

County Clerk

RECEIVED

From: Kaaz <rbjyz@gmail.com>
Sent: Monday, June 14, 2021 1:06 PM
To: County Clerk
Subject: Moratorium on visitor accommodations

2021 JUN 14 PM 1:41

OFFICE OF THE
COUNTY CLERK

Dear County Council Members:

I am writing this letter in support of the proposed moratorium on visitor accommodations in West and South Maui. I am supporting this moratorium as an initial step toward remediating the current unregulated over-tourism we are seeing on Maui.

The goal for visitors to Maui has been to limit the number of visitors to approximately 1/3 the number of residents in order to preserve our environment, infrastructure, quality of life and all that makes Maui such a beautiful and popular tourist destination.

The current volume of tourists we were seeing pre-pandemic and now, in 2021, during the pandemic, is a threat to the health, safety and quality of life of the residents of Maui, our environment and wildlife.

These huge numbers of tourists are consuming and using scarce resources with few restrictions and controls. Maui's sewage treatment injection wells are inadequate to properly treat the sewage produced by our residents, let alone thousands of tourists. This results in inadequately treated sewage discharging into our oceans, killing coral, infecting people and ocean life, alike.

Due to climate change and global warming, Maui is experiencing a major drought that is predicted to get worse, not better. Tourists not only consume water, but the resorts and hotels and golf courses consume massive amounts of water in a wasteful manner to maintain the illusion of a green and lush Maui in areas that have traditionally been dry and sunny, not lush and green.

Traffic on our highways is terrible, particularly on the road to Hana, and East Maui is being overwhelmed by tourist traffic. All of Maui is being overwhelmed by traffic. The exhaust from the thousands of cars is ruining the clarity of air, threatening our health and consuming fossil fuels that contribute to the acidification and destruction of our oceans. Toxic sunscreen further pollutes the ocean, killing and bleaching the coral on which we depend to create reefs that help control our sea levels, provide a haven for fish, and support a sustainable fishing industry.

Tourists crowd our beaches, and tour boats crowd our oceans disturbing the quality of life for both residents and existing wildlife. Noise from tour boat engines affects the already struggling whale, honu and dolphin populations. Tourists on our beaches have been seen disturbing spinner dolphin pods which are trying to sleep during the day causing illness and death. They also disturb the honu, preventing them from nesting and basking on the beaches. Molokini is a great example of how tourism disturbs the overall marine environment. During the pandemic, the fish and oceanic predator population returned to its normal ecological balance. Now it is once again disturbed, as shown in a recent study.

These are but a few of the consequences of the unregulated rampant over-tourism we are once again experiencing. I thank you in advance for your support of this moratorium on tourist accommodations. Maui is literally being "loved to death" by excess tourism, and we are in danger of sacrificing our island, its rich cultural heritage, environmental beauty and diversity on the altar of tourism. Once the island is destroyed, tourism will decrease and we will literally have destroyed that which is currently supporting us. Now is our chance to limit tourism and begin to diversify our economy.

Sincerely,

**Joy Kaaz
Kihei resident
Member of HALEHawai'i**

County Clerk

From: Richard <richardmoss26@gmail.com>
Sent: Monday, June 14, 2021 1:47 PM
To: County Clerk
Subject: proposed visitor industry construction moratorium

RECEIVED

2021 JUN 14 PM 3:08

OFFICE OF THE
COUNTY CLERK

My name is Richard Moss. I live in Kihei. I am writing to express my support for the proposed visitor industry construction moratorium. Excess tourism will destroy the aloha of Maui for Maui residents, and for tourists. For residents there are significant negative environmental, traffic, overcrowding and quality of life impacts. For visitors, those same impacts reduce the quality of their vacation experience. For some, increasing tourism is about visitor industry and construction jobs. The visitor industry can't seem to fill the jobs they have available now. How will they fill the new jobs needed with growth? As for construction jobs, we don't need growth in that sector. The construction industry can be devoted to maintenance, renovation and upgrades of existing facilities. For the State and County Governments, they look at increased tourism and visitor industry construction as increased tax revenue; GET, TAT and income taxes for the State, and property taxes for the County. Those governments need to more efficiently use the tax revenues they have now instead of reducing our quality of life to obtain more tax revenues.

I strongly support the proposed visitor industry construction moratorium, and beyond that, better managing the visitor numbers we have now. We need to look for ways to diversify our economy, perhaps in the agriculture and technology sectors.

Richard Moss
137A Pauloa Place
Kihei, HI 96753

Sent from Mail for Windows 10

County Clerk

From: Bart Smith <northshoreroadxxx@gmail.com>
Sent: Monday, June 14, 2021 8:13 PM
To: County Clerk
Subject: Moratorium on New Hotels

RECEIVED

2021 JUN 15 AM 10:42

OFFICE OF THE
COUNTY CLERK

Dear Council Members

I support a moratorium on building more hotels. If you build them they will come. There is a breaking point where there is too much of a good thing and I believe we are at that point.

I support a quality of experience for tourists and residences and when there is too much traffic, no parking, and hot spots over crowded the whole experience is degraded.

For those reasons I believe we should permanently stop permitting new tourist hotels.

Sincerely,
Robert B. Smith
Maui Meadows, Kihei

County Clerk**RECEIVED**

From: Judya <kuulei7@comcast.net>
Sent: Monday, June 14, 2021 11:42 PM
To: County Clerk
Subject: Over excessive tourism

2021 JUN 15 AM 10:42**OFFICE OF THE
COUNTY CLERK**

I am just buying to stop off a building Kihei and Wailea. When is enough already? There are too many hotels already. Every time I drive by the old Maui Prince I want to cry. Stop building and concentrate on making other options of industry on Maui. There are very few residents on Maui that want more hotels if any. Why does the council keep allowing it?

Please focus on other industries other than tourism and overdevelopment options.
Judy Pokipala

Sent from my iPhone

County Clerk

RECEIVED

From: kat reynolds <kcuddihy@dnkzone.com>
Sent: Tuesday, June 15, 2021 9:59 AM
To: County Clerk
Subject: Friday's Maui County Council Meeting

2021 JUN 15 AM 10:42

**OFFICE OF THE
COUNTY CLERK**

Aloha

I understand this Friday the Maui County Council will review a moratorium on new tourist accommodations. I am writing in support of this proposal and would like my comments considered in this meeting.

Maui has a problem with excessive tourism. I fully support a ban or moratorium on any new visitor accommodations for Maui. This is an island where our resources are limited and we are already seeing ill effects of so many tourists on our islands. Please vote for a moratorium on new accommodations.

Mahalo

Kathy Cuddihy

County Clerk

RECEIVED

From: Valerie Guarini <52maui@gmail.com>
Sent: Tuesday, June 15, 2021 12:27 PM
To: County Clerk
Subject: Moratorium on new hotels/visitor accommodations

2021 JUN 15 PM 12:31

**OFFICE OF THE
COUNTY CLERK**

Aloha,

As a Kihei resident, taxpayer and voter, I support the moratorium on building new visitor accommodations. Not only do I support the moratorium I believe it should be much longer than 2 years. Our current infrastructure and environment barely supports the magnitude of tourists arriving daily on our island. Traffic on S. Kihei Road is too often at a standstill. The Piilani is packed with cars. Our beaches, parks & sidewalks are overcrowded.

I have lived in Kihei for over 20 years and have seen tourism increase to the point where it's more than just an annoyance. During that time I have met & interacted with many tourists who were regular visitors to Maui. Over & over again returning visitors have expressed to me their disappointment with the unbridled growth on our island. Many have said this is not the Maui they loved and will not be coming back.

I honestly don't understand the government's need to keep increasing tourist accommodations. We are already at or above a peak where tourism has become a detriment to those of us who live here. During the height of the Covid pandemic when our island home was so wonderfully empty, there was so much talk about limiting tourism. I felt hopeful we wouldn't become another Oahu. My hope now is the Council will concentrate on ways to cap tourism and remember the residents of Maui who certainly deserve to enjoy island we love so much.

Mahalo,

Valerie Guarini
279 Ohina Place
Kihei, HI 96753
808-385-6980.

Sent from my iPad

County Clerk

RECEIVED

From: Pamela Beagle <pbeaglelandscapes@icloud.com>
Sent: Tuesday, June 15, 2021 2:16 PM
To: County Clerk
Subject: Moratorium on hotels

2021 JUN 15 PM 4:28

**OFFICE OF THE
COUNTY CLERK**

I fully agree that we already have enough hotels. The temporary break from too much traffic as well as locals wanting restaurant reservations and now unable to get them due to large numbers of tourists. The reason Maui is popular is because it is NOT overbuilt.

Mahalo

Paul and pamela van horn-beagle

Kula, Hawaii

808.866.8602

County Clerk

From: Jen Bal <kailanamalie@gmail.com>
Sent: Wednesday, June 16, 2021 7:02 AM
To: County Clerk
Subject: Moratorium Banning New Hotels

Please stop it's to much building to many tourists

RECEIVED
2021 JUN 16 AM 9:33
OFFICE OF THE
COUNTY CLERK

County Clerk

From: Sandra brissette <sandra_brissette@yahoo.com>
Sent: Wednesday, June 16, 2021 11:53 AM
To: County Clerk
Subject: Moratorium on Vacation Buildings

Aloha, CARE Committee members. I am writing to express my strong support for both of the visitor accommodations moratoriums proposed. We need to stop the building of vacation type buildings until there is a plan by the planning department in place that protect the environment and the residents who live here and their children. As this meeting is taking place already our island is advised of drought conditions last miring the usage of water and it is only mid June. What will happened when more hotels build pools and waterfalls, not to mention the waste water that our system can't handle already. The planning department needs to come up with a plan that will protect our water, develop better waste water & sewage systems that protect our reefs. They need to make sure we have affordable housing for us and our children. Our children are suffering living in poor conditions just to stay close to family, what is in the future for them here? Please consider the history of how these islands were given to the US government to protect them, not rob them. We should have in place a bus system that works for our workers and the tourists before having more people flood our highways.. Let's not succumb to the pressure for tourism growth, when what we need is tourism planning. Over crowded roadways, building that block the scenic roadways and beaches taken over by hotel lounge chairs does not make for a pleasurable experience to tourist or residents. It has been reported that Mayor Victorino is threatening to veto these bills.. Please don't let that discourage you from passing them. Both of these bills reflect the overwhelming sentiment of your constituents that Maui residents deserve to be treated as MORE important than visitors, not less. We, not the visitors or the tourism industry, are the ones who will be voting in the next election. If the Mayor vetoes these bills, you can and SHOULD override him.

Sandra Brissette
Kihei Resident

RECEIVED
2021 JUN 16 PM 12:39
OFFICE OF THE
COUNTY CLERK

RECEIVED

June 16, 2021

2021 JUN 16 PM 4:13

Aloha Maui County Council Members:

I am writing this letter in support of the proposed moratorium on visitor accommodations in West and South Maui. This moratorium is a crucial step toward remediating the current unregulated over-tourism we are seeing on Maui.

OFFICE OF THE
COUNTY CLERK

The Maui Island Plan suggests limiting the number of visitors to approximately 1/3 the number of residents in order to preserve our environment, infrastructure, and quality of life for residents--all of which would improve the visitor experience as well.

The year 2019 was already a year of uncontrolled growth, fueled by the tourism industry. Promises were made by leaders during the early part of the pandemic to improve on the tourism experience for both visitors and residents. Residents were promised that the goal would be to decrease the number of tourists while protecting the islands. Since October of 2020, those promises have been completely forgotten by our leaders, who proudly announce that the goal of reaching 2019 numbers has been met and now exceeded.

The current volume of tourists we were seeing pre-pandemic and now, in 2021, during the pandemic, is a threat to the health, safety and quality of life of the residents of Maui, our environment and wildlife. Our island resources are very limited. Our inadequate sewage treatment, water, and landfills are not meant for this level of use. We are told that we will have yet another water shortage this summer. While my family's yard dries up and dies due to not watering it, the hotels are literally sucking up water as if there is no restriction. While sewage is discharged into our oceans, tourists are overcrowding our beaches and cruelly abusing our wildlife (I am thinking about honu and dolphins right now). Our fishing industry is endangered by the abuse the ocean environment is enduring.

On Maui, tourists do not stay in the tourist areas, but drive all over the island, causing huge traffic congestion—and this is despite the rental car shortage. Tourists don't even think twice about using up resources meant for residents, such as UHauls! I have seen horrific pictures of the road to Hana being blocked by tourists who choose to park on the road, blocking traffic, because of lack of parking.

Residents are literally being told that we do not count and that the tourism industry is all-powerful. Our mayor has already said that he will veto this moratorium, similar to the way he vetoed the affordable housing bill. He has constantly communicated in a very condescending way to residents, very publicly blaming residents for COVID spread rather than acknowledging that it had to have come in by travel; he has called residents "little children who refuse to listen" when we were concerned about the delay in vaccinations here; and he goes out of his way to please the big money brought in by the tourism industry and mainland investors. He has made it clear that residents are second class citizens to tourists.

Residents here sacrifice a great deal financially to live here and deserve to be able to enjoy the beaches, hikes and parks. Instead, there is no room for residents on any of these. The majority of residents here do not depend at all on the tourist industry—yet all of us are made to sacrifice for it. For me, it is about more than a financial sacrifice, as this is not only my birthplace but also that of my ancestors. I am trying my best not to be chased out by greedy leaders who put short-term profit first.

Our economy needs to be diversified. Our children need to be taught skills that will help them to succeed in society, rather than just to serve tourists. We need a moratorium on future visitor accommodations while solutions can be implemented, including leadership that supports resident lives over the tourism industry.

I appreciate the members of the Maui County Council greatly. With few exceptions, you are the leaders who put residents and the 'aina first.

Mahalo Piha,

Kai Duponte

Kai Duponte, MSW

County Clerk

RECEIVED

From: Madolin Wells <madolin@fivesenseshealing.com>
Sent: Wednesday, June 16, 2021 5:53 PM
To: County Clerk
Subject: Please Support CARES-50 Moratorium

2021 JUN 17 AM 7: 59

OFFICE OF THE
COUNTY CLERK

Aloha Committee Chair King and Councilmembers,

I'm writing to express my gratitude to Kelly King and Keani Rawlins-Fernandez for their much-needed related proposals placing a 2-year pause on permitting new resort building. I urge Council Members to send Vice Chair Rawlins-Fernandez's proposal on to the Planning Commission without delay.

Our island is overwhelmed by tourism. Residents are saddened, frustrated, angry, upset. They feel betrayed by the policy-makers whose job it is to protect the health and safety of Maui and are failing to do so.

Though our decision-makers may feel that the economic health of Maui justifies enabling what is essentially an addiction to over-tourism, the very opposite is true. Maui's economy is desperately in need of diversified income rather than "mono-economy." The revenue generated by tourism increases the widening wealth gap. While some hotel workers are paid a living wage, many are not.

Over-tourism provides profits to corporate interests without requiring their fair contribution to infrastructure. Instead, the tourist economy here wears down roads, costs emergency services of fire and police and medical workers that are paid out of the county budget. It causes destruction of reefs and interferes with wildlife, including dolphins, sharks, and whales. Visitors are not appropriately schooled on what is permissible, let alone what is pono. Visitors crowd out locals from enjoying their favorite eateries because they literally cannot get a seat at the table (or in the take-out line). Over-tourism usurps resident access to public beaches that belong to the county and state.

Over-tourism focuses on building out development for the super-rich and luxury resorts rather than critically needed affordable housing, without which life-long Maui residents are being forced off their island home, or into homelessness. Loss of each younger generation to the mainland for better job opportunities was one of the key factors that prompted Hawai'i to develop tourism as a major industry back in the 1960's. Now over-tourism is causing the loss of young people once again - and older people too, because it's too expensive to live here.

Our leaders are failing in their responsibility to protect Maui's health and safety.

Most cases of the Brazil P.1 variant of Covid-19 - which is more contagious and more resistant to antibodies - have been coming in to Maui - 22 vs 13 into O'ahu as of 5/27/21. (<https://www.mauinews.com/news/local-news/2021/05/most-hawaii-cases-of-brazil-variant-found-in-maui-county/>). The Delta variant from India is more contagious than previous strains and may cause more severe illness. By the time it had reached America, it was already causing an uptick in case counts after 6 months of cases falling rates, even though it comprised only 6% of all US cases. But in no time at all, the Delta variant is already in Hawai'i. (<https://www.staradvertiser.com/2021/06/14/breaking-news/delta-coronavirus-variant-which-may-cause-more-severe-illness-detected-in-hawaii/>). See also <https://governor.hawaii.gov/newsroom/doh-news-release-hawaii-department-of-health-laboratory-detects-delta-variant-in-hawaii/>

Recently eliminating post-tests that provide a truer picture than pre-tests, and now lifting all restrictions without utilizing the possibility of vaccine passports, continues to endanger Maui's people.

