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Submitted by email to: county.clerk@mauicounty.us
<mailto:Alice.Lee@mauicounty.us>

September 29, 2021

To: Council Chair Alice Lee and Maui County Council Members
RE: PHASING OUT TRANSIENT ACCOMMODATIONS IN APARTMENT DISTRICTS

This testimony for the Oct 1, 2021 County Council meeting is submitted by the Ma'alaea Village Association (MVA) on behalf of its +180 members and the owners of +500 condominium properties in Ma'alaea Village.

MVA is deeply concerned by and adamantly opposed to efforts to phase out transient accommodation rentals (TVR's) in apartment districts in a misguided effort to increase affordable housing for Maui residents.

Ma'alaea condos are not attractive as residences or long term rentals with their limited parking and limited storage. Property taxes, mortgage and maintenance fee costs are very high, resulting in high monthly rental rates that few Maui residents could afford.

The greatest single beneficiary of reducing the number of TVR's is the hotel industry. The County would not see an increase in affordable housing, and instead would see a significant loss in TAT and property tax. The loss of tax revenue would be counter to the County's need of greater funding to support its efforts to increase affordable housing.

All things considered, this proposal will not achieve its goal of increasing affordable housing inventories, and will result in economic harm to the County. MVA encourages the Council to reject this proposal.

Sincerely,

Lyndon C. Ibele
President, Ma'alaea Village Association

To: Maui County Council

Meeting Testimony 10/1/2021

county.clerk@mauicounty.us

From: Captain H. Wm. Hawkins
bill.hawkins@live.com
808 249-8224

Subject: Communications # 21-478
Relating to aircraft noise and flight paths over Ma'alaea



Aloha Council Chair Alice Lee and Members,

Thank you for the opportunity to address you today regarding aircraft noise and flight paths over Ma'alaea. I am Bill Hawkins retired airline captain/check airman and former Federal Aviation Administration (FAA) approved designee. As the chairman of the Ma'alaea Village Association (MVA) Aviation Committee, we seek your help in declaring Ma'alaea an aviation noise sensitive area and to promote a plan to offset the final approach to the Kahului airport (OGG) in order to avoid direct flights over Ma'alaea at low altitudes with excessive noise levels.

We have spent the last 3 years advocating with the FAA and the Hawaii Department of Transportation. We have met with Marvin Moniz OGG airport manager and been in touch with fellow airline pilot Congressman Kai Kahele. But due to FAA resistance to change, we have had little success. We appreciate South Maui Council member Kelly King bringing the matter to the Council to be addressed. We understand Haiku has smilier aircraft overflight noise concerns.

This request is made on behalf of the safety and well-being of Ma'alaea residents directly under the path of arriving aircraft **now averaging more than 250 flights per day**. While it is understood that the airport was here first, arrivals have increased significantly since the 1970's when Ma'alaea was first developed. While the Ma'alaea residential area has changed little, the airport has experienced a continued increase in traffic. In 2021 aircraft arrivals are running above those for pre-pandemic 2019 and is expected to rise even more in the future. Jet engine noise exceeds that of a jack hammer. Imagine how 250 flights per day, every day, directly above you is equivalent to a jack hammer constantly in your home.

Douglas M. Hildrew, M.D., medical director of the Yale Hearing and Balance Program, has gone on record stating that a high level of noise stimulates a stress response that increases blood pressure and levels of stress-related hormones causing cardiovascular issues, including stroke. The American Heart Association warns of an increased risk of heart attack for those who are regularly exposed to excessive noise, the kind found near airports. Chronic stress is a contributor to deaths related to immune system suppression, diabetes, atherosclerosis, psychiatric illness, sleeplessness, fatigue, and possibly cancer. Hearing loss adds to the risk of cognitive decline. Health issues are not small things. Aircraft noise over Ma'alaea is as big a safety issue as safety concerning crews and passengers. It is time the FAA treated it as such.

The solution is surprisingly simple; redirect low level flights to fly over uninhabited areas. A modified approach has been submitted to Marvin Moniz OGG airport manager. This approach is based on an existing visual day only approach. But this new proposed approach consists of radar vectors to intercept the final Instrument Landing System (ILS) to avoid Ma'alaea. This approach can be assigned at anytime including night and during poor weather conditions.

To: Maui County Council

Meeting Testimony 10/1/2021

The OGG airport manager has been helpful but due to high workloads and other priority safety items, communications are slow to almost non-responsive. Your help to acknowledge that this is a priority safety issue encouraging timely updates would be a boost to these efforts. While your direct control in this matter may be limited, your influence can not be ignored. The council influences many supporting aspects of airport areas. The County Council is the single most important advocate for Maui safety and environmental concerns. The Council is encouraged to contact airport managers, HDOTA, and the FAA expressing concerns as to the safety of those who reside in harm's way.

