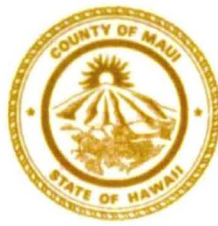


RICHARD T. BISSEN, JR.
Mayor

KATE L. K. BLYSTONE
Director

ANA LILLIS
Deputy Director

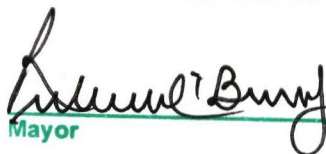


DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAI'I 96793

July 2, 2025

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

APPROVED FOR TRANSMITTAL

 7-2-25
Mayor Date

For Transmittal to:

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

Dear Chair Kama:

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

Thank you for your June 26, 2025 letter requesting information pertaining to Bill 9. The following identifies your request followed by the Planning Department's (Department) response:

- 1. As it relates to enforcement against illegal transient vacation rentals:***
 - a. Please provide for each fiscal year, from Fiscal Year 2020 through Fiscal Year 2025, to date, the following:***
 - i. The dollar amount the Department has spent enforcing illegal TVRs.***

The Department estimates that the equivalent of one FTE position in the Code Enforcement section has been utilized each year, which equates to approximately \$55,000/year. Additionally, the County entered into contract

Honorable Richard T. Bissen, Jr
For Transmittal to:
Honorable Tasha Kama, Chair
Housing and Land Use Committee
July 2, 2025
Page 2

with two separate consulting companies that provide listings of transient vacation rentals (TVR) operating illegally. The cost of services for these two companies totaled \$335,813.

ii. The number of illegal TVRs identified.

The Department identified 559 illegal TVR units during this period.

iii. The number of illegal TVRs against which the Department took enforcement action. If this number differs from the number identified, please explain.

The Department took enforcement action against all 559 illegal TVR units. Importantly, this action may have been in the form of initial notification to the owner and request to cease operation, a Notice of Warning (NOW) to cease operations, or a Notice of Violation (NOV).

iv. The dollar amount collected in fines from illegal TVR operators.

\$223,800

b. What is the Department's process for identifying and enforcing against illegal TVRs, including any specific criteria a property must meet before action is taken. If any criteria may prevent the Department from enforcing against an illegal TVR, provide the criteria and explain why it prevents enforcement.

There are two types of enforcement processes regarding illegal TVRs; "Reactive" and "Proactive." Below is a brief summary of the enforcement process for each:

- **Reactive Enforcement:** Receiving a complaint from the public:
 - The complaint is assigned to an inspector per geographical area.
 - Inspector will verify that the ad is active and is showing a nightly rate.
 - Inspector checks RPT website to see if they are paying "TVR-STRH" or "commercialized" tax, which would typically indicate if the owner had a Department issued permit or are allowed to short term rent because they are either zoned as such, are grandfathered, or are on the Minatoya list.
 - Inspector verifies zoning.

Honorable Richard T. Bissen, Jr
For Transmittal to:
Honorable Tasha Kama, Chair
Housing and Land Use Committee
July 2, 2025
Page 3

- Inspector checks to see if the property is on the Minatoya list.
 - Inspector verifies the property in the advertisement is the property stated by conducting a site inspection.
 - If it is determined that the TVR is illegal, then a NOW is issued requiring that operations and advertising cease within 7 days.
 - If the owner does not cease advertising and operating, then a NOV may be issued.
 - If the owner contacts the Department and states that they have reservations we allow them to honor the reservations for 6 weeks if they take down the advertising for the property.
 - Once the NOV is issued the Department continues to check the property for renters and check the advertisement for comments from recent renters or to see if the advertisement has been removed.
 - The Department will also monitor MAPPS to see if an appeal of the NOV is filed.
- **Proactive Enforcement:** Enforcement staff finds the ad.
 - The Inspectors check known TVR websites (Air B&B, VRBO, Craigslist) to see what properties are available to stay at on a short-term basis.
 - Air B&B or VRBO ads typically have a TMK number that can easily identify the subject property. Craigslist or other websites will necessitate the search for the subject property based on description and photos.
 - Once it is determined that the unit is operating an illegal TVR, then the same next steps identified above in “Reactive Enforcement” are pursued.

Importantly, most of the illegal TVR’s that are discovered are not in the Apartment zoning districts. Most are in Residential and Agricultural districts.