Back in April of 2020, the Governor inaugurated a “Hawai’i Economic and Community Recovery & Resiliency Plan” led by Alan Oshima as “Economic and Community Navigator.” A group appointed by The Commission on the Status of Women was designated to devise “A Feminist Economic Recovery Plan for COVID-19.” It seemed that well-considered, innovative plans were forthcoming from both committees. What happened to those plans? Did they submit their hard work and ideas and simply get ignored? Meanwhile the heavy toll of over-tourism continues to grind down Maui and all inhabitants, human and otherwise.

It’s high time to take that step back that we were all promised.

Respectfully yours,

Madolin Wells, Kihei

County Clerk

From: Wendy McCracken <wendykat4@yahoo.com>
Sent: Wednesday, June 16, 2021 8:39 PM
To: County Clerk
Subject: Support for moratorium banning new hotels - Agenda item CR 29-39

To the Council Members of the County of Maui.

I hereby support the moratorium banning the building of new hotels and other visitor accommodations for many of the same reasons you have already received and will receive from other concerned citizens and individuals. With the past events of the year I would think that eyes would have been opened to the results of human greed and gratification when we keep pushing the natural environmental elements out of the way to satisfy a select few with usually deep pockets. Oahu is one populated small island in the middle of the Pacific Ocean that has and is demonstrating the affects of this. Not only the impacts on nature but environment for all and it doesn't take rocket science to see how the negative energy in the aftermath produces societal issues as well as an increase in crime and invasion of a peaceful lifestyle. Even a 2 year period to develop a plan will not be enough to prevent taking the wrong turn and putting unnecessary and harmful burdens on the land and the community. The need to work smarter and find ways to utilize and improve what is already in place is a better plan.

I worked in a Natural Resources and Environmental department for a law firm that represented major mining companies and saw firsthand the attempt to strip the land from the people and the environment by business commerce and the devastating results when it did. I am also mystified by how people who take an oath in an official position seem to have forgotten about common sense when it comes to profit over reality such as the need for infrastructure to support all the hotel and vacation rental building when we can't even provide sufficient infrastructure and housing for those who live and reside here and will supply the services needed to allow those utilizing those facilities and domains for short term pleasure trips to enjoy them.

Restaurants, stadiums, ballparks, casinos and other entertainment event structures have capacity limitations for obvious reasons. It makes more sense to stop the madness and take care of what we have already created. Let's continue the Aloha spirit that draws visitors here from all over the world and continue providing the quality first over quantity. This is not what developers, politicians and those with a monetary agenda seem to take into account. Singer songwriter Jack Johnson says it well in his song "My Mind Is For Sale" with the lyrics "I don't care for your careless, me first, gimme, gimme, appetite at all".

Please take care of those who care about more than quantity and take care of Maui, the other islands of Hawaii, the 'Aina and Kama'āina. Mahalo.

Sent from my iPad

RECEIVED
2021 JUN 17 AM 7:59
OFFICE OF THE
COUNTY CLERK

County Clerk

From: Wendy McCracken <wendykat4@yahoo.com>
Sent: Wednesday, June 16, 2021 8:46 PM
To: County Clerk
Subject: Fwd: Support for moratorium banning new hotels - Agenda item CR 21-39

Correction to Agenda item #. Mahalo

Sent from my iPad

Begin forwarded message:

From: Wendy McCracken <wendykat4@yahoo.com>
Date: June 16, 2021 at 8:39:28 PM HST
To: county.clerk@mauicounty.us
Subject: Support for moratorium banning new hotels - Agenda item CR 29-39

RECEIVED
2021 JUN 17 AM 7:59
OFFICE OF THE
COUNTY CLERK

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Restaurants, stadiums, ballparks, casinos and other entertainment event structures have capacity limitations for obvious reasons. It makes more sense to stop the madness and take care of what we have already created. Let's continue the Aloha spirit that draws visitors here from all over the world and continue providing the quality first over quantity. This is not what developers, politicians and those with a monetary agenda seem to take into account. Singer songwriter Jack Johnson says it well in his song "My Mind Is For Sale" with the lyrics "I don't care for your careless, me first, gimme, gimme, appetite at all".

Please take care of those who care about more than quantity and take care of Maui, the other islands of Hawaii, the 'Aina and Kama'āina. Mahalo.

County Clerk

From: Andrea Perkins <reiserperkins@gmail.com>
Sent: Wednesday, June 16, 2021 10:19 PM
To: County Clerk
Subject: In support of the moratorium on building more resorts

Aloha Committee Chair King and Councilmembers,

I'm writing to express my solid support for placing a 2-year moratorium on the issuing of new resort building permits.

My husband and I have lived in Maui for 12 years. He is a physician with Maui Memorial. I work for a local nonprofit. We love living here, own our home, and are part of a wonderful community, but the recent dramatic increase in tourism has made us wonder how sustainable it is to continue living here. Tourism on this scale affects our daily quality of life significantly. We've already given up on being able to enjoy our favorite beaches, hikes, and eateries without fighting throngs of tourists, nor do we feel like we can even drive to work safely what with the ever increasing bike tours (my husband has seen many victims of these tours end up in the emergency room). It's also worth pointing out that my husband's already stressful job is made doubly so by the strain visitors put on our small health care system. I honestly can't imagine more tourists than what we're already dealing with. Please reconsider favoring industrial tourism over the needs of the people who call Maui home.

Thank you for your time and all the work many of you are doing to protect this special place.

Andrea Reiser Perkins
808-283-5201

RECEIVED
2021 JUN 17 AM 7:59
OFFICE OF THE
COUNTY CLERK

County Clerk**RECEIVED**

From: Paul Janes-Brown <curtaincallmaui@gmail.com>
Sent: Wednesday, June 16, 2021 11:40 PM
To: County Clerk
Subject: Testimony CC 21-280

2021 JUN 17 AM 7: 59**OFFICE OF THE
COUNTY CLERK**

My name is Paul Janes-Brown, I live in Pukalani, I am testifying in support of Item CC 21-280 A BILL FOR AN ORDINANCE ESTABLISHING CHAPTERS 19.98 AND 20.41, MAUI COUNTY CODE, DECLARING A MORATORIUM ON NEW TRANSIENT ACCOMMODATIONS ON MAUI.

When the visitors left, the planes stopped landing and the field around the airport turned into a gigantic parking lot, we got a taste of the impact on our quality of life the visitor industry represents. We had a chance to dial back our dependence and reinvent ourselves. However, we wasted that chance and now we are inundated with visitors.

Thankfully, the rental car situation has not caught up with the demand, however some of our residents have seized on this money making opportunity, which is unfortunate and selfish.

I applaud Council Member King for her vision in bringing forth this much needed moratorium. I would go even further by banning vacation rentals until our houseless population is adequately taken care of. It is unconscionable to have the number of houseless here and excellent accommodations sitting vacant for most of the year. I would put a minimum lease of 12 months on all rentals.

This moratorium would put a hold on the growth of our visitor population, which is sorely needed. We need to focus on the quality of our visitors not the quantity. Our plans are out of date and until we get new plans, which will address these issues, we need to act now to let us breathe, focus and plan for the best future for all our people.

I hope the council will act to adopt this much needed ordinance. Mahalo nui loa.

A hui hou,
Paul Janes-Brown

County Clerk

From: Carole Sarra <csarra47@gmail.com>
Sent: Thursday, June 17, 2021 6:29 AM
To: County Clerk
Subject: Support for moratorium of tourist accomodation

We support a moratorium on tourism infrastructure of all kinds.

We own a home and live full time in Kihei. We pay taxes and support the local businesses on a year round basis. The town is overwhelmed with tourist! Kihei Road is always congested and the beaches are so crowded we rarely go any more. I feel like I am living in an amusement park! The Pihani Highway is so crowded with cars that I often have to sit through more than one change of the street light to get to the shopping center. Also tourist don't respect our speed limits.

We can have a healthy economy without the invasion of tourist who mostly support the food trucks lining the roads and Costco.

Tourism does not support the overall economy. They don't hire the plumber to fix a leak or a contractor to remodel the kitchen. They don't buy furniture or carpeting to up grade their home. They don't buy plants at Kihana Nursery or supplies at Ace Hardware. They don't support the non-profits that need contributions to exist. I can guarantee you that we full time residents contribute much more to the economy than the part time tourist do. The "hospitality industry" mostly supports the minimum wage service workers, which becomes a trap that is difficult to rise above. These workers can't even afford housing without out taking in room mates. It is a sad situation when you put your own residents at the bottom of your priorities.

We must protect our oceans and sea life from pollution which is aggravated by the thousands of people covering themselves in sun screen harmful to the environment. We must protect our wildlife and native plants from robbing them of their habitat. We must protect the culture of our native people. We must protect our air from the pollution of exhaust from too many cars and our evenings from the light pollution of hotels and businesses trying to attract attention.

Please do the right thing and address these problems by putting a moratorium in place!

Respectfully yours,

Carole Sarra
82 Kuli Puu St.
Kihei

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2021 JUN 17 AM 7:59

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COUNTY CLERK



June 17 2021

TO: Maui County Council Chair Alice Lee
Vice Chair Keani Rawlins Fernandez
Council Members

SUBJECT: Support FOR CR 21-39

"Recommending FIRST READING to temporarily maintain the status quo in the development of hotels and other visitor accommodations in South Maui and West Maui until the respective community plans for the areas are updated or two years have passed, whichever is sooner, because of environmental and other impacts.

Aloha Chair Lee, Vice Chair Rawlins-Fernandez, and members of the Council,

My name is Hannah Bernard and I am Executive Director and Co-Founder of Hawai'i Wildlife Fund.

Mahalo nui loa, thank you for the opportunity to submit my support for CR 21-39 "...to temporarily maintain the status quo in the development of hotels and other visitor accommodations in South Maui and West Maui until the respective community plans for the areas are updated or two years have passed, whichever is sooner, because of environmental and other impacts.

This proposed moratorium on new development is a very important first step in redefining our relationship with tourism here in Hawai'i nei. The reduction in visitors in 2020 caused by COVID-19 gave us an extraordinary opportunity to experience our home in a way that was both poignant and breathtaking. Our nearshore marine resources thrived in the absence of so many people in the water; and also cast a light on our own local usage patterns that we might want to address.

Hawai'i Wildlife Fund is deeply committed to the management of our tourism-based economy, since the impacts of so many visitors to Hawai'i (~10 million in 2019, and expected to match or exceed that in 2021) has negative effects on nearshore marine life. These effects include sea turtle disturbance and outright harassment as well as displacement of our own community from favorite sites. See for example

this recent article: on KITV <https://www.kitv.com/story/44090398/maui-sea-turtle-photo-causes-uproar-on-social-media>



A picture posted on social media is making its rounds and turning some heads. A large group of people at Ho'okipa Beach is seen in the water near two turtles—bypassing a sign reading 'Stop do not pass this sign to view the turtles'. Jennie Montijo

We have engaged the tourism industry since our inception in 1996 in order to help manage the impacts on our environment, but we desperately need the County's help in managing the carrying capacity of Maui. Please allow this bill to move forward to begin to formulate a better way of life for residents and to better support the environment upon which we all depend, especially the tourism industry.

Mahalo for your consideration and continued progress in protecting our environment,

Hannah Bernard
Executive Director
Hawai'i Wildlife Fund

P.O. Box 790637 • Paia • HI • 96779 • (808) 280-8124 • wild@aloha.net • www.wildhawaii.org



June 17, 2021

TO: Councilmember Alice L. Lee, Chair
Councilmember Keani Rawlins- Fernandez, Vice- Chair
Members for the Maui County Council

FR: AMERICAN RESORT DEVELOPMENT ASSOCIATION – HAWAII (ARDA-Hawaii)

RE: Opposition to CR 21-39 (Recommending FIRST READING on bill to temporarily maintain the status quo in the development of hotels and other visitor accommodations in South Maui and West Maui)

(Sent via e-mail to county.clerk@mauicounty.us)

Aloha Chair Lee, Vice Chair Rawlins-Fernandez and members of the Maui County Council,

I am writing in **STRONG OPPOSITION** to Councilmember Kelly King's proposed bill to amend the building code to "declare a moratorium on new transient accommodations on Maui."

There is no data to suggest that stopping the development of transient accommodations will decrease the number of visitors to Maui, mitigate environmental impacts or improve residents' quality of life, all of which are stated goals. A moratorium is also not needed to adequately study the impacts of tourism as the county works toward resiliency – this can be done while the industry continues to operate.

How will stopping the development of transient accommodations keep visitors from coming to Maui? It won't. Today the fastest-growing segment within the visitor accommodations industry is the transient vacation unit. If the purpose of the bill is to ultimately decrease the visitor count, perhaps further regulation is needed on the number of legal short term rental units that are allowed.

As (a member of/chair) of ARDA-Hawaii, which represents the vacation ownership and resort development industries in Hawaii, I'm surprised that the County would want to stop timeshare visitors from coming to Maui. The timeshare visitor has the exact profile of the type of visitor that we should welcome with higher income levels, more spending off property in restaurants and local stores, and are more likely to take care of their property, which for most is a home away from home, as they are owners, not transients. We should be mindful that the timeshare industry could be part of the solution.-

Furthermore, the timing of the moratorium is illogical from an economic perspective. It is concerning that the County would deter capital investment in a time where it is still recovering

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from the impacts of pandemic. The County would risk forgoing substantial amounts of investment from being injected into the economy creating jobs and vital tax revenue. The industry is a strong contributor to Maui's economy, providing more than \$73 million per year in state and local taxes in addition to employment of and income to Maui residents. Additionally, ARDA-Hawaii and the hotel industry supports the community through charitable donations to on-island organizations, such as Maui Food Bank, Maui Memorial Medical Center Foundation and Boys and Girls Club of Maui, among others.

Due consideration should be given to the broader impacts of the proposed measure. We as a community should consider some sort of resolution that provides our local residents with the ability to continue to work to provide for their families while at the same time addressing the impacts of the influx of visitors until Maui can transition to a more diversified economic base. The proposed moratorium does not offer a form of management, rather

I respectfully ask that you defer this measure and instead convene a task force to address these concerns in a more meaningful way.

Thank you for your consideration of my comments.

Respectfully submitted,



Ryan Nobriga
Maui Task Force Chair
ARDA Hawaii



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June 17, 2021

TO: Councilmember Alice L. Lee, Chair
Councilmember Keani Rawlins- Fernandez, Vice- Chair
Members for the Maui County Council

FR: AMERICAN RESORT DEVELOPMENT ASSOCIATION – HAWAII (ARDA-Hawaii)

RE: Opposition to CC 21-280 ("REFERRING TO THE MAUI PLANNING COMMISSION
A BILL FOR AN ORDINANCE ESTABLISHING CHAPTERS 19.98 AND 20.41,
MAUI COUNTY CODE, DECLARING A MORATORIUM ON NEW TRANSIENT
ACCOMMODATIONS ON MAUI)

(Sent via e-mail to county.clerk@mauicounty.us)

Aloha Chair Lee, Vice-Chair Rawlins-Fernandez and members of the Maui County Council,

I am writing in **STRONG OPPOSITION** to CC 21-280 referring to the Maui Planning Commission a bill for an ordinance establishing Chapters 19.98 and 20.41, Maui County Code, declaring a moratorium on new transient accommodations on Maui. CC 21-280 seeks to create an island wide moratorium through temporarily prohibiting the issuance of any permit under Title 19. The proposed measure creates multiple concerns that could have broad impacts on Maui's economy.

The purpose of the proposed bill is to establish a moratorium to comply with visitor to resident ratio specified in chapter 2.80B, Maui Island Plan by pausing the increase of transient accommodations. However, there is no data to suggest that stopping the development of transient accommodations will decrease the number of visitors to Maui. It is simple, it won't. Visitors will still come to Maui and seek other accommodations even if the supply of lodging units is limited. The volume of visitors will permeate into the residential neighborhoods of Maui through an increase in short-term vacation rentals, which are the fastest-growing segment within the visitor accommodations industry. If the purpose of the bill is to ultimately decrease the visitor count, perhaps further regulation is needed on the number of legal short-term vacation rental units that are allowed.