Mahalo,
Bill Hawkins,
Chairman MVA Aviation Committee

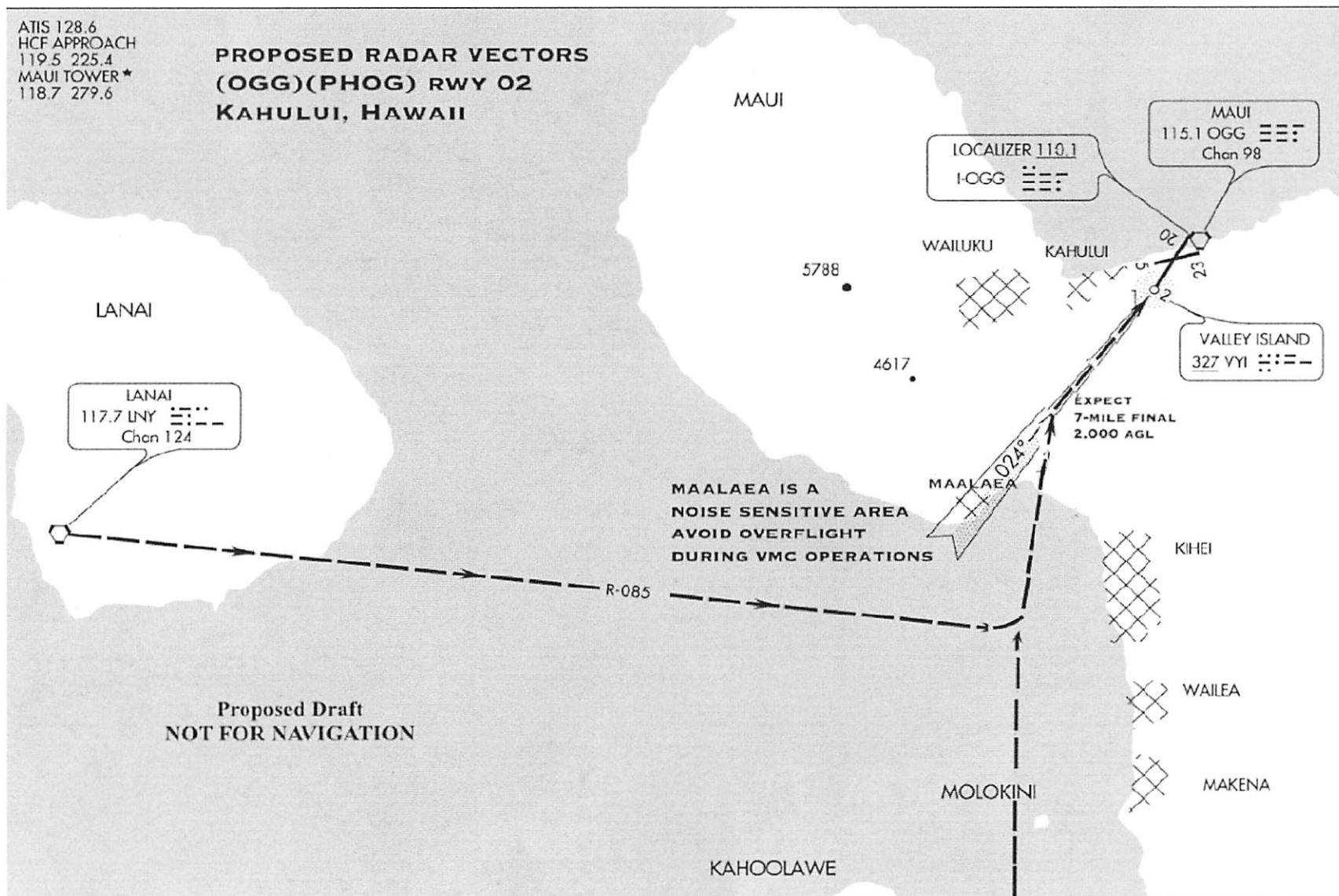
817 875-8875 Mobile
808 249-8224 Land
bill.hawkins@live.com

MVA Past President
American Airlines, Captain Ret.
Former American Airlines Check Airman
Former American Airlines Flight Standards Evaluation
Former FAA Approved Program Designee Boeing 757/767
Former United States Air Force (USAF) Combat Pilot
Former USAF Captain C-141 Flight Examiner/Aircraft Commander
Former USAF UPT Williams AFB T-37 T-38

Attachment: Proposed Radar Vectors OGG RWY 02

ATIS 128.6
HCF APPROACH
119.5 225.4
MAUI TOWER ★
118.7 279.6

**PROPOSED RADAR VECTORS
(OGG)(PHOG) RWY 02
KAHULUI, HAWAII**



County Clerk

From: Joel Goldman <donutking22@gmail.com>
Sent: Monday, September 27, 2021 10:11 AM
To: County Clerk
Subject: Testimony for article 21-479 COUNCILMEMBER KING, relating to aircraft noise and flight paths over Ma'alaea and South Maui

[You don't often get email from donutking22@gmail.com. Learn why this is important at <http://aka.ms/LearnAboutSenderIdentification>.]

Aloha

My name is Joel Goldman and I own property at the Ma'alaea Yacht Marina in Wailuku. As the number of flights in and out of Maui has increased substantially over the past few years, the amount of noise is getting impossible to ignore. There are documented health concerns about people subjected to excessive noise over time causing various health conditions like heart attacks, loss of hearing, depression and others. While I realize one can't simply get rid of the airport to reduce the noise, a number of proposals have been submitted to the director of the airport, Marvin Moniz, which have then been denied by the FAA. The airport director I believe would gladly implement the proposals, but his hands are tied by the FAA.


I am hopeful that bringing this issue forward by council member King will help move the FAA to agree the proposals merit implementing, especially since they save time, money and noise. There appear to be no downsides to this, except the FAA needs to make the change.

Sincerely,
Joel Goldman

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County Clerk

From: noelani balai <ehaunty@yahoo.com>
Sent: Tuesday, September 28, 2021 1:34 PM
To: County Clerk
Cc: Kelly King
Subject: Communication No. 21-479 Aircraft Noise

 You don't often get email from ehaunty@yahoo.com. [Learn why this is important](#)
I would like to give testimony in support of Communication No.21-479.

As a longtime resident of Ma'alaea, I was so pleased to see that the county is finally responding to our community's complaints about the aircraft noise and flight paths over Ma'alaea. When I moved here thirty years ago, our community was a nice peaceful fishing village. Today as Maui has grown so have the amount of flights to our island. The aircraft noise has increased tremendously! There are those in our community who have tried unsuccessfully to speak with airport officials. I believe they even have a plan for altering the flight paths. Please work with the Ma'alaea community to resolve this issue.

Thank you for your time and attention to this matter,

Noelani Balai
150 Hau'oli Street #514
Wailuku, Hi. 96793
Phone: 808-242-8036

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COUNTY CLERK

The Mauian Hotel
5441 Lower Honoapiilani Road
Lahaina, HI 96761

Testimony on Final Reading, Bill No. 101 (2021) – “A bill for an ordinance establishing a new chapter 3.47, Maui County Code, implementing a county transient accommodation tax”

My testimony is asking that the Maui County Council delay the implementation of the additional 3% transient accommodation tax to January 1, 2022, or at least till November 1, 2021. The VERY SHORT NOTICE implementation of this MCTAT creates serious hardship on the smooth collection of this additional tax.

First, we cannot collect the additional tax from any of our guests currently inhouse and staying beyond October 1. The response from our guests would be extremely critical of us because we are the entity collecting the additional tax.

Second, we must now contact all future guests who have been quoted rates and made their initial deposits that their charges have all increased because of the additional 3% MCTAT.

Third, we need to make sure the Online Travel Agencies (OTAs) like Expedia and Booking.com who we do business with, are informed of this additional 3% MCTAT so they can price their packages accordingly.

Please help us out in this regard. We're having a difficult time recovering from our losses in 2020 and early 2021. If we end up needing to absorb the uncollected 3% MCTAT, this adds further burdens to our ability to increase the wages for our employees and pay our bills.

Thank you for your consideration.

Nane Aluli
General Manager
The Mauian Hotel on Napili Bay

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County Clerk

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From: Lyndon Ibele <akibele75@gmail.com>
Sent: Wednesday, September 29, 2021 7:41 AM
To: County Clerk; Alice L. Lee
Cc: Kelly King
Subject: Air traffic noise over Ma'alaea

2021 SEP 29 AM 7: 53

OFFICE OF THE
COUNTY CLERK

Some people who received this message don't often get email from akibele75@gmail.com. [Learn why this is important](#)

To: The Maui County Council and Council Chair Alice Lee
CC: South Maui County Council Member Kelly King

RE: testimony for the Oct 1 County Council meeting, regarding air traffic noise over Ma'alaea

I am submitting my personal testimony to the Council for this item on its Oct 1 agenda.

