjacent neighbors of:

- a. Any designation of an individual as manager pursuant to this section, including a statement of the designated manager's tenure, residential and business addresses, and telephone numbers.

- b. Any change in the manager's addresses or telephone numbers.

E. The manager of the short-term rental home shall:

1. Be accessible to guests, neighbors, and County agencies. For purposes of this section, "accessible" means being able to answer the telephone at all times, being able to be physically present at the short-term rental home within one hour following a request by a guest, a neighbor, or a County agency, and having an office or residence within thirty driving miles.

2. Ensure compliance with state department of health regulations, this chapter, permit conditions, and other applicable laws and regulations.

3. Enforce the house policies.

4. Collect all rental fees.

F. The short-term rental home shall only be rented when the manager is accessible.

G. The short-term rental home permit is issued in the name of the applicant, who shall be a natural person or persons holding a minimum of a fifty percent interest in the legal title in the lot; except that, a permit may be issued for a lot owned by a family trust, a corporation, a limited liability partnership, or a limited liability company if the following criteria are met:

1. The applicant is a natural person or persons who is a trustee or who are trustees of the family trust, or who represents fifty percent or more of the [partner(s)] partners of a limited liability partnership, fifty percent or more of the corporate [shareholder(s)] shareholders of a corporation, or fifty percent or more of the [member(s)] members of a limited liability company.

2. The limited liability partnership, corporation, or limited liability company is not publicly traded.

3. All of the trustees, partners, corporation's shareholders, or limited liability company's members are natural persons, and if there is more than one trustee, partner, shareholder, or member, they shall be related by blood, adoption, marriage, or civil union.

H. An applicant may hold no more than one short-term rental home permit, except when:

1. Additional permits are for short-term rental homes that each have a County assessed market value of \$3,200,000 or higher at the time of each application.

2. The permit holder filed complete applications for the short-term rental home permits within one year of this chapter's original effective date of May 23, 2012.

I. A permit is not transferable; [provided that,] except a permit may be transferred upon the death of a permit holder to an immediate family member as defined in subsection 19.65.030(D)(2)(a).

J. The applicant shall provide with the application, copies of any applicable homeowner or condominium association bylaws or rules and any other applicable private conditions, covenants, or restrictions. The documents, if any, shall assist the department in determining the character of the neighborhood.

K. The number of bedrooms used for short-term rental home use on a short-term rental home lot shall be no greater than six on Lanai and Maui, and no greater than three on Molokai. The total number of guests staying in the short-term rental home at any one time shall be no greater than two times the number of bedrooms.

L. Single-station smoke detectors shall be installed in all guest bedrooms.

M. Single-family dwellings used as short-term rental homes shall not qualify for real property tax exemptions permitted pursuant to chapter 3.48 of this code.

N. Short-term rental homes shall conform to the character of the existing neighborhood in which they are situated. Prior to issuing a permit, the department or applicable planning commission shall consider the following:

1. If a proposed short-term rental home property is subject to any homeowner, condominium association, or other private conditions, covenants, or restrictions, then correspondence from the association or other entity responsible for the enforcement of the conditions, covenants, or restrictions is required. The correspondence shall include specific conditions that determine whether or not the proposed short-term rental home use is allowed. The correspondence shall be used to assist the department in determining the character of the neighborhood. If no such association or entity exists, this requirement shall not apply. The director and the planning commissions shall not be bound by any private conditions, covenants, or restrictions upon the subject parcel. Any such limitations may be enforced against the property owner through appropriate civil action.

2. Existing land-use entitlements and uses.

3. The applicable community plan.

4. Community input.

5. Potential adverse impacts, including excessive noise, traffic, and garbage.

6. The number of permitted short-term rental homes surrounding the proposed short-term rental home property and their distance to the property.

7. The number and substance of protests to the short-term rental home application and protests related to the cumulative short-term rental homes in the neighborhood or area.

8. Existing or past complaints about rental operations on the property.

9. Existing or past noncompliance with government requirements and the degree of cooperation by the applicant to become compliant.

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

2. The dwelling unit proposed for short-term rental home use has an assessed building value as determined by the director of finance of \$1,000,000 or more; or

3. A short-term rental home pursuant to this chapter was permitted for the property within three years of the date the applicant purchased the property.

P. A two-square-foot sign shall be displayed along the main access road of the short-term rental home identifying the valid short-term rental home permit, a twenty-four hour telephone number for the owner or the manager, and a telephone number for the department. The signs shall not be subject to the provisions of chapter 16.13 of this code.

Q. The permit holder or manager shall prominently display "house policies" within the dwelling. The house policies shall be included in the rental agreement, which shall be signed by each registered adult guest. At a minimum, the house policies shall include:

1. Quiet hours from 9:00 p.m. to 8:00 a.m., during which time the noise from the short-term rental home shall not unreasonably disturb adjacent neighbors. Sound that is audible beyond the property boundaries during non-quiet hours shall not be more excessive than would be otherwise associated with a residential area.

2. Amplified sound that is audible beyond the property boundaries of the short-term rental home is prohibited.

3. Vehicles shall be parked in the designated onsite parking area and shall not be parked on the street.

4. No parties or group gatherings other than registered guests shall occur.

R. The County shall be restricted in approving the number of permits for short-term rental homes as distributed per the following community plan areas and as further restricted by the applicable community plan:

1. Hana: 30.

2. Kihei-Makena: 100; [provided that, there are] with no more than five permitted short-term rental homes in the subdivision commonly known as Maui Meadows.

3. Makawao-Pukalani-Kula: 40.
4. Paia-Haiku: 88.
5. Wailuku-Kahului: 36.
6. West Maui: 88.

The council shall review the community plan short-term rental home restrictions when the number of approved short-term rental homes exceeds ninety percent of the restriction number. Short-term rental homes operating with a conditional permit pursuant to chapter 19.40 of this title that meet the criteria of this section shall be included in the number of short-term rental homes permitted pursuant to this subsection.

S. Prior to issuing a permit, the director or planning commission may impose conditions for a short-term rental home if the conditions are reasonably designed to mitigate adverse impacts to the neighborhood.

T. Any dwelling unit developed pursuant to chapter 201H, Hawaii Revised Statutes, or chapter 2.96 of this code[,] shall not be used as a short-term rental home.”

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This ordinance shall take effect six months after its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

pc:misc:042abill02:gig

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is **HEREBY CERTIFIED** that **RESOLUTION NO. 16-94** was adopted by the Council of the County of Maui, State of Hawaii, on the 1st day of July, 2016, by the following vote:

MEMBERS	Michael B. WHITE Chair	Donald S. GUZMAN Vice-Chair	Gladys C. BAISA	Robert CARROLL	Eleanor COCHRAN	Donald G. COUCH, JR.	S. Stacy CRIVELLO	G. Riki HOKAMA	Michael P. VICTORINO
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye



COUNTY CLERK



Permitted Short-Term Rental Homes (STRHs)

Single Family Residences operated by designated managers

Issue/Renew Dates Through 3/31/2016

Maui

Hana Community Plan Region - Limited to 48 permits

Permit Number	Name	Address	Town	Rooms	Dwellings Rented	Building Value 1	Building Value 2	Land Value	Land Area	Total Assessed Value	Year Purchased	Address of Record
STHA 2013/0001	KOALI RANCH COTTAGE	46014 HANA HWY	HANA	1	1	\$ 67,100		\$ 239,000	0.629 acres	\$ 306,100	prior to 1990	Hana
STHA 2013/0002	TUTU'S HOUSE, LLC	4981 UAKEA RD	HANA	2	1	\$ 74,900		\$ 363,600	14,963 ft ²	\$ 446,400	prior to 1990	Hana
STHA 2013/0003	HANA'S HEAVEN	355 WAIHONU RD	HANA	2	1	\$ 201,100	\$ 175,300	\$ 309,100	4.267 acres	\$ 707,400	2009	Seattle, WA
STHA 2013/0004	HALE NANEA	5440 HANA HWY 7G	HANA	2	1	\$ 256,200		\$ 28,900	2.64 acres	\$ 285,100	2004	Hana
STHA 2013/0005	HANA BAY HOUSE	4955 UAKEA RD	HANA	2	1	\$ 322,900		\$ 705,200	32648 ft ²	\$ 1,028,100	2005	Hana
STHA 2013/0006	HALE NOA	175 ULAINO RD 8E	HANA	2	1	\$ 133,700		\$ 38,600	4.0 acres	\$ 172,300	prior to 1988	Honolulu
STHA 2014/0001	HANA GARDENLAND STRH	65 KALO RD	HANA	4	1	\$ 183,300		\$ 78,300	5.215 acres	\$ 310,500	2001	Hana
STHA 2014/0002	HANA BEACH HOUSE	4975 UAKEA RD	HANA	2	1	\$ 41,400		\$ 417,800	17,195 ft ²	\$ 464,800	2012	Kahului
STHA 2015/0001	HANA OCEANFRONT	522 HANEEO RD	HANA	3	2	\$ 370,300	\$ 79,900	\$ 1,073,000	0.391 acres	\$ 1,523,200	2014	Hana
STHA 2015/0002	FISHER'S HANA HALE	4816 UAKEA RD	HANA	2	1	\$ 155,800		\$ 262,600	10,941 ft ²	\$ 419,700	2012	Kula
STHA 2015/0003	HANA OCEAN PALMS	6891 HANA HWY	HANA	2	1	\$ 112,100		\$ 388,800	0.76 acres	\$ 500,900	2004	Hana
STHA 2015/0004	HANA BEACHFRONT HALE	140 WAIKOLOA RD	HANA	2	1	\$ 318,900		\$ 392,300	0.725 acres	\$ 731,300	2014	Kahukui, Kula, & Paia
STHA 2015/0005	HANA BAY VIEW	4875 HANA HWY	HANA	4	2	\$ 139,800	\$ 53,000	\$ 158,900	10,302 ft ²	\$ 351,700	2013	Makawao
Sub Total: 13												

Kihei-Makena Community Plan Region - Limited to 100 permits (Maui Meadows has reached its cap of 5 permits)

Permit Number	Name	Address	Town	Rooms	Dwellings Rented	Building Value 1	Building Value 2	Land Value	Land Area	Total Assessed Value	Year Purchased	Address of Record
STKM 2012/0001	HALE ALANA VAC B&B	3378 KEHA DRIVE 5K	KIHEI	3	1	\$ 470,100	\$ 100,100	\$ 580,700	0.625 acres	\$ 1,170,400	2004	Kihei
STKM 2012/0002	MAKENA COTTAGE	5232 MAKENA RD, Units A&B	KIHEI	3	2	\$ 92,300	\$ 154,300	\$ 3,689,500	10,704 ft ²	\$ 148,900	prior to 1994	Escondido, CA
STKM 2012/0003	MAKENA MAKAI	5260 MAKENA RD	KIHEI	3	1	\$ 244,500		\$ 4,640,000	0.5 acres	\$ 4,884,500	prior to 1993	Palos Verdes, CA
STKM 2013/0002	MAUI DOLPHIN HOUSE	3365 AKALA DR A 5K	KIHEI	4	1	\$ 388,100	\$ 123,400	\$ 605,500	0.739 acres	\$ 1,150,700	2005	Bainbridge Island, WA
STKM 2013/0003	MAUI BEACH COTTAGE	174 MAKENA RD	KIHEI	2	1	\$ 45,200		\$ 3,105,700	12,926 ft ²	\$ 3,153,200	prior to 1990	Honolulu
STKM 2013/0004	SUNNY SOUTH MAUI	563 KALEO PL	KIHEI	3	1	\$ 235,800		\$ 499,100	0.531 acres	\$ 754,900	1999	Kihei

EXHIBIT 2

Permit Number	Name	Address	Town	Rooms	Dwellings Rented	Building Value 1	Building Value 2	Land Value	Land Area	Total Assessed Value	Year Purchased	Address of Record
STKM 2013/0005	MANA HALE	3101 MAPU PL 5K	KIHEI	2	1	\$ 231,600		\$ 469,600	0.501 acres	\$ 701,200	1990	Scotts Valley, AZ
STKM 2013/0006	SLOANE RESIDENCE	736 MILLANI PL 5K	KIHEI	3	1	\$ 334,800	\$ 110,000	\$ 691,600	0.829 acres	\$ 1,170,000	2005	La Jolla, CA
STKM 2013/0007	SAPPHIRE SEAS BEACH	1498 HALAMA ST 5E	KIHEI	4	1	\$ 1,693,700		\$ 3,476,800	17,940 ft ²	\$ 5,233,700	2005	Palo Alto, CA
STKM 2013/0008	BLISS BEACH HOUSE	1551 N ALANIU PL 5E	KIHEI	4	1	\$ 160,900		\$ 366,700	9,167 ft ²	\$ 558,200	2012	Kailua
STKM 2013/0009	HALE LUANA	65 ALAHELE PL / 33 HOOLAWA RD	KIHEI	4	1	\$ 333,100		\$ 482,400	13.2621 acres	\$ 1,201,000	2012	Idaho
STKM 2013/0010	HALE MAKAI MAUI	20 KAIKANE PL	KIHEI	4	1	\$ 298,100	\$ 76,500	\$ 291,600	10,000 ft ²	\$ 717,700	2010	Kihei
STKM 2013/0011	HALE MAKENA	5110 MAKENA RD	KIHEI	4	1	\$ 2,042,900		\$ 2,902,700	10,750 ft ²	\$ 5,002,000	2009	Vancouver, Canada
STKM 2013/0012	MAUI HOUSE 4 RENT	293 ALAUME ST 5G	KIHEI	5	1	\$ 212,400		\$ 358,500	7,705 ft ²	\$ 570,900	2007	Kihei
STKM 2013/0013	DON AND JOY'S PLACE	1114 S KIHEI RD 5E	KIHEI	2	1	\$ 90,800	\$ 110,700	\$ 233,700	10,204 ft ²	\$ 435,200	2006	Kihei
STKM 2013/0014	KIHEI OASIS	482 A KAIOLA PL	KIHEI	3	1	\$ 288,300		\$ 532,600	23,985 ft ²	\$ 938,400	2007	Kihei
STKM 2013/0015	PLANTATION BUNGALOWS	1627 S ALANIU PL 5F	KIHEI	6	2	\$ 115,600	\$ 83,900	\$ 450,300	0.3114 acres	\$ 655,800	2011	Kihei
STKM 2013/0016	SUNSET BEACH HOUSE	1290 ULUNI RD UNITS A&B	KIHEI	6	2	\$ 1,123,200	\$ 541,800	\$ 2,672,300	0.433 acres	\$ 7,325,100	2012	Stuart, FL & Lake Oswego, FL
STKM 2013/0017	MOANA HIDEAWAY	1484 HALAMA ST 5E	KIHEI	4	2	\$ 279,300	\$ 41,300	\$ 3,429,400	17,524 ft ²	\$ 3,827,200	2005	Pacific, CA
STKM 2013/0018	CAJUODOY'S HALE	40 HALELANI PL	KIHEI	3	1	\$ 429,400	\$ 523,100	\$ 533,300	19,744 ft ²	\$ 1,485,800	2004	Kihei
STKM 2014/0001	MAUI BEACH TOWN RENT	1825 MALAMA ST 5F	KIHEI	5	2	\$ 243,200	\$ 97,900	\$ 286,700	0.1862 acres	\$ 627,800	2010	Kirkland, WA
STKM 2014/0002	HALE LEILANI	30 KAIKANE PL	KIHEI	6	1	\$ 85,600	\$ 512,700	\$ 291,600	10,000 ft ²	\$ 889,900	2007	Kihei
STKM 2014/0003	NANI ALII COTTAGES	260 S KIHEI RD	KIHEI	6	2	\$ 31,900	\$ 34,400	\$ 755,300	1.113 acres	\$ 900,100	1984	Kihei
STKM 2014/0004	HALE LANUI	1821 HALAMA ST 5F	KIHEI	4	1	\$ 312,000	\$ 63,600	\$ 860,200	13,500 ft ²	\$ 1,251,800	2005	Sammamish, WA
STKM 2014/0005	WAILEA SUN & SEA	3068 S KIHEI RD 5H	KIHEI	5	1	\$ 890,100		\$ 2,420,800	10,099 ft ²	\$ 3,310,900	1992	Las Vegas, NV
STKM 2015/0001	MAKENA KAI	7421 MAKENA RD	KIHEI	3	1	\$ 3,631,100		\$ 3,933,200	47,267 ft ²	\$ 7,604,900	2014	Avon, CO
STKM 2015/0002	SUNNY SURF	3082 S KIHEI RD 5H	KIHEI	3	1	\$ 2,353,200	\$ 108,000	\$ 9,150,700	0.549 acres	\$ 11,638,400	2007	San Francisco, CA
STKM 2015/0003	HALE MA KE KAI	209 S KIHEI RD 5B	KIHEI	5	2	\$ 86,900	\$ 27,200	\$ 544,300	0.55 acres	\$ 719,000	prior to 1988	Kula
STKM 2015/0004	KAPU BEACHFRONT UNITS A&B	69 KAPU PL UNIT NO C608	KIHEI	6	1	\$ 405,500	\$ 421,900	\$ 2,142,500	7,280 ft ²	\$ 2,970,000	1988	CA and Maui
STKM 2015/0005	MANGO COTTAGE	45 KILOHANA DR 5G	KIHEI	5	2	\$ 74,100	\$ 79,400	\$ 593,100	0.8 acres	\$ 759,800	2012	Kahului
STKM 2016/0001	AINA O KIHEI LLC	120 KAIMANU PL 5K	KIHEI	6	1	\$ 6,001,400		\$ 2,427,600	2.023 acres	\$ 8,662,100	2000	Kihei
Sub Total: 30												