2. *How does the Department determine and confirm whether an Apartment District property may be used as a TVR? Does the Department review any documents and applications submitted for Special Management Area assessments and use permits for the property? If the Department does not review SMA-related documents and applications when determining and confirming a property may be used as a TVR, please explain why.*

Honorable Richard T. Bissen, Jr
For Transmittal to:
Honorable Tasha Kama, Chair
Housing and Land Use Committee
July 2, 2025
Page 4

In determining whether a property may be used as a TVR, the Department abides by the requirements of Maui County Code (MCC) Section 19.12.020(G), which indicates that TVRs are a permitted use in the Apartment District if they meet the following requirements:

- 19.12.020(G)(1): *“The building or structure received a building permit, special management area use permit, or planned development approval that was lawfully issued by and was valid, or is otherwise confirmed to have been lawfully existing, on April 20, 1989.”*
- 19.12.020(G)(2): *“Transient vacation rental use was legally conducted in any lawfully existing dwelling unit within the building or structure prior to September 24, 2020 as determined by real property tax class or payment of general excise tax and transient accommodations tax.”*
- 19.12.020(G)(3): *“The number of rooms or units allowed for transient vacation rental use may not increase beyond those allowed for such use as of January 7, 2022. Existing transient vacation rentals may be reconstructed, renovated, or expanded if no new rooms or transient vacation rental units are added.”*
- 19.12.020(G)(4): *“The property owner or operator holds general excise tax and transient accommodations tax licenses and is current in payment of State and County taxes, fines, or penalties assessed in relation to the transient vacation rental.”*

The Department does not review SMA or use permit-related documents for the property. Because the MCC is very specific and only requires that TVR units meet the criteria as noted above, there is no need to review these documents.

3. *In your correspondence dated November 22, 2024, transmitting your Department’s report and the planning commissions’ recommendations on Bill 9, you summarized concerns and questions raised by each commission. Please provide your comments and responses to the commissions’ concerns and questions.*

It is the Department’s position that the Planning Commissions’ recommendations on Bill 9 (shown in italic text below) should be considered as stated in the November 22, 2024 report along with reference to the attached minutes for each meeting to assist in providing clarification. Nevertheless, as requested, below, the Department does offer the following comments and responses after each of the Commission’s recommendations:

- **Maui Planning Commission:**

Honorable Richard T. Bissen, Jr
For Transmittal to:
Honorable Tasha Kama, Chair
Housing and Land Use Committee
July 2, 2025
Page 5

- *The Commission recommended adoption of the proposed bill with the provision that the Council should consider increasing the phase-out period by possibly up to 3 years.*
 - The Mayor's proposed revision to Bill 9 increases the phase-out period consistent with this recommendation to 3 years.
- *Similar to the County Council, the Planning Commission considered a significant amount of testimony on both sides of this issue, and as such the Commission also recommended that the Council consider the economic impacts identified in the future UHERO study along with the proposal's potential impacts to social, cultural, environmental and quality-of-life impacts.*
 - Council is considering these potential impacts.
- *The Commission recommended excluding properties that may have a community plan and/or zoning designation for hotel use.*
 - As discussed in the answer to Question #4 below, the Department believes that these specific properties should be reviewed through the necessary "Change in Zoning" or "Community Plan Amendment" process so that each property owner may provide their justification for the change, a thorough historical review may be conducted, and a recommendation may be provided by the Department. Additionally, such process will afford the benefit of public input during the required public hearing process.
- **Moloka'i Planning Commission:**
 - *The Commission recommended adoption of the proposed Bill and if the Council did not approve the Bill, then the County should move forward with the same request for Moloka'i only. The Commission also expressed a desire for a separate forecast analysis addressing a housing strategy that considers the availability of natural resources so that housing can be built responsibly.*
 - Council policy determination necessary.
- **Lāna'i Planning Commission:** As summarized in the November 22, 2024 transmittal report, the Lāna'i Planning Commission struggled with the proposal noting that there were many unanswered questions related to the Bill and generally felt that additional study was needed in the areas as noted in the transmittal report and below.