Moreover, the proposed ordinance is intended to mitigate negative impacts on the environment and residents' quality of life. Again, there is a lack of data suggesting that a moratorium will substantially reduce the negative impacts on the environment or residents. It is concerning that

such a broad and inflexible policy would be implemented without first establishing transient accommodations as the primary cause of these negative impacts.

Furthermore, the timing of the moratorium is illogical from an economic perspective. It is concerning that the County would deter capital investment in a time where it is still recovering from the pandemic. The County would risk forgoing substantial amounts of investment from being injected into the economy creating jobs and vital tax revenue. For example, the timeshare industry is currently a strong contributor to Maui's economy, providing more than \$73 million per year in state and local taxes in addition to employment of and income to Maui residents.

The proposed ordinance would enact a moratorium to "maintain the status quo" while the County establishes a Tourism Management Temporary Investigative Group ("TIG") to study and enact legislation to better manage tourism industry's impact on the environment and residents' quality of life. However, given the potential negative economic impacts, there is no reason why the TIG cannot be conducted while the industry continues to operate and invest in Maui. It would be unnecessary to implement a policy prohibiting economic growth, posing significant risk to Maui's economy, without first obtaining information to better manage the industry. Instead, the TIG, in collaboration with the tourism industry, should address the Council's concerns prior to the moratorium in order to prevent causing unnecessary harm to Maui's fragile economy recovering from the pandemic.

Further, as (a member of/chair) of ARDA-Hawaii, which represents the vacation ownership and resort development industries in Hawaii, I'm surprised that the County would want to stop timeshare visitors from coming to Maui. The timeshare visitor has the exact profile of the type of visitor that we should welcome with higher income levels, more spending off property in restaurants and local stores, and are more likely to take care of their property, which for most is a home away from home, as they are owners, not transients. We should be mindful that the timeshare industry could be part of the solution.

Due consideration should be given to the broader impacts of the proposed measure. We as a community should consider a resolution that provides our local residents with the ability to continue to work to provide for their families while at the same time addressing the impacts of the influx of visitors until Maui can transition to a more diversified economic base.

I respectfully ask that you defer this measure and instead convene a task force to address these concerns in a more meaningful way.

Thank you for your consideration of my comments.

Respectfully submitted,

A blue ink handwritten signature, appearing to read 'Ryan Nobriga', with a stylized flourish at the end.

Ryan Nobriga
Maui Task Force Chair
ARDA Hawaii



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OFFICE OF THE
COUNTY CLERK

June 17, 2021

TO: Councilmember Alice L. Lee, Chair
Councilmember Keani Rawlins- Fernandez, Vice- Chair
Members for the Maui County Council

FR: AMERICAN RESORT DEVELOPMENT ASSOCIATION - HAWAII (ARDA-Hawaii)
Mitchell Imanaka, Chair

RE: CC 21-280 (REFERRING TO THE MAUI PLANNING COMMISSION A BILL FOR
AN ORDINANCE ESTABLISHING CHAPTERS 19.98 AND 20.41, MAUI COUNTY
CODE, DECLARING A MORATORIUM ON NEW TRANSIENT
ACCOMMODATIONS ON MAUI)

(Sent via e-mail to care.committee@mauicounty.us)

Aloha Chair Lee, Vice-Chair Rawlins-Fernandez and members of the Maui County Council:

Attached please find a memo regarding the legality of certain aspects of the proposed measure on a moratorium on the issuance of building permits in certain districts on Maui. Your kind consideration of the points raised would be greatly appreciated.

Yours Very Truly,

Mitchell Imanaka
Chair
ARDA Hawaii

**Confidential Discussion Draft
Attorney-Client Privilege**

DATE: June 16, 2021
TO: ARDA Hawai'i c/o Mitchell A. Imanaka, Esq.
FROM: Cades Schutte LLP
RE: Review of Resolution ____ / CRC 21-280 (Establishing Chapters 19.98 and 20.41, Maui County Code, Declaring a Moratorium on New Transient Accommodations on Maui)

We were asked to review Maui County Resolution ____ / CRC 21-280 (the “**Resolution**”) to assist our client in its evaluation of the Resolution. This memorandum presents our assessment.

I. INTRODUCTION

The Resolution would impose a moratorium for the Island of Maui on the issuance of any permit for a “transient accommodation,” including hotel and timeshare units, that is not already in operation as a transient accommodation on the effective date of the Resolution and for the “expansion” of any existing transient accommodation. The Resolution claims a moratorium is necessary because “Maui now dramatically exceeds the codified [one-third] visitor-resident ratio” set forth in the Maui Island Plan and the “continued development of transient accommodations directly relate to an increase” in visitors. Based on those assertions, the Resolution assumes prohibiting the development of new transient accommodations and the expansion of existing transient accommodations will prevent additional visitors from traveling to Maui.

Although the Resolution improves upon the prior forms of moratoria on transient accommodations that have been proposed for Maui, the Resolution is ultimately too ambitious and too blunt to survive legal scrutiny. In particular, the Resolution is invalid as a matter of law for the following reasons:

- The Resolution fails to substantially advance a legitimate government interest, because it rests on demonstrably flawed and unsupported factual premises, including using the daily visitor count for Maui County (rather than Maui Island) for the year 2019 (rather than 2021), concluding an

increase in transient accommodations has caused an increase in the daily visitor population, asserting transient accommodations are “under-regulated” and asserting a prohibition on the development and expansion of transient accommodations will ameliorate negative impacts on the environment and infrastructure.

- The Resolution is unconstitutionally vague, because it proscribes activity in in overly broad terms that fail to provide a reasonable opportunity to developers and operators of transient accommodations to know what conduct is and is not prohibited and invites discriminatory enforcement.
- The Resolution violates the equal protection clause, because it singles out transient accommodations and treats transient accommodations differently from the rest of the visitor industry, including businesses that service visitors and directly impact carbon-emission levels and the use of infrastructure, such as roadways, waste-water facilities and water.
- The Resolution is overbroad, because it extends to all “transient accommodations,” rather than tailor its reach to be consistent with its stated purpose and purported connection between an increase in transient accommodations and the daily visitor population.
- The Resolution violates vested rights, because it fails to protect projects that have a valid discretionary permit but may require an extension of time to complete development.
- The Resolution impermissible delegates authority to a future Council because it authorizes an extension of the moratorium without providing a procedure for the extension.

II. THE RESOLUTION

The Resolution proposes to add two chapters to the Maui County Code—Chapter 19.98 (Moratorium on Transient Accommodation Permits on Maui) to Title 19 of the Maui County Code (Zoning) and Chapter 20.41 (Moratorium on Transient Accommodations on Maui) to Title 20 of the Maui County Code (Environmental Protection). The proposed chapters are identical. Under the Resolution, Chapter 19.98 and Chapter 20.41 would provide in material part as follows:

19.98.030 New transient accommodation permits prohibited. New transient accommodations are prohibited in all zoning districts on the island of Maui. No permit applications or permits required by this title may be accepted or granted by any board, commission, or agency for new transient accommodations.

20.41.030 New transient accommodation prohibited. New transient accommodations are prohibited in **all zoning districts** on the island of Maui. **No permit applications may be accepted or permits granted by any board, commission, or agency for new transient accommodations.**

Sections 19.98.030 and 20.41.030 (emphasis added).

The term “new transient accommodations” is defined as “any **structure** intended to be used for **transient accommodation**, including hotels, timeshares, short-term rental homes, and transient vacation rental units, **that is not in operation as [a] transient accommodation** as of the effective date of the ordinance, but excluding bed and breakfast homes.” Sections 19.98.020 and 20.41.030. Although the term “structure” is not defined in the Resolution, Maui County Code defines “structure” to mean “a combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above or below the surface of land or water.” MCC 19.04.040. Under this definition, a “structure” includes a building, rooms or units within a building and additions to or expansions of an existing building.

Although the term “transient accommodations” is not defined in the Resolution or Maui County Code, the term “transient” means “any visitor or person who owns, rents or uses a lodging or dwelling unit, or portion thereof, for less than one hundred eighty days and whose permanent address for legal purposes is not the lodging or dwelling unit occupied by the visitor.” MCC 19.04.040. Thus, a transient accommodation is an “accommodation” or “unit” for transients.

Applying these definitions, the Resolution would prohibit the acceptance or approval of any permit for new buildings, rooms or units within buildings and additions to or expansions of existing buildings that are intended to service transients. The restriction would extend to “hotels, timeshares, short-term rental homes, and transient vacation rental units.” Sections 19.98.020 and 20.41.030.

Maui County Code defines “hotels” as “a transient vacation rental, excluding bed and breakfast homes and short-term rental homes” and “short-term rental homes” as “a residential use in which overnight accommodations are provided to guests for compensation, for periods of less than one hundred eighty days . . . excluding bed and breakfast homes.” MCC 19.04.040. Although “timeshares” and “transient vacation rental units” are not defined in the Resolution or Maui County Code, the Code defines the term “time share unit” to mean “any plan or program in which the use, occupancy, or possession of one or more time share units circulates among various persons for less than a sixty-day period in any year, for any occupant” and “transient vacation rentals or use” to mean “occupancy of a dwelling or lodging unit by transients for any period of less than one hundred eighty days, excluding bed and breakfast homes and short-term rental homes.” *Id.*

The moratorium on the approval of permits for “new transient accommodations” that are “not in operation as transient accommodation as of the effective date of the ordinance, but excluding bed and breakfast homes” in “all zoning districts on the island of Maui” would lift at the earlier of two years from the effective date of the law or “upon the enactment of legislation in accordance with chapter 19.98 or chapter 20.41.” Sections 19.98.050 and 20.41.050. The referenced “legislation” is “legislation implementing appropriate recommendations presented by a Budget, Finance, and Economic Development Committee-established tourism management temporary investigative group” Sections 19.98.010 (Purpose) and 20.41.010 (Purpose) (the only sections in chapters 19.98 and 20.41 that reference legislation). While the Resolution allows the Council to “extend the moratorium for an additional six months,” Sections 19.98.050 and 20.41.050, it does not provide a procedure for the extension, such as by resolution or further ordinance.

Chapters 19.98 and 20.41 would not apply to the following:

- Bed and breakfast homes,¹ Sections 19.98.020 and 20.41.030;
- “Any new transient accommodation that has received its last discretionary approval prior to the effective date of the ordinance establishing this chapter,” Sections 19.98.040(A) and 20.41.040(A);
- “Any new transient accommodation that does not require any additional discretionary approvals prior to operation as of the effective date of the ordinance,” Sections 19.98.040(B) and 20.41.040(B);
- “Renovations or repairs of transient accommodations that do not increase lodging capacity or expand the structures beyond the boundaries of the existing structural footprint,” Sections 19.98.040(C) and 20.41.040(C);
- “A time extension for permits or approvals granted prior to the effective date of this ordinance,” Sections 19.98.040(D) and 20.41.040(D); and
- “[T]he processing, approval, or granting of any application for the approval of a new transient accommodation that is properly filed with the County and complete prior to the effective date of” the Resolution, Resolution Section 6.

¹ The term “bed and breakfast homes” is not defined in the Resolution. Maui County Code defines “bed and breakfast homes” as “a use in which overnight accommodations are provided to guests for compensation, for periods of less than one hundred eighty days, in no more than two detached single-family dwelling units, one of which is occupied by the owner-proprietor. Each bed and breakfast home shall include bedrooms, one kitchen, and living areas and shall include no more than six bedrooms for bed and breakfast home use, as specified within the zoning district provisions of this title.” MCC 19.04.040.

There is no mechanism to obtain an exception from the prohibition, such as by resolution of the Council or approval of the Planning and Public Works Directors.

The Resolution rests on three findings. First, the Resolution finds that transient accommodations are under-regulated and that the “continued development of transient accommodations directly relate[s] to an increase” in the ratio of visitors to residents. Citing to counts by Hawai‘i’s Department of Business, Economic Development and Tourism, the Resolution finds that “Maui’s daily visitor count grew from just over 46,000 in 2010 to nearly 70,000 in 2019, while the resident population remained constant at approximately 150,000 over the same time period” and that “Maui now dramatically exceeds the codified visitor-resident ratio” set forth in the Maui Island Plan. Sections 19.98.010 and 20.41.010.

Second, the Resolution finds that the continued development of transient accommodations and the related increase in tourism cause “negative impacts on the environment, overwhelms County infrastructure, and negatively impacts residents’ quality of life.” Sections 19.98.010 and 20.41.010. According to the Resolution, to “preserve the County’s environment, and to work toward resilience, new development or expansion of hotels, resorts, timeshares, short-term rental home permits, and transient vacation rental unit permits must be **limited** on Maui island for an interim period.” Sections 19.98.010 and 20.41.010 (emphasis added). Thus, the stated purpose of the Resolution is “to comply with Maui Island Plan,” which seeks to “[p]romote a desirable island population by striving to not exceed an island-wide visitor population of roughly 33 percent of the resident population,” Island Plan § 4.2.3.a, “by pausing increasing transient accommodations **and tourism.**” Sections 19.98.010 and 20.41.010 (emphasis added).

Finally, the Resolution finds that the “pause will maintain the number of current transient accommodation units” so that the “tourism management temporary investigative group” established by the Budget, Finance, and Economic Development Committee “may **investigate** and recommend actions including carrying capacity for the island in the Maui Island Plan and for heavily visited and traversed locations, addressing infrastructure loads of roadways, wastewater facilities, water use, other County facilities, and environmental impacts.” Sections 19.98.010 and 20.41.010 (emphasis added). The Resolution anticipate the Council will adopt “legislation implementing appropriate recommendations presented by the” temporary investigative group. *Id.*

The Resolution has been placed on the agenda for the June 18, 2021, meeting of the Council. The Resolution acknowledges that Sections 8-8.4 and 8-8.6 of the Maui County Charter “require that the appropriate planning commission review proposed land use ordinances and provide findings and recommendations to the Council,” Resolution at 1, and, thus, “respectfully requests that the Maui Planning Commission transmit its findings and recommendations [on the Resolution] to the Council as expeditiously as possible.” *Id.* Following the receipt of the Planning

Commission's findings and recommendations on the Resolution, the measure may be adopted on one reading (as opposed to two readings on separate days). Maui County Charter Section 4-2 (1)-(2).

III. ANALYSIS

The Council previously introduced two bills proposing moratoria on the development of transient accommodations within specific areas. First, Bill 191 proposed to add Chapter 40 to the Maui County Building Code, which would have prohibited the "development" of "transient accommodations," including hotel units, in West Maui and South Maui for two years from the law's effective date. Under Bill 191, the prohibition would have ended earlier than two years **if** the ordinances approving the West Maui Community Plan update **and** the South Maui Community Plan had been adopted. If the ordinances became effective before the two-year prohibition ended, the prohibition would have lifted on the effective date of the ordinance approving the South Maui Community Plan update. Bill 191 has been withdrawn.

Second, Bill 232 proposes to add Chapter 40 to the Maui County Building Code, which would prohibit the "development" of "visitor accommodations," including "hotels, resorts, timeshares, short-term rental homes, bed and breakfast homes, and transient vacation rentals," Bill 232, Section 4000.4, in West Maui and South Maui for two years from the law's effective date. The prohibition would automatically end in West Maui on the effective date of the West Maui Community Plan update **if** the West Maui Community Plan update becomes effective in less than two years. Similarly, the prohibition would automatically end in South Maui on the effective date of the South Maui Community Plan update **if** the South Maui Community Plan update becomes effective in less than two years. Bill 232 has been placed on the agenda for the June 18, 2021, meeting of Council.

In prior memoranda, we discussed the problems with Bills 191 and 232. While the Resolution addresses several of the concerns that we raised regarding the legality of those bills, the Resolution remains fundamentally flawed.

A. The Resolution Fails to Substantially Advance a Legitimate Government Interest. The Due Process Clause of the Fourteenth Amendment provides that no State shall "deprive any person of life, liberty, or property, without due process of law." U.S. CONST. amend. XIV; *accord* HAW. CONST. art I, § 5. "The Due Process clause confers both procedural and substantive rights." *Richardson v. City & Cnty. of Honolulu*, 124 F.3d 1150, 1162 (9th Cir. 1997). Substantive due process protects individuals from arbitrary acts of government and ensures that "the government does not exercise power without any reasonable justification in the service of a legitimate government objective." *County of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). A "regulation that fails to serve any legitimate governmental objective may be so arbitrary or irrational that it runs afoul of the Due Process Clause." *Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528, 542 (2005); *see also id.* at 549 (Kennedy, J. concurring) (noting that the *Lingle* decision "does not foreclose the

possibility that a regulation might be so arbitrary and irrational as to violate due process”).