Makawao-Pukalani-Kula Community Plan Region -Limited to 40 permits

Permit Number	Name	Address	Town	Rooms	Dwellings Rented	Building Value 1	Building Value 2	Land Value	Land Area	Total Assessed	Year Purchased	Address of Record
STMP 2013/0001	MAUI UPCOUNTRY HOME	110 APAU PL 6B	MAKAWAO	4	1	\$ 369,200	\$ 110,500	\$ 178,500	95,646 ft ²	\$ 696,100	1988	Las Vegas
STMP 2013/0002	POOKELA PARADISE	1115 POOKELA RD 6B	MAKAWAO	6	2	\$ 205,000	\$ 291,300	\$ 367,800	39,372 ft ²	\$ 864,100	2005	Makawao
STMP 2013/0003	ALOHA COTTAGE	1875 OLINDA RD	MAKAWAO	2	2	\$ 107,400	\$ 172,800	\$ 245,800	2.22 acres	\$ 526,000	2010	Makawao
STMP 2013/0004	KILOHANA OF MAKAWAO	450 MEHA RD	MAKAWAO	4	1	\$ 263,300		\$ 308,900	2.223 acres	\$ 586,700	prior to 1996	Haiku
STMP 2014/0001	HALEAKALA PRINCESS	1445 LOWER KIMO DR	KULA	5	2	\$ 98,400	\$ 334,100	\$ 368,500	157,049 ft ²	\$ 1,572,900	1992	San Rafael, CA
STMP 2014/0002	MAUI OLINDA FOREST R	1939 PIIHOLO RD	MAKAWAO	2	1	\$ 208,200		\$ 580,800	5.403 acres	\$ 792,400	2003	Makawao
STMP 2015/0001	SACRED GARDEN RETREA	470 KALUANUI RD	HAIKU	6	2	\$ 12,200	\$ 10,200	\$ 334,300	4.52 acres	\$ 676,200	2012	Makawao
STMP 2015/0002	ISLAND SUNSET VILLA	676 HOLOPUNI RD	KULA	3	1	\$ 460,300	\$ 92,600	\$ 160,500	2.055 acres	\$ 7,300,600	1986	Kula
STMP 2016/0001	KULA VILLA	444 CALASA RD	KULA	1	1	\$ 248,300		\$ 17,000	CPR - .05 acres	\$ 353,800	prior to 2007	Kula
Sub Total: 9												

Paia-Haiku Community Plan Region - Limited to 88 permits

Permit Number	Name	Address	Town	Rooms	Dwellings Rented	Building Value 1	Building Value 2	Land Value	Land Area	Total Assessed Value	Year Purchased	Address of Record
STPH 2012/0001	PAIA SURF	15 NALU PL	PAIA	5	1	\$ 315,100		\$ 334,100	4,370 ft ²	\$ 649,200	prior to 1994	Paia
STPH 2013/0001	BANYAN COVE	22 WAA PL 7A	PAIA	3	1	\$ 4,725,600		\$ 4,103,400	33,361 ft ²	\$ 8,863,300	2002	Paia
STPH 2013/0002	PAIA PLACE	95 B HANA HY 95B	PAIA	3	1	\$ 219,300		\$ 345,200	6,041 ft ²	\$ 567,200	2008	Paia
STPH 2013/0003	PAIA HOUSE	30 KUPONO ST 7A	PAIA	3	1	\$ 140,600		\$ 347,100	6,418 ft ²	\$ 487,700	2010	Paia
STPH 2013/0004	PAIA HALE	209 BALDWIN AVE UNIT NO B	PAIA	3	2	\$ 107,800	\$ 106,200	\$ 351,300	0 acres	\$ 565,300	prior to 2009	Paia
STPH 2013/0005	BEACHCOMBER	23 NALU PL 7A	PAIA	3	1	\$ 157,800		\$ 1,542,200	8,863 ft ²	\$ 1,704,000	2004	Paia
STPH 2013/0006	PAIA BEACH HOME	36 AE PL 7A	PAIA	3	1	\$ 353,900		\$ 329,000	2,800 ft ²	\$ 682,900	2005	Paia
STPH 2013/0007	PAIA PAD	40 AE PL	PAIA	3	1	\$ 117,800		\$ 397,600	3,283 ft ²	\$ 523,700	2008	Paia
STPH 2013/0008	MAKANI AKAU	55 LOIO PL 7A	PAIA	6	1	\$ 742,000		\$ 2,031,500	11,880 ft ²	\$ 2,791,700	2005	Bellevue, WA
STPH 2013/0009	HALE MOKU	63 LOIO PL 7A	PAIA	4	1	\$ 622,000		\$ 1,503,600	7,594 ft ²	\$ 2,126,100	1999	Anchorage, AK
STPH 2013/0010	MENEHUNE COTTAGE	40 AU PL	PAIA	5	2	\$ 47,100	\$ 93,500	\$ 834,300	10,696 ft ²	\$ 984,900	1993	Paia

Permit Number	Name	Address	Town	Rooms	Dwellings Rented	Building Value 1	Building Value 2	Land Value	Land Area	Total Assessed	Year Purchased	Address of Record
STPH 2013/0011	MAUI CHALET	45 E WAIPIO RD	HAIKU	2	1	\$ 290,100		\$ 96,300	N/A	\$ 386,400	1996	Paia
STPH 2013/0012	KULIKE	380 KULIKE RD	HAIKU	3	1	\$ 59,200	\$ 425,300	\$ 462,100	3.1 acres	\$ 1,023,000	2002	Haiku
STPH 2013/0013	PAIA BAY	47 LOIO PL 7A	PAIA	4	1	\$ 241,400		\$ 2,031,700	11,881 ft ²	\$ 2,281,100	2003	Woodside, CA
STPH 2013/0014	HAIKU NANI	1640 W KUIAHA RD	HAIKU	2	1	\$ 316,300		\$ 530,500	5.802 acres	\$ 846,800	2003	San Francisco, CA
STPH 2013/0015	PAIA PARADISE BEACH	29 NALU PL 7A	PAIA	4	2	\$ 122,700	\$ 40,400	\$ 1,475,500	7,967 ft ²	\$ 1,638,600	2000	San Diego, CA
STPH 2013/0016	PILILANI	110 KANE RD	HAIKU	5	1	\$ 1,041,400		\$ 730,300	3.92 acres	\$ 1,843,400	2002	Pound Ridge, NY
STPH 2013/0017	HALE MAKAI	134 ALEIKI PL	PAIA	6	1	\$ 673,100		\$ 725,600	7,974 ft ²	\$ 1,398,700	2001	Hood River, OR
STPH 2013/0018	NELLIES OCEANFRONT	127 HANA HY	PAIA	6	2	\$ 204,500	\$ 102,500	\$ 3,924,900	34,960 ft ²	\$ 4,600,000	1999	Pala
STPH 2013/0019	MAUI WINDS UNITS A&B	60 LANA ST 7A	PAIA	6	2	\$ 451,500	\$ 170,400	\$ 1,338,400	14,106 ft ²	\$ 1,146,800	2000	Chicago, IL and Ketchum, ID
STPH 2013/0020	LEILANI	2590 ALOHIA PL	HAIKU	5	2	\$ 232,500	\$ 90,500	\$ 397,900	0.554 acres	\$ 720,900	2004	Paia
STPH 2013/0022	GINGERBREAD HOUSE	19 AOLANI PL 7A	PAIA	3	2	\$ 145,400	\$ 104,400	\$ 518,700	0.243 acres	\$ 784,000	2004	Pala
STPH 2013/0023	HALE HO'OKIPA KAI	535 HANA HY	PAIA	4	2	\$ 204,400	\$ 243,700	\$ 2,715,900	19,469 ft ²	\$ 3,164,000	prior to 1988	Santa Monica, CA
STPH 2013/0024	PINNACLE	2356 UMI PL	HAIKU	5	2	\$ 1,101,300	\$ 267,800	\$ 776,900	2.467 acres	\$ 2,224,000	2012	Chicago, IL
STPH 2013/0025	HAIKU MALU ESTATE	1555 W KUIAHA RD 7G	HAIKU	6	2	\$ 303,900	\$ 386,800	\$ 335,400	3.582 acres	\$ 1,103,000	2002	Ewa Beach
STPH 2013/0026	PAIA BAY SUITES	45 LOIO PL 7A	PAIA	4	2	\$ 170,500	\$ 358,100	\$ 358,100	8,612 ft ²	\$ 528,600	prior to 2004	Haiku
STPH 2013/0027	KIRALANI	2344 UMI PL 7G	HAIKU	3	1	\$ 390,200		\$ 120,800	2.449 acres	\$ 511,000	2012	Moab, UT
STPH 2014/0001	HALE MALI'O	2548 KAUPAKALUA RD	HAIKU	4	2	\$ 73,200	\$ 425,800	\$ 370,700	21,825 ft ²	\$ 875,600	prior to 1991	Makawao
STPH 2014/0003	HALE AKA'ULA	311 WAIAMA WY 7G	HAIKU	4	1	\$ 760,800		\$ 419,300	2.002 acres	\$ 1,247,600	2008	Kihel
STPH 2014/0004	SEAVIEW	295 WAIAMA WAY	HAIKU	5	1	\$ 1,005,200	\$ 195,800	\$ 1,183,500	3.072 acres	\$ 2,457,300	2005	Haiku
STPH 2014/0005	HALE HILUHILU	910 E KUIAHA RD	HAIKU	6	2	\$ 349,700	\$ 192,500	\$ 124,500	2 acres	\$ 666,700	2002	Los Angeles, CA
STPH 2014/0006	HALE POLA'I	75 PIALII ST	HAIKU	3	1	\$ 894,600		\$ 419,600	2.017 acres	\$ 131,400,200	2007	Haiku
STPH 2014/0007	KUAU POINT	115 ALEIKI PL 7A	PAIA	3	1	\$ 370,300	\$ 56,600	\$ 2,704,200	18,028 ft ²	\$ 3,131,100	prior to 1990	Santa Monica, CA
STPH 2014/0008	MARLIN HOUSE	165 MAOLI PL 7A	PAIA	3	1	\$ 93,900		\$ 346,800	6363 sq ft	\$ 440,700	2010	Haiku
STPH 2015/0001	MALIKO COFFEE COTTAGE	585 KALUANUI RD	MAKAWAO	3	2	\$ 59,600	td	\$ 588,000	6.89 acre farm	\$ 125,800	1990	Makawao
STPH 2015/0002	PAIA KO	42 A PUAKEU PL 7A	PAIA	3	1	\$ 52,200	\$ 173,500	\$ 360,300	9941 sq ft	\$ 586,000	2001	San Rafael, CA
STPH 2015/0003	BANANA LEAF	32 LAE PL 7A	PAIA	2	1	\$ 105,100		\$ 565,300	5333 sq ft	\$ 670,400	2014	Paia
STPH 2015/0004	HUNTER HALES STRH	24 HUNTER LANE	HAIKU	2	2	\$ 124,100	\$ 124,000	\$ 277,900	14,222 sq ft	\$ 526,000	2012	Haiku

Permit Number	Name	Address	Town	Rooms	Dwellings Rented	Building Value 1	Building Value 2	Land Value	Land Area	Total Assessed	Year Purchased	Address of Record
STPH 2015/0005	565 HOOLAWA RD UNIT A	HOOLAWA RD	HAIKU	1	1	\$ 99,600		\$ 132,600	2,001 acres	\$ 232,200	2012	Paia
STPH 2015/0006	HAIKU MAUI COTTAGE	765 HAIKU RD	HAIKU	4	2	\$ 112,200	\$ 48,900	\$ 211,900	7744 sq ft	\$ 373,000	2012	Haiku
STPH 2016/0001	HALE MEHA	8 MEHA PL	PAIA	2	1	\$ 69,400	\$ 239,000	\$ 611,200	14,215	\$ 719,600	2001	Paia
Sub Total: 41												

Wailuku-Kahului Community Plan Region - Limited to 36 permits

Permit Number	Name	Address	Town	Rooms	Dwellings Rented	Building Value 1	Building Value 2	Land Value	Land Area	Total Assessed	Year Purchased	Address of Record
STWK 2013/0001	KUNEA PLACE	30 NONOHE PL	SPRECKELSVILLE	4	1	\$ 208,700		\$ 1,000,100	43,346 sq ft	\$ 1,208,800	2005	Naples, FL
STWK 2013/0002	NONOHE PLACE	44 NONOHE PL	SPRECKELSVILLE	4	1	\$ 379,500		\$ 795,000	16,000	\$ 1,174,500	2000	Paia
STWK 2013/0003	BEACH COTTAGE Unit 1	600 SPRECKLESVILLE BEACH RD	SPRECKELSVILLE	2	1	\$ 2,911,500		\$ 9,413,700	4.12 acres	\$ 12,325,500	2009	Paia
STWK 2013/0004	WINDSURF BUNGALOW 20	318 PAANI PL	SPRECKELSVILLE	2	1	\$ 137,100		\$ 2,100,000	.32 acres	\$ 2,237,700	2007	Paia
Sub Total: 4												