I am a 20+ year owner of a condominium in Ma'alaea, and I am requesting action/relief from the appropriate airport officials and the FAA, to bring relief to residents and visitors to Ma'alaea from the excessive noise caused by air traffic at low altitudes directly over Ma'alaea.

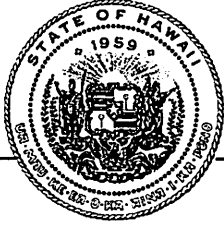
Air traffic has increased continuously for the past 20+ years (with exception of short period of the pandemic-related travel disruptions) and now is at near its historic high. Flights are routed directly over the community, at low altitudes, and the noise is frequently so loud that normal conversations and phone calls have to be interrupted until the offending jet airliner passes by.

The simple solution is to route traffic over the uninhabited area between Ma'alaea and North Kihei. Volunteer members of the Ma'alaea Village Association have been attempting to have productive discussions with County airport officials and the FAA for nearly 4 years. If not flatly ignored, the response received is "it can't be done" or "its too expensive", with no additional explanation.

While I recognize that the County Council has no direct authority over the airport operations or the FAA, I thank the Council for recognizing the problem and exerting whatever pressure it can to force the airport and the FAA to the reality that this is a real nuisance, a real health issue, and a real problem that can and should be addressed.

Thank you to Kelly King for adding this topic to the Council meeting, and thank you to the County Council for listening and responding to community concerns. Please accept this email as written testimony for the Oct 1 Council meeting.

Sincerely,
Lyndon Ibele



HAWAII STATE ENERGY OFFICE STATE OF HAWAII

235 South Beretania Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone:
Web:

DAVID Y. IGE
GOVERNOR

SCOTT J. GLENN
CHIEF ENERGY OFFICER

(808) 587-3807
energy.hawaii.gov

Testimony of
SCOTT J. GLENN, Chief Energy Officer

before the
MAUI COUNTY COUNCIL

October 1, 2021
9:00 AM

Comments in consideration of
CARE-42
RELATING TO ZERO NET ENERGY HOMES

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Chair Lee, Vice Chair Rawlins-Fernandez, and Members of the Council, the Hawaii State Energy Office (HSEO) supports the intent of CARE-42, which would require new one and two family residential buildings over 5,000 square feet to be zero net energy homes, and looks forward to further refinements of the measure.

We are all aware of reports from the United Nations, from scientific organizations and other distinguished bodies indicating that climate change is accelerating and which point to worsening droughts, forest fires, floods and rising sea levels. Scientists agree that rising temperatures caused by man-made CO₂ emissions are the prime cause of these catastrophes.

CARE-42 is part of a national shift that recognizes the importance of building codes to steer our buildings, and the energy systems that support them, to more sustainable and efficient designs. Both our buildings and our energy infrastructure generally last more than 50 years.

Measures such as this are intended to move the builders of high-end residences toward highly efficient windows, roofs, air conditioning and water heating technologies which in turn would help to bring these products to hardware department shelves.

Perhaps just as importantly, measures such as this spark conversation and creative thought, as we recognize the importance and lasting impact of the facilities and

Hawai'i State Energy Office Testimony
CARE-42 Relating to Zero Net Energy Homes - Comments
October 1, 2021

systems that are built today, and hear about the potential interactions between home design, energy resources, and our natural environment.

Greater building efficiency, and the ability of homes to produce their own energy, reduce pressure on using our limited land, especially agricultural land, for renewable energy development. Maximizing the use of roof space for energy production – even in excess of the amount used for the individual building – has the potential to further reduce demands on our limited land areas, and could also be considered in this bill.

It is important to avoid measures that unintentionally cause facility owners to switch to the use of fossil fuels, or to isolate themselves from the grid. Progress toward decarbonization is supported by greater participation in efficient renewable energy production, distribution and use through interactive, grid responsive systems.

The Hawaii State Energy Office looks forward to participating in these discussions, as the details of CARE 42 are worked out in a way that moves Maui and the state of Hawai'i toward energy self-sufficiency. In joining forces with similar initiatives across the country, advanced building codes and standards have the potential to move the CO₂ needle downward and contribute to Hawai'i's net carbon negative goal.

Thank you for the opportunity to testify.

Expanding the range of opportunities for all by
developing, managing, and promoting quality
affordable housing and diverse communities.



OFFICE OF THE
COUNTY CLERK

September 29, 2021

Maui County Council
200 S. High St
Kalana O'Maui Bldg, #708
Wailuku, HI 96793

**RE: CR 21-87, Maui County Code, Section 2.96.100 Proposed Amendments
Council Hearing October 1, 2021, 9:00AM, Testimony in Opposition**

Council Chair Lee, Vice-Chair Rawlins-Fernandez, and Members of the County Council:

Aloha, I am Kevin Carney, Vice President of EAH Housing, a 53-year-old non-profit developer, manager, and advocate of affordable rental housing. I am also a Board Member of Stand Up Maui (SUM) and a member of its Affordable Housing Committee (AHC). My comments herein are entirely EAH's position on the proposed amendments and not those of SUM or its AHC. EAH is strongly opposed to any changes to Section 2.96.100 as will be explained below.

EAH has been operating in Hawaii for 25 years and currently has a managed portfolio of 22 properties, 2,178 units on Kauai, Maui, and Oahu. We also have 3 properties (272 units) in our predevelopment pipeline, one on the Big Island, one on Maui and one on Oahu. Including our California portfolio EAH manages over 10,000 units of affordable rental housing. As a mission oriented non-profit we are long term owners and managers having never sold a property in our 53-year history.

EAH serves primarily those with incomes at or below 60% of the area median income (AMI) and we finance the development of our communities with the use of Low-Income Housing Tax Credits (LIHTC) as our primary source of equity. As a LIHTC developer we do not see a need to make any changes to Section 2.96.100 as it applies to our type of projects. Our specific industry, including our application process, is highly regulated by a variety of entities, County, State, Federal Government (IRS), investors and lenders to ensure compliance related to tenant selection, financial qualifications, fair housing, and accessibility.

We do agree that there is a need for applicant education by third parties well before the property is ready to accept applications because the primary reason for rejecting an application in our industry is poor credit. EAH has worked with the Hawaii Homeownership Center and the Bank of Hawaii, at no cost, on repairing credit to prepare applicants for our rental units and to educate tenants on the next step, homeownership.