The Resolution fails to advance a legitimate governmental interest in five ways. First, the Resolution’s findings assert that, “according to Hawai‘i’s Department of Business, Economic Development and Tourism, Maui’s daily visitor count grew from just over 46,000 in 2010 to nearly 70,000 in 2019.” The cited figures appear to be the average daily visitor count for Maui County, however, and not Maui Island. According, the findings do not support the Resolution’s stated purpose, which is to “comply” with the Maui Island Plan, or the adoption of a moratorium for the Island of Maui.

Second, the Resolution incongruently relies on the average daily visitor count in 2019, rather than 2021, to arrive at the conclusion that “Maui **now** dramatically exceeds the codified visitor-resident ratio.”² (Emphasis added.) If the moratorium is presently necessary to comply with the purely planning policy estimate of the desired ratio between visitors and residence expressed in the Maui Island Plan, the moratorium must rely on the current residence and daily visitor counts.

Third, an increase in hotel rooms and other transient accommodations has demonstrably not caused an increase in the daily visitor population. On the contrary, hotel rooms on Maui have declined from 8,577 units in 2000 to 7,251 units in 2020. Only a handful of hotels have been built during the last 25 years. Yet the daily visitor count has continued to increase. Thus, there is no factual basis to conclude that the moratorium will cause the daily visitor count to stabilize or decrease. No data or study has been presented in support of this conclusion. No known facts support this conclusion. Visitors will continue to come, as they have. And, as they have, visitors, will stay in alternative accommodations, including illegal accommodations, when hotels are at capacity or too expensive.

Fourth, contrary to the finding that “transient accommodations” are “under-regulated,” hotels and certain other transient accommodations, such as timeshares, are heavily regulated. *See, e.g.*, HRS Chapter 486K; HRS Chapter 514E; HAR Chapter 106. For example, hotels and timeshares may only be developed in areas that are designated for hotel use (not in residential neighborhoods) consistent with existing zoning laws. In this way, the development of hotel and timeshare units avoids the potentially adverse effects on neighborhood character, area infrastructure and the availability of on-street parking. *See Willdel Realty, Inc. v. New Castle County*, 270 A.2d 174 (Del. Ch. 1970), *aff’d* 281 A.2d 612 (invalidating a moratorium on building permits and noting that although some of the land subject to the moratorium was undeveloped, the undeveloped property was “situated within a highly developed area for which patters of construction and development were

² According to Hawai‘i Tourism Authority, the average daily visitor count on Maui Island in 2021 is approximately 40,000.

already established” and thus the need for a moratorium during a period of plan reformation was doubtful).

Finally, the assertion that the prohibition on the development of transient accommodations is intended to address negative impacts on the environment and purportedly overwhelmed infrastructure does not withstand scrutiny. No rational review leads to the conclusion that developing transient accommodations over a period that would not exceed two years has any effect on carbon-emission levels, climate change or global warming. Nor has any data or study been presented to support such a conclusion or the conclusion that the County’s infrastructure is overwhelmed due to the continued development of transient accommodations.

Revealing that no existing data supports the assertions in the Resolution, the Resolution calls for **an investigation** and recommendations regarding the “carrying capacity for the island in the Maui Island Plan and for heavily visited and traversed locations, addressing infrastructure loads of roadways, wastewater facilities, water use, other County facilities, and environmental impacts.” Sections 19.98.010 and 20.41.010 (emphasis added); *see, e.g., Monmouth Lumber Co. v. Ocean Township*, 87 A.2d 9 (N.J. 1952) (holding moratorium valid because it is “consistent with the theory of planning to provide, **after** study of the conditions of the community, a means of preventing changes in the character thereof which might be opposed to the theory of planning and zoning pending the formulation of a detailed and complete ‘comprehensive plan’ for the municipality, either new or in substitution for an outmoded plan”) (emphasis added); *see also Willdel Realty*, 270 A.2d 174 (holding that action of county council in rezoning land was not arbitrary and capricious where there was a full exploration of facts by the department of planning, a spirited public hearing by council and an abundance of technical data before council when it acted).

Resting the Resolution on demonstrably flawed and unsupported factual premises severs the connection between the purported purposes of the Resolution and the actual effects of the Resolution. With the failure of the purposes of the Resolution, the prohibition is arbitrary and the Resolution is invalid. *See, e.g., New Jersey Shore Builders Ass’n v. Township Committee of Dover Tp.*, 468 A.2d 742 (N.J. 1983) (holding that a moratorium on issuance of building permits for construction of multi-family housing and for conversion of motels into condominiums was **invalid due to lack of factual justification** for moratorium in regard to problems of water supply and water pressure and explaining that “[t]he situation must be exigent, the causes must be adequately explored, and it must be demonstrated that other less extreme solutions have been investigated and found to be not feasible. None of these requisite proofs is before the court. Stripped to its essentials, the ordinance is nothing more than an expedient legislative reaction”) (emphasis added); *Cellular Telephone Co. v. Village of Tarrytown*, 209 A.D.2d 57 (N.Y.S.2d 1995) (a moratorium on cell tower construction was invalidated because there was **no evidence** that cell towers produced any public health or safety problems; rather, the moratorium was based

on bare perceptions of the village residents regarding health); *Q.C. Construction Co., Inc. v. Gallo*, 649 F. Supp. 1331, 1336 (D.R.I. 1986) (“Analyzing the necessity of the Resolution and **considering less drastic alternatives** lead inescapably to the conclusion that the Resolution is unconstitutional” because “[a] moratorium on issuance of building and sewer connection permits is not reasonably necessary to protect the welfare of town residents” and “**only preserves the already bad situation** that [purportedly] existed.”).

B. The Resolution Is Unconstitutionally Vague. The Fourteenth Amendment is violated by laws so vague that persons “of common intelligence must necessarily guess at their meaning and differ as to their application.” *Planned Parenthood v. Arizona*, 718 F.2d 938, 947 (9th Cir.1983); *Scurfield Coal, Inc. v. Commonwealth*, 582 A.2d 694 (Pa. 1990) (a vague ordinance is one that proscribes activity in terms so ambiguous that reasonable persons may differ as to what is actually prohibited). A law is unconstitutionally vague if it fails to provide a reasonable opportunity to know what conduct is prohibited, *Giaccio v. Pennsylvania*, 382 U.S. 399, 402–03 (1966), or is so indefinite as to allow arbitrary and discriminatory enforcement, *City of Chicago v. Morales*, 527 U.S. 41, 52 (1999); see *Exton Quarries, Inc. v. Zoning Board of Adjustment*, 228 A.2d 169 (Pa. 1967) (a local government unit has no authority to adopt an ordinance that is arbitrary, vague or unreasonable or inviting of discriminatory enforcement).

The Resolution is unconstitutionally vague for two reasons. First, Chapters 19.98 and 20.41 would prohibit the issuance of a permit for “any structure intended to be used for [a] transient accommodation, including hotels, timeshares, short-term rental homes, and transient vacation rental units, **that is not in operation as transient accommodation** as of the effective date of the ordinance, but excluding bed and breakfast homes.” Sections 19.98.020 and 20.41.030 (emphasis added). Under this provision, it is unclear whether, for example, transient accommodations that have an active operating license but may be in the midst of a renovation or recovering from COVID-19-related impacts and out of operation would be subject to or exempted from the Resolution’s prohibition.

Second, Chapters 19.98 and 20.41 would not apply to “renovations or repairs of transient accommodations that do not increase lodging capacity **or expand the structures beyond the boundaries of the existing structural footprint.**” Sections 19.98.020 and 20.41.030 (emphasis added). The exception makes no sense. For example, the Resolution would seemingly prohibit an owner from simply making a room or unit larger without increasing capacity and from enlarging existing accessory uses, such as by expanding a restaurant located within a hotel, beyond the structure’s current footprint. Neither of these forms of development would increase the lodging capacity or run contrary to the Resolution’s stated purpose—to maintain Maui’s daily visitor count. Yet both forms of development appear to be prohibited.

Because the Resolution proscribes activity in terms so broad and ambiguous that reasonable persons may differ as to what is actually prohibited or exempted, it fails to provide a reasonable opportunity for developers and operators of transient accommodations to know what conduct is and is not prohibited and invites discriminatory enforcement. *See, e.g., Scurfield Coal*, 582 A.2d 694 (a vague ordinance is one that proscribes activity in terms so ambiguous that reasonable persons may differ as to what is actually prohibited); *Exton Quarries*, 228 A.2d 169 (a local government unit has no authority to adopt an ordinance that is arbitrary, vague or unreasonable or inviting of discriminatory enforcement). The Resolution must be clarified to avoid invalidity.

C. The Resolution Violates the Equal Protection Clause. The Equal Protection Clause “keeps governmental decision-makers from treating differently persons who are in all relevant respects alike.” *Nordlinger v. Hahn*, 505 U.S. 1, 10 (1992). Where the challenged government action does not implicate a suspect class or burden a fundamental right, the action is unconstitutional if it does not “rationally further a legitimate state interest.” *Id.* at 10.

Here, the Resolution singles out “transient accommodations,” excludes “bed and breakfast homes” from other transient accommodations and treats all other transient accommodations differently from the rest of the tourist industry. There is no rational basis for treating “transient accommodations” differently from other businesses that service visitors and directly increase carbon-emission levels and use of roadways, wastewater facilities and water use, such as rental car companies, tour companies and restaurants. Because there is no rational basis for the regulation, the classifications drawn in the Resolution violates the Equal Protection Clause. *See, e.g., New Jersey Shore Builders Association v. Township Committee of Dover*, 468 A.2d 742 (N.J. 1983) (moratorium on building permits for multifamily dwelling units or conversion of motels into condominium units, but not for laundromats, car washes, or restaurants, while commission studied and reported to township committee on adequacy of public water supply held invalid because the latter groups were also consumers of large quantities of water).

D. The Resolution Is Unconstitutionally Overbroad. The stated purpose of the Resolution is to “[p]romote a desirable island population by striving to not exceed an island-wide visitor population of roughly 33 percent of the resident population,” Island Plan § 4.2.3.a, “by pausing increasing transient accommodations **and tourism**,” Sections 19.98.010 and 20.41.010 (emphasis added). As noted above, however, hotel rooms on Maui have **declined** from 8,577 units in 2000 to 7,251 units in 2020, and only a handful of hotels have been built during the last 25 years. Accordingly, the Resolution proscribes a use that has demonstrably not contributed to an increase in visitors on Maui.

What has substantially increased, particularly on Maui, are short-term rental homes. *See Hawai‘i Vacation Rentals: Impact on Housing & Hawai‘i’s Economy* (March 2018), Hawai‘i Appleseed Center for Law and Economic Justice,

<https://hiappleseed.org/wp-content/uploads/2018/03/Appleseed-Vacation-Rental-Report-rev.-3.29.18.pdf>. As of March 2018, there were an estimated 9,000 short-term rental homes on Maui. *Id.* at 9. Shockingly, one in seven housing units on Maui was identified as a short-term rental home. *Id.* More than 50 percent of sales of units on Maui were found to be to nonresident buyers, and 66 percent of those nonresident buyers rented out their units on a short-term basis. *Id.* On these facts, “it is not a surprise that Maui has the highest percentage of residential units being used as [short-term rental homes] in the state.” *Id.* (citing Individually Advertised Units in Hawai‘i, SMS Research & Marketing Services for Hawai‘i Tourism Authority (Dec. 2014), [http://www.hawaiiitourismauthority.org/default/assets/File/research/accommodations%20studies/Individually%20Advertised%20Unitsits%20in%20Hawaii%20\(Vacation%20Rentals\).pdf](http://www.hawaiiitourismauthority.org/default/assets/File/research/accommodations%20studies/Individually%20Advertised%20Unitsits%20in%20Hawaii%20(Vacation%20Rentals).pdf)).

Despite the obvious connection between the proliferation of short-term rentals, particularly illegal short-term rentals, and the increase in the daily visitor count, the Resolution inexplicably does not limit its reach to short-term rentals. Without question, illegal short-term rentals will continue to increase despite the proposed moratorium. Only developers of legal transient accommodations will be impacted by a moratorium on transient accommodations. Compounding the failure to address illegal short-term rentals, as the use that actually impacts the island, the Resolution extends to uses, such as hotels, that have not contributed to the increase in the number of visitors. Overly broad limitations on the constitutional right to make productive use of land are illegal. *See, e.g., Commonwealth v. Asamoah*, 809 A.2d 943, 946 (Pa.2002) (a municipal ordinance is overbroad if, by its reach, it punishes constitutionally protected conduct as well as illegal conduct); *Nunez v. City of San Diego*, 114 F.3d 935, 946 (9th Cir. 1997) (in order for an ordinance to be narrowly tailored, “**there must be a sufficient nexus between the stated government interest and the classification created by the ordinance**”) (emphasis added). To pass constitutional muster, the Resolution must address the use that has contributed to the identified harm—an increase in the number of visitors to Maui. By extending its reach to uses that have not contributed to an increase in the number of visitors to Maui, such as hotel units, the Resolution is unconstitutional.

E. The Resolution Violates Vested Rights. The right to proceed with a project despite a change in the law vests upon reliance on the last discretionary approval for a project. *Kauai Cnty. v. Pacific Standard Life Ins. Co.*, 65 Haw. 318, 328, 653 P.2d 766, 774 (1982) (a “final discretionary action constitutes official assurance”). While the Bill exempts “a time extension for permits or approvals granted prior to the effective date” of the law,” it does not appear to allow an extension of a Special Management Area permit or any other permit with a deadline. The failure to protect projects that have a valid discretionary permit but that may require an extension of time to complete development violates vested rights. To conform to the law of vested rights, the Resolution should provide for such an exemption.

F. The Resolution Improperly Authorizes an Extension of the Moratorium with No Mechanism for the Extension. The Resolution allows the Council to “extend the moratorium for an additional six months,” Sections 19.98.050 and 20.41.050, but fails to provide a procedure for the extension.

The Maui County Charter, which “is a constitutional document . . . [that] defines the responsibilities of [Maui’s] local government,” Maui County Charter (Foreword); see Maui County Charter Article 2, requires “every legislative act of the council” be accomplished by one of two forms: an ordinance or a resolution, *id.* Section 4-1 (“Actions of the Council. Every legislative act of the council shall be by ordinance Other acts of the council may be by resolution.”).

As the Resolution will ultimately require any moratorium to be enacted through an ordinance, any extension of the moratorium would require the adoption of an ordinance. As the Resolution acknowledges, the Maui County Charter requires that the appropriate planning commissions review proposed land use ordinances and provide findings and recommendations to the Council. As the Resolution requires review and comment by the Maui Planning Commission, any extension of the moratorium would require review and comment by the Maui Planning Commission.

By purporting to give the Council the power to extend the moratorium for a six-month period (the Resolution is unclear as to whether power to extend the moratorium is for a single six-month period or unlimited six month periods) without requiring the Council to follow the process set out in the Charter, the Resolution runs contrary to the Charter. See Maui County Charter (no provisions allowing Council to simply extend an ordinance or resolution and bypass required agency review). The result is an impermissible delegation of authority, which renders the contemplated extension invalid. *Cf. Akaku: Maui Cmty. Television, v. Lopez*, No. 30281, 2013 WL 1829764, at *8 (Haw. App. Apr. 30, 2013) (finding that a rule which specifies the process and procedures that agencies must follow in exercising their authority is not an impermissible delegation of authority).

IV. CONCLUSION

The Council has appropriately worked to correct the errors in the prior bills for moratoria. We ask the Council to consider the points raised in this memorandum and craft a moratorium that will meet constitutional muster.



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County Council Meeting, 9AM June 18, 2021

Testimony provided by Nick Drance; www.TheMauiMiracle.org

Online Only via BlueJeans link <https://maui.bluejeans.com/295235670>

Meeting will be televised on Akaku: Maui Community Media, Channel 53

Email testimony to: county.clerk@mauicounty.us

e-comment by the public remains unavailable approx

TESTIMONY

Aloha Chair Lee and Council,

Here is my Testimony on 7 key topics of discussion today. My testimony is well under 9 minutes.

As usual, each of you has worked so hard for us. This meeting agenda, like so many others, has a great number of items for you to consider. 32 in all. It's too many. I don't know how you and your staff do this week and day, in and out. I am grateful for your stamina.

CR 21-39

Hotel building moratorium

Recommending FIRST READING of bill to temporarily maintain the status quo in the development of hotels and other visitor accommodations in South Maui and West Maui until the respective community plans for the areas are updated or two years have passed, whichever is sooner, because of environmental and other impacts.