West Maui Community Plan Region - Limited to 88 permits

Permit Number	Name	Address	Town	Rooms	Dwellings Rented	Building Value 1	Building Value 2	Land Value	Land Area	Total Assessed Value	Year Purchased	Address of Record
STWM 2013/0001	MAUI SANDY BEACH	409 FRONT ST 3C	LAHAINA	6	1	\$ 1,275,900		\$ 2,694,600	11,971 sq ft	\$ 3,970,500	2011	Los Gatos, CA
STWM 2013/0002	BABY BEACH HALE	21 KAI PALI PL	LAHAINA	4	1	\$ 916,500		\$ 137,400	11,202 sq ft	\$ 2,289,900	2001	La Jolla, CA
STWM 2013/0003	NO KA OI HALE	29 KAMAKA CI	LAHAINA	3	1	\$ 413,200		\$ 2,105,600	8480 sq ft	\$ 2,518,800	1990	Half Moon Bay, CA
STWM 2013/0004	KAANAPALI HOME	57 HALELO ST 3D	LAHAINA	4	1	\$ 314,500		\$ 411,800	12,202 sq ft	\$ 726,300	1998	Lahaina
STWM 2013/0005	MCCASLAND TVR	451 ILIKAHI ST 3C	LAHAINA	1	1	\$ 372,200		\$ 486,600	11,060 sq ft	\$ 858,800	2004	La Jolla, CA
STWM 2013/0006	TURTLE BEACH	1421 FRONT ST 3C	LAHAINA	3	1	\$ 2,110,300		\$ 2,800,000	10,000 sq ft	\$ 4,910,300	2004	Laguna Beach, CA
STWM 2013/0007	LAHAINA BABY BEACH P	10 KAI PALI PL 3C	LAHAINA	3	1	\$ 324,800		\$ 445,900	7529 sq ft	\$ 770,700	2012	San Rafael, CA
STWM 2013/0008	LAHAINA OCEAN FRONT	1007 FRONT ST 3C	LAHAINA	4	1	\$ 232,900		\$ 1,406,400	7768 sq ft	\$ 1,639,300	2007	Lahaina
STWM 2013/0009	STEPHEN B. GRAHAM	4039 LOWER HONOAPILANI RD	LAHAINA	6	1	\$ 2,993,700		\$ 4,643,300	41,384 sq ft	\$ 7,637,000	2011	Atlanta, GA
STWM 2013/0010	B J OHANA LLC	5157 LOWER HONOAPILANI RD	LAHAINA	3	1	\$ 684,600		\$ 3,908,400	.377 acres	\$ 4,593,000	prior to 1989	Lahaina
STWM 2013/0011	OPAL SEAS AT BABYBCH	41 KAI PALI PL 3C	LAHAINA	3	1	\$ 1,237,800		\$ 2,681,400	10,011 sq ft	\$ 3,919,200	1995	San Diego, CA
STWM 2013/0012	LAHAINA DREAM UNIT A	120 PUNAKEA LOOP	LAHAINA	6	1	\$ 1,788,700		\$ 1,379,100	15.478 acres	\$ 3,167,800	2003	Lahaina
STWM 2013/0013	HALE KOHALA	2810 KOLEPA PL 3D	LAHAINA	4	1	\$ 1,140,600		\$ 716,300	13,023 sq ft	\$ 1,856,900	1990	Cclovis, CA
STWM 2013/0014	ALII HALE	1015 FRONT ST	LAHAINA	4	1	\$ 473,300		\$ 1,599,400	6272 sq ft	\$ 2,554,300	1990	Tokyo, Japan
STWM 2013/0015	PRINCESS HALE	1023 FRONT ST	LAHAINA	3	1	\$ 590,500		\$ 1,963,800	8557 sq ft	\$ 2,072,700	2010	Tokyo, Japan
STWM 2013/0016	MAKILA PLANTATION HO	88 S LAUHOE PL	LAHAINA	3	1	\$ 565,400		\$ 1,108,200	6.089 acres	\$ 1,673,600	2007	Lahaina
STWM 2013/0017	ALOHA HONU HALE	34 PAPAUA PL 3E	LAHAINA	4	1	\$ 859,400		\$ 2,819,500	7608 sq ft	\$ 3,678,900	prior to 1993	Pasadena, CA
STWM 2013/0018	HALE ALAULA	15 PAPAUA PL 3E	LAHAINA	5	1	\$ 1,820,200		\$ 4,225,600	0.317 acres	\$ 6,045,800	2000	Kenmore, WA
STWM 2013/0020	HALE O KA HONU	20 PAPAUA PL 3E	LAHAINA	3	1	\$ 926,900		\$ 3,460,300	12,113 sq ft	\$ 4,387,200	1996	Kenmore, WA
STWM 2013/0021	LAHAINA ANIMAL FARM	108 S LAUHOE PL	LAHAINA	3	1	\$ 443,500		\$ 204,700	5.779 acres	\$ 648,200	2004	mailed to property
STWM 2013/0022	KALAPANA	15 E HUAPALA PL	LAHAINA	3	1	\$ 939,000		\$ 316,400	2.016 acres	\$ 1,255,400	2012	Honolulu
STWM 2013/0023	NAPILI HALE	5460 L HONOAPILANI HWY	LAHAINA	4	1	\$ 374,600		\$ 332,800	.566 acres	\$ 707,400	prior to 2008	Kula

Permit Number	Name	Address	Town	Rooms	Dwellings Rented	Building Value 1	Building Value 2	Land Value	Land Area	Total Assessed Value	Year Purchased	Address of Record
STWM 2014/0001	ALOHA MOANA HALE	39 PAPAUA PL 3E	LAHAINA	4	1	\$ 791,500		\$ 2,520,800	.148 acres	\$ 3,312,300	1999	Chappell Hill, TX
STWM 2014/0002	BLUE SKY VILLA	321 FRONT ST 3C	LAHAINA	5	1	\$ 2,294,900		\$ 2,403,700	11,357 acres	\$ 4,698,600	prior to 1987	mailed to property
STWM 2014/0003	PAPAUA PARADISE	43 PAPAUA PL 3E	LAHAINA	5	1	\$ 766,800		\$ 2,696,100	.164 acres	\$ 3,462,900	1987	Santa Clara, CA
STWM 2014/0004	HALE EVANS	16 HOLOMAKANI PL 3D	LAHAINA	4	1	\$ 306,700		\$ 484,100	14,539 sq ft	\$ 790,800	2013	Pacific Palisades, CA
STWM 2014/0005	35 KAI PALI	35 KAI PALI PL 3C	LAHAINA	5	1	\$ 956,000		\$ 2,528,000	9265 sq ft	\$ 3,484,000	2011	Atherton, CA
STWM 2015/0001	WOODROSE PLACE	112 WOODROSE PL 3F	LAHAINA	4	1	\$ 1,388,900		\$ 871,400	9719 sq ft	\$ 2,260,300	1990	Lahaina
STWM 2015/0002	SILVERSWORD	622 SILVERSWORD DR 3F	LAHAINA	4	1	\$ 1,251,900		\$ 1,017,400	9825 sq ft	\$ 2,269,300	2013	Lahaina
STWM 2015/0003	ANGELIA CRIM	147 HALELO ST 3D	LAHAINA	4	1	\$ 317,300		\$ 454,600	10,103 sq ft	\$ 771,900	2003	Houston, TX
STWM 2015/0004	LAHAINA PINK VILLA	1327 KEAO ST 3C	LAHAINA	6	1	\$ 394,500		\$ 279,100	4940 sq ft	\$ 673,600	2010	Lahaina
STWM 2015/0005	RAINBOW HALE ESTATE	275 OKA KOPE ST	LAHAINA	4	1	\$ 1,703,600		\$ 747,200	5.132 acres	\$ 1,778,000	2014	Kirkland, WA
STWM 2015/0006	KAANAPALI HALE	129 HALELO ST 3D	LAHAINA	5	1	\$ 378,500		\$ 494,700	11,334 sq ft	\$ 873,200	2009	Lahaina
STWM 2015/0007	MAKENA ALOHA	89 AWAIKU ST	LAHAINA	5	2	\$ 1,011,300	\$ 258,000	\$ 884,700	2.065 acres	\$ 2,572,700	2006	Los Angeles, CA
STWM 2015/0008	PARADISE MILES AWAY	1206 SUMMER RD 3F	LAHAINA	4	1	\$ 1,247,500		\$ 990,400	10,974 sq ft	\$ 2,237,900	1999	Mount Juliet, TN
STWM 2015/0009	LAHAINA HISTORIC	208 LAHAINALUNA RD	LAHAINA	4	1	\$ 72,500		\$ 380,400	11,458 sq ft	\$ 452,900	2004	Lahaina
STWM 2015/0010	MAUI DREAM HOUSE	5029 LOWER HONOAPIILANI RD	LAHAINA	6	2	\$ 689,700	\$ 123,100	\$ 868,300	14,562 sq ft	\$ 1,681,100	2014	Bountiful, UT
STWM 2015/0011	SERENE NAPILI HALE	5150 LOWER HONOAPIILANI RD	LAHAINA	4	1	\$ 761,100		\$ 605,700	21,944 sq ft	\$ 1,366,800	1997	Nashville, TN
STWM 2015/0012	HOLOMAKANI RETREAT	34 HOLOMAKANI PL 3D	LAHAINA	4	1	\$ 269,400		\$ 383,700	10,657 sq ft	\$ 653,100	prior to 2000	San Jose, CA
STWM 2015/0013	NAPILI SUNSET HALE	5205 L HONOAPIILANI HWY 3E	LAHAINA	4	2	\$ 794,500	\$ 213,500	\$ 4,553,200	.488 acres	\$ 5,577,600	2014	Kenmore, WA
Sub Total: 40												
Island Total: 138												

Lanai Community Plan Region

Permit Number	Name	Address	Town	Rooms	Dwellings Rented	Building Value 1	Building Value 2	Land Value	Land Area	Total Assessed Value	Year Purchased	Address of Record
STLA 2013/0001	JASMINE HOUSE	1215 JASMINE DR	LANAI CITY	3	1	\$ 176,200		\$ 234,200	3065 sq ft	\$ 410,400	2000	Santa Cruz, CA
STLA 2015/0001	THE PINK HOUSE	1101 PALAWAI ST 2C	LANAI CITY	3	1	\$ 168,700		\$ 329,900	6653 sq ft	\$ 498,600	1996	Stevens Point, WI
STLA 2015/0002	MAUKA HALE	928 HOUSTON ST 2C	LANAI CITY	2	1	\$ 76,000		\$ 241,400	.0818 acres	\$ 317,400	2007	Kihei
STLA 2016/0001	HALE OHANA	1344 FRASER AVE	LANAI CITY	2	1	\$ 45,400		\$ 324,000	6000 sq ft	\$ 369,400	2005	Prescott, AZ
Sub Total: 4												
Island Total: 4												

THE HIDDEN COST OF HIDDEN HOTELS

THE IMPACT OF VACATION RENTALS IN HAWAI'I



Report by UNITE HERE Local 5
Isis Osborne
Benjamin Sadoski
May 2016

EXHIBIT
3

Executive Summary

- A state study found the number of visitors to Hawaii using vacation rentals to have grown by more than one third in a recent one-year period. The Hawaii Tourism Authority (HTA) estimates that there are about 27,177 vacation rentals in the state that are advertised online, up from 22,238 identified in 2014. About 6,789 units on Oahu alone.
- Part of the growth in vacation rentals is due to rental platforms like Airbnb and VRBO, which allow owners and operators to list their rental offerings on a searchable online database. Airbnb in particular is a fast-growing startup – started in 2008, it now claims to have over two million rental listings worldwide.¹
- In Honolulu, the average rent for a two-bedroom unit between 2012 and 2014 was \$1,939 per month,² but a two-bedroom unit on Airbnb could generate revenue of over \$10,500 per month at the average rate of \$431.88 per night and an occupancy rate of 80% – over five times as much revenue.
- Hawaii is deep in an affordable housing crisis, yet there are over 5,000 units statewide being advertised for short-term rental of the entire unit. There are no effective safeguards to ensure that these units are used as residences for even a part of the year.
- Although there are laws in each county restricting vacation rental operations, an ineffective regulatory structure and relative lack of enforcement have allowed illegal vacation rentals to propagate throughout the state for years. Analysis of the units the HTA identified on Oahu uncovers that at a minimum, 50% are operating illegally.
- Throughout Hawaii, 79.6% of Airbnb listings are categorized as “entire place,” meaning an entire housing unit is being rented out to visitors. Many of these units are being rented out by people with multiple listings.
- Short-term rentals directly compete with the traditional hotel industry in fundamentally unfair ways: while hotels create and sustain quality jobs for local people (housekeepers, front desk workers, security guards, bellmen, etc.), the few jobs created by short-term rentals are geographically scattered and leave employees with little power to protect their rights or achieve decent wages or benefits. Workers in this market are forced to compete with one another.
- The right regulatory framework for vacation rentals can ultimately protect hotel industry jobs, help keep the affordable housing crisis from getting worse, and benefit the community while still allowing rental owner/operators a path forward. Part of the framework already exists in each county's laws, but in order for the rules to be effective, each county government's enforcement powers need to be expanded, and private citizens need to be granted a right to take legal action independently.

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Introduction

Across Hawai'i, houses and condominiums have been used as lodging for tourists for well over 30 years. While vacation rentals appeal to many visitors seeking a less resort-based experience, their proliferation has had a significant impact both directly on the communities they are in and indirectly on housing and employment across the state.

In response, each county has to some degree enacted legislation to balance the growth of the alternative lodging industry against the needs of our communities. However, these regulations have generally fallen short of being effective because they lacked strong enforcement mechanisms and dedicated enforcement personnel. This lack of enforcement, paired with the growth of the internet, allowed vacation rentals to proliferate illegally. Now, with the popularization of smartphones and the resulting growth in the use of smartphone apps, vacation rentals are expanding and changing the industry in ways that can no longer be ignored.

This report explores individually advertised short-term rentals in Hawai'i: what the industry looks like, how it is growing, and what that means for our State. It examines how their growth negatively affects affordable housing, sustainable jobs, tax revenues and the overall safety of both residents and visitors. Finally, this report proposes the framework for a regulatory structure to effectively allow the vacation rental industry to flourish in a way that fits with the best interests of our communities.

Part I – Background on Vacation Rentals

What are vacation rentals?