As I understand it, the main purpose of the proposed amendments is to create a process that will provide housing, in this case rental housing, primarily for residents of Maui County. EAH believes this is already being accomplished under existing code and regulatory agreements utilizing a preference based on Maui residency. For verification, I have attached the applicable pages, 1 and 2 of the Resident Selection Plan for Kenolio Apartments in Kihei, a property EAH manages. Also attached are applicable pages 1, 5 and 6 from the May 9, 2018, Kihei Residential Workforce Housing Agreement with the County that applies to Kenolio. As you will see the Selection Plan is derived from the Housing Agreement and is the principal document for selecting and qualifying applicants.

Companies like EAH who manage LIHTC communities, whether non-profit or for-profit, have compliance specialists on staff who are trained to qualify applicants in accordance with Section 42 of IRS Code and the various regulatory agreements specific to the property. Producing affordable rental housing is a very long complicated process, typically 5 years or longer from the time of site control to completion and welcoming of our tenants.


EAH believes that adding additional entities, whether it be the Department of Housing and Human Concerns or its designee, to the process of qualifying tenants, is not necessary, will add confusion for our staff and to the applicants and will delay an already well functioning selection process based on preferences. Timing of initial certifications is critical. Initial applications for LIHTC properties have a 120-day life span. If the unit is not available for tenant occupancy within that time period, the certification process must be started all over again.

There is also the issue of liability. If an applicant approved by the County or its designee is determined to be over income after taking occupancy because of a miscalculation, the effect is a loss of tax credit on the unit, resulting in a substantial penalty to the investor who typically would look to the party responsible for the miscalculation, for reimbursement.

Mahalo for this opportunity to share our extensive experience on the selection process for our LIHTC communities.

For EAH Housing, a roof is just the beginning.

Sincerely,



Kevin R. Carney, (PB) NAHP-E
Vice President, Hawaii
EAH Housing



KENOLIO APARTMENTS
116 NOKAHEA LOOP, KIHAI, HI 96753
TELEPHONE (808)762-2028 FAX: (808)762-2028
TDD (877) 447-5991
ken-management@eahhousing.org

RESIDENT SELECTION PLAN

Kenolio Apartments is a 186 apartment, multi-family community in Kihei, HI that provides housing for extremely low and low income households, without regard to race, color, sex, creed, religion, national origin, physical or mental disability status, familial status, age, ancestry, marital status, source of income, sexual orientation or HIV status.

Kenolio Apartments will make reasonable accommodations to individuals whose disability so requires. Reasonable Accommodation Request forms are available upon request from management. Kenolio Apartments is an Equal Housing Opportunity Housing Facility, admitting people in accordance with Local, State and Federal Housing laws, the County of Maui Residential Workforce Housing Policy (MCC Chapter 2.96), the Rental Housing Revolving Fund (RHRF), and the Low Income Housing Tax Credit (LIHTC) Program.

NON-SMOKING POLICY

Kenolio Apartments is designated as a Non-Smoking property. Smoking is prohibited in all areas of the property including the interior of apartments, all indoor and outdoor common areas on the property.

It is the residents' responsibility to inform their guests of the Non-Smoking Policy. Any violation of the Non-Smoking Policy will be deemed a material breach of the Rental Agreement and grounds for immediate termination of the Lease/Rental Agreement.

Kenolio Apartments adoption of a Non-Smoking Policy does not make the Owner the guarantor of the residents health or that the property will be free of smoke but management shall take reasonable steps to enforce this policy.

INCOME LIMITS

To qualify for an apartment, the household's gross income may not exceed the maximum income limit per household size and may not be lower than the income minimum* per household size. The income maximums and minimums are attached and are posted in the Kenolio Apartments Management Office.

**The apartment may be rented if proof is obtained indicating satisfactory and timely rental payment history for the past twelve (12) months in the amount equal to or greater than the rent charged for that apartment size.*

APPLICATION FEES AND HOLDING DEPOSIT

Application fees will be waived for initial placement. Once all apartments are initially rented, application fees will apply. During the period of waived application fees, the Holding Deposit requirement will still apply.

An application fee of \$35 per adult household member will apply. The application fee is to help cover the cost of conducting credit and criminal background inquiries.

Application fee(s) (per adult to occupy the apartment) are required at the time an application is processed to determine eligibility. A holding deposit of \$200 will be collected once a unit is offered. These funds must be in the form of a cashier's check, money order or ACH transfer. The holding deposit will be applied to your Security Deposit and or first month's rent if your application is approved and you move-in on your scheduled move-in day. If you rescind your application in writing within three (3) days of the date the holding deposit was paid, your holding deposit will be reimbursed. **Reimbursement may take up to 14 business days to be returned to you.** If you cancel after the initial 3



days for any reason your holding deposit will be forfeited. Application fees are non-refundable.

APPLICATION PROCEDURES

Applications will **only** be available when the waiting list is open. Applications will **not** be available when the Waiting List is closed.

Only online applications will be accepted. Visit www.eahhousing.org to complete your application.

Each applicant must complete an application and be willing to submit to a credit history, rental history, and criminal background inquiry, as well as income and asset verifications.

A lottery will determine the order the applications are screened for initial placements. Once the lottery has taken place, applications will be processed as follows:

Completed online applications will be processed on a first-come, first-served basis. The application must be completed and signed by the head of household and all household members over 18 before an applicant can be placed on the waiting list. If an application is not completely answered, the date of it being fully completed will be the date that the application is considered accepted for rental purposes.

PREFERENCES

Preferences will be used on a continuous basis in the selection of applicants. However, the policy of the Property is that a preference does not guarantee admission. Every applicant must still meet the Property's Resident Selection Plan standards for acceptance as a resident.

For apartments accessible to or adaptable for persons with mobility, visual or hearing impairments, households containing at least one person with such impairment will have first priority.

Residents shall be selected in accordance with the guidelines described in the County of Maui Residential Workforce Housing Policy (MCC Chapter 2.96). Preference will be given to applicants which meet at least one of the following criteria:

- Currently employed in the County;
- Retired from employment in the County, having worked in the County immediately prior to retirement;
- A full-time student residing in the County (must meet provisions of the LIHTC program);
- A disabled person residing in the County who was employed in the County prior to becoming disabled;
- The parent or guardian of a disabled person residing in the County
- A spouse or dependent of any such employee, retired person, student, or disabled person residing in the County; or
- In the event of the death of the employee, retired person, student, or disabled person, the spouse or dependent of any such person residing in the County.

Applicants shall provide evidence of their preference status. Applicants with a valid verified preference will have priority over applicants without a verified preference. Therefore, applicants with a verified preference that are lower on the waiting list will be offered an apartment first to satisfy the preference order as described in the County of Maui Code of Ordinances Section 2.96.100.

To implement this preference, we will first select applicants with a verified preference in lottery order. Next, we will select applicants without a preference in lottery order. If at any time there is no applicant with a valid and verified preference on the waiting list, then no apartment in the Project shall be held vacant awaiting such applicant, but shall be rented promptly to an approved applicant without a preference.