TESTIMONY

Let me preface my additional comments with this. Council Members, before you vote on this, you should visit South Maui and spend time there, during different times of day. See the massive number of surfers in the Cove trying to catch the right wave. God Bless them but they are already crowded on top of one another. That is not what surfing is about and it's not fair to crowd them even more. They are nice people looking to break loose and explore. Let them be. Come, spend some time with in little Kihei and see the mile long lines on S. Kihei Rd. See the unbelievably long lines of tourists outside the restaurants in the Triangle. We and they are absolutely overwhelmed. The Maui Coast expansion will likely push us over the edge there and on Kam I Beach. How many more people can we cram onto that beach? Spend a day there and see for yourself.

Beyond that, I do not agree with the two-year expiration date. If this initiative is to have meaning, there should be no time expiration. The welfare of residents in their own communities, Community Plans as they see it, comes first. Some people forget. The wishes of residents must be held sacred, above all else. No government official has the right to rule over us.

Overall

I wish that the Council was able to schedule this agenda item by itself. Given its historic significance, the fact that it sets a precedent of average Americans having an equal voice with giant corporations in determining their own future is quite significant. Americans desire the ability to maintain a quality of life not subjugated to an insatiable thirst for the shareholder return enjoyed by others. In broad terms, isn't that what building more hotels is really about? Isn't that why Honolulu looks like Miami Beach.

Our children deserve to grow up in a world at least as good as ours. Maui isn't Miami Beach yet. We have a responsibility to make that world better for them than the one we came into. We are a land of immigrants. Our nation was built on the desire to improve the lives of individuals and perhaps even more, improve the future for our children. Will more hotels improve the quality of life for us or our children?

Hawaiians have a unique opportunity to make a tiny step forward in slowing down this onslaught of the white man. This is not our land. We took it. At least we should care for it. My Sista Tasha, this is your moment to take a stand for your land. Please.

For all of us, this legislation speaks to that most sacred tenant of what it means to be an American; the very thing that sets us apart from any nation in the history of our planet. Freedom. In this case, it is literally, our right, as Americans, to give our children the ability to enjoy a better life than our own. Can we call ourselves free if we must first be made to accept the cost of financial gain for others? Particularly people that don't even live here. Is that freedom? This legislation is so important, it deserves not to be one of 32 number of agenda items. It deserves its own special meeting.

Chair Lee, I ask you to take that into account. I ask the Council to go into Executive Session and candidly, privately discuss this among yourselves. Chair, please ask for a vote on this. No one has anything to lose.

I think this initiative will pass. However, I'd like to see it pass unanimously, just as the three islands of Maui County have done with CR 21-38. Support for the spirit of this Bill is unanimous among them. Let it also be so, with you. Council members, take advantage of the relationships you've nurtured among you. Build on that honestly and in good faith and go into Executive Session on this or any other topic you think you should and really talk this over before you cast your final votes.

CR 21-280

Relating to the expeditious submission of the proposed hotel moratorium to the Planning Commission

REFERRING TO THE MAUI PLANNING COMMISSION A BILL FOR AN ORDINANCE ESTABLISHING CHAPTERS 19.98 AND 20.41, MAUI COUNTY CODE, DECLARING A MORATORIUM ON NEW TRANSIENT ACCOMMODATIONS ON MAUI".

TESTIMONY

Some of us see a sense of urgency about the welfare of our island more than some others. As one of them, I urge the Council to approve CR 21-280 without delay.

CR 21-38

Unanimous vote by the islands of Maui County to include wording related to Climate Change in the lawful Countywide Plan

Recommending the required public hearings for enactment of the various Planning Commission resolutions on the subject.

The Climate Action, Resilience and Environmental Committee has recommended support for public hearings for residents of Lana'i, Maui and Moloka'i to comment on a bill to amend the Countywide Policy Plan to incorporate the amended Section IV by adding "Mitigate Climate Change and Work Toward Resilience" as a goal of the Countywide Policy Plan.

TESTIMONY

After embracing the original request by this Committee that the Countywide Plan be revised, the Maui, Molokai and Lanai Planning Commissions, built on that by suggesting additional wording, that strengthened the original request. Let us support their wishes with the same sense of urgency, that their unanimity demonstrates.

Obviously, there is widespread support for addressing the conditions we see before us, right now today and into the future. Along with the entire western third of the mainland, we are in drought conditions once again. <https://www.mauinews.com/news/local-news/2021/06/after-relief-drought-returns-to-maui/>

Let this proceed swiftly and without delay.

CC 21-278

Relating to the establishment of Agricultural land use designation

"A" and "B" propose to CHANGE ZONING FROM OPEN SPACE ZONE, R-3 RESIDENTIAL AND ROAD/STREET RESERVE ZONE TO AGRICULTURE.

TESTIMONY

So much of our island has been rezoned to urban from agricultural, without the approval of residents. This sounds refreshing. Some of you may be tired of hearing me talk about the Maui Island Plan which demands that we maintain the small town, rural nature that our island. That plan was approved at every level of government and not following it is essentially against the law. It seems desirable to change land designated as urban back to ag especially if the change occurred after the plan was approved.

CR 21-44

Relating to the establishment that conditional permits for zip line and bungee jumping operations in the County Agricultural District be required.

FIRST READING of bill to require a conditional permit for zipline, canopy, and bungee jumping tour operations in the County Agricultural District.

TESTIMONY

Time and again, residents who reside in properties adjacent to these businesses, have asked that their right to live in peace on their own properties be respected. Effective permitting requirements will protect those rights and ensure we don't have traffic jams in pastures and the like.

In closing, let me say, mahalo nui team! Thank you for working to respect, preserve and care for our island.

On our little, our tiny little rock in the middle of the Pacific Ocean, Council Members, you rock. The bold and innovative work you do rocks, seemingly, around the clock! You amaze me.

Mahalo team

Nick Drance
TheMauiMiracle.org

County Clerk

From: Kanani Higbee <khigbee1037@gmail.com>
Sent: Thursday, June 17, 2021 11:03 AM
To: County Clerk
Subject: Moratorium on visitor accommodation for west and south maui IN SUPPORT

Aloha Maui County Council Members,

I, Kanani Higbee, am a Maui oiwai and I live in Lahaina. I would like to give testimony in support of the moratorium on visitor accommodation for West and South Maui.

I feel that the visitor industry needs to be limited in West and South Maui. We need other industries like agriculture. The agriculture lots will be developed soon for Honokowai and we will have lots of Hawaiian farmers, finally.

Also, we don't have enough water for more tourist development. We are already being asked to conserve water. Maui police go into the valley of Honokohau to tell Hawaiians to stop using water for their crops. And so Hawaiians are unable to connect to their identity in order to rehabilitate from Americans taking their water, livelihood, etc. That's why we have too many Hawaiians in prison and jail because their adverse childhood experience score is so high. Hawaiians are over represented in prison more than twofold. That's unacceptable of our elected leaders to continue this oppressive practice.

Please if we could expand on agriculture so Hawaiians can have their livelihood back. They are a people suffering. They need rehabilitation once and for all. Tourism is not good on a large scale. It has amounted to bankruptcy, business and housing mortgage folding, people's hopes and dreams blown away because of tourism struggling during recession and pandemic. It's not good to have our state economy dependent on tourism for 70% of the economy. Besides, many Hawaiians would prefer working in jobs that help the community, not exploit it. Tourism brings over tourists that buy up our homes.

Mahalo,
Kanani Higbee

--
Kanani Higbee

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County Clerk

From: sara tekula <spectekula@gmail.com>
Sent: Thursday, June 17, 2021 11:09 AM
To: County Clerk; Alice L. Lee; Gabe Johnson; Keani N. Rawlins; Kelly King; Mike J. Molina; Shane M. Sinenci; Tamara A. Paltin; Tasha A. Kama; Yukilei Sugimura
Subject: TESTIMONY IN SUPPORT OF VISITOR ACCOMMODATIONS MORATORIUM

Aloha ma kākou,

I'm a 17 year Maui resident and I reside in Makawao. I am testifying as a private citizen in strong support of the moratorium on new building permits for visitor accommodations.

I'd like to start with just a quick observation, in case it's not obvious. It's interesting to me that I have barely seen any person testify as a private citizen who is in opposition to this moratorium. The only folks who have showed up in opposition so far are tourism industry accommodation lobbyists and hotel general managers testifying on behalf of their corporations. Regardless of what the corporate tourism sector says, which is entirely predictable from their biases, we can clearly see that there is overwhelming support for the moratorium from our broader Maui community. The people of Maui are fed up. Including me. While I used to enjoy regular time at the beach with my family on a weekend, now I become distraught as I realize that I won't be able to find a bit of sandy shoreline that isn't crowded with tourists and with overflowing parking. I end up staying at home, and that makes me sad.

I keep asking myself lately, "what do we have left that is just for us, the citizens of Maui who are paying taxes and working harder and harder, two and three jobs, to afford the higher and higher costs of living?" We need to have space outdoors to breathe during our time off and rest for our mental health—especially after the year we've had—and those spaces for us are becoming few and far between. It seems the priority is to ensure that the VACATIONERS have this access to time and space on Maui. For us, we are getting squeezed out from every single direction. Together, we must find a way to ensure that we as a community can breathe, and you as decision makers can make room to work with the community to make wise, responsive decisions. A moratorium could grant us this opportunity. The testimony I saw from the carpenter's union at a recent committee meeting gave me pause: the gentleman that was testifying on the union's behalf admitted that they need continual, non-stop growth in the hotel sector so they can continue getting their "luxury high end jobs" to install marble tile and such. We cannot have growth without limits.

If we have continual growth like that, going unchecked and with no plan but to keep allowing more, I don't have to be a mathematician to add it up: more visitor accommodations equals more jet fuel, more shipping, more rental cars burning fossil fuels, more emissions and pollution, fewer fish in the reefs, more water leaving our streams and wells to support fake waterfalls and flushing toilets in resorts, and less space for our families to enjoy the place that we love and support with our hard work and taxes. Not to mention the impacts on our fragile island ecosystems, both on land and in the water.

It's nearly impossible to drive the Hana Highway now with the numbers we have now, with tourists cars blatantly blocking the road making it impassible. How will we handle hundreds, if not thousands more tourists? Is the County not committed to sustainability? Don't we need to figure out a plan before we open the floodgates?

Have we thought about visitors' impacts on waste streams, air quality, water quality? Do we need to study them more closely? The moratorium would create that opportunity for us to work together to get a clear picture, and put a pause on the potential for harm until we know more. It seems like a no-brainer, honestly. The moratorium is temporary. The harm of unchecked tourism growth is permanent.

A moratorium on visitor accommodations would give the Council and other leaders in our community an opportunity to further clarify how to alleviate the pressures and vulnerabilities created by over tourism, without allowing unchecked growth to continue. We need to pass this now, so we can address the issues immediately before everyone and their mother submits a building permit. Please do not delay, because it is already too late.

Furthermore, the moratorium on visitor accommodations must apply to the entire island, not just West and South Maui. Otherwise, visitor accommodations will be proposed in other communities outside of West and South Maui, which we do not want.

Please, when you deliberate about this as council members, do not go into executive session. Please allow the community to hear your thoughts and understand your decision making process.

Mahalo for hearing our voices today, mahalo for thinking of what our community of hard working families truly needs, not just what the lobbyists and their industries want.

Sara Tekula Makawao, HI

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He ali'i ka 'āina, he kauwā ke kanaka
The land is the chief, man is its servant

County Clerk

From: Molly Jacobson <molly@mollyjacobson.com>
Sent: Thursday, June 17, 2021 11:23 AM
To: County Clerk
Subject: In support of the Moratorium

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JUN 17 2021 11:28
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Aloha Maui County Council Members,

I am writing this letter in support of the proposed moratorium on visitor accommodations in West and South Maui. This is a great first step toward fixing the problem this council has already identified: unregulated over-tourism.

I hope that future steps will expand the moratorium to the entire island because what happens in South and West Maui does NOT stay in South and West Maui. Tourists put waste in our sewers (and oceans), drink from our water table, and fill up our extremely limited landfill. They travel all over the island, and are constantly hoping for "new" and more "secret" "locals-only" places to visit.

When the Maui Island Plan suggests limiting the number of visitors to 1/3 the number of residents, that is commonsense. More tourists does NOT equal more money. As any business owner will tell you, getting more customers when you cannot meet demand is not a good thing.

It's a recipe for disaster. If you cannot provide the product or service people are paying for, they rightfully complain and take their business elsewhere.

We all know that this island is not providing a quality experience for tourists when there are so many jamming the roads, clogging up the reefs, endangering wildlife, and threatening our health and safety.

We all know that the current state of over-tourism is just a continuation of what has been true for at least a decade.

And we all know that the quality of life of residents is suffering because of it.

I know that many folks will speak about this to you. There are many specific issues that will be brought up, so I will not rehash them here.

I wrote an article a few weeks ago on the national platform Medium.com. The link is below, as is the text of the article.

As the editor of a best-selling book about cancer, I write about and think about and report upon it every day. My article outlines the way that over-tourism acts on Maui ... and how it is EXACTLY like how cancer acts in the body.

I encourage you to read it and consider the analogy.

If we had cancer, we would get treatment. Quickly.

This moratorium is a good place to start. It makes many other treatments possible.

I know that the mayor has threatened to veto this and many other pro-tourism-management measures.

So what!

Even if he does veto it, you are our voice. The elected representatives of the County Council speak for us.

I look forward to supporting you as you consider and hopefully pass this moratorium. Even if it is vetoed later, our voices MUST be heard.

I have deep appreciation for the work you do, and for the time, effort, and energy it takes. I wish you well in your deliberations during this critical time on Maui.

May we all be guided and blessed, and may you be protected and honored.

Thank you for your time and attention.

Molly Jacobson
Kihei

<https://mollyjacobson.medium.com/over-tourism-on-maui-behaves-exactly-like-cancer-in-the-body-242ca2ed30d4>



Over-Tourism on Maui Behaves Exactly Like Cancer in the Body.

We Must Take It Seriously and Get Into Treatment Immediately.

mollyjacobson.medium.com

The article looks best and reads most clearly on the website. However, I have included the text below as well:

Over-Tourism on Maui Behaves Exactly Like Cancer in the Body.

Molly Jacobson
Jun 2, 15 min read

We Must Take It Seriously and Get Into Treatment Immediately.

I think about and write about cancer every day in my business and personal life. I also think about and write about Maui every day in my business and personal life.

I don't claim to speak for anyone else, and I am not born and raised on Maui. There are many people who speak more eloquently and with more wisdom than I about the historical and political situation here.

I do not speak for anyone but myself: a white lady born in Connecticut who moved here when she was 33, sixteen years ago. A business owner who has struggled with anti-business (pro-tourism) regulations.

A writer who knows she communicates better in paper than in person.

I am humble about my role in my adopted home. But I must speak because I think Maui has a serious problem.

Here's what I want to tell you:

Cancer cells grow fast, don't stop, refuse to die, replicate endlessly, steal resources, and spread to new areas. They are assisted by tiny genetic problems and chronic inflammation.

Tourism also grows fast, doesn't stop itself, refuses to die a natural death, replicates endlessly, steals resources, and spreads to new areas. It is helped by tiny loopholes in the laws and the chronic irritation residents experience.

Maui has metastatic cancer. It's called over-tourism. And unless we do something, now, there will be no normal cells left to save us.

The Six Hallmarks of Cancer and Over-Tourism

Biologists and oncologists and cancer researchers generally agree that there are six things cancer cells do that normal cells do not.

[Hallmarks of Cancer: The Next Generation](http://www.cell.com)The hallmarks of cancer comprise six biological capabilities acquired during the multistep development of human tumors...www.cell.com

[The hallmarks of cancer comprise six biological capabilities acquired during the multistep development of human tumors...](http://www.cell.com)

www.cell.com

All six of these characteristics are in operation on Maui.

Cancer cells and over-tourism both exhibit the following deranged and damaging behaviors.

ONE: Self-sufficiency in growth signals ... Pedal to the Metal

Cancer cells grow and never stop growing.

A good way to describe this is that their **accelerator pedal is jammed to the floor and stuck there.**

Cancer cells use fuel at unbelievable rates. They don't even attempt to stop themselves, let alone go the speed limit.

Their goal is exponential growth.

They aren't satisfied with a little tumor. They want a GINORMOUS tumor.

This is true in tourism as well.

Cancer and tourism both want extreme, neverending, exponential growth.

We are currently experiencing "[extreme growth](#)."