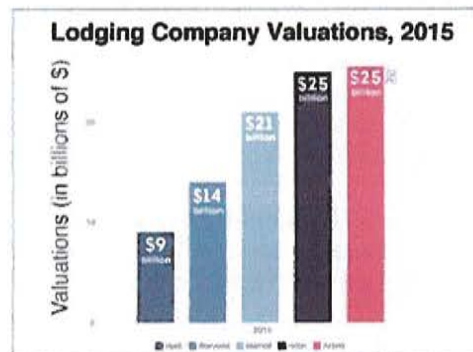
Vacation rentals are nothing new to Hawai'i – people have been renting out houses on Windward Oahu and condos in Waikiki for almost as long as the state has been a popular tourist destination. Some are second homes or investment properties; others are bed & breakfast operations where the owner or proprietor lives on property and rents out rooms; some are condominium or condotel units individually rented out (this report uses the term "vacation rentals" to describe all of these various types of individually advertised lodging units).

Property owners may find renting units short-term to tourists to be a lucrative alternative to renting long-term – even at 80% occupancy, entire units listed on the short-term rental platform Airbnb charging an average rate for Oahu could generate revenue of \$5,900 per month, more than three times the average rent of \$1,732.³ Larger units could generate proportionally more profit: In Honolulu, the average rent for a two-bedroom unit between 2012 and 2014 was \$1,939 per month,⁴ but the average listing of a two-bedroom unit on Airbnb is \$431.88 per night. At 80% occupancy, that would generate revenue of over \$10,500 per month – over five times as much revenue.

With the development of the internet, "home-sharing" websites run by companies such as VRBO (Vacation Rental by Owner) and Craigslist arose, providing platforms for individuals to advertise short-term rentals to much larger audiences than ever before. The industry has been revolutionized again with the development of the smartphone market. According to market research firm GfK, global smartphone sales topped 1.3 billion in 2015,⁵ up more than 31% from the number sold in 2013, just two years prior.⁶ As smartphones have become more prevalent, the smartphone app market has grown exponentially. In January 2016, over 8.8 million iPhone apps were downloaded per day, only counting the top 200 free apps, according to Fiksu.⁷

One fast-growing app is published by Airbnb, a company which allows virtually anyone – bed and breakfast operators, homeowners, renters, etc. – to advertise and rent out accommodations ranging from an entire house to a spare couch in a rented apartment. Through both its app and its website, Airbnb.com, the company acts as a peer-to-peer platform where people looking for alternative accommodations can find and do business with "hosts," Airbnb's term for people providing rentals.

Airbnb has grown internationally in recent years to become a leading name in short-term lodging, although the longer-lived VRBO.com and its parent site Homeaway have more listings in Hawai'i.⁸ Airbnb's popularity combined with its high levels of fundraising from prominent investors has caused its valuation to jump to \$25.5 billion⁹ since its inception in 2008. By 2015, its valuation had surpassed that of major hotel companies Marriott, Starwood and Hyatt¹⁰ (prior to Marriott's acquisition of Starwood). It claims to have over 2,000,000 listings¹¹ worldwide, which is about as many as Marriott, Starwood, Hilton and Hyatt **combined**.¹²



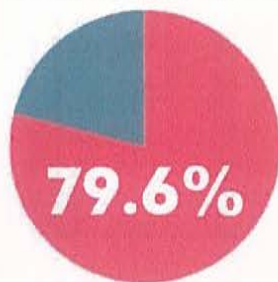
How many vacation rentals are there?

In 2014, a Hawai'i Tourism Authority (HTA)-commissioned survey found 22,238 so called "individually advertised units" (IAUs) across the state.¹³ HTA updated the study one year later and found that the number had grown to 27,177, a 22% increase.¹⁴ Another report by HTA found that the use of short-term rentals in general by tourists to these islands increased by more than 1/3 from February 2014 to February 2015. "The number of visitors using a vacation rental was up 46.8 percent. B&B users climbed 33.4 percent,"¹⁵ according to the *Honolulu Star-Advertiser*.

Who benefits from vacation rentals?

Supporters of vacation rentals across the state have argued that this commercial activity brings money into residential communities, and benefits long-time residents who are simply trying to support themselves in trying financial times. Airbnb in particular claims to be based on the ethos of 'sharing,' stating that "The majority of Airbnb hosts are regular people who occasionally share the home in which they live."¹⁶ The reality, however, is somewhat different.

Airbnb Hawaii Listings by Room Type



■ Entire Place (79.6%) ■ Room or Share (20.4%)

For example, a profile advertising 27 Hawaii listings features a picture of a woman named Claudia, who claims to work for a property management company.¹⁸ Most of her properties are in Waikiki, and their nightly prices range from \$108 to \$3,800. According to her LinkedIn profile,¹⁹ Claudia works for a company called Ohana Beach Rentals LLC, which lists 150 rentals across the state.²⁰

This example is by no means unique. An admittedly incomplete search of hosts turned up 25 in just a few minutes who advertised multiple listings in Hawaii.²¹

Even more than hosts with multiple listings, Airbnb as a company benefits from the spread of vacation rentals in Hawaii. Airbnb charges a 3% service fee to hosts²² and a 6-12% service fee to guests²³ every time a booking is completed on its site.

Throughout Hawaii, 79.6% of Airbnb listings are categorized as "entire place," meaning an entire housing unit is being rented out to visitors.¹⁷ While it is undoubtedly true that there are individuals using platforms like Airbnb to share their homes to make a few extra dollars and make ends meet, some individuals who post properties on the site are actually employees of large vacation rental management companies or owners with multiple properties.

"In a way, Airbnb almost perfectly embodies the paradox of the sharing economy. From one perspective, it seems — and purports — to be about connecting people with one another and the things they want, all while maximizing efficiency. But from another angle, it can seem like nothing more than a way for certain individuals to maximize profit by working around the law."
— Caroline O'Donovan, BuzzFeed

"During the past two years, investors have bought approximately 200,000 single-family homes, mostly foreclosures, in urban areas nationwide, with plans to convert them into rental properties."
– "Game of Homes," *In These Times*, March 31, 2014.

In the future, well-capitalized investors will have every incentive to buy up housing units from individuals like these and generate revenue for themselves. In fact, big investors already are buying up homes and renting them out. For instance, the Blackstone Group, a private equity firm with over \$330 billion in assets under management²⁴ has become the single largest private owner of homes in the US, after spending over \$8 billion buying 47,000 homes²⁵ since April 2012.²⁶

How do vacation rentals impact our communities?

Vacation rentals impact our communities in a number of ways:

- **Affordable housing:** Hawaii is deep in an affordable housing crisis, yet there are over 5,000 units statewide being advertised for short-term rental of the entire unit.²⁷ There are no effective safeguards to ensure that these units are used as residences for even a part of the year. Additionally, short-term rentals drive up the demand for the development of new high-end housing, which supplants affordable housing development.
- **Jobs:** In addition to this, short-term rentals directly compete with the traditional hotel industry in fundamentally unfair ways: while hotels create and sustain quality jobs for local people (housekeepers, front desk workers, security guards, bellmen, etc.), the few jobs created by short-term rentals are geographically scattered and leave employees with little power to protect their rights or achieve decent wages or benefits. Workers in this market are forced to compete with one another, which will tend to suppress wages.
- **Safety:** Because they are not inspected for the same building, fire, and health codes, or accessibility requirements as hotels, short-term rentals are able to spend less on property maintenance. This virtual lack of safety regulation/enforcement of short-term rental legislation (especially in regard to illegal units not registered in their county) can pose dangers to visitors as well as hosts.
- **Quality of life:** As the proportion of units used for vacation rentals in a community increases, they bring with them a host of social and logistical difficulties for neighbors.
- **Lost revenue:** Vacation rental guests spend less money overall during their stays than those staying in hotels.²⁸ Unless it can be definitively shown that these visitors would not have come to Hawai'i if they could not stay in vacation rentals, the shift to vacation rentals results in less revenue entering Hawai'i's economy either by reducing hotel occupancy and/or demand.

Current regulatory framework

Legislation regarding short-term rentals is generally incorporated into zoning and land use laws, which are mostly handled at the county level in Hawaii. Each county has adopted a different set of regulations and different terminology. Below are some of the key aspects of each county's rules.

City and County of Honolulu

The City and County of Honolulu designates two different types of short-term rentals in its Land Use Ordinance (LUO), which regulates all land use in the county: Bed and Breakfasts (B&Bs), where the owner/proprietor resides on the property, and Temporary Vacation Units (TVUs), where the owners/proprietors live remotely. In 1989, City Council passed a bill prohibiting the new development of both kinds of short-term rentals while legalizing the ones that were already in use. As a result of the legislation, B&Bs are currently only allowed where they have a "nonconforming use certificate," or a permit certifying that they were in use before 1989; such units are considered "grandfathered." TVUs which were in use before 1986 were similarly grandfathered. As of May 13, 2015, there were 828 units (789 TVUs and 39 B&Bs) with nonconforming use certificates in the county, only 177 of which were outside of Waikiki. TVUs are also permitted in resort-zoned areas, as well as certain apartment-zoned areas²⁹ near Waikiki, Ko Olina and Makaha Golf Club.³⁰

In spite of this attempt to quell their proliferation, illegal rentals continue to pose problems in Honolulu and across the state. Ohana Beach Rentals, for example, features seven luxury Kailua/Kaneohe rentals, none of which have nonconforming use certificates and none of which are in or near resort areas.³¹

Maui County

Maui County, after attempting to ramp up enforcement against illegal units, passed legislation in 2008 and 2012 that defined the current application process for "new" rentals. The two ordinances set numerical limitations on B&Bs and short-term rental homes (STRHs): only 400 of each are currently allowed across the county.³² The regulations limit the size and use of units, who can own them and how they can be used.³³ The permitting process for new B&Bs and STRHs provides opportunities for community input. Applicants are required to notify all neighbors within a certain radius of their intent to operate a B&B or STRH. If enough neighbors protest the application, the Planning Commission may hold a public hearing about it.³⁴ A similar complaint process can be used to revoke permits.³⁵ Despite this attempt at regulation, however, there are more individually advertised units on Maui than any other island in the State.³⁶

Kauai County

Kauai County has enacted limitations on use and development based on geographic areas (generally speaking, Resort and Commercial districts and Visitor Destination Areas) for short-term rentals, which they term Transient Accommodation Units, or TAUs and Single-Family and Multi-Family Transient Vacation Rentals, or TVRs. As with units on Oahu outside of permitted areas, Kauai allowed some grandfathered units to continue operating.³⁷ The county provides for growth in the number of permits issued, but limits growth to roughly 1% per year.³⁸

Hawaii County

Hawaii County regulations only allow for B&Bs. The law regulating B&Bs requires operators to live on property, and imposes limits the number of bedrooms offered for rent, meals offered and parking offered. The County does allow for B&B operation in a range of residential, commercial and resort zones.³⁹

In certain cases, the process for obtaining a permit for a B&B requires notification of neighbors, in a similar manner to Maui County. The Hawaii County Planning Commission is also required to hold public hearings in special cases as well.⁴⁰

State Laws

State law does not address vacation rentals except:

- they are subject to the Transient Accommodations Tax and General Excise Tax,
- in the regulation of condotels (allowing condotel owners to individually manage their own units),
- it requires ads for vacation rentals to include property registration numbers, and
- a requirement that owners designate a "local contact" who resides on the same island as their property and provide contact information for that person prior to booking.⁴¹

Measuring the Prevalence of Illegal Vacation Rentals

The HTA estimates that there are about 27,177 "individually advertised units" in the state that are advertised online, including 9,492 classified as Vacation Rental House and 16,159 classified as Vacation Rental Condo.⁴² In fact, the HTA's report found about 6,789 units on Oahu alone. Since there are 828 units with non-conforming use certificates on the island, the other 5,961 units would have to be in or near resort areas to be legal.⁴³ After making the most generous assumptions about what units might possibly be legal, there remains a minimum of 3,431 units from the survey which were operating illegally.⁴⁴ The number could, of course, be much greater, and it can grow quickly. From 2014 to 2015, the number of Individually Advertised Units statewide grew by 22%, or 4,938 units. In 21 zip code areas in Hawaii, the number of IAUs grew by more than 100%.⁴⁵ New York City, for instance, witnessed a 5000% growth in residential units being used as transient hotels over a 6-year period.⁴⁶

Analysis of the HTA study reveals there were 7 areas on Oahu where 100% of the vacation rentals were illegal and 11 additional areas in which 94-99.9% of the vacation rental units were illegal.⁴⁷

The two areas with highest density of vacation rentals on O'ahu are Hale'iwa and La'ie.

- In Hale'iwa, the HTA study found about 655 vacation rentals – about 21.6 short-term rentals for every 100 residential homes. Since there are only 29 units registered with nonconforming use certificates in this area, the other 626 units must have been operating illegally. There are 20.7 illegal vacation rentals for every 100 housing units.
- There were about 228 vacation rentals in La'ie at the time of the study, but only 6 units have nonconforming use certificates with the county. The remaining 222 units are illegal. There are 18.7 illegal vacation rentals for every 100 housing units.

Area	Illegal IAUs per 100 housing units
Hale'iwa	20.7
La'ie	18.7
Kahuku	18.0
Hau'ula	15.4
Ka'a'awa	7.0
Waialua	5.6
Waimanalo	5.6
Kailua	4.3

Why are there so many illegal units? A problem of enforcement

Even with these regulations, enforcement efforts in most areas have not been consistent or effective enough to stop the spread of illegal units. On Oahu, the Department of Planning and Permitting (DPP) is responsible for responding to complaints of illegal vacation units. DPP's power is greatly restricted:

- Investigations are conducted by staff members who are responsible for enforcing all the ordinances and codes of the city within the time limits of a regular workday.
- In the course of the investigation, inspectors must visit the property, find someone on the property who will admit to being a short-term renter, and issue a violation notice to the landlord (who is given a month to fix the violation).⁴⁸ Only after this process may fines be levied against the owner/landlord.⁴⁹

According to research conducted by Civil Beat in 2010, 749 investigations were launched that year in response to complaints about illegal short-term rentals units, but only 24 violations were found. Only 18 of the violating property owners were reprimanded, and only 2 of the violators were fined a cumulative \$4,433.⁵⁰

The DPP reported that in 2014 and 2015, it conducted 2,719 site visits, resulting in 57 violation notices and 31 violation corrections.⁵¹ In other words, only 2.1% of site visits resulted in a violation notice, and less than 55% of those that got a violation notice corrected the violation.

In January 2016, the DPP announced it was hiring five new inspectors to crack down on illegal vacation rentals. In its first month, the team cited 21 violators.⁵² The hiring initially has increased enforcement, but much more can be done on a policy level to stem the proliferation.

"Not only does Airbnb facilitate illegal conversions of entire buildings from tenant apartments to de facto hotels, it has also become part of the landlord lobby that resists enforcement of local laws prohibiting such abuses."
- *The American Prospect*

Notably, on February 24, Airbnb asked the City to stop enforcing the law against illegal rentals.⁵³

Meanwhile, the State of Virginia passed a bill⁵⁴ on March 6, 2016 preempting the power of local governments to ban or restrict vacation rentals.⁵⁵ As of the time this report was written, the Arizona legislature was in the midst of contemplating a similar prohibition.⁵⁶

Part II - The Impacts of Vacation Rentals

Vacation rentals have broad impacts on a variety of segments of our communities and our lives. Those looking for affordable housing and decent jobs, those trying to keep their neighborhoods safe, those renting their houses or vacation homes and guests at such accommodations are all greatly affected by the existence, quality and enforcement (or lack thereof) of regulations on vacation rentals, often in ways they may not be aware of.

