

# REQUEST FOR LEGAL SERVICES

**D a t e:** October 17, 2023  
**F r o m:** Tasha Kama, Chair  
Housing and Land Use Committee

TRANSMITTAL

**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Kristina Toshikiyo, Esq.

**Subject:** BILL 70 (2023), TRANSFER OF A CONDITIONAL PERMIT FOR THE OLD WAILUKU INN AT ULUPONO AT 2199 KAHO'OKELE STREET, WAILUKU, MAUI, HAWAII (HLU-15)

**Background Data:** Please see the attached bill. Please submit the response to hlu.committee@mauicounty.us with reference to HLU-15.

**Work Requested:**  FOR APPROVAL AS TO FORM AND LEGALITY  
 OTHER:

Requestor's signature  Tasha Kama	Contact Person <u>Ana Lillis</u> (Telephone Extension: <u>7659</u> )
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ROUTINE (WITHIN 15 WORKING DAYS)       RUSH (WITHIN 5 WORKING DAYS)  
 PRIORITY (WITHIN 10 WORKING DAYS)       URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): October 24, 2023  
REASON: For posting on the November 1, 2023, HLU Committee Agenda

## FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR:  APPROVED  DISAPPROVED  OTHER (SEE COMMENTS BELOW)  
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DEPARTMENT OF THE CORPORATION COUNSEL

Date \_\_\_\_\_

By \_\_\_\_\_

(Rev. 7/03)

hlu:ltr:015acc01:alkl

Attachment

ORDINANCE NO. \_\_\_\_\_

BILL NO. 70, CD1 (2023)

A BILL FOR AN ORDINANCE AMENDING ORDINANCE 3545 TO  
TRANSFER A CONDITIONAL PERMIT TO JOSHUA RAMU  
TREMBLAY FOR THE OLD WAILUKU INN AT ULUPONO  
TRANSIENT VACATION RENTAL SITUATED AT 2199 KAHO'OKELE  
STREET, WAILUKU, MAUI, HAWAII

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Ordinance 3545 is amended by amending SECTION 1 to  
read as follows:

“SECTION 1. Pursuant to Chapter 19.40, Maui County Code, and subject to the conditions imposed in [Section] SECTION 2 of this [ordinance] Ordinance, a Conditional Permit is [hereby] granted to [Janice Fairbanks and Thomas N. Fairbanks III] Joshua Ramu Tremblay for the operation of a ten-bedroom transient vacation rental. The site is identified for real property tax purposes [by Tax Map Key Number:] as tax map key number (2) 3-4-005:015, comprising [approximately] 22,532 square feet of land situated at Wailuku, Maui, Hawaii.”

SECTION 2. This Ordinance makes the Conditional Permit subject to the following conditions, superseding the conditions in SECTION 2 of Ordinance 3545:

1. That the Conditional Permit is valid until March 9, 2038; provided that an extension of this Conditional Permit may be granted under Section 19.40.090, Maui County Code.
2. That the Conditional Permit is nontransferable unless the Council approves the transfer by ordinance.
3. That full compliance with all applicable governmental requirements will be rendered.
4. That Joshua Ramu Tremblay, their successors and permitted assigns, must exercise reasonable due care as to third parties

with respect to all areas affected by the Conditional Permit and must procure at their own cost and expense and maintain during the entire period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of one million dollars naming the County of Maui as a named additional insured, insuring and defending Joshua Ramu Tremblay and the County against any and all claims or demands for property damage, personal injury, or death arising from this Conditional Permit, including: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by Joshua Ramu Tremblay of these rights; and (2) all actions, suits, damages, and claims by whomsoever brought or made by reason of the nonobservance or nonperformance of any of the terms and conditions of this Conditional Permit. A copy of the certificate of insurance naming the County as an additional insured must be submitted to the Department within ninety calendar days from the effective date of this ordinance.

5. That Joshua Ramu Tremblay must develop the property in substantial compliance with the representations made to the Council in obtaining the Conditional Permit. Failure to develop the property as represented may result in revocation of the Conditional Permit under Section 19.40.080, Maui County Code.
6. That Joshua Ramu Tremblay must comply with the requirements imposed by the Department of Fire and Public Safety.
7. That the transient vacation rental operation must be subject to periodic inspections by County enforcement personnel at reasonable times upon presentation of appropriate credentials.
8. That the maximum occupancy per room is limited to two persons.
9. That Joshua Ramu Tremblay must include the number of the Conditional Permit in all advertising.
10. That Joshua Ramu Tremblay must file a supplemental public report with the Department of Finance, Real Property Assessment Division, identifying the property as a bed and breakfast home for real property tax purposes.

11. That one parking stall must be provided for each guestroom.

SECTION 3. 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 4. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

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Department of the Corporation Counsel  
County of Maui

hlu:misc:015abill01:alkl

INTRODUCED BY:

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Alice L. Lee  
Upon the request of the Mayor.