Where preferences apply, applicants with a valid and verified preference will be moved to the top of the waiting list above persons without a preference.

The preferences so described will at all times be consistent with the requirements of Section 42 and future interpretations or guidance from the IRS and will not in any way jeopardize the project's eligibility under Section 42 of the Internal Revenue Code.



THE ORIGINAL OF THE DOCUMENT
RECORDED AS FOLLOWS:
STATE OF HAWAII

BUREAU OF CONVEYANCES

DOCUMENT NO.

DATE - TIME Doc A - 67030595

May 09, 2018 10:45 AM

LAND COURT

REGULAR SYSTEM

Return By Mail ☒ Pick-Up ☐ To:

Caleb Roope
Maui Pacific Associates, a Hawaii Limited
Partnership
430 E. State Street, Ste.100
Eagle, ID 83616

TITLE OF DOCUMENT:

KENOLIO APARTMENTS
RESIDENTIAL WORKFORCE HOUSING AGREEMENT

PARTIES TO DOCUMENT:

DEVELOPER: Maui Pacific Associates, a Hawaii Limited Partnership
430 E. State Street, Ste.100
Eagle, ID 83616

COUNTY: COUNTY OF MAUI
200 South High Street
Wailuku, Maui, Hawaii 96793

TAX MAP KEY(S): (2) 3-9-001-157 and 158

(This document consists of 11 pages.)

ARTICLE II - RESIDENTIAL WORKFORCE HOUSING PROGRAM

A. Housing Distribution and Affordable Rents

Developer shall construct 184 Residential Workforce Housing Units plus two employee units and shall offer to rent said units in accordance with the terms, covenants and conditions of this Agreement:

1. Ten of the Residential Workforce Housing Units (three one-bedrooms, four two-bedrooms and three three-bedrooms) will be leased at rents affordable to Families earning at or below 30% of Median Annual income.
2. 174 of the Residential Workforce Housing Units (60 one-bedrooms, 68 two-bedrooms and 46 three-bedrooms) will be leased at rents affordable to Families earning at or below 60% of Median Annual Income.
3. Families shall be eligible to reside in the Workforce Housing Units if, in addition to the requirements set forth elsewhere herein, they comply with the requirements of County of Maui, Code of Ordinances Section 2.96.100 including, without limitation, that each household shall satisfy all applicable State and Federal eligibility requirements.

B. Marketing of Residential Workforce Housing Units.

1. WAIT LIST PROCEDURE:

- a. The Developer or its management company shall establish a wait list of interested applicants for Residential Workforce Housing Units;
- b. Prior to initiating the wait list, the Developer or its management company shall initiate the wait list process by publishing in at least five issues of a newspaper of general circulation within the County, a public notice that shall contain all information that is relevant to the establishment of the wait list. The public shall also be informed in a like manner of any decision that would substantially affect the maintenance and use of the wait list;
- c. Selection for renting Residential Workforce Housing Units shall be made by a lottery administered by the Developer or its management company and overseen by DHHC, subject to the applicant meeting the eligibility criteria necessary to qualify as an Affordable Renter; and
- d. Each applicant shall be responsible for notifying the Developer or its management company in writing of any changes in mailing address, telephone number, fax number, and/or e-mail address. If an applicant fails to properly notify the Developer or its management company of such changes and the Developer or its management company is unable to contact the applicant, the applicant's name shall be removed from the applicable wait list.

2. SELECTION PRIORITY:

a. Residents on the wait list shall receive first priority for the available units. Nonresidents on the wait list may rent a residential workforce housing unit once the wait list has been exhausted of all residents.

b. The developer or its management company may do a mass mailing of housing applications to applicants on the wait list.

c. The residential workforce housing units shall be offered to residents in the order in which their names were drawn in the lottery, provided that there is a unit available in the income group for which they qualify. Nonresidents will then be offered residential workforce housing units in the order in which their names were drawn in the lottery, provided that there is a unit available in the income group for which they qualify.

d. The developer or its management company shall submit copies of the following information to DHHC to verify the rental of residential workforce housing units to eligible renters:

- Applicant's completed final rental application;
- Executed rental lease; and
- All signed federal and state tax returns used to determine eligibility, or any other documents used to determine eligibility by the developer or its management company.

e. The developer or its management company shall maintain a wait list for DHHC after all of the units are rented, which shall be used to fill any vacancy. No vacant unit shall be leased to or occupied by any household except in conformity with all applicable eligibility and waiting list requirements as set forth herein.

f. If Developer intends to sell the development, Developer shall notify DHHC in writing prior to the closing of the sale, and shall provide documentation to DHHC that the prospective new owner acknowledges and is aware of the terms, conditions, and restrictions encumbering the development pursuant to this Residential Workforce Housing Agreement.

g. If the Project is sold within the 55 year term of this Agreement, any new owner must comply with the requirements of this Agreement. Developer shall execute and record a deed restriction complying with County of Maui, Section 2.96.070(c), Maui County Code, and reasonably acceptable to County.

C. AFFORDABLE RENTER DOCUMENTATION

Within sixty (60) calendar days after the close of each calendar year, Developer or its management company shall provide the DHHC with a report including the following:

1. Each tenant rented to during the preceding calendar year along with their move-in date; and

AKAHI
300 W. Wakea Ave.
Kahului, HI 96732
808-877-0544

ELUA
200 Hina Ave.
Kahului, HI 96732
808-872-4180

EKOLU
717 Makiola Dr.
Wailuku, HI 96793
808-242-4377

EHA
1057 Makawao Ave.
Makawao, HI 96768
808-573-1647

ELIMA
11 Mahaolu St.
Kahului, HI 96732
808-893-0002

EONO
810 Kelawea St.
Lahaina, HI 96761
808-661-5957

EHIKU
56 Ehiku St.
Kihei, HI 96753
808-891-8588

EWALU
88 Ohia Ku St.
Pukalani, HI 96768
808-573-5500

HOME PUMEHANA
P.O. Box 100
Kaunakakai, HI 96748
808-553-5788

HALE KUPUNA O LANAI
P.O. Box 630418
Lanai City, HI 96763
808-565-6615

LOKENANI HALE
1889 Loke St.
Wailuku, HI 96793
808-243-9272

KAHULUI LANI
65 School St.
Kahului, HI 96732
808-868-0180

LAHAINA SURF
1037 Wainee St.
Lahaina, HI 96761
808-661-3771

LUANA GARDENS
615 W. Papa Ave.
Kahului, HI 96732
808-871-9009

KOMOHANA HALE
120 Leolea St.
Lahaina, HI 96761
808-661-5957

KULAMALU HALE
65 Ohia Ku St.
Pukalani, HI 96768
808-868-4148

HULIAU
145 Wahinepia Ave.
Kahului, HI 96732
808-868-2229

CHSP/MEALS PROGRAM
200 Hina Ave.
Kahului, HI 96732
808-872-4170

**HOMEOWNERSHIP/
HOUSING COUNSELING**
200 Hina Ave.
Kahului, HI 96732
808-242-7027

**PERSONAL CARE/
HOMEMAKER/CHORE**
11 Mahaolu St. Ste. A
Kahului, HI 96732
808-873-0521



HALE MAHAOLU

WHERE ALOHA LIVES

RECEIVED

2021 SEP 29 PM 2:11

OFFICE OF THE
COUNTY CLERK

September 28, 2021

Chairperson Alice Lee

Maui County Council

200 S. High Street

Wailuku, HI 96793

VIA E-MAIL county.clerk@mauicounty.us

RE: CR 21-87 – Countywide Workforce Housing Interest List and Related Policies for Residents Interested in Workforce Housing Rental and Ownership Units