Effects on Working People

The Hawaii hotel industry is one of the largest sources of good, long-term jobs in the state. These jobs sustain local families and support our communities. Illegal vacation rentals offer lodging services without supporting sustainable jobs for local people. In fact, they compete with hotels for business, and by operating illegally, they can undercut hotel room rates by operating illegally, skipping out on taxes, capital expenditures and labor costs.

While the average wages and benefits paid to workers servicing illegal units is not clear, these workers face a nearly insurmountable systemic barrier to organizing together to win better working conditions and wages. To the extent there are any employees at all, it is unlikely that any individually advertised unit would have more than one or two employees servicing it. Even large-scale operators listing hundreds of units in various locations could get by with minimal staff. Without a central base of operations, housekeepers servicing different units might never even meet one another, much less have enough contact to begin discussing their wages and benefits. Lone employees who attempt to assert their rights or try to improve their working conditions can easily be replaced, with little recourse except a potentially very long, expensive legal battle that few would have the time, money and energy to take on. The isolation of the lone worker and the ease to the employer of replacing them leaves them nearly powerless. They are ultimately competing against one another for work. In an area like Hawaii where so many people must work second or third jobs to make enough money to get by, the competition for this work is likely to drive down wages.

Effects on Affordable Housing

Vacation rentals have a negative impact on affordable housing in two ways: 1) they represent units taken out of the overall housing stock statewide, limiting the supply and driving up prices; and 2) the ability to operate any unit as an illegal vacation rental inflates demand for new construction at the high end of the market, giving developers an incentive to build luxury units to the exclusion of lower-priced units.

Regulatory battle in NYC

In New York City, local laws prohibit residential units from being rented out for less than 30 days. When Airbnb began to gain popularity in the city, neighbors began to complain about increased noise and traffic in their buildings, and to suspect that rent-controlled units were being negatively affected by this new economic activity. NYC's attorney general Eric Schneiderman confirmed these fears in a report detailing the ways in which Airbnb and its hosts were hurting the local economy and flouting local laws. According to his research, 72% of Airbnb listings on NYC from January 2010 to June 2014 were illegal. Additionally, Airbnb hosts with multiple property holdings, termed "commercial users" in the report, accounted for a disproportionate amount of the revenue coming from listings across the city:

"Ninety-four percent of Airbnb hosts offered at most two unique units during the Review Period. But the remaining six percent of hosts dominated the platform during that period, offering up to hundreds of unique units, accepting 36 percent of private short-term bookings, and receiving \$168 million, 37 percent of all host revenue."⁵⁷

Schneiderman found other troubling trends as well, including that the listings were primarily concentrated in gentrified or rapidly-gentrifying neighborhoods, and that almost half of the listings constituted housing units that were effectively removed from the long-term housing market (and the number of such units increased over time):

"In 2013, more than 4,600 units were booked as short-term rentals through Airbnb for three months of the year or more. Of these, nearly 2,000 units were booked as short-term rentals for a cumulative total of half the year *or more*—rendering them largely unavailable for use by long-term residents. Notably, the share of revenue to Airbnb and its hosts from units booked as private short term rentals for more than half the year increased steadily, accounting for 38 percent of each figure by 2013."⁵⁸

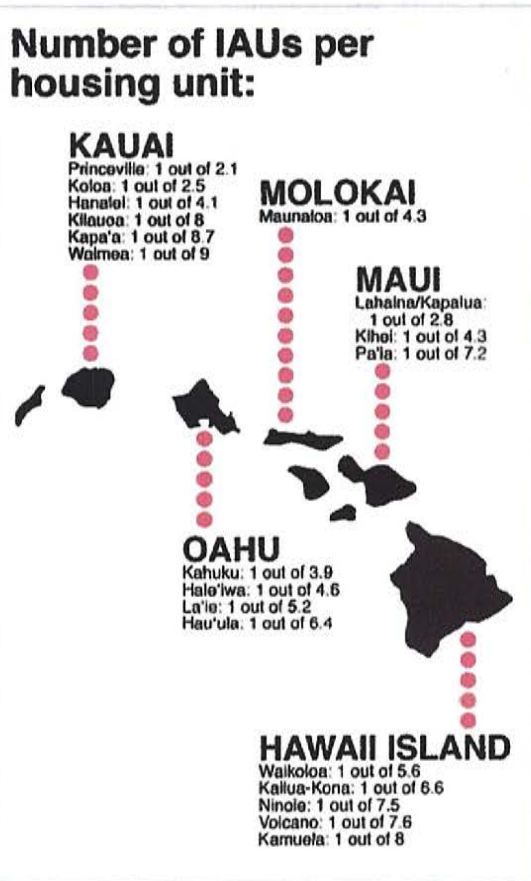
Regulations there remain stringent, but listings in the area continue to proliferate on Airbnb illegally.

Existing housing stock

Short-term rentals exacerbate the current lack of affordable housing for Hawai'i residents. The preceding analysis of the HTA survey identified a minimum of 3,431 units advertised illegally on Oahu. While this number currently appears relatively small in proportion to the 306,622 total housing units on Oahu (just over 1 illegal unit for every 100 housing units), some areas see a much more significant impact from vacation rentals than others.⁵⁹

In Princeville, Kōloa, Lahaina and Kahuku, there is more than one IAU for every four housing units.

Residents in areas with high vacation rental densities have testified time and time again that vacation rentals in their communities are making the affordable housing crisis worse.⁶⁰



Other cities⁶¹ have seen similar trends in housing being converted to short-term rentals for listing on Airbnb. San Francisco recently won \$276,000 settling a lawsuit which alleged that residents were evicted as their landlords converted their units to vacation rentals. According to San Francisco City Attorney Dennis Herrera, "Illegal conversions that push long-term tenants out of their homes diminish the availability of residential rental units for San Franciscans, and they're a significant contributor to our housing affordability crisis."⁶²

Short-term rentals may be causing housing prices and rental rates to increase in many major cities. Ty Simrosky, planning director for Key West, Florida, explained why this might be occurring in an article from American Planning Association:

"When property owners decide to increase their "rent stream" with short-term rental agreements rather than renting by the season or the year, they essentially "squeeze" the supply of housing, pushing up the demand, and, subsequently, the cost."⁶³

This negatively affects the availability and cost of housing units for everyone.

New Developments

The same dynamic which constricts the supply of affordable housing also hinders the development of new affordable units. Developments such as ONE Ala Moana atop the Ala Moana Shopping Center, Park Lane on Ala Moana Boulevard and Anaha tower on Auahi Street are marketed to the luxury segment.

The price of most of the units being developed in Kakaako puts them out of the range of affordability for most Hawaii families. Developers are marketing the units to those with over \$1 million to spend on condo units – generally, the luxury and second-home markets and speculators. To the extent units in Kakaako do not act as primary residences, the cost of mortgages and maintenance fees will exert pressure on owners to use the properties to generate income through short-term rentals. Even owners of the affordable units being developed will be under pressure to sell to investors, who are likely to pay a greater premium for properties that can be used to generate income. According to *Pacific Business News*, "Sal Miwa, co-CEO and president of Honolulu-based Myland Hawaii Realty, told PBN that many Japanese buyers bought their condos in Kakaako expecting to rent their properties out short term, even month-to-month when they are not staying at their condos."⁶⁴

Sample of Condominiums in Planning or Development in Kakaako

Project	Developer	# units	average price
Waiea	Howard Hughes Corp.	171	\$3.7 million (as of 5/12/15)
Anaha	Howard Hughes Corp.	311	\$1.3 million (as of 5/12/15)
Ae'o	Howard Hughes Corp.	466	\$1 million (as of 7/25/15)
Park Lane	BlackSand Capital	215	Range from \$1.19 million to \$28 million
ONE Ala Moana	Howard Hughes, BlackSand Capital, Kobayashi Group, MacNaughton Group	206	\$1.6 million
Waihonua at Kewalo	Alexander & Baldwin, Armstrong Homes Ltd., BlackSand Capital	341	Range from \$375,000 to \$1.9 million
Gateway Towers	Howard Hughes Corp.	236	Range from \$1.5 million to \$8 million
The Collection	Alexander & Baldwin Properties, Inc.	465	\$651,000
Symphony Honolulu	OliverMcMillan	388	Range from \$390,000 to \$3.35 million
400 Keawe St.	Castle & Cooke, Kamehameha Schools	95	Range from \$400,000 to \$750,000
801 South	Downtown Capital, LLC	635	Range from \$253,000 to \$501,300

Effects On Residential Communities

Some neighborhood groups and boards in Hawai'i have expressed a concern for conserving the character of their communities. According to the Kailua Neighborhood Board:

"The visitor lodging businesses in residential zoning reduce the housing supply for local residents, contribute to escalating rents and housing prices, and negatively impact the social, safety, environmental and cultural residential character of our neighborhoods."⁶⁵

Specific problems cited by residents living near short-term rentals include increased traffic, noise, crime and a revolving door of strangers in what once were primarily residential areas.⁶⁶

Proponents of increased legalization for short-term rentals claim that the existence of such units directly causes tourist money to flow into the communities they are in. One supporter claimed "There were no jobs in Kailua before all of the visitors discovered our vacation rentals."⁶⁷ However, one could make the same argument to justify putting factories or strip clubs in residential communities. The argument on its face does not make sense – if visitors spend money at businesses where residents work, regardless of whether those businesses are in

business or residential districts, some of the money flows into the community. It is not clear that the guests staying in vacation rentals would not otherwise come to Hawaii and spend money in our communities if they had to stay in hotels or if there were limits placed on vacation rental proliferation. Beyond this, an HTA study showed that visitors who stay in short-term rental units end up spending less on their day-to-day needs than those who stay in hotels:

“Unfortunately for Hawaii’s coffers, rental and B&B visitors also spend less overall. Last year, visitors who stayed in rental houses told HTA that their total daily spending — including lodging, food and other costs — was \$149.90, or 36 percent less than their average hotel counterpart who spent \$235.50. Likewise, B&B visitors reported they spent \$173.60, or 26 percent less than hotel guests. If these guests had spent as much as the average hotel guest in 2014, it would have added millions more to Hawaii’s economy.”⁶⁸

Among the concerns that have been brought up within discussions on this issue is a loss of community feeling as long-term rentals begin to dwindle. As the organization “Keep it Kailua” testified before City Council:

“Vacation rentals displace ‘permanent’ neighbors from our neighborhoods and neighbors are the glue that welds a community. Without neighbors in our neighborhoods and communities, our social capital suffers. Short-term tenants have little interest in public agencies or in the welfare of the citizenry. They do not participate in neighborhood watch programs, coach paddling, or join the hospital guild. They do not lead a scout troop, volunteer at the library, or keep an eye on an elderly neighbor. Literally they are here today and gone tomorrow.”⁶⁹

Additionally, to the extent the owners of these units are not paying taxes for the rental of their rooms, they are not contributing their fair share to pay for the infrastructure needs they are creating through the operation of their businesses.⁷⁰

Dangers To Hosts

Hosts who list their properties on Airbnb or VRBO may inadvertently be in violation of their apartment rental agreements, condominium bylaws and declarations, insurance policies, mortgages or zoning laws. Some violations have caused hosts to face fines, eviction,⁷¹ and even blacklisting from future apartment rentals.⁷² Given some of the effects short-term rentals have on communities (as described above), landlords and condominium associations have every incentive to enforce their rules.⁷³ There have been horror stories about homes rented out on Airbnb that were trashed by parties,⁷⁴ meth addicts,⁷⁵ robbers⁷⁶ and orgy participants.⁷⁷ Apartments are reported to have been used as brothels.⁷⁸ In more than one case, guests even refused to leave a unit after renting it out through the site, and the unit owners actually had to file for eviction to get them to leave.⁷⁹

The problems could reach beyond the illegal rental units themselves: proprietors of illegal vacation units could create liability for entire condominium projects.⁸⁰ For instance, one Airbnb host lists a unit at the Hawaiki Tower on 88 Piikoi Street.⁸¹ According to the Developer’s Public Report for Hawaiki Tower, the building contains 417 residential units, 8 commercial units, 2 retail units and no hotel units.⁸² The report notes that owners of residential units are only allowed to use them for residential purposes, not commercial purposes. Additionally, the Honolulu Land Use Ordinance defines a “hotel” as follows:

"Hotel" means a building or group of buildings containing lodging and/or dwelling units offering transient accommodations, and a lobby, clerk's desk or counter with 24 hour clerk service, and facilities for registration and keeping of records relating to hotel guests. A hotel may also include accessory uses and services intended primarily for the convenience and benefit of the hotel's guests, such as restaurants, shops, meeting rooms, and/or recreational and entertainment facilities.⁸³

Based on a strict interpretation of this language, if the project met two other minimal conditions (namely if the building were to have a 24 hour front desk and if the host had facilities for registration and record-keeping), a single Airbnb listing in this building could mean the **entire building could be considered a hotel**. This would be an illegal nonconforming use, and it could impact insurance costs for the entire building.

Dangers To Visitors

The lack of regulatory oversight for illegal vacation rentals in Hawai'i means that there is little to no guarantee of visitor safety. Listings online can be advertised by anyone. Although Airbnb could conduct background checks on hosts, it does not.⁸⁴ Guests can attempt to protect themselves by only booking with hosts that have submitted to the company's "Verified ID" process, but in some cases the process may not even require hosts to submit a government-issued ID.⁸⁵ Guests can also check other users' reviews, but there is no guarantee of these reviews' veracity. The lack of oversight in this regard exposes guests to scams and dangerous situations.

Other guests are not so lucky. A Massachusetts teenager staying in Madrid in July 2015 claims he was sexually assaulted by his host. Shortly after meeting his host and going back to the host's apartment, he says he was locked in and threatened. He texted his mother, who in turn contacted Airbnb to get them to call the authorities. According to the *New York Times*, "When she called Airbnb, its employees would not give her the address and would not call the police. Instead, they gave her a number for the Madrid police and told her to ask the police to call the company for the address. But the number led to a recording in Spanish that kept disconnecting her, she said, and when she repeatedly called back her Airbnb contact, the calls went straight to voice mail."⁸⁶ Her son says he was subsequently sexually assaulted. Following the assault, Airbnb changed its policies so that its employees will contact law enforcement in emergency situations.⁸⁷

There have been other reports of Airbnb guests being sexually assaulted⁸⁸ by hosts.

While dangerous incidents can and do take place in hotels, most hotels have security staff as well as front-desk workers and other full-time staff members who can monitor and respond to dangerous or suspicious situations. Airbnb units do not necessarily have any employees or anyone else on site. In addition to staff, hotels generally also invest in security measures such as closed-circuit TV cameras and electronic key card entry systems that track who enters a room and when. In a 2014 survey of hotels, 92% of respondents said they use electronic keycards, and 88% reported use surveillance technology.⁸⁹

Problems with vacation rentals for guests are not limited to personal safety. Some users of Airbnb⁹⁰ and VRBO⁹¹ have reported getting scammed online – being tricked into sending money to con artists who impersonated hosts by intercepting emails between guests and hosts.

