

# LU Committee

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**From:** Tom Croly <tcroly@maui.net>  
**Sent:** Tuesday, May 15, 2018 5:38 PM  
**To:** LU Committee  
**Cc:** Mike White; Robert Carroll; Stacy S. Crivello; Alike A. Atay; Elle Cochran; Donald S. Guzman; Kelly King; Riki Hokama; Yukilei Sugimura  
**Subject:** Testimony for LU-40  
**Attachments:** Testimony for Land use committee for LU.docx

Attached is testimony for the land use committee concerning LU-40 submitted on behalf of the Maui Vacation Rental association.

Testimony for Land use committee for LU-40  
Submitted by The Maui Vacation Rental Association  
May 15, 2018

The Maui Vacation Rental Association fully supports all efforts that would assist in achieving more effective enforcement of the unpermitted short term rental uses being made in Maui County. Keeping that goal in mind, we do not believe that the changes outlined in LU-40 will achieve this goal.

All of the proposed changes to Maui County Code section 19.64.060 are changes that exclusively affect PERMITTED Bed and Breakfast homes. Some of these changes are insignificant and perhaps help make the code more clear. But others are draconian and unwarranted. Although some of these changes could be used to deny renewal of a B&B permit, none of the changes proposed to 19.64.060 will do anything to improve compliance of the County's prohibition on transient uses outside of the hotel district.

For example, it is unreasonable to require access to guests rooms for unannounced inspection with only one hours notice. It is also unreasonable to revoke, or fail to renew a permit as a result of a warning. A warning is intended to allow someone to correct what may be a violation.

In the newly proposed section 19.64.065 items B, C, D, E, F, G and H are intended to provide stronger enforcement. But these provisions have already been proven to be ineffective in improving enforcement efforts in the Short term rental ordinance. What they have done is to exclude permitted operators from reapplying when they have inadvertently allowed their permits to lapse.

During the February 20th committee meeting on this issue, the deputy Planning director said that it was unfortunate, but the way this section of code has been implemented in the STRH ordinance, permit holders who allow their permits to expire and continue to operate are subject to a ban from reapplying. She further stated that the Council could consider changing the law to allow for an exception to such a ban. And that is our number one concern with what has been proposed for this code that would affect permitted Bed and Breakfast operators.

It should be made clear, that the proposed enforcement provisions in 19.65.065 are meant to apply to unpermitted operators who have never been granted a permit and explicitly not to permitted B&B operators, including those who may have simply failed to renew their permit on time. If someone

makes a mistake and fails to renew their permit, their entire livelihood should not be put in jeopardy.

There seems to be little understanding about how advertising on the Internet works. When someone starts advertising any type of business on the Internet, Additional ads, not necessarily in the control of the business owner begin to propagate. Even with the best of efforts, it can be impossible to remove all instances of advertisements for a business. So for a Permitted Bed and Breakfast that may have been in existence for ten years or more, cessation of advertising could take months or years to fully achieve.

To protect permitted operators, we would suggest amending the proposed language in 19.64.065 E to include the following:

Except for bed and breakfast homes whose permits have expired within the past 24 months provided that the holder of the expired permit stops accepting new reservations within 7 days from when they are informed of their expired permit and the holder of the expired permit submits a new permit application and continues to stop accepting new reservation until such time as their a new permit is granted.

Permitted Bed and Breakfast owners feel as if they are continuing to be picked on by the County thru much higher real property taxes, stricter rules on the use of our properties, and now as proposed, a host of changes that could lead to them losing their permits and/or losing the ability to reapply for a permits. While those who have never applied for a permit and have no restrictions to comply with continue to operate with apparent impunity to the law. Telling someone, who has never applied for and never intends to apply for a permit, that they are banned for 2 years or 5 years from applying for a permit is not enforcement and will not have any effect on the un permitted short term rental uses taking place.

The land use committee meeting would be more effective if a discussion about how the data about un permitted short term rentals, that will soon be provided by Lodgingrevs, will be used to actually get violators to cease operating. It isn't sufficient to simply identify the operators. Follow through will be required to be certain that they have stopped operating. This discussion would be more valuable than just creating more regulations to make permits harder to obtain and harder for permitted operators to maintain.