Dear Chairperson Lee:

The above-referenced bill pending before the Maui County Council would require that the County or its designee establish a countywide workforce rental housing interest list of interested applicants.

I am writing as the executive director of Hale Mahaolu, a non-profit provider of affordable rental housing for seniors and families. As you are aware, our company owns or manages 17 different properties comprised of over 1,200 housing units on Maui, Molokai, and Lanai. We have a long-standing and well-established process in place for maintaining wait lists for our various projects.

The proposed ordinance is not clear whether it would apply to our work in the context of our existing properties or whether it is meant to apply only to new properties in the initial stage of leasing. In either case, I would respectfully submit that the County Council may want to think twice before requiring that the Department of Housing and Human Concerns (DHHC) take on this role. There are numerous regulatory and compliance standards dictated by the U.S. Department of Housing and Urban Development, as well as funder driven standards which provide a framework and guidelines for the various lists which we maintain at our properties.

These standards will routinely govern the minimum qualification criteria for each property's occupants, which can vary significantly depending upon the regulatory requirements imposed on the project by its funding. Depending upon that criteria, certain projects are tailored to age-specific groups, income-specific groups, special needs groups, various combinations thereof, etc.

Providers like Hale Mahaolu have extensive experience and training in how to manage these lists so as to comply with regulatory standards. We have implemented software-based waitlists which provide for a seamless process when the applicant becomes eligible for a unit, with individuals' information already in the system available to populate relevant documents and forms. We also have personnel who perform an internal audit function of our lists and applications, dedicated to ensuring that we are compliant with regulatory standards.

Chairperson Alice Lee

September 28, 2021

Page | 2

The proposed ordinance would presumably have DHHC take on this role without necessarily understanding the intricacies of ensuring that this task is administered properly and without issue.

The volume of applications and inquiries which we receive each month numbers in the hundreds, and it would be difficult to imagine that DHHC has the staffing or expertise in place to take on this function.

I would respectfully request that the portion of the proposed ordinance pertaining to rental housing be reconsidered. Thank you for your kind consideration of this request.

Sincerely yours,



GRANT Y. M. CHUN

Executive Director

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2021 SEP 29 PM 4:31

OFFICE OF THE
COUNTY CLERK

To: Maui County Council Chair Alice Lee and Maui County Council Members,

Re: Phase out of short-term rentals in apartment zones and Aircraft Noise Abatement for Ma'alaea

Aloha, my name is Shannon VanderHeuvel, my husband and I moved to Maui and bought our condominium at Ma'alaea so that I could be closer to my father, Henry Allen, who lives in West Maui. He gave me the Hawaiian name of Leialoha Lei Makamae, (friends call me Lei). We enjoy Ma'alaea and Maui's beauty and love living here. I am a retired police officer, and Crime Committee Chair and Board Secretary for Ma'alaea Village Association (MVA). I would like to offer testimony on two items: Proposed phase out of short-term rentals in apartment zones on Maui and Aircraft Noise over Ma'alaea.

Proposed Phase out of short-term rentals in apartment zones on Maui

As we all know, living on Maui is expensive. If my husband retired from his current job on Maui we might have to move back to the Midwest. We would like to be able to enjoy our condo and be able to put it in vacation rental so that we could cover expenses when we are not here. My mortgage and maintenance fees would not permit me to rent my condo at affordable rates. I am sure this would be the case for most condo owners. If we were to become ill, we might need to see the condo. Future owners would need to be able to do vacation rentals in order to cover expenses. The current legislation to eliminate vacation rentals in apartment zones after December 31st, 2021, would prevent us from being able to do that.

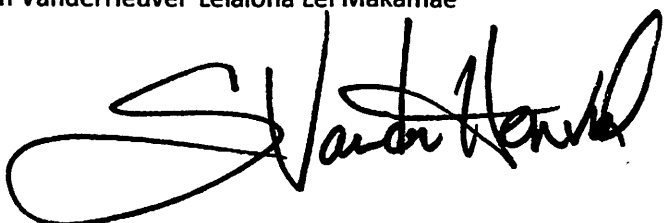
I support the goal of increasing affordable housing on the island. It is much needed. When the County is looking for additional revenues to build affordable housing and improve the environment, this would actually decrease the revenues coming into the County. The only parties benefiting from the proposal would be Maui hotels. I urge the Council to find fairer, more effective ways to address the need for more affordable housing for Maui's people.

Aircraft Noise over Ma'alaea

Written testimony will be presented by MVA President Lyndon Ibele and Bill Hawkins, of the MVA Aviation Committee. I ask for your support to bring relief to Ma'alaea residents and visitors from the excessive noise caused by air traffic at low altitudes flying directly over Ma'alaea. Living in Ma'alaea, I can say that the noise is frequently so loud that normal conversations and phone calls have to be interrupted until the jet airliners pass by.

MVA has asked HDOT airport officials and the FAA for help for years. If not flatly ignored, the response received is "it can't be done" or "it's too expensive", with no alternatives. I know that the County Council has no direct authority over airport operations or the FAA. I hope with today's testimony that the Council will recognize the problem and exert whatever pressure it can to encourage HDOT airports and the FAA to face the reality that this is not only a nuisance, but a health issue, and real problem that needs to be addressed. Mahalo for listening, responding to our concerns and for your consideration.

With Aloha Shannon VanderHeuvel Leialoha Lei Makamae



9-29-2021

RECEIVED

2021 SEP 30 AM 7: 53

Testimony of
Pacific Resource Partnership

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

OFFICE OF THE
COUNTY CLERK

Committee Report No. 21-87—Countywide workforce housing interest list and related policies

Friday, October 1, 2021
9:00 A.M.
City Council Chamber

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.

PRP writes in **strong opposition** of a bill in Committee Report No. 21-87, establishing a countywide workforce housing interest list and related policies for residents interested in workforce housing rental or ownership units.