Even for legitimate listings, Airbnb does not guarantee unit quality, or have “brand standards” like branded hotels. The only name hosts need to worry about is their own, which they can customize or change. Units’ addresses are not shown until after booking, so in doing research before making a decision, a potential guest can only estimate where exactly it is that they might be staying. This makes it harder for users to verify the legitimacy, or even the existence, of some rental properties, which they could otherwise do using Google Maps or other tools.

Hotels have rigorous licensing requirements which cover many aspects of their operations and help protect consumer health and safety. For instance, a hotel cannot serve liquor without a liquor license. In order to get and maintain a liquor license, the hotel must ensure safeguards against underage drinking, it must have licensed, trained employees, it must show the ability to deal with dangerous situations, and it must be open to random inspections.

Hotels in Hawaii are also subject to fire department inspections, food and sanitation inspections, boiler inspections, and licensing requirements for spas, massage establishments, swimming pools and elevators. Further, it is often the case that hotels have tested for environmental hazards like asbestos, lead paint, carbon monoxide and mold. Many hotels have made efforts to comply with the Americans with Disabilities Act, providing accessible rooms, parking stalls, pools, etc. While potential guests could question the owners of vacation rentals about compliance with these regulations, there are no guarantees that hosts have complied with these various regulations, or even that they are sufficiently familiar with them to know whether or not they are in compliance.

Beyond all of this, it is also unclear whether any given vacation rental owner has plans for what to do in case of a natural disaster such as a tsunami or a hurricane. At least 85 tsunamis have hit Hawaii in the past 203 years.⁹² In contrast, 87% of hotels reported having disaster response/business continuity plans in a 2014 survey.⁹³

Fire Safety

Among other things, illegal vacation rentals may not have been inspected for fire safety. Fire inspections can determine whether or not:

- a building has fire extinguishers in working order in sufficient quantity and type located in accessible places;
- each room has a smoke alarm, and if all smoke alarms are in working order;
- there is a central fire alarm system or not to alert occupants to fires in other parts of the building;
- the building’s fire alarm devices automatically alert the fire department in an emergency;
- there are posted floor diagrams in guest rooms showing exit routes and exits;
- there are lighted exit signs directing guests toward emergency exits;
- furnishings and decorations in each room are fire-resistant;
- any fire hazards exist.
- exit pathways are free from obstructions;
- exits are clearly marked and they are not blocked or locked.

Even units in residential condominiums that have been inspected by the fire department may be unsafe for short-term vacationers unfamiliar with their surroundings.

Effects On Hospitality Industry

Legitimate hotels and legal short-term rental businesses must comply with tax, zoning, safety, and accessibility laws, as noted above. Staying in compliance with all of these laws costs money. Hotels must also spend money in order to remain compliant with fire, safety, and health codes by installing exit signs, automated sprinkler systems, fire alarm systems, backup power sources, and more.

Hotel businesses must pay payroll taxes, as well as general excise tax and transient accommodation tax, each of which illegal rentals might not be paying or might be underpaying if they even have tax licenses. The property tax rate for hotels in Honolulu is over twice as high as the rate for highly valued non-owner-occupied residences, and more than 3.5 times the rate for other residential properties.⁹⁴ These costs add to the price guests must pay to stay in legal units, making it difficult for legitimate businesses to compete with those that can cut costs by operating illegally.

Effects On Government

Property tax is not the only type of tax the counties and the state get shorted by illegal vacation rentals. They may also be avoiding General Excise Tax (GET) and Transient Accommodations Tax (TAT) payments, as well as registration and licensing fees.

The illegal operation of vacation rentals becomes an even greater concern for the state and county governments when one considers the taxes that such ventures often evade. While some rental unit owners have valid GET and/or TAT tax licenses, their lack of registration with their property's county makes it much more difficult to track how many of illegal vacation rentals are actually paying those taxes. Given the relative lack of enforcement, unit owners do not have much incentive to register, either.

In addition to the state taxes, illegal vacation rentals avoid registration fees currently associated with registering for new/renewed permits in various counties. As mentioned earlier, there are a number of other permits that legitimate tourist lodging providers need to obtain, such as liquor licenses. Permitting fees for all of these licenses bring in revenue to the agencies tasked with monitoring and ensuring visitor and public safety.

Part III – Recommendations

Changes to existing regulations are necessary to mitigate the negative effects of short-term rentals in Hawai'i. The right regulatory framework can ultimately protect hotel industry jobs, help keep the affordable housing crisis from getting worse, and benefit the community while still allowing a path forward for vacation rentals.

In order for existing regulations to be effective, they need to be supplemented with the following elements (described in further detail below):

- 1) Give the **enforcement agency** the power to
 - a) initiate investigations of potentially illegal vacation rentals;
 - b) use online ads for vacation rentals as prima facie evidence of vacation rental activity;
 - c) issue meaningful fines; and
 - d) take legal action against hosts and rental platforms like Airbnb and VRBO;
- 2) Provide a **private right of legal action** for residents and neighbors affected by illegal operations;
- 3) Require **mandatory investigation** by the enforcement agency upon receiving a complaint about an illegal vacation rental.

1. Enforcement Agency Powers

Given the prevalence of illegal vacation rentals in Hawaii, it is clear that current regulations are not working. The biggest weaknesses, however, are not in the regulations themselves, but in the lack of enforcement and the lack of enforceability. Regulators need the power to enforce the laws quickly and proactively, and they need to be able to enforce a clear standard without loopholes.

Power to initiate investigations

The enforcement body must be empowered to initiate an investigation of a property or hosting platform's unlawful activities. This will allow for proactive enforcement practices, instead of relying on a complaint driven system. This investigation could include, but is not limited to, an inspection of the subject property and/or a request for any pertinent information from the owner, business entity, or hosting platform, such as leases, business records, or other documents.

Power to use advertisements as evidence

The enforcement agency must be able to use online advertisements for vacation rentals as evidence of their operation. Using ads to quickly and efficiently sort out legal rentals from illegal ones is essential for making regulations effective at preventing the proliferation of illegal vacation rentals.

Power to issue fines

A strict and escalating system of penalties for lack of compliance is essential. Lack of compliance should subject both owners and hosting platforms to daily fines for advertising or operating illegal vacation rentals.

The enforcement body must also have the power and the resources to bring appropriate legal action against both online hosting platforms and owner/tenant hosts who fail to comply with the law. Appropriate legal action would include both injunctive and monetary relief, including civil penalties and attorneys' fees.

2. Private Right of Action

Legislation should include a provision to create a private right of action to enable anyone impacted (neighbors, tenants, owners, etc.) by illegal short-term rentals to sue the short-term rental operator and online hosting platform, as well as establish fines and the right to collect legal fees.

3. Mandatory Investigation Upon Complaint

The enforcement agency should be transparent and directly answerable to members of the public. If members of the public make a complaint to the enforcement agency about a potentially illegal vacation rental, the agency should have a duty to investigate the complaint and report back to the public on its findings. Members of the public should be able to compel the agency to act if it does not do this.

To Bear In Mind

Affordable housing is the major issue that should be kept in mind when regulating short-term rentals. The rising demand for reasonably priced homes and rental units is a crisis that needs to be addressed immediately, lest working families and their children be forced to move out of the state to survive. Commercial activity and business development should be regulated so as to align with the goal of creating sustainable jobs for Hawai'i's people. Any change in the legal status of short-term rental units should benefit local, working people.

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- ⁷³ "Airbnb sublets in S.F. land some renters in the doghouse," *SFGate*, 3/18/14.
- ⁷⁴ "This was a drug-induced orgy: Calgary couple says Airbnb renters trashed their home," *Calgary Herald*, 4/29/15; and "PHOTOS: An Airbnb Guest Held A Huge Party In This New York Penthouse And Trashed It," *Business Insider*, 5/18/14.
- ⁷⁵ "Another Airbnb Victim Tells His Story: 'There Were Meth Pipes Everywhere'," *TechCrunch*, 7/31/11.
- ⁷⁶ "The Moment Of Truth For Airbnb As User's Home Is Utterly Trashed," *TechCrunch*, 7/27/11.

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- ⁷⁷ "Airbnb orgy victim says he's homeless, 'blacklisted' from NYC apartments," *New York Daily News*, 5/29/15.
- ⁷⁸ "Hookers turning Airbnb apartments into brothels," *New York Post*, 4/14/14.
- ⁷⁹ "Airbnb Host: A Guest Is Squatting In My Condo And I Can't Get Him To Leave," *Business Insider*, 7/21/14; and "Woman forced to pay Airbnb guests to leave after they claimed squatters' rights," *Metro.co.uk*, 5/17/15.
- ⁸⁰ "Papal visit and Airbnb: A temptation for Washington condo owners," *The Washington Post*, 8/7/15.
- ⁸¹ <https://www.airbnb.com/rooms/7822562?checkin=12%2F07%2F2015&checkout=12%2F12%2F2015&s=n6DJ>
- ⁸² Condominium Public Report for Hawaiiki Tower, Registration 3604, effective 3/17/98, pg. 10.
- ⁸³ Revised Ordinances of Honolulu, Chapter 21, Land Use Ordinance, Section 21-10.1.
- ⁸⁴ <https://www.airbnb.com/help/article/4>
- ⁸⁵ <https://www.airbnb.com/help/article/450>
- ⁸⁶ "Airbnb Horror Story Points to Need for Precautions," *New York Times*, 8/14/15.
- ⁸⁷ "Airbnb horror story reveals safety issues for lodging site," *USA Today*, 8/17/15.
- ⁸⁸ "Spain: Man jailed for raping holidaymakers who rented his flat through AirBnB," *International Business Times*, 12/20/14.
- ⁸⁹ "A Survey on the Current State of Hotel Security," by Advisen, sponsored by AIG, April 2014, pg. 1.
- ⁹⁰ "Fake listing exposes risks of Airbnb," *The Australian*, 6/6/15.
- ⁹¹ "The Watchdog: Vacation rentals risky, as Dallas lawyer learns the hard way," *The Dallas Morning News*, 6/8/13.
- ⁹² "A History of Tsunamis in Hawaii," *Honolulu Civil Beat*, 3/11/11.
- ⁹³ "A Survey on the Current State of Hotel Security," by Advisen, sponsored by AIG, April 2014, pg. 1.
- ⁹⁴ https://www.realpropertyhonolulu.com/content/rpadcms/documents/2014/14_rates.pdf and https://www.realpropertyhonolulu.com/content/rpadcms/documents/Res_A.pdf

Online Permit & Application Description Listing

9/4/2012 Listing of all active Permit and Application types in the County Online Permitting System.

Permit Type	Permit Description	Contact Department
S	SIGN PERMIT	DEPARTMENT OF PLANNING
SM1	SMA USE PERMIT	DEPARTMENT OF PLANNING
SM2	SMA MINOR PERMIT	DEPARTMENT OF PLANNING
SM3	SMA EMERGENCY PERMIT	DEPARTMENT OF PLANNING
SM4	SMA BOUNDARY CHANGE	DEPARTMENT OF PLANNING
SM5	SMA MINOR PERMIT EXEMPT	DEPARTMENT OF PLANNING
SM6	SMA MINOR - MOLOKAI	DEPARTMENT OF PLANNING
SM7	SMA MINOR LANAI	DEPARTMENT OF PLANNING
SMX	SMA ASSESSMENT	DEPARTMENT OF PLANNING
SPV	SIGN PERMIT VARIANCE	DEPARTMENT OF PLANNING
SSA	SHORELINE SETBACK APPROVAL	DEPARTMENT OF PLANNING
SSD	SHORELINE SETBACK DETERMINATION	DEPARTMENT OF PLANNING
SSV	SHORELINE SETBACK VARIANCE	DEPARTMENT OF PLANNING
STHA	SHORT-TERM RENTAL HOME/HANA	DEPARTMENT OF PLANNING
STKM	SHORT-TERM RENTAL HOME/KIHEI-MAKENA	DEPARTMENT OF PLANNING
STLA	SHORT-TERM RENTAL HOME/LANI	DEPARTMENT OF PLANNING
STMO	SHORT-TERM RENTAL HOME/MOLOKAI	DEPARTMENT OF PLANNING
STMP	SHORT-TERM RENTAL HOME/MAK-PUKALANI-KULA	DEPARTMENT OF PLANNING
STPH	SHORT-TERM RENTAL HOME/PAIA-HAIKU	DEPARTMENT OF PLANNING
STWK	SHORT-TERM RENTAL HOME/WAILUKU-KAHULUI	DEPARTMENT OF PLANNING
STVM	SHORT-TERM RENTAL HOME/WEST MAUI	DEPARTMENT OF PLANNING
SUB2	ORDINANCE 2372 SUBDIVISION	DEPARTMENT OF PUBLIC WORKS
SUB3	FAMILY SUBDIVISION	DEPARTMENT OF PUBLIC WORKS
SUB4	LIMITED SUBDIVISION	DEPARTMENT OF PUBLIC WORKS
SUB5	4TH DWELLING SUBDIVISION	DEPARTMENT OF PUBLIC WORKS
SUB6	ORDINANCE 3731	DEPARTMENT OF PUBLIC WORKS
SUB7	HRS 264-43, ACT 12, HB 2428	DEPARTMENT OF PUBLIC WORKS
SUBD	SUBDIVISION	DEPARTMENT OF PUBLIC WORKS
SUP1	LUC SPECIAL USE > 15 ACRES	DEPARTMENT OF PLANNING
SUP2	LUC SPECIAL USE < 15 ACRES	DEPARTMENT OF PLANNING
TSO	TEMP SALES OFC	DEPARTMENT OF PLANNING
VEND	PD-VENDOR BUSINESS LIC PLANNING REVIEW	DEPARTMENT OF PLANNING
WTP	WORK TO PERFORM PERMIT	DEPARTMENT OF PUBLIC WORKS
WWD	WASTEWATER DISCHARGE	DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
WWH	WASTEWATER HAULER	DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
WWM	WASTEWATER MONITOR	DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
X	EMERGENCY BUILDING PERMIT	DEPARTMENT OF PUBLIC WORKS
ZF	ZONING FORMS	DEPARTMENT OF PLANNING

Total Count: 132

Post Report Testimony

From: Glenn Briggs <glennbriggs1313@gmail.com>
To: <planning@mauicounty.gov>
Date: 9/12/2016 7:31 AM
Subject: amending STRH Ordinance

Dear Maui County Planning Commissioners,

I own property in the Ka'anapali Golf Estates ("KGE") on the west side of Maui. I write on my own behalf and on behalf of a group of homeowners within the same community that hold similar views. This testimony is for your consideration as the County considers further revision to the Short Term Rental Home ("STRH") ordinance.