We have known for decades that the checks on tourism don't exist ... or aren't enforced.
([Even travel writers get it.](#))

- The tourism authorities keep getting more and more funding.
- The developers keep building and building.
- The commissions and planners keep approving hotels, condos, and short-term rentals.
- The airlines keep adding flights.
- And local businesses scramble to keep up.

One location? Those were the old days. Now you need your restaurant, surf shop, gift store, clothing boutique, or art gallery in three locations at least.

Paia, Kihei, and Lahaina.

That's where the tourists are. Right?

For now.

Folks upcountry think they're safe from tourism cancer.

But we're getting squeezed tight, and Maui is a small island.

It's just a matter of time before that speeding cancer of tourism decides it can climb the hill.

Or follow the road to Hana.

Why not? Pedal to the medal!

Two: Insensitivity to anti-growth signals ... Brakes Don't Work

Cancer cells grow fast. They also disable their own brakes.

Even if they wanted to stop growing, they couldn't.

(And they don't want to stop.)

Imagine flying down the highway, pedal to the metal.

Uh oh — you see Taguma up ahead, standing in the middle of the Pi'ilani, laser gun pointed right.
At. Your. Bumper.

Better slow down.

Yeah, right.

If you're cancer, you don't do that.

You can pump the brakes all you want ... but you are not stopping.

Cancer doesn't care about tickets. And if it **hits Taguma as it flies by**, cancer doesn't care about him, either.

Cancer doesn't worry about being caught or getting a ticket.

This is true in tourism, too.

Cancer and tourism both want to never stop growing.

Developers know that Taguma has nothing but that little laser gun.

He can't actually stop them.

The laws are built to help them build more, not regulate them.

They fly by the regulators and barely even get a ticket.

They get [permits for one kind of project and then build under another set of codes](#).

They "sell" their affordable housing requirements to another developer so the units are far from their pretty property.

The homeowner who sees the influx of Silicon Valley tech workers sells their home for well over the asking price.

Even though they know that person is probably only going to live in their home part-time, or maybe for a year or two.

Meanwhile, regular people try to pump the brakes.

Residents write letters and show up to commission meetings and committee meetings and council meetings.

They [go to the beach](#) and airport and wave signs.



But is anyone listening?

The regulators nod through testimony and smile tight little smiles. Then they do exactly what they planned to do all along.

The brakes don't work.

THREE: Evading apoptosis ... Not Committing Suicide to Prevent Harm

Cancer cells grow fast and don't stop. They also refuse to die.

Normal cells are born, live a certain length of time ... and then kill themselves naturally and quietly at the end of their natural lifespan.

They don't live forever.

They know that if they did live forever, the body would die.

We can't have too many cells.

Our cells die by the billions.

If you are an adult human, about fifty billion of your own cells are committing suicide TODAY.

Normal cells monitor their own health.

If they notice damage, they repair it.

If they can't repair the damage, they kill themselves.

If they notice they've been deranged ... their DNA has changed ... they kill themselves.

But not cancer cells. Cancer cells tell the genes that kick in to commit suicide to look the other way.

Don't see the pedal to the metal exponential growth.

Don't see the way the brakes flap around, useless.

Just stay quiet and don't kill me.

This is true in tourism, too.

Cancer and tourism both disable the natural instinct to kill yourself before harming others.

People who own businesses based in tourism worry that limiting tourism will limit their future.

So they keep quiet when tourists try to drown turtles.



Karen Champagne shared a link.

May 8 at 1:20 PM · 🌐

****edit - NOAA hotline at the top for visibility: +1 (800) 853-1964.**

I'm sure there are many PSA's on this subject, but I want to add another in case it helps even one person. Please give wildlife their space!

We have been totally enchanted by the wildlife here and are very diligent about keeping our distance. This is our third day spent on the beach near "Turtle Town" and I was really disappointed to come across a few adult men grabbing and chasing turtles, flipping them over forcefully and even standing on top of them in the water (pushing them down into the sand) while they struggled to come up for air.

I was polite at first but will admit that I am a fallible human with a love for animals, so I did lose my temper a bit at their obstinate and rude response 😞 Undoubtedly a few will find it Karen-ish, but I did spend a few minutes on the phone with NOAA and they were very kind. Their enforcement hotline can be reached at +1 (800) 853-1964.

Hoping everyone's weekend is beautiful! We are grateful for the opportunity to spend time in this beautiful place.



Posted in the Maui Bound group on Facebook

Or [cut fishing lines at Kamaole Beach II](#).

When tourists make fun of local culture or the Hawaiian language, they say nothing.

I get it. We don't want to be rude in return.

But it's not just in tourism businesses.

The construction industry says "[tourism is good, development is good](#)."

They want 18 months of work from that hotel or the new condos. They want jobs, jobs, jobs.

If we're not building forever, how will they make money to feed their families?

It's not like the county or the state is paying them to build and repair infrastructure.

In other places, developers would never get to build a shopping center or a hotel or a condo without massive investment in the infrastructure.

You want to build a hotel? OK, build this overpass. Or create a park.

Elevate this road. Install high-speed internet for this entire area.

But requiring major commitments in infrastructure would kill off development.

Or at least, that's the fear.

So we say "ok, restripe the road here, or install a stop sign there."

We say "do a study and see if the pollution is too much."

No matter what the results are, we look the other way and let it all just keep going.

We hope something will change someday, but for now ... who can stop it?

We don't kill off the cancer of over-tourism the natural, quiet, effective way .. by refusing permits.

And so cancer keeps growing. Because that's what cancer does.

FOUR: Limitless replicative potential ... Multiply an Infinite Number of Times

Cancer cells grow fast, don't stop themselves, and never die. They also make new cancer cells.

They give birth over and over and over to new cancer cells. Exact replicas of themselves.

And those new cancer cells do the same thing their elders do.

They grow fast, don't stop, refuse to die a natural death ... and replicate.

So now there isn't just one cancer cell. There are infinite cancer cells.

And those infinite cancer cells create another infinity of cancer cells.

Same in tourism.

Cancer and tourism both replicate to infinity.

If one condo is good, two is better.

If I have a hotel, I need another one, right next door.

Sea levels rising within 20 years?

Oh, well. I'll think about that when the time comes.

Nonsensical growth in development is a hallmark of cancer and tourism.

Does this person want a short-term vacation rental permit? OK.

Now their neighbor does? OK.

In this other neighborhood, too? Sure.

Oh, you want to move to the mainland and get a permit to rent your home out to tourists?

You'll come back when you retire, after you've made your money?



Author

Kaniela Ing ✓

~~Steven Yamamoto~~ I said prices should be function of area wages. I believe we are aligned there

Like · Reply · 5d · Edited



~~Steven Yamamoto~~

Kaniela Ing But leaving the tab for local businesses to pick up is not the answer and they're not the problem. You can increase housing supply by deincenavising out-of-state ownership with increased property taxes.

Like · Reply · 5d



~~Steven Yamamoto~~

Kaniela Ing I should know, I'm born and raised in Hawaii, own property in Hawaii, own a business in Hawaii, and I'm in the highest tax bracket in Hawaii. Know what I'm planning on doing? Moving away because income tax is too high, keeping my property because I can rent it out for double my mortgage because the people I grew up with can't afford to buy, and I'll be back when I retire and I don't have to pay any taxes. I'm not doing any of this because I want to, but because that's how the Hawaii system is designed.

Like · Reply · 5d



~~Steven Yamamoto~~

Kaniela Ing Locals that can't afford homes aren't the only people being run out of the state. And if you build more homes, I'll just buy more homes and rent them from the mainland. I'm part of the problem with housing in Hawaii and I'm pretty much telling you how to beat me to even the playing field. But you're not gonna get there if you go after businesses.

Like · Reply · 5d



You raise the rent by 50% after your tenant's lease is up?



Malina Martin

April 22 · 🌐

...

More and more I'm hearing stories about hard working Maui people and their families getting booted out of their rented home because someone is buying it (and it sure seems like out of state buyers). Desperation is thick and spreading wider as folks look for new homes to rent and none are available or rentals are now charging much more than ever before because of the ramped up demand. Every now and then Ben and I get solicited by realtors wanting to buy our home and the pitch is that they have buyers waiting with some able to pay lots of cash right away, so I can see how it's enticing to sell.

I really believe that our working class folks need to be able to stay stable to help our island's future be promising. That is what our own parents and grandparents did for us so that each generation has hope and can help themselves and help the greater community do better too with each passing generation.

In other states, in small towns across the mainland, members of generational families relocate and long time residents move elsewhere when they no longer can bear the burden of unreasonable growth and the cost to live there. We call an island our home. There is nowhere to go. No highway to jump on to another town. And quite frankly, folks don't want to move to a continent. Nor should droves of our people be forced to.

What's going on now puts aside all that we, our parents, our grandparents and those before them have worked for here on Maui.

It cannot be that way.

Just saying it out loud.

I don't know the answer, but for now, if you are a landlord, please consider offering reasonable rent amounts to local residents in need.

I get it. It's tempting. There is money to be made.

Tourism has replicated itself, and it's showing up in every area of our life on Maui.

FIVE: Sustained angiogenesis ... Demanding Food from Neighbors

Cancer cells grow fast, don't stop, refuse to die, and replicate endlessly. They also steal food from neighboring cells.

They are so disgusting!

They make blood vessels that reach out like vacuum hoses to neighboring cells.

They attach to the cell, evading its defenses, and start siphoning off its blood supply!

So the normal cell is living its life, handing over all its food.

Meanwhile, it can't feed itself.

It's dying so the cancer cell can live.

Same is true in tourism.

Cancer and tourism both steal ALL the food from neighbors.

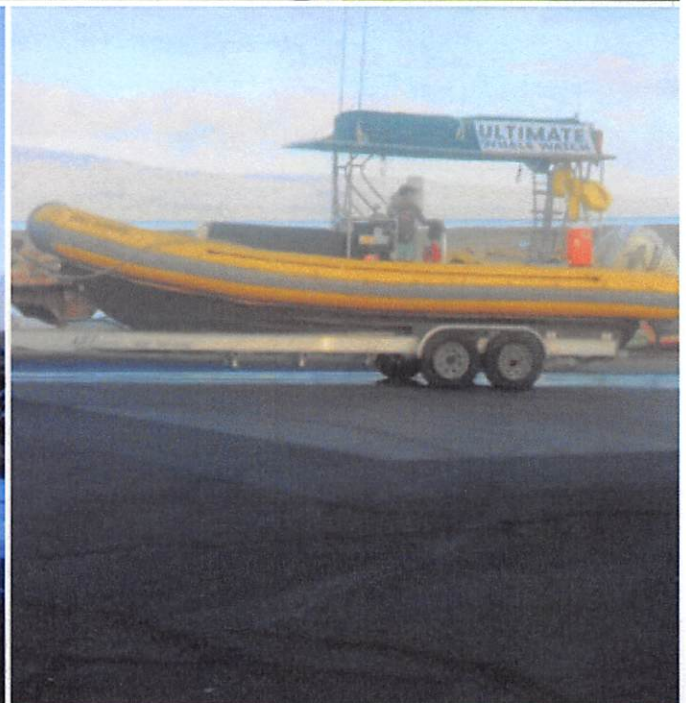
Short-term vacation rentals and encroaching hotel developments bring vacationers into residential neighborhoods.

Surf schools and boating outfits jam up beaches, cross private property, and load without permits.

They're taking up space that fisherman and residents need to go about their business and feed their families.



Access Denied! Surf?Fish?Dive?