Honorable Richard T. Bissen, Jr
For Transmittal to:
Honorable Tasha Kama, Chair
Housing and Land Use Committee
July 2, 2025
Page 6

- *If units are sold, is there any guarantee that they will be purchased by Maui residents?*
 - No.
- *If units are rented, will the county be able to cap rents, or will there be a rent subsidy so that they are affordable?*
 - Not in current proposal. Council policy determination necessary.
- *What are fiscal impacts to Transient Accommodations Tax (TAT) and General Excise Tax (GET)?*
 - UHERO report estimates that GET and TAT are expected to fall in baseline scenario by 10% and 8% respectively = \$14.8 million loss. Under more severe contraction; 18% and 24% respectively = \$34.5 million loss. This assumes no change to the tax structure to offset these potential losses.
- *Will there be any financial assistance to TVR owners to incentivize them to find long-term tenants?*
 - Not in current proposal. Council policy determination necessary.
- *Instead of pursuing the request, could the County raise taxes on TVRs to a point where it would be more profitable for the owner to rent long-term instead?*
 - The Planning Department is not equipped to respond to this question. Council policy determination necessary.
- *Should the Commission wait until the UHERO study is completed so it understands the economic impacts before it makes a recommendation to Council?*
 - The UHERO study has been completed addressing potential economic impacts – albeit completed after the Commission meeting. While the Commission felt uncomfortable making a decision without the economic analysis, the Council does have the study for its consideration.
- *What is the specific plan to make sure these units will be made available from the owners and are rented at an affordable level to Maui residents?*
 - While the County does not have the ability to directly require owners to make units available or affordable to Maui residents, the Council may consider various policy alternatives to indirectly address the

Honorable Richard T. Bissen, Jr
For Transmittal to:
Honorable Tasha Kama, Chair
Housing and Land Use Committee
July 2, 2025
Page 7

affordability issue in coordination with the administration and the Department of Housing.

- *Are the phasing out dates workable since the UHERO study has yet to be released and Council still needs to take action?*
 - The UHERO study has been completed and released. The Bill with the Mayor's proposed revision includes a phasing extension to 2028.
 - *Are we moving forward with a policy change that ends up not being effective due to the location of existing buildings near shoreline and impacts of sea level rise/climate change?*
 - As noted in the answer to Question #4 of the Department's May 22, 2025 response letter to the HLU Committee, there are approximately 43 projects representing approximately 2,440 units that have some type of exposure to the 3.2' Sea Level Rise Exposure Area. The Council may consider this information during its policy discussion.
 - *Is it good policy to enact a law/ordinance that may not be realistically implemented since the proposal provides opportunity for units but does not guarantee them?*
 - This question is not appropriate for the Planning Department to comment on. Council policy determination necessary.
- 4. In your correspondence dated May 22, 2025, you provided five properties with a zoning or community plan designation in addition to their Apartment zoning designation that would allow for transient vacation rental uses. You recommended that the Council consider land use designation changes if the Council wanted to exclude the properties from Bill 9.**
- a. Does your Department support excluding these properties? Please explain.**
- While these five properties either have a zoning or community plan designation of hotel use, the hotel use designation itself does not necessarily comport to the historic or current use on the property. The Department believes that each property should be considered individually through a public hearing. As such, the Department does not support "excluding" these properties outright without going through the established MCC process that would involve a formal change in zoning to "Hotel District" or change in community plan designation to "Resort/Hotel" (West Maui Community Plan) or "Hotel" (South Maui Community Plan).

Honorable Richard T. Bissen, Jr
For Transmittal to:
Honorable Tasha Kama, Chair
Housing and Land Use Committee
July 2, 2025
Page 8


b. Please provide alternatives to land use designation changes the Council may consider to exclude these properties from Bill 9.

To be clear, the Department does not recommend circumventing the land use designation or rezoning process for these properties. If it is desired by the Council to exclude these and/or other properties from Bill 9 without requiring these properties to go through the current code or community plan amendment process, then it could propose an amendment to the Bill that would retain Section 19.12.020(G) but amend the current text to specifically call out those properties that it would desire to remain as permissible to operate a TVR use in the Apartment District. Such an amendment could be as follows:

*“19.12.020.G. Transient vacation rentals in **the following** buildings and structures **provided that they meet** meeting all of the following criteria **listed in 19.12.020.G.1 through 19.12.020.G.7: (List each building/property by TMK and description of project).**”*

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

Sincerely,



KATE L. K. BLYSTONE
Director

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

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HLU Committee

From: Michelle L. Santos <Michelle.Santos@co.maui.hi.us>
Sent: Wednesday, July 2, 2025 9:23 AM
To: HLU Committee
Cc: Cynthia E. Sasada; Erin A. Wade; Josiah K. Nishita; Kelii P. Nahooikaika; Ana L. Lillis; joy.paredes@co.maui.hi.us; Katie L. Blystone
Subject: MT#11115 Bill 9
Attachments: MT#11115-HLU Committee.pdf