The proposed bill will further complicate and prolong the process of getting Maui's residents into affordable housing and likely increase the overall cost of housing units.

Affordable housing projects using government subsidies, including but not limited to Low Income Housing Tax Credits (LIHTC), are highly regulated by County, State, and Federal agencies. Agencies have specific requirements regarding tenant selection, financial qualifications, fair housing and accessibility. Adding an additional layer of regulation to the selection process and taking away the developer, its partners, or its management company's ability to establish a wait list is unnecessary and equates to more risk for the developer, tax credit investors, debt financiers, and private equity investors. This risk alone may deter developers from building affordable housing in Maui.

Moreover, the proposed amendments will put a heavy burden on the Department of Housing and Human Concerns (DHHC) to ensure that all County, State, and Federal regulations are followed in a timely manner. This will likely require DHHC to hire and retain more staff with experience in developing affordable housing, and require DHHC to invest in additional resources to deliver these new responsibilities. Furthermore, DHHC or its designee will likely be held liable for any errors occurring during the qualification process.



(Continued From Page 1)

We are also concerned that changing the sales period from 90 days to 120 days will create additional carrying costs for projects thereby making housing more expensive.

We have witnessed and continue to see how Maui's overregulation of affordable housing projects have kept this county in its current housing crisis. We need to find new ways to incentivize developers to build more affordable housing before the problem gets worse. Given the above, we respectfully recommend that this Council defer this bill and consider policies that encourage the construction of more affordable housing.

Thank you for this opportunity to submit written testimony.

County Clerk

From: Peter <peter@hawaiianresources.net>
Sent: Wednesday, September 29, 2021 5:40 PM
To: County Clerk
Cc: Alice L. Lee; Mike J. Molina; Kelly King
Subject: Communications #21-478 re: Aircraft noise over Maalaea

RECEIVED

2021 SEP 30 AM 7: 53

OFFICE OF THE
COUNTY CLERK

Some people who received this message don't often get email from peter@hawaiianresources.net. [Learn why this is important](#)

Dear Council Chair Alice Lee and Council Members,

Regarding Aircraft noise over Maalaea:

I have read the testimony of Captain Bill Hawkins, the Maalaea Village Association (MVA), chair of the MVA Aviation Committee, with great interest.

Bill points out that the solution is very simple. Please focus on the solution. Simply fly a safe approach to Kahului over uninhabited areas. The suggested approach is very well described in Bill's testimony. This totally solves the problem for Maalaea.

If the Council wants the Maui community to support sustainable tourism on Maui, then please realize that 250 super loud low level flights a day over the Maalaea community is way too much. This happens all day long and as well as in the dead of night. Noise pollution is a health and safety issue. Common sense says to find a solution.

Common sense can also solve the problem for Council Member Mike Molina and his Haiku Community.

Aircraft coming in from the East fly over Haiku, make a big circle over Maalaea Bay, and then come in over Maalaea Village affecting both communities. This big circle over the bay eats up fuel. If the aircraft approached Maui over the Alenuihaha Channel, well off of Kaupo, and circled in over Maalaea Bay instead of over Haiku, then the fuel would be similar and both the Haiku and Maalaea noise problems would be solved. Just fly the approaches over the uninhabited areas of Maui.

While the County Council does not have jurisdiction over the Kahului Airport flight paths, a resolution by the Maui County Council will provide much needed support and attention to the efforts of Council Member Molina and of the MVA. Capt. Bill Hawkins has well described the FAA's resistance to change. The FAA's easy answer is to ignore and do nothing.

Your support will make a big difference for both Maalaea and Haiku.

With aloha,

Peter Cannon

ATIS 128.6
HCF APPROACH
119.5 225.4
MAUI TOWER ★
118.7 279.6

PROPOSED RADAR VECTORS (OGG)(PHOG) RWY 02 KAHULUI, HAWAII

LANAI

LANAI
117.7 LNY
Chan 124



MAALA
NOISE S
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R-085

Proposed Draft
NOT FOR NAVIGATION

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2021 SEP 30 AM 7: 54

**TESTIMONY: COUNCIL OF THE COUNTY OF MAUI
NO. 21-481**

OFFICE OF THE
COUNTY CLERK

Aloha and Good Day!

My name is Ralph Overton, let me take a minute to share Who we are & Why we Care!

I've been a Maui County resident since 1997; my spouse, for over 50 years. Nancy & I have been very fortunate to call Maui home, benefitting from the great quality of life our island affords. In turn, our ohana has supported the community through charity donations and volunteerism.

Nancy is on the Board of Directors...for the **Maui Health Foundation** and the **Friends of the Children's' Justice Center**. She also serves as Treasurer for the **Maui Contractors Women's' Auxiliary**.

I volunteer for the **Pu'u Kukui Watershed Preserve**, am a **Founders Circle member of the Maalaea Village Association**; Volunteer for the **Sentry Tournament of Champions**; and, a Member of the **Realtors Association of Maui (RAM)**, however, I am not providing this testimony on RAM's behalf, only as a concerned resident.

Nancy is an executive for the Dorvin D. Leis Company, I'm a **REALTOR®** specializing in Short Term Vacation Rentals which we own, manage, and truly **LOVE IT!**

In a nutshell, these investments contribute to our livelihood, our retirement, and our Keiki's futures! **Hence our deep concern** with this current proposal! Banning future short term vacation rental opportunities will directly affect our ability to maintain current living standards and affect our future!

We realize that there are many issues on this PROPOSAL'S table and on many fronts, including legal, budgetary, and Big Business! We have empathy regarding housing issues; however, we certainly don't agree that prohibiting Short Term Vacation Rental investment opportunities will best address!

This proposed ban will not only affect our family but also other Maui ohana who strive to gain access to real estate investing on Maui!

Please consider the NEGATIVE IMPACT:

First, prohibiting our children with an opportunity to invest on Maui and help defray Maui's high cost of living.

Second, removing & losing...our opportunity for a stake in the tourism industry, maintain our livelihood, and create wealth opportunities?

SO, WHAT CAN WE DO IN OUR HUMBLE OPINION?

1) GREAT PLANS ARE IN THE WORKS!!

- The recently announced 100% Affordable Rental Project for Waiehu is the type of proposal that should be passed hands down.
- More developments like this can effectively address our housing issue!

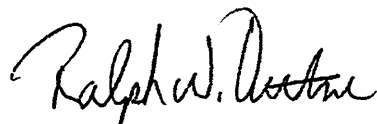
2) HOLD US MORE ACCOUNTABLE!

- Illegal Short-Term Vacation Rentals: TAT & GET cheats; Vacation Rental owners without an on-island manager; Vacation Rental owners whose guest count exceed the 2 X's the number of bedrooms.
- IMPROVED efforts to catch violators and consider governmental police powers to convert these into subsidized affordable housing?