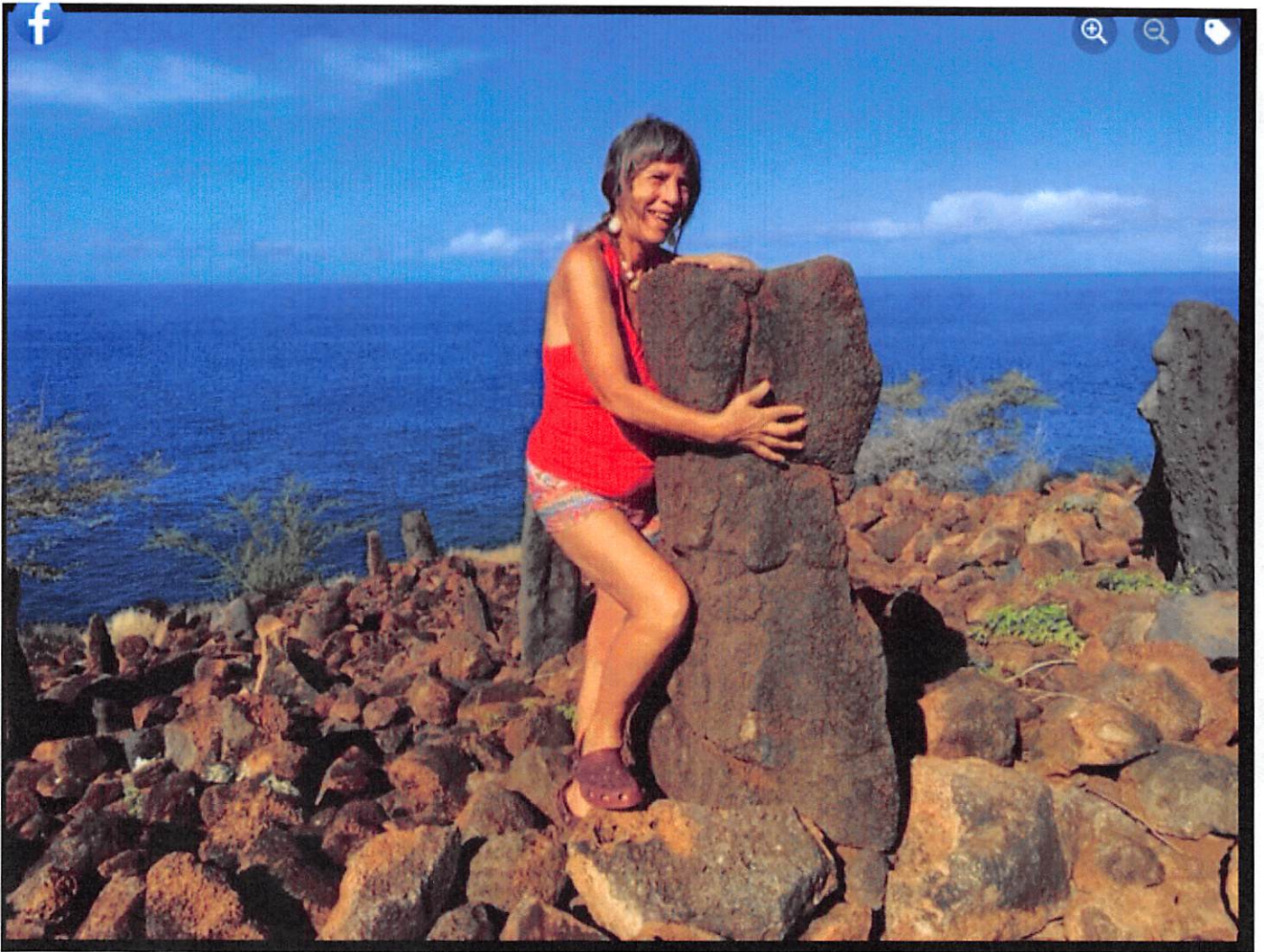
~~Tiara L...~~

May 19 at 11:20 AM · 🌐

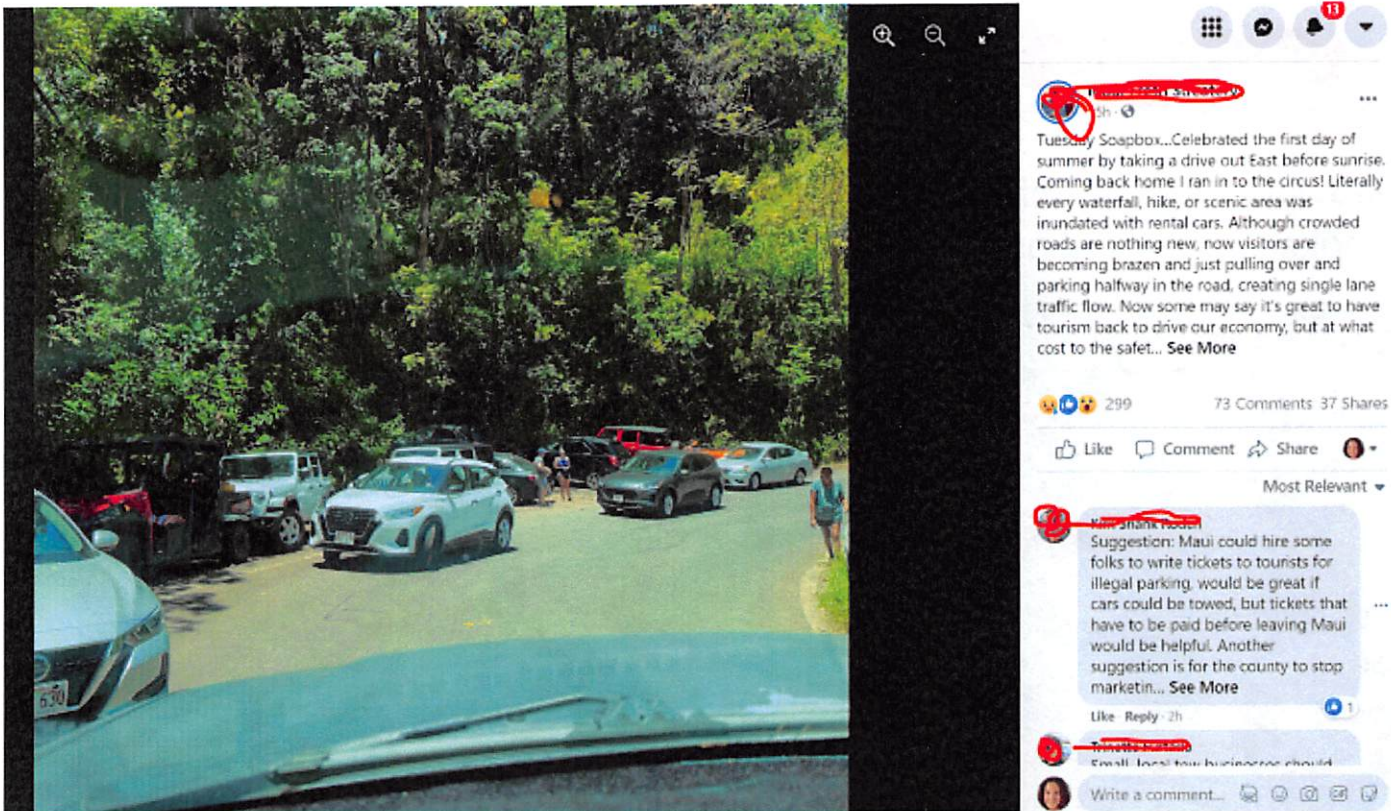
The tourism related commercial activity at Mala Boat Ramp is out of control. Local fisherman unable to get a stall for trailer because of the commercial activity. There are only 16 commercial permits allowed out of the harbor. Today the parking lot was inundated with trailers for zodiacs used to take crew to Kā'anapali. On top of that you have scuba operators launching next to the pier damaging the reef as they walk out. Their guests take up all of the

They stay up late and party. They walk through areas that are off-limits.





[They block the road so people can't get to work, school, the hospital.](#)



They park outside of designated parking areas. Their cars clog our streets. Including in our most important places:



10h · 🌐



lao Valley today. Traffic jam trying to get in and out of parking lot, choke cars parked on the road



Who cares?

They're on vacation. They need an Instagram photo!

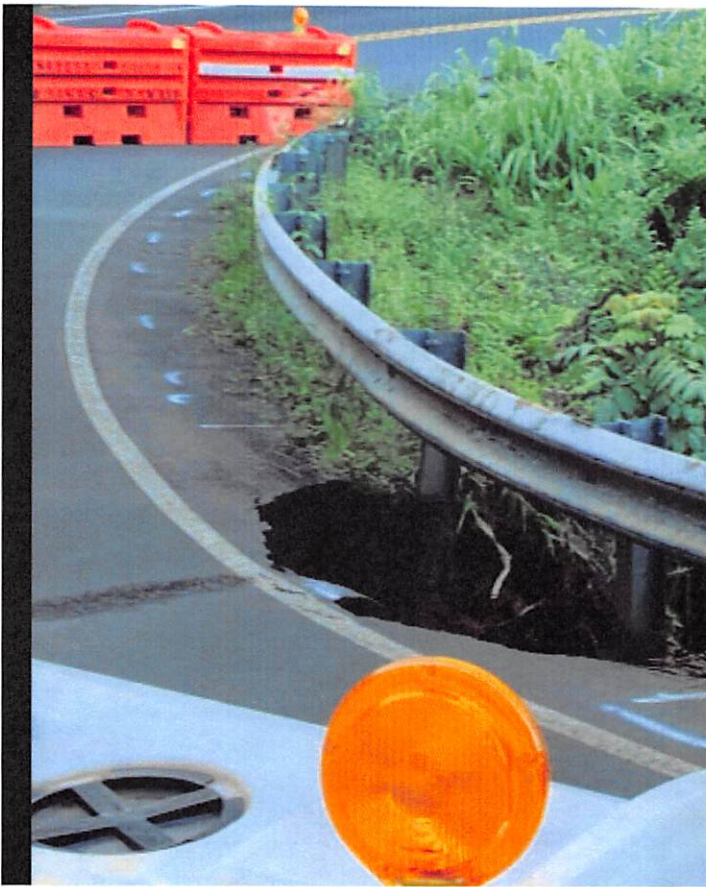
Sometimes they have to stop. But no one should have to leave work to do this:



This photo was taken in Ha'ena, Kauai in 2019. Over-tourism has been building for decades, long before Covid hit.

Meanwhile, our infrastructure is buckling.

We're losing our roads, and we can't keep repairing them with bandaid solutions.



Our bridges are crumbling with every extra car.

Our water table is disappearing.

Our outdated sewer system is spewing waste into the ocean.

Our landfill will be completely full in just a few years.

We have about two days worth of food on the shelves at any given time. And the extra tourists are buying it all.

And the beaches are so loud that the fish don't come in close. So even those who fish for food can't feed their families.

And hey — again — tourists cut the fishing lines!!!!

Do we have to draw out the analogy more?

Well, we can. It's sad, but true. Tourism is cancerous in a sixth way, too.

SIX: Tissue invasion and metastasis ... Spread to Other Organs and Tissues

Cancer cells grow fast, don't stop, refuse to die, replicate endlessly and steal from neighbors. They also spread to other organs and tissues.

Cancer cells aren't happy just where they are.

They want to be EVERYWHERE.

Once they've started stealing from neighboring cells, they have the extra jet fuel they need.

They fly to other areas and set up new homes.

A breast cancer cell goes to the brain or the lungs.

It's breast cancer ... but it's in a brand new place.

A new place with plenty room and new food to steal.

The same is true with tourism.

Cancer and tourism both want to spread into new areas.

Tourism doesn't want to stay on the beach in Kihei or Ka'anapali.

It wants the entire island.

Those who live in Kula or Haiku may feel like they're in a bubble.

But as we run out of space down here, tourism is going to come to you.

It's already there, in little pockets.

In cancer, we call that micrometastasis. In tourism, it's called short-term vacation rentals.

If they were allowed to build in Haleakala crater, condos would be there by 2022.

And tourists would book them.

ASSISTANCE: How We Enable Cancer

Cancer cells grow fast, don't stop, refuse to die, replicate endlessly, steal from neighbors, and spread to other organs and tissues.

And they do it with assistance from the environment in the body.

There are two things that, if present, help cancer to wreak havoc.

Genome instability ... When Small Changes Mean Big Changes

Cancer cells are dividing all the time. To do that, they have to use certain "machines" built into cells and governed by DNA.

If those machines have little flaws in them, and they get used over and over, they can help cancer out.

If you are building a house it's critical to get your lines level.

If you lay a concrete slab that is just a little off, everything built on it is off, too.

The house might look straight at first.

But ten, twenty, thirty years later, it's listing.

Cracks in the foundation, drywall, roof.

It all comes from one little piece of concrete not being correctly laid.

When there is just one little problem in one little gene that helps cells divide, cancer is super happy.

That one little problem — gene instability — will allow cancer to hijack the entire system.

This is true in tourism too.

Cancer and tourism both want little tiny loopholes to exploit.

We have dozens and dozens of little loopholes tourism can use to grow, evade death, and steal resources.

A tax incentive that rewards commercial landlords for sitting empty — driving up the overhead for small business owners who could create non-tourism jobs.

A planning commission entirely appointed by the Mayor — allowing a pro-tourism executive to stack the commission with pro-development members.

A local newspaper that rents its office space from the County — which perhaps may make it less likely to publish tough stories about the negative effects of tourism.

A desire to enjoy island life and not worry too much on the part of recently retired residents — who don't show up to testify.

High cost of living that just keeps climbing — keeping people working three jobs from having time to do anything other than work.

There are so many more.

These "little" things all assist cancer, and tourism.

Here's another environmental assist for cancer and tourism.

Chronic Inflammation ... Irritation Makes Everything Worse

Chronic, low-level inflammation helps cancer grow.

When tissues are irritated, warm, swollen and bloated, that's our immune system trying to help.

It's sending fluid to immobilize the injured area and bring food.

It's causing heat to kill off bacteria and viruses.

But here's what's weird.

The cancer tumors see that inflammation and think “hey, that’s a lot of interesting activity.”

So they try even harder in that area of the body.

The process is complicated, but ultimately, inflammation rebounds. It encourages tumor blood vessel formation and metastasis.

In other words, **chronic inflammation ends up helping tumors steal resources and spread to new areas.**

This is why people who have chronic inflammation of one sort or another are more prone to cancer. (Diabetes, heart disease, etc.)

The same is true in tourism.

Cancer and tourism both use inflammation to metastasize.

When people get irritated because their road is blocked, they eventually start to snap.

They might flip someone off as they pass. Or worse.

Any existing irritations on the island will get worse when over-tourism arrives.

If you used to have a beautiful area all to yourself, and now folks are moving in next door, maybe you hold your tongue.

After all, they are your new neighbors.

But then when tourists come and traipse through your property to go to a waterfall ... no.

No more. Your irritation gets inflamed, and you get angry.

It’s understandable, but it’s also helpful to tourism.

The pro-development, pro-tourism forces can dismiss you and say “oh, this is just locals yelling.”

Or “these are just Not In My Backyard types.”

Or “hey, haole, funny that you came here and ruined everything, and now you are the one wanting haoles to leave.”

(Yes, I’ve heard that. I know some people reading this are thinking this about me!)

And so we shut up. Because it seems like we will never be heard.

Those who say something get dismissed. And tourism grows because it’s using anger and irritation as fuel for its own efforts.

It’s impossible to win this fight with angry words, or even angry signs.

Getting angry at cancer doesn’t do a damn thing.

It doesn’t hurt over-tourism, either.

In fact, getting angry causes irritation and inflammation. So it's helping cancer.

What Happens When You Get a Cancer Diagnosis

You know what happens when your doctor tells you that you have cells that are growing fast, refusing to stop or die, replicating endlessly, stealing food from normal cells, and spreading to new tissues?

Normal life STOPS.

You call into work and say "I can't come in for the rest of this week."

You get someone to care for your children, your dog, your goldfish.

You go for second opinions.

You get test after test after test.

You find out what can be done.

You don't sit back and say "oh well, it's cancer."

Your oncologist won't let you. It's urgent, it's NOW that you have to deal with it.

Business as usual stops. And it never, ever comes back.

Because the way you were living before you had cancer didn't work out.

And you need massive changes.

Everything stops while you wrap your head around your situation.

Even if you choose not to treat with conventional treatments, you still do everything you can to address the emergency.

I once heard a commissioner say "you don't quit your job until you have a new one."

She was trying to justify her voting to approve a permit for a hotel that had not planned well and did not meet the criteria for the Special Management Area (in my opinion and the opinion of others who are professionals in relevant fields).

Her words triggered my thinking. **She made the connection for me between over-tourism and cancer.**

Because she's wrong. When you have cancer, yes, you quit your job.

If it's killing you, you quit. Even if you don't have another job lined up.

On Maui, we need to act like we have cancer.

Because guess what?

The tourists are noticing that our place isn't so special anymore.

We're killing the golden goose.

This was posted yesterday:



Maui Bound

Group post by [redacted] · 17h · 🌐

Just got home from a week on Maui. Absolute paradise, and now I know so much. I figured I'd post my opinions and tips on what we did if anyone when someone brandished a gun at us.

We stayed in Napili on the west side and are very happy with that. We and spent time in Lahaina but we were not comfortable there once the everywhere once it was dark. One large man was throwing trash out of Side note: it must be sad to see your home overrun with tourists, some We parked 3 blocks back from Front St and after the sunset we walked looking men sitting on a ledge asked if we wanted to trade "left overs I bothered me at all except he was BRANDISHING A GUN at us. I'm 95% because I saw that the rack looked clear. As soon as he held the gun up saying "No, no, no." to his gun-wielding friend. I think it was either my noticed, or my husband's excessively large biceps. Regardless, we just I considered calling the police but it was 8 pm on our last night and they Very odd and unexpected to say the least.

We snorkeled every day on our own and enjoyed the constant adventure places to explore. Ahihi Nature Preserve is spectacular and I appreciate explaining before hand the rules of the park.

We did a snorkel excursion but felt like it was very "touristy" and not so depends on your comfort level in the water. We saw one turtle in turtle everyone that crowded it and got way too close 😞 I didn't go see him, turtles elsewhere during our trip. Please for the love of God, do not crowd

For food we bought local fish and cooked ourselves which was AMAZING! Also had such a great experience at Down The Hatch that we had to go Restaurant with great food and fair prices. The wait wasn't long.

Ululani's Hawaiian shave ice is truly the best we had except I wouldn't in the Hyatt... they really didn't make it the same as the brand. Leoda's banana cream pie is ASTOUNDING. Their apple crisp is nothing to write

Maui will not be Maui much longer if we don't do something.

Maui needs to get a second opinion. We need to have specialists come in and advise us.

We have to do our research.

How do other amazingly special areas handle tourism? What works, and what doesn't?

We need to STOP the environmental assistance we give tourism.

We have to CLOSE all the loopholes.

We have to stop the irritation. Give residents what they need.

Enforce the existing laws. Don't let tour companies jam up Mala.

Don't let tourists get away with breaking the law. If you are trying to drown a turtle, you should PAY.

If residents can't have more than two people attend high school graduation, but tourists gather in large crowds, it's unfair.

If you can't fish on the beach, it's unconstitutional.

Stop the daily grind of irritation. Reserve parking spaces for residents. Reduce travel to Hana. DO the things you can do, NOW.

We don't have the luxury of letting chronic inflammation continue.

And those residents who are speaking and being shamed? Painted as anti-business?

Breathe deeply and keep yourself calm. Channel that irritation into the kind of resolve that gets things done.

Because if enough of us have enough resolve, we can beat cancer.

It's the only thing that ever has.

Aloha, Council members.

My name is Sarah Hofstadter. I am a full-time, permanent resident of Kihei and a leader of the HALE Hawai'i community group. I am writing to express my strong support for both of the visitor accommodations moratoriums proposed by Kelly King and Keani Rawlins-Fernandez.

It is no secret that Maui County residents, especially on the island of Maui, are increasingly voicing strenuous objections to the uncontrolled growth of tourism. One down side of our excessive economic reliance on tourism was evident during the height of the pandemic, when so many residents were financially devastated. As long as our economy is so tightly tied to tourism, any major disruption to the global economy in the future will have the same effect.

And now that visitors are back, the contrast between current conditions and the relative peace and quiet we enjoyed when we were "closed" has thrown into sharp relief the other down sides of overtourism: traffic, overcrowding, food shortages, overuse of our natural resources, abuse of wildlife, and an excessive number of expensive rescue operations attributable to poor judgment and disregard of warnings by visitors.

Enough is enough. Maui residents are getting fed up with the double standard that allows crowds of visitors to degrade our quality of life, while resident-oriented recreational facilities and gatherings are still subject to closures and limitations. We are facing severe drought conditions; farmers are fighting over water rights and Upcountry residents are letting their gardens die to conserve water, yet our resort areas are green and lush. We have a looming problem with adequate sewage processing facilities, and other aspects of our island infrastructure are seriously in need of repair; visitors add to these problems, but do nothing to help solve them. We are in desperate need of affordable housing, yet we continue to commit an excess share of our construction resources to visitor accommodations and luxury second homes for rich mainlanders.

The Maui Island Plan, which was adopted in 2012 and is supposed to have the force and effect of law, specifies in section 4.2.3.a that we are to "Promote a desirable island population by striving to not exceed an island-wide visitor population of roughly 33 percent of the resident population." That provision has NEVER been enforced. Now is the time to start. Let's not wait until a cherished kupuna in East Maui dies unnecessarily because visitor traffic on the road to Hana made it impossible for an ambulance to get through in time.