*Imposing a five year "durational" ownership requirement (both the existing provision and the amendment now being considered) on high end vacation homes will send many buyers to other markets and will reduce the value and utility of our homes. **This also will result in less economic stimulus and jobs for local residents. Development creates construction jobs, ongoing maintenance and care work for the homes, management opportunities, and brings visitors to the restaurants and other attractions on which so many Maui residents depend. *

Many of the owners in KGE and my subdivision of Lanikeha purchased homes or land intending to use the properties part time and receive rental income, occasionally, to help offset costs of ownership. Our CC&Rs at the time of purchase allowed 30 minimum lease terms. (A recent amendment adopted by the KGE board attempting to restrict short term rentals is being challenged before Judge Cahill in the Second Circuit Court.)

Many of the homes in our area range in value from \$2,000,000 to \$6,000,000. These are large family estates perfect for family gatherings. Because the primary use of these homes is as a second home of their owners for a portion of the year, these homes are not suitable for long-term tenancy. In the past, owners found that proper screening of guests allowed these homes to be used on a 30, 60, or 90 term without altering the character of this vacation community. There simply is no difference between a retired couple or family wishing to escape winter for 60 or 90 days and my family using the home for 60 or 90 days. However, pursuant to Maui County code, rentals of less than 180 days now require an STRH permit.

When STRH permit applications are submitted by KGE owners, we urge the County to view our neighborhood for what it is, a destination resort community consisting of a high percentage of part time residents, second homes, and vacation homes. And, many of us would enjoy sharing the Aloha Spirit and talking story with an occasional short term tenant. In fact, the rental limitations imposed by the County and the KGE Amendment have made KGE into a "ghost town" with rows of empty homes. What once was a vibrant resort community now sits idle while we search for compromises and solutions that will allow owners to receive the benefit that they bargained for when they purchased a home in the Ka'anapali Golf Estates.

We would also urge the County to consider exempting high end homes in planned communities like KGE from the STRH permit review process. Allowing short term rental of homes valued at over \$2,000,000 is beneficial to these property owners and will not reduce the amount of affordable long term rentals. These homes are not being rented long term as a result of the STRH Ordinance, they are sitting empty. That doesn't make sense for owners, local business, or anyone.

You may also want to know that we are currently petitioning to recall the current KGE board of directors. We believe that electing a new KGE board will move our community in a positive direction with leadership that respects and protects owners' property rights. For more information, please visit our website www.KGErecall.com <<http://www.kgerecall.com/>>. We believe that the current KGE Board has been communicating with Maui County on a number of development issues and that the views expressed are their own, shared by only a few other residents, and do not reflect the KGE community as a whole. In fact, the KGE Board has never surveyed the ownership on any planning issues.

If you have any questions or would like to discuss these issues further, please feel free to contact me. Thank you for your time and your careful consideration.

Mahalo,

Glenn Briggs

87 Kaulele

cell (714)235-0151

From: Think Tran <think_tran@sigmadesigns.com>
To: "planning@mauicounty.gov" <planning@mauicounty.gov>
Date: 9/12/2016 8:55 AM
Subject: High End Vacation home exemption

Dear Maui County Planning Commissioners,

I own property in the Ka'anapali Golf Estates ("KGE") on the west side of Maui. I write on my own behalf and on behalf of a group of homeowners within the same community that hold similar views. This testimony is for your consideration as the County considers further revision to the Short Term Rental Home ("STRH") ordinance.

Imposing a five year "durational" ownership requirement (both the existing provision and the amendment now being considered) on high end vacation homes will send many buyers to other markets and will reduce the value and utility of our homes. This also will result in less economic stimulus and jobs for local residents. Development creates construction jobs, ongoing maintenance and care work for the homes, management opportunities, and brings visitors to the restaurants and other attractions on which so many Maui residents depend.

Many of the owners in KGE and my subdivision of Lanikeha purchased homes or land intending to use the properties part time and receive rental income, occasionally, to help offset costs of ownership. Our CC&Rs at the time of purchase allowed 30 minimum lease terms. (A recent amendment adopted by the KGE board attempting to restrict short term rentals is being challenged before Judge Cahill in the Second Circuit Court.)

Many of the homes in our area range in value from \$2,000,000 to \$6,000,000. These are large family estates perfect for family gatherings. Because the primary use of these homes is as a second home of their owners for a portion of the year, these homes are not suitable for long-term tenancy. In the past, owners found that proper screening of guests allowed these homes to be used on a 30, 60, or 90 term without altering the character of this vacation community. There simply is no difference between a retired couple or family wishing to escape winter for 60 or 90 days and my family using the home for 60 or 90 days. However, pursuant to Maui County code, rentals of less than 180 days now require an STRH permit.

When STRH permit applications are submitted by KGE owners, we urge the County to view our neighborhood for what it is, a destination resort community consisting of a high percentage of part time residents, second homes, and vacation homes. And, many of us would enjoy sharing the Aloha Spirit and talking story with an occasional short term tenant. In fact, the rental limitations imposed by the County and the KGE Amendment have made KGE into a "ghost town" with rows of empty homes. What once was a vibrant resort community now sits idle while we search for compromises and solutions that will allow owners to receive the benefit that they bargained for when they purchased a home in the Ka'anapali Golf Estates.

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You may also want to know that we are currently petitioning to recall the current KGE board of directors. We believe that electing a new KGE board will move our community in a positive direction with leadership that respects and protects owners' property rights. For more information, please visit our website www.KGERecall.com. We believe that the current KGE Board has been communicating with Maui County on a number of development issues and that the views expressed are their own, shared by only a few other residents, and do not reflect the KGE community as a whole. In fact, the KGE Board has never surveyed the ownership on any planning issues.

If you have any questions or would like to discuss these issues further, please feel free to contact me. Thank you for your time and your careful consideration.

Mahalo,

Think Tran
Home owner
1030 Anapuni Place
LaHaina, HI 96761

From: Maui Linen <mauilinen@aol.com>
To: Clayton Yoshida <Clayton.Yoshida@co.maui.hi.us>
Date: 9/9/2016 2:40 PM
Subject: Re: testimony for panning commission Sept 13, 2016

> Public Hearing
> D-1 and D-2
>
> Counsel resolutions No 16-93 and 16-94
>
> Dear commissioners,
>
> After reading many arguments for STRH permits to operate in Maui county I have still not found any real need for them as an industry, and in fact find them detrimental to the goal of providing affordable housing and reducing homelessness.
>
> Language that reads "Director may" should read "Planning Department shall" to expedite the response time a NOV may be enacted and revoking of a permit may happen. Director should not have to be the only person able to act on violation of permits, Time should be of the essence.
>
> Language in the resolution instructing the Director "may" revoke permits I believe should read "Shall ", again this is not an industry that is needed in Maui county but one that is somehow being accepted, therefore rules should be strict and unforgiving. Losses of permits do not prohibit homeowners from renting out there properties long term and at today's rate should more than cover their mortgage. Maui is in a housing crisis and all attempts should be made to encourage inventory.
>
> Exemption of homes that are valued greater than 1 million dollars are another example of encouraging STRH's and further depleting the inventory of homes. I oppose any limits with exemptions due to the cost of a home or property.
>
> I support the findings of the Local 5 study and hope we understand that any leniency in permitting should be abated.
>
>
> Mahalo
>
> Keaka Robinson
Sent from my iPhone

> On Sep 9, 2016, at 2:22 PM, Clayton Yoshida <Clayton.Yoshida@co.maui.hi.us> wrote:
>
>
> Public Hearing
> D-1 and D-2
>
> Counsel resolutions No 16-93 and 16-94
>
> Dear commissioners,
>
> After reading many arguments for STRH permits to operate in Maui county I have still not found any real need for them as an industry, and in fact find them detrimental to the goal of providing affordable housing and reducing homelessness.
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> Exemption of homes that are valued less than 1 million dollars are another example of encouraging STRH's and further depleting the inventory of homes. I oppose any limits with exemptions due to the cost of a home or property.
>
> I support the findings of the Local 5 study and hope we understand that any leniency in permitting should be abated.
>
>
> Mahalo
>
> Keaka Robinson

Jack Riley
304 Cook Pine Drive
Lahaina, HI 96761

Maui County Planning Commission

September 12, 2016

Re: Short Term Rental Permits – Pineapple Hill and Ka’anapali Golf Estates, Resort Communities

Written Testimony: Planning Commission meeting September 13, 2016 regarding Short Term Rental Amendments

Dear Maui County Planning Commissioners,

I am contacting you on behalf of a group of homeowners on the west side living and owning property in the Ka’anapali Golf Estates (“KGE”) and Pineapple Hill. We provide this testimony for your consideration as the County considers further revision to the Short Term Rental Home ordinance.

Many of the purchasers on the West side purchased homes or land intending to use the properties part time and receive rental income occasionally, to help offset costs of ownership. One example being Pineapple Hill wherein the current CC&Rs approved in 1987, allow for a 7 day minimum lease term.

Many of the homes in our area range in value from \$2,000,000 to \$6,000,000. These are large family estates perfect for family gatherings. Because the primary use of these homes is as a second home of their owners for a portion of the year, these homes are not suitable for long-term tenancy. In the past, owners found that proper screening of guests allowed these homes to be used on a 30, 60, or 90 term without altering the character of this vacation community. However, per Maui County code, rentals of less than 180 days at a time require a County Short Term Rental Home (STRH) permit.

When STRH permit applications are submitted by Pineapple Hill and KGE owners, we urge the County to view our neighborhoods for what they are, destination resort communities consisting of a high percentage of part time residents, second homes, and vacation homes. Many of us would enjoy sharing the Aloha Spirit and talking story with an occasional short term tenant.

Jack Riley
304 Cook Pine Drive
Lahaina, HI 96761

We would also urge the County to consider exempting high end homes in vacation rental communities from the STRH permit review process. Allowing short term rental of homes valued at over \$2,000,000 is beneficial to these property owners and will not reduce the amount of affordable long term rentals. These homes are not being rented long term as a result of the STRH Ordinance, they are sitting empty. That doesn't make sense for owners, local business, or anyone.

I would personally be supportive of a revision to the Short Term Rental Home ordinance to create a "fast track" permitting process for any applicant that is willing to provide one unit of affordable housing as a condition of applying for a "fast track" STRH permit.

The recent submittal of the "The Hidden Cost of Hidden Hotels" to the Planning Commission makes it clear on page 17 of the report that:

"Any change in the legal status of short-term rental units should benefit local working people."

I believe it is possible to create incentives to the potential owners of Short Term Rental homes that would could immediately provide affordable housing units to the people of Maui at no cost to Maui County or the people.

In pursuit of this goal, members of our communities have composed a draft amendment that we believe can set in place the incentives needed to create the affordable rental units the residents of Maui County desperately need. A copy of this draft amendment, Attachment 'A', is included with this letter.

If you have any questions or would like to discuss these issues further, please feel free to contact me at (808) 264-7155 or jdrmaui@gmail.com. Thank you for your time and your careful consideration.

Mahalo and Aloha,



Jack Riley

Attachment 'A'

In recognition of the fact that the highest and best use of certain homes located in resort areas is as vacation rental homes and that allowing these homes to be offered as a STRH under Chapter 19.65 will not negatively impact the character of these resort areas, the following is offered as an alternative to the \$1,000,000 exemption from the five year ownership criteria set forth in 19.65.030 O (2).

O. The provisions in this section are only available and shall only apply to single family homes located in the resort areas with an appraised value in excess of \$2 million. Qualifying home owners can obtain a short term rental permit under the expedited approval process set forth herein provided that the qualifying home owner can and does satisfy all of the following criteria:

1. Provide one (1) unit of affordable housing.

Applicants under this section must demonstrate and provide one (1) unit of affordable housing, or submit an equivalent credit voucher, by:

- a. Submitting a certified copy of a deed for any property owned by the Applicant, which will be subject to designation as an affiliated property for purposes of providing an affordable housing unit ("Affiliated Property").
- b. The Affiliated Property must be no less than one bedroom per permit.
- c. An Affiliated Property that has two or more bedrooms can qualify one STRH permit per bedroom. Applicant must provide notarized written consent from the owner of record, if different from the Applicant.

2. Applicant at its own expense shall provide an annual certification from a qualified 3rd party consultant that the affordable unit is being rented at a rental rate that does not exceed the rates set forth by the Maui County Housing Division.

3. As an alternative method of satisfying the affordable housing component of this section, this requirement may be satisfied by payment of a fee or by submitting a low income housing credit. [Any fee must be approved by council resolution.]

4. The relinquishment or revocation under Section 19.65.070 of any STRH permit granted under this section shall automatically cause to terminate and nullify the rental restriction placed on the Affiliated Property.

5. Applicants must provide contact information of a responsible person, either an owner who is on island or, if the owner is off island, the name and contact information for a property manager or management company.

6. Applicants must post reasonable "house rules" as set forth in Section 19.65 to advise owners of all applicable neighborhood rules, including noise curfews and parking rules.

7. The minimum rental period for a short term rental home permitted under this section shall be thirty (30) days.

A. Applicants that can satisfy the criteria set forth above shall submit an application to the department along with payment of the required permit fees. All permit applications shall include the following information:

1. The name, address, and telephone number of the applicant;
2. Verification of property ownership, and signatures of all owners of the property unless waived by the director in cases where the requirement is unduly burdensome;
3. The tax map key number of the lot on which the proposed short-term rental home is situated;
4. An appraisal, not more than three years old, or a copy of a current Maui County Property tax bill demonstrating a property value for the subject property not less than \$2 million.
5. A certified copy of a recorded affordable housing deed restriction for an Affiliated Property or submission of equivalent affordable housing credit as may be available under applicable law;
6. A site and floor plan identifying the location of parking and bedrooms to be used for short-term rental home use;
7. The permit holder shall have a current transient accommodations tax license and general excise tax license for the short-term rental home;
8. The permit holder shall provide a current tax clearance certificate issued by the State of Hawaii.
9. Short term rental homes permitted under this section shall be limited to existing single family structures or to be constructed homes pursuant to section B (10) below as of the date of the application submitted under this section.
10. Applicant may apply for an 18 month conditional reservation of a permit for a home to be built by providing a valid building permit issued by Maui County for the subject property. Concurrent with the issuance of a reservation, Applicant shall provide evidence of compliance with the affordable housing requirements as detailed in Section A of this Amendment. The reservation may be extended for an additional 6 months upon written request.
11. To further the important public policy of creating more affordable housing and for the benefit of Maui residents, this Section shall be available to all qualifying homeowners, notwithstanding any local, private or other covenant or restriction.
12. The remaining provisions and restrictions contained in sections 19.65.030 and 19.65.050 are waived and shall not apply to applications processed under this section.

Testimony for Bill 43 From Thomas Croly

The assertion has been made by some, that Short term rental home use is both driving price of real estate and causing a shortage of resident housing through the sales of resident housing to investors who convert it to short term rental housing.

While there may be antidotal evidence that this has occurred in isolated circumstances. A look at the number of single family homes sold and the percentage of those homes sold that later were granted a Short term rental permit reveals that roughly ½ of 1 percent of home sold in the past 15 years were later granted permits.

This data clearly shows that permitted short term rental use is neither a significant market force and conversion of **legally permitted** short term rental homes is not having any significant impact on resident housing units.. Therefore it would **NOT** be useful to further restrict the ability for new purchasers to obtain a short-term rental permit and any such additional restrictions would **NOT** address the issue of un permitted short term rental use.

Short Term Rental Home permit analysis

Year	Single Family Total sales	Permitted STRHs Total STRH	Percentage
2001	1005	3	0.30%
2002	978	3	0.31%
2003	1420	3	0.21%
2004	1221	8	0.66%
2005	1316	11	0.84%
2006	1088	5	0.46%
2007	1142	8	0.70%
2008	907	3	0.33%
2009	693	3	0.43%
2010	814	6	0.74%
2011	901	3	0.33%
2012	933	12	1.29%
2013	984	3	0.30%
2014	943	7	0.74%
2015	1089	1	0.09%
Totals	15434	79	0.51%

Gina Flammer - FW: Written Testimony: Planning Commission meeting September 13, 2016 regarding Short Term Rental Home Amendments

From: Rick Lewis <rlewis@divmg.com>
To: "planning@mauicounty.gov" <planning@mauicounty.gov>
Date: 9/12/2016 11:34 AM
Subject: FW: Written Testimony: Planning Commission meeting September 13, 2016 regarding Short Term Rental Home Amendments

Dear Maui County Planning Commissioners,

I am contacting you on my own behalf and on behalf of a group of homeowners on the west side living and owning property in the Ka'anapali Golf Estates ("KGE"). This testimony is for your consideration as the County considers further revision to the Short Term Rental Home ("STRH") ordinance.

Imposing a five year "durational" ownership requirement (both the existing provision and the amendment now being considered) on high end vacation homes will send many buyers to other markets and will reduce the value and utility of our homes.

Many of the owners in KGE and my subdivision of Lanikeha purchased homes or land intending to use the properties part time and receive rental income, occasionally, to help offset costs of ownership. Our CC&Rs at the time of purchase allowed 30 minimum lease terms. (A recent amendment adopted by the KGE board attempting to restrict short term rentals is being challenged before Judge Cahill in the Second Circuit Court.)

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When STRH permit applications are submitted by KGE owners, we urge the County to view our neighborhood for what it is, a destination resort community consisting of a high percentage of part time residents, second homes, and vacation homes. And, many of us would enjoy sharing the Aloha Spirit and talking story with an occasional short term tenant. In fact, the rental limitations imposed by the County and the KGE Amendment have made KGE into a "ghost town" with rows of empty homes. What once was a vibrant resort community now sits idle while we search for compromises and solutions that will allow owners to receive the benefit that they bargained for when they purchased a home in the Ka'anapali Golf Estates.

We would also urge the County to consider exempting high end homes in planned communities like KGE from the STRH permit review process. Allowing short term rental of homes valued at over \$2,000,000 is beneficial to these property owners and will not reduce the amount of affordable long term rentals. These homes are not being rented long term as a

result of the STRH Ordinance, they are sitting empty. That doesn't make sense for owners, local business, or anyone.

You may also want to know that we are currently petitioning to recall the current KGE board of directors. We believe that electing a new KGE board will move our community in a positive direction with leadership that respects and protects owners' property rights. For more information, please visit our website www.KGErecall.com.

If you have any questions or would like to discuss these issues further, please feel free to contact me. Thank you for your time and your careful consideration.

Mahalo and Aloha

Rick Lewis
1035 Anapuni Place
Lahaina, Hawaii 96761
[\(925\) 876-5211](tel:(925)876-5211)

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Mahalo and Aloha

Rick Lewis
1035 Anapuni Place
Lahaina, Hawaii 96761
[\(925\) 876-5211](tel:9258765211)

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From: Rick Lewis <rlewis@divmg.com>
To: "planning@mauicounty.gov" <planning@mauicounty.gov>
Date: 9/12/2016 11:34 AM
Subject: FW: Written Testimony: Planning Commission meeting September 13, 2016 regarding Short Term Rental Home Amendments

Dear Maui County Planning Commissioners,

I am contacting you on my own behalf and on behalf of a group of homeowners on the west side living and owning property in the Ka'anapali Golf Estates ("KGE"). This testimony is for your consideration as the County considers further revision to the Short Term Rental Home ("STRH") ordinance.

Imposing a five year "durational" ownership requirement (both the existing provision and the amendment now being considered) on high end vacation homes will send many buyers to other markets and will reduce the value and utility of our homes.

Many of the owners in KGE and my subdivision of Lanikeha purchased homes or land intending to use the properties part time and receive rental income, occasionally, to help offset costs of ownership. Our CC&Rs at the time of purchase allowed 30 minimum lease terms. (A recent amendment adopted by the KGE board attempting to restrict short term rentals is being challenged before Judge Cahill in the Second Circuit Court.)

Many of the homes in our area range in value from \$2,000,000 to \$6,000,000. These are large family estates perfect for family gatherings. Because the primary use of these homes is as a second home of their owners for a portion of the year, these homes are not suitable for long-term tenancy. In the past, owners found that proper screening of guests allowed these homes to be used on a 30, 60, or 90 term without altering the character of this vacation community. There simply is no difference between a retired couple or family wishing to escape winter for 60 or 90 days and my family using the home for 60 or 90 days. However, pursuant to Maui County code, rentals of less than 180 days now require an STRH permit.

When STRH permit applications are submitted by KGE owners, we urge the County to view our neighborhood for what it is, a destination resort community consisting of a high percentage of part time residents, second homes, and vacation homes. And, many of us would enjoy sharing the Aloha Spirit and talking story with an occasional short term tenant. In fact, the rental limitations imposed by the County and the KGE Amendment have made KGE into a "ghost town" with rows of empty homes. What once was a vibrant resort community now sits idle while we search for compromises and solutions that will allow owners to receive the benefit that they bargained for when they purchased a home in the Ka'anapali Golf Estates.

We would also urge the County to consider exempting high end homes in planned communities like KGE from the STRH permit review process. Allowing short term rental of homes valued at over \$2,000,000 is beneficial to these property owners and will not reduce the amount of affordable long term rentals. These homes are not being rented long term as a

Gina Flammer - Fwd: Short term rentals.

From: planning
To: Clayton Yoshida; Carolyn Takayama-Corden; Gina Flammer
Date: 9/12/2016 3:26 PM
Subject: Fwd: Short term rentals.

From: jmpatrick <jmpatrick@aol.com>
To: <planning@mauicounty.gov>
Date: 09/12/2016 1:19 PM
Subject: Short term rentals.

I own a home in the Kaanapali Golf Estates. I support the views and suggestions put forward by Mr. Sean Kading in his email to the county.

There is a growing market for the rental of high end homes to families coming to maui. These multi-generational groups prefer to have the whole family stay in a private home rather than several hotel rooms.

Surely, the short term ordinance was never passed to restrict short term rentals of high end homes. What could that be protecting?

Resort communities such as Kapalua, Kaanapali and Wailea should be exempt from the ordinance and not have to seek a permit.

Thank you for your considering these suggestions.

James Patrick

Sent from my T-Mobile 4G LTE Device

Sean A. Kading
1010 Anapuni Place
Lahaina, Hawaii 96761

Maui County Planning Commission
250 South High Street
Wailuku, Hawaii 96793

September 12, 2016

Re: Written Testimony: Planning Commission meeting September 13, 2016 regarding Short Term Rental Home Amendments

Dear Maui County Planning Commissioners,

I own property in the Ka'anapali Golf Estates ("KGE") on the west side of Maui. I write on my own behalf and on behalf of a group of homeowners within the same community that hold similar views. This testimony is for your consideration as the County considers further revision to the Short Term Rental Home ("STRH") ordinance.

Imposing a five year "durational" ownership requirement (both the existing provision and the amendment now being considered) on high end vacation homes will send many buyers to other markets and will reduce the value and utility of our homes. This also will result in less economic stimulus and jobs for local residents. Development creates construction jobs, ongoing maintenance and care work for the homes, management opportunities, and brings visitors to the restaurants and other attractions on which so many Maui residents depend.

Many of the owners in KGE and my subdivision of Lanikeha purchased homes or land intending to use the properties part time and receive rental income, occasionally, to help offset costs of ownership. Our CC&Rs at the time of purchase allowed 30 minimum lease terms. (A recent amendment adopted by the KGE board attempting to restrict short term rentals is being challenged before Judge Cahill in the Second Circuit Court.)

Many of the homes in our area range in value from \$2,000,000 to \$6,000,000. These are large family estates perfect for family gatherings. Because the primary use of these homes is as a second home of their owners for a portion of the year, these homes are not suitable for long-term tenancy. In the past, owners found that proper screening of guests allowed these homes to be used on a 30, 60, or 90 term without altering the character of this vacation community. There simply is no difference between a retired couple or family wishing to escape winter for 60 or 90 days and my family using the home for 60 or 90 days. However, pursuant to Maui County code, rentals of less than 180 days now require an STRH permit.

Sean A. Kading
1010 Anapuni Place
Lahaina, Hawaii 96761

When STRH permit applications are submitted by KGE owners, we urge the County to view our neighborhood for what it is, a destination resort community consisting of a high percentage of part time residents, second homes, and vacation homes. And, many of us would enjoy sharing the Aloha Spirit and talking story with an occasional short term tenant. In fact, the rental limitations imposed by the County and the KGE Amendment have made KGE into a “ghost town” with rows of empty homes. What once was a vibrant resort community now sits idle while we search for compromises and solutions that will allow owners to receive the benefit that they bargained for when they purchased a home in the Ka’anapali Golf Estates.

We would also urge the County to consider exempting high end homes in planned communities like KGE from the STRH permit review process. Allowing short term rental of homes valued at over \$2,000,000 is beneficial to these property owners and will not reduce the amount of affordable long term rentals. These homes are not being rented long term as a result of the STRH Ordinance, they are sitting empty. That doesn’t make sense for owners, local business, or anyone.

You may also want to know that we are currently petitioning to recall the current KGE board of directors. We believe that electing a new KGE board will move our community in a positive direction with leadership that respects and protects owners’ property rights. For more information, please visit our website www.KGErecall.com. We believe that the current KGE Board has been communicating with Maui County on a number of development issues and that the views expressed are their own, shared by only a few other residents, and do not reflect the KGE community as a whole. In fact, the KGE Board has never surveyed the ownership on any planning issues.

I would personally be supportive of a revision to the Short Term Rental Home ordinance to create a “fast track” permitting process for any applicant that is willing to provide one unit of affordable housing as a condition of applying for a “Fast Track” STRH permit.

The recent submittal of “The Hidden Cost of Hidden Hotels” to the Planning Commission makes it clear on Page 17 of the report that:

“Any changes in the legal status of short-term rental units should benefit local working people.”

I believe that this proposal would create incentives to potential owners of Short Term Rental homes that would immediately provide affordable housing units to the people of Maui at no cost to Maui County or the people.

Sean A. Kading
1010 Anapuni Place
Lahaina, Hawaii 96761

In pursuit of this goal, members of the communities of KGE and Pineapple Hill have come together to draft a proposed amendment that we believe would set in place the incentives needed to create the affordable rental units the residents of Maui County desperately need. A copy of the draft amendment is attached as "Attachment A" for your review and consideration.

If you have any questions or would like to discuss these issues further, please feel free to contact me at (949) 378-8710 or seankading@yahoo.com. Thank you for your time and your careful consideration.

Mahalo and Aloha,



Sean A. Kading
1010 Anapuni Place
Lahaina, Hawaii 96761
(949) 378-8710
seankading@yahoo.com

Attachment 'A'

In recognition of the fact that the highest and best use of certain homes located in resort areas is as vacation rental homes and that allowing these homes to be offered as a STRH under Chapter 19.65 will not negatively impact the character of these resort areas, the following is offered as an alternative to the \$1,000,000 exemption from the five year ownership criteria set forth in 19.65.030 O (2).

O. The provisions in this section are only available and shall only apply to single family homes located in the resort areas with an appraised value in excess of \$2 million. Qualifying home owners can obtain a short term rental permit under the expedited approval process set forth herein provided that the qualifying home owner can and does satisfy all of the following criteria:

1. Provide one (1) unit of affordable housing.

Applicants under this section must demonstrate and provide one (1) unit of affordable housing, or submit an equivalent credit voucher, by:

- a. Submitting a certified copy of a deed for any property owned by the Applicant, which will be subject to designation as an affiliated property for purposes of providing an affordable housing unit ("Affiliated Property").
- b. The Affiliated Property must be no less than one bedroom per permit.
- c. An Affiliated Property that has two or more bedrooms can qualify one STRH permit per bedroom. Applicant must provide notarized written consent from the owner of record, if different from the Applicant.

2. Applicant at its own expense shall provide an annual certification from a qualified 3rd party consultant that the affordable unit is being rented at a rental rate that does not exceed the rates set forth by the Maui County Housing Division.

3. As an alternative method of satisfying the affordable housing component of this section, this requirement may be satisfied by payment of a fee or by submitting a low income housing credit. [Any fee must be approved by council resolution.]

4. The relinquishment or revocation under Section 19.65.070 of any STRH permit granted under this section shall automatically cause to terminate and nullify the rental restriction placed on the Affiliated Property.

5. Applicants must provide contact information of a responsible person, either an owner who is on island or, if the owner is off island, the name and contact information for a property manager or management company.

6. Applicants must post reasonable "house rules" as set forth in Section 19.65 to advise owners of all applicable neighborhood rules, including noise curfews and parking rules.

7. The minimum rental period for a short term rental home permitted under this section shall be thirty (30) days.

A. Applicants that can satisfy the criteria set forth above shall submit an application to the department along with payment of the required permit fees. All permit applications shall include the following information:

1. The name, address, and telephone number of the applicant;
2. Verification of property ownership, and signatures of all owners of the property unless waived by the director in cases where the requirement is unduly burdensome;
3. The tax map key number of the lot on which the proposed short-term rental home is situated;
4. An appraisal, not more than three years old, or a copy of a current Maui County Property tax bill demonstrating a property value for the subject property not less than \$2 million.
5. A certified copy of a recorded affordable housing deed restriction for an Affiliated Property or submission of equivalent affordable housing credit as may be available under applicable law;
6. A site and floor plan identifying the location of parking and bedrooms to be used for short-term rental home use;
7. The permit holder shall have a current transient accommodations tax license and general excise tax license for the short-term rental home;
8. The permit holder shall provide a current tax clearance certificate issued by the State of Hawaii.
9. Short term rental homes permitted under this section shall be limited to existing single family structures or to be constructed homes pursuant to section B (10) below as of the date of the application submitted under this section.
10. Applicant may apply for an 18 month conditional reservation of a permit for a home to be built by providing a valid building permit issued by Maui County for the subject property. Concurrent with the issuance of a reservation, Applicant shall provide evidence of compliance with the affordable housing requirements as detailed in Section A of this Amendment. The reservation may be extended for an additional 6 months upon written request.
11. To further the important public policy of creating more affordable housing and for the benefit of Maui residents, this Section shall be available to all qualifying homeowners, notwithstanding any local, private or other covenant or restriction.
12. The remaining provisions and restrictions contained in sections 19.65.030 and 19.65.050 are waived and shall not apply to applications processed under this section.