Of course, Maui has no legal authority to directly control the number of visitors who come here. **Thus, the ONLY legal tool we have to regulate tourist numbers is our ability to limit the accommodations available to them.** If visitors cannot book lodgings, they will not come, and reducing visitor demand is the only way we have to influence the number of incoming flights. **We already have MORE than enough hotel rooms and vacation condos to house the number of visitors Maui's infrastructure can properly handle, and MORE than enough to house a number of visitors equal to 33% of our resident population.** Building yet more capacity would only add to our existing problems.

The opposition to this bill is groundless and deceptive. Why do the hotels need to expand, when they are not operating at full capacity now? If they really need more revenue, they can raise rates instead. As for construction workers, if they need jobs, they can get them from building affordable housing for residents, including their own ohanas and friends, instead of additional/expanded visitor accommodations. Construction union opposition to the moratorium bills is very short-sighted and narrow-minded, and does not reflect a commitment to the long-term well-being of the workers and their community.

The tourism pause necessitated by the pandemic gave us the perspective to see that we **MUST** diversify our economy, both to insulate it against future emergencies and to preserve residents' quality of life, as well as Maui's infrastructure and ecosystems. Let's not waste the present opportunity to build on that insight with actual policy changes. Let's not succumb to the pressure for tourism growth, when what we need is better tourism management. Let's not build any more of what we have too much of already. Instead, let's focus Maui's workforce and investment resources on the things we really **NEED** and **DON'T** have: affordable housing, updated infrastructure, more local food production, and a better future for our keiki, with good-paying jobs that enable them to stay on island.

It has been reported that Mayor Victorino is threatening to veto these bills. Please don't let that discourage you from passing Council Member King's moratorium now, and referring Council Member Rawlins-Fernandez's bill to the Planning Commission promptly with an expression of support from the Council. Both of these bills reflect the overwhelming sentiment of your constituents that Maui residents deserve to be treated as **MORE** important than visitors, not less. **We, not the visitors or the tourism industry, are the ones who will be voting in the next election.** If the Mayor vetoes these bills, you can and **SHOULD** override him.

Thank you for your attention. - Sarah Hofstadter, Kihei resident and HALE Hawai'i Steering Team member

RECEIVED
2021 JUN 17 AM 11:37
OFFICE OF THE
COUNTY CLERK

RECEIVED

From: Bonnie Newman <bonnienewman10@gmail.com>
Sent: Thursday, June 17, 2021 12:07 PM
To: County Clerk
Subject: Hotel Moratorium on Tomorrow's Meeting.....

2021 JUN 17 PM 12: 56

OFFICE OF THE
COUNTY CLERK

Aloha - I now realize that this is submitted perhaps too late to be presented to the Council AND if it can be included, MAHALO:

I am a 35-year full time resident of Maui; the last 17 years in Maui Meadows. I sincerely believe we need No more Hotels or vacation-rentable condos in South Maui. The traffic is already horrible and tourists are ruling all the restaurants and beaches; there's hardly room for us local folks to go anywhere. PLEASE help Stop this massacre of our Sacred Island.

This is intentionally brief. Others have written substantiating testimony already.....

MAHALO for All you do for All of us.....RESPECTFULLY - Bonnie Newman
745A Kupulau Drive, Kihei



Bonnie Newman Rs
The Singing Realtor!
Coldwell Banker Island Properties
The Shops at Wailea Office
808 / 283-0645

RECEIVED

2021 JUN 17 PM 12: 56

June 17, 2021

OFFICE OF THE
COUNTY CLERK

VIA EMAIL AND ONLINE SUBMISSION

Chair Alice Lee and Members of the Maui County Council
County of Maui
One Main Plaza
2200 Main Street
Wailuku, Hawaii 96793

Re: *Testimony Concerning MORATORIUM ON VISITOR
ACCOMMODATIONS DEVELOPMENT: Separate Bills introduced by
(i) Councilmember Kelly King (CR 21-239) and (ii) Councilmember and
Council Vice-Chair Keani Rawlins-Fernandez (CC 21-280) (collectively,
the "Moratorium Bills")*

Dear Chair Lee and Council Members:

Thank you for the opportunity to provide testimony concerning the above-referenced Moratorium Bills. My name is Matthew Sparks, and I am Chief Development Officer of Hilton Grand Vacations ("*HGV*"). As members of the Council may know, HGV is the owner of the Maui Bay Villas resort presently underway in Kihei, located on the site of the original "Maui Lu" resort. We write to express our opposition to the Moratorium Bills.

We acknowledge that the two Moratorium Bills before the Council are not identical. Nevertheless, subject to certain exceptions, the Moratorium Bills both seek to stop development of visitor accommodations for a period of two years, or, in the case of CR 21-239, until the West Maui and South Maui community plans have been updated, whichever occurs first.

The Moratorium Bills claim that their purpose is to stop the increase of carbon-emissions levels, mitigate climate-change impacts, and limit the rate of global warming by pausing visitor accommodation development and the related increase in tourism. While we applaud the desire to preserve our environment, we do not believe that the Moratorium Bills are an appropriate means to obtain the desired protection. The Moratorium Bills provide no documentation, scientific studies or other evidence that would suggest a moratorium on visitor accommodations will actually lower carbon emissions, mitigate climate change impacts, or improve quality of life for residents. We also believe there are a number of legal problems with the Moratorium Bills. Finally, the Moratorium Bills would be harmful to the visitor and construction industries, which are just now beginning to recover from the impacts of the COVID-19 pandemic.

Accordingly, we respectfully request that the Moratorium Bills be deferred to allow time to better research the issue, consider the broader negative impacts the Moratorium Bills could have, and explore more collaborative ways to address environmental concerns in a meaningful way.

Thank you for your consideration and the opportunity to provide this testimony.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Matthew Sparks', with a long horizontal flourish extending to the right.

Matthew Sparks

Testimony of
Pacific Resource Partnership

City Council
Council of the County of Maui
Councilmember Alice Lee, Chair
Councilmember Keani N.W. Rawlins-Fernandez, Vice Chair

RECEIVED

2021 JUN 17 PM 1:52

OFFICE OF THE
COUNTY CLERK

Communication No. 21-280 Transmitting a proposed resolution entitled "REFERRING TO THE MAUI PLANNING COMMISSION A BILL FOR AN ORDINANCE ESTABLISHING CHAPTERS 19.98 AND 20.41, MAUI COUNTY CODE, DECLARING A MORATORIUM ON NEW TRANSIENT ACCOMODATIONS ON MAUI"

Friday, June 18, 2021
9:00 A.M.

Aloha Chair Lee, Vice Chair Rawlins-Fernandez, and Members of the Council.

Pacific Resource Partnership (PRP) is a non-profit market recovery trust fund which represents approximately 7,000 men and women union carpenters and 240 large and small contractors. With our expertise in research, compliance, marketing, and project advocacy, we are committed to building a stronger, more sustainable Hawaii in a way that promotes a vibrant economy, creates jobs, and enhances the quality of life for all residents of Hawaii.

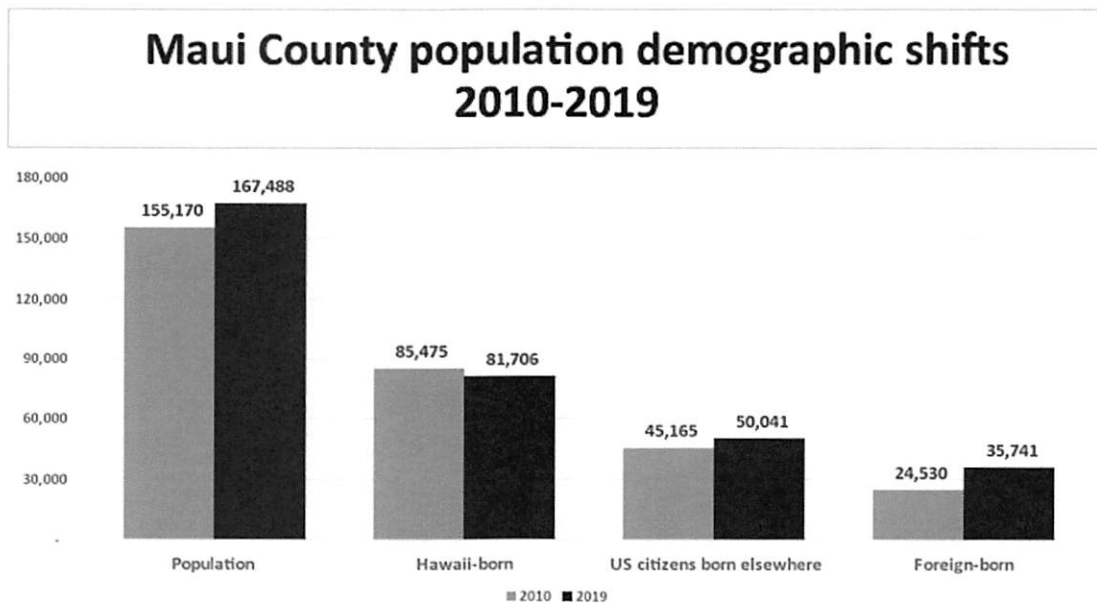
Our state has the highest cost of living in the nation and COVID-19 only exasperated the challenges for many of our residents at a time when unemployment has skyrocketed. Maui has taken a larger hit with higher unemployment rates than the state and a slower economic recovery.

Imposing a moratorium on the construction of visitor accommodations will only further hurt Maui's economic recovery. Maui's economy benefits tremendously from the visitor industry. Between 2020 and 2021, 77% of Maui's property tax contribution came from visitor-use property. Prior to the pandemic, accommodations were the largest employer for the county employing 12,900 residents, which dropped 60 percent and has yet to rebound. Limiting visitor accommodations through a moratorium will also limit the growth of other industries like construction, retail, restaurants, and many of our small businesses. These industries provide important employment opportunities for local residents who depend on these jobs to survive and raise a family on Maui.

From 2010 – 2019, there has been a decline in Hawaii-born residents and an increase in US citizen born and foreign-born residents on Maui. A moratorium will likely accelerate this trend causing Hawaii-born residents and their families to leave Maui for more job opportunities and a better life elsewhere.



(Continued From Page 1)



Source: <https://data.census.gov/>

Moreover, the proposed bill lacks data showing that a moratorium on visitor accommodations will limit the amount of tourist visiting Maui and does not provide data showing the impacts that tourism is having on the County's environment and residents' quality of life. Instead, the bill states **"The moratorium will remain in effect and maintain the number of current transient accommodation units until the Council enacts legislation addressing the findings and recommendations presented by a Budget, Finance, and Economic Development Committee-established Tourism Management Temporary Investigative Group..."** Shouldn't you have the findings and recommendations first before passing any legislation, especially a moratorium?

Let's create policies that will help revive the economy, get our community back to work, and keep local residents Maui. As such, we respectfully request that this Council to defer this measure.

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OFFICE OF THE
COUNTY CLERK

June 17, 2021

Ms. Alice Lee, Chair Maui County Council
And members of the Maui County Council
200 South High Street
Wailuku Maui, HI 96793

Subject: Hotel Building Permit Moratorium

Aloha Chair Lee and Members of the County Council:

It is an honor to provide testimony to you on this important matter. My name is Wayne N. Hedani and I come before you as President of Kaanapali Operations Association, Inc. or KOA for short. KOA represents 5000 units of hotels, condominiums, commercial and recreational facilities at the Kaanapali Beach Resort which generates in excess of \$3Billion in annual economic contribution to the County of Maui employing 5000 employees and paying over \$150Million dollars in taxes annually to government coffers each year. We oppose the bill in its current configuration. Let me explain why:

The bill in its current form attacks the wrong targets at the wrong time in the worst possible conditions. Its stated purpose is to reduce our effect on climate change. It will do nothing of the kind. Co2 emissions will continue unabated. Global temperatures will continue to rise. Sea level rise will continue to accelerate. Nothing the Maui County Council does will affect those outcomes. If you want to address climate change, you should start by building infrastructure toward a hydrogen based economy away from fossil fuels.

The only result of the current bill will be an added layer of government bureaucracy on the permit system which is already overburdened with restrictions causing expensive delays and increasing the price of everything constructed here on Maui. Several of our properties are in the midst of financing redevelopment of their properties to maintain their competitiveness in the global travel marketplace. This comes after years of pursuing approvals from the County of Maui. To withhold permits for these projects would produce the opposite of what you desire.

When a hotel undergoes reconstruction, it involves taking units out of inventory for up to 2 years during construction. This would make less units available during the time period of the proposed moratorium. You should be encouraging redevelopment to address climate change and rising sea levels, not discouraging its progress. The County is an advocate of strategic retreat to address sea level rise, this moves against that initiative. The County would essentially be saying this is what we want you to do but you cannot do it because we haven't figured out how to control tourism.

Here is how you can control tourism:

Limit tourism to master planned destination resort areas that are zoned for hotel uses. All hotel zoned lands have already been developed. The only additional new hotels can be built when an old one is taken down. You want this to happen to maintain our competitiveness in the world tourism marketplace. Success in tourism is not a given. Currently there is not one hotel who is earning a profit in the market. They are only starting to recover from a sustained year of losses. Not all of their employees have returned to work. They need help, not hurt.

Stop issuing new "hotel" permits for short term rental homes in residential neighborhoods. This is the only approved source of new hotels in Maui County. We are currently at about 400 approved out of 800 authorized by the Maui County Council. 400 more short term rental home "Hotels" are waiting in the wings for approvals. Eliminate that excess 50%. Better yet rescind the ordinance that allows TVRs altogether. This is 100% within the control of the Maui County Council. It will absolutely result in a reduction of "over tourism".

The Maui Planning Commission sent a letter to the Maui County Council which was passed by the commission unanimously asking for a moratorium on TVRs over 10 years ago. The concern was tourism impacts to residential neighborhoods. Today those impacts have spread though out our entire island. Now is the time to act on that letter. Cap TVRs where they stand or rescind the ordinance altogether. B&Bs can do what TVRs do now, and better with more control. This is the most effective way to address over tourism and it is absolutely within your control. Do not look elsewhere for the solution. You are the solution. Fail to act and you are the problem. The Council has failed to act on this measure within the last ten years.

400 new TVR hotels translates to over 875,000 more visitors per year. This is the source of over tourism in uncontrolled numbers. Double that number if you consider illegal TVRs which outnumber legal TVRs by two to one. This is the source of the problem which was created when the Council approved the TVR ordinance. If all TVRs were eliminated, over tourism would disappear overnight.

Cap B&Bs. where they stand. Insure that they are owner occupied.

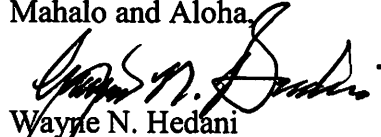
In the recent protest on the beach at Wailea there was a photograph of an elderly kupuna sitting in a beach chair in the bright sunshine, on a golden sand beach with gentle winds blowing and a crystal clear ocean in front of her. It was an idyllic scene for most people. The only thing that was out of place was her sign that said "where is the quality of life?". It was surrounding her at that exact moment in time. She just did not realize it. She was unhappy in the midst of tranquility.

Like most people we take things for granted until it is gone. Paychecks, food on the table, the ability to pay for a roof over our heads and funding for our children's education was what was missing for the last year. Food lines 300 cars long waiting for free food were everywhere. How quickly we forget.

Do not harm the visitor industry by banning hotel building permits. Control out of control TVRs which are within your kuleana instead.

Thank you for this opportunity to provide testimony. I am available for questions at your convenience. You may reach me anytime at 281-3686.

Mahalo and Aloha.

A handwritten signature in black ink, appearing to read "Wayne N. Hedani". The signature is stylized with a large, looped initial "W" and "H".

Wayne N. Hedani

President

Kaanapali Operations Association, Inc.

cc: Maui Planning Commission

County Clerk

From: Yun, Jasper (KEA) <Jasper.Yun@Fairmont.com>
Sent: Thursday, June 17, 2021 3:06 PM
To: County Clerk
Subject: FW: Visitor Accommodation Moratorium

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2021 JUN 17 PM 3:20

Aloha Maui County Council,

OFFICE OF THE
COUNTY CLERK

I believe that the Visitor Accommodation Moratorium will not resolve the issue that is concerning a local residents. As a long time-Maui resident, I think it important to go after the illegal short-term rentals as they directly impact the community versus creating a moratorium for hotels that help employ our residents & give back to the community. Mahalo

JASPER YUN
AREA GROUP SALES MANAGER



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