We do have additional ideas, however not quite ready to expand on.

We hope that you will Consider our Concerns and We are very appreciative of your efforts to Move Maui Forward!

Mahalo Nui Loa!



Ralph W. Overton



Nancy Leis Overton



Mobile: 808.428.8717
Email: lindaschatz@schatzcollaborative.com
Schatzcollaborative.com

RECEIVED

2021 SEP 30 AM 10:36

OFFICE OF THE
COUNTY CLERK

September 30, 2021

Council of the County of Maui

200 South High Street, 8th Floor

Wailuku, Hawaii

**SUBJECT: CR 21-87, Maui County Code, Section 2.96.100 Proposed Amendments in
Opposition (Hearing: October 1, 2021)**

Aloha Council Chair and Members,

I strongly oppose the amendments suggested in CR21-87.

I am a housing developer focusing on housing at 30%AMI to 140%AMI levels on Maui and Honolulu County. I am submitting written testimony to express my concerns over the proposed draft amendments to Maui County Code, Section 2.96.100.

All our rental housing projects are highly regulated by State and Federal agencies, which includes the application process, investors, and lenders. There is a standard in qualifying tenants and income eligibility requirements to ensure compliance with fair housing, accessibility, and financial qualifications.

We understand the intention of the amendments is to ensure there is a preference for Maui residents. This can be done by the current ordinance and workforce housing agreements required by the Department of Housing and Human Concerns (DHHC). Requiring DHHC or its designee to qualifying tenants is not necessary.

DHHC is not equipped to handle this type of process and it will only impact and increase the time it already takes to do this. If a project requires federal and state subsidies, there is also a period in which the qualified applicant's information is relevant, once that period expires the process must be started over again. The qualification process should be fully managed by the developer and the leasing company versus DHHC who may not know when projects will be ready to accept tenants. For developers, giving up this responsibility means more risk for the developer and potentially for tax credit investors, debt financiers, and private equity investors. The County/DHHC would also be liable if income qualifications are not done properly because developers are responsible for the tax credits issued to investors. And if for some reason DHHC or its designee makes an error and cannot rectify income qualification



Mobile: 808.428.8717
Email: lindaschatz@schatzcollaborative.com
Schatzcollaborative.com

errors, the developer will be held liable for the tax credits and push that liability onto the County.

The sales period from 90-120 days will only create additional carrying costs for projects and in the end make housing more expensive. Ninety days is ample time to sort out qualified prospects. Projects on Maui have interest lists with sometimes 5-8Xs the number of units. Providing more time to sell these units does not actually mean you will find a qualified family to meet the income and credit qualifications necessary given the sizable interest list available. It only increases carrying costs to a project.

Thank you again for the opportunity to submit this testimony. If there are any questions, or if additional information is needed, please do not hesitate to contact me at (808)428-8717.

Warmest Regards,

A handwritten signature in black ink, appearing to read 'Linda Schatz', written in a cursive style.

Linda Schatz
Principal

DAVID Y. IGE
GOVERNOR



DENISE ISERI-MATSUBARA
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of
DENISE ISERI-MATSUBARA
Hawaii Housing Finance and Development Corporation
Before the

COUNCIL OF THE COUNTY OF MAUI
Regular Meeting of October 1, 2021
9:00 a.m.

RECEIVED
2021 SEP 30 AM 10:36
OFFICE OF THE
COUNTY CLERK

In consideration of
Committee Report No. 21-87
Recommending First Reading of a Bill to establish a countywide workforce housing interest list and related policies for residents interested in workforce housing rental or ownership units.

The Hawaii Housing Finance and Development Corporation (HHFDC) offers the following comments on Committee Report 21-87, recommending First Reading of a bill that would amend Sections 2.96.090 and 2.96.100 of the Maui County Code to change wait list procedures and the methods for selecting applicants for units in for-sale and rental workforce housing developments in the County of Maui.

This bill proposes ranking applicants for selection priority for both rental and for-sale project units by length of residency in the County. This selection method could potentially violate the Internal Revenue Service's general public use requirement applicable to Low-Income Housing Tax Credits (LIHTC) and multifamily bonds, which are the primary financing tools for the development of rental housing affordable to households at or below 60 percent of the area median income. Adoption of this policy could therefore preclude the use of LIHTCs and multifamily revenue bonds as financing sources for rental projects developed in the County of Maui.

We further note that residency preferences in housing placements could violate Fair Housing laws if they are determined to have a disparate impact on the basis of a protected class under the Fair Housing Act. For example, U.S. Department of Housing and Urban Development regulations, 24 C.F.R. §982.207(b), states that residency preferences must not be based on length of residency.

Thank you for the opportunity to provide written comments on this bill.

MARRIOTT
VACATIONS
WORLDWIDE
SM

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2021 SEP 30 AM 10:50

September 30, 2021

OFFICE OF THE
COUNTY CLERK

TO: Councilmember Alice Lee, Chair
Councilmember Keani Rawlin-Fenandez, Vice- Chair
Members of the Maui County Council

FR: Denis Ebrill, Marriott Vacations Worldwide Corporation

RE: Comments on Bill 101 Relating to County Transient Accommodations Tax

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

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

Thank you for allowing me to submit testimony on behalf of Marriott Vacations Worldwide Corporation ("MVWC") **providing comments** to the proposed bill establishing a new chapter 3.47 to the Maui County Code, implementing a county transient accommodations tax. MVWC is a global leader in the timeshare industry with ten resort properties in Hawaii. Timeshare resorts are an important and stabilizing part of the tourism industry, and resort development provides thousands of construction jobs in Hawaii per year.

Bill 101 establishes a county transient accommodation tax of three percent (3%) ("County TAT"). The new County TAT imposes a monthly tax on the gross rental or gross rental proceeds derived from the furnishing of transient accommodations. Every transient accommodation broker, travel agency, and tour package that arrange transient accommodations, and every operator, and occupant of a resort time share vacation unit, must pay to the County the tax imposed. Pursuant to Section 3.47.010, the new County TAT is "considered levied on October 1, 2021." The County TAT takes effect upon the approval of the ordinance.

MVWC understands the County's intentions in establishing the County TAT, however, we have concerns with the implementation of the additional 3 percent increase. The Council intends to have the County TAT levied from October 1, 2021, which is the same day that it is being heard for second and final reading. Essentially, this would mean that the County TAT would be retroactively applicable to reservations made on October 1, 2021, even though the bill has not been signed by the Mayor. Hotel operators will not be able to charge guests for the County TAT until Bill 101 has been officially passed and signed into law. Therefore, Hotel operators will need to pay for the County TAT themselves for reservations between October 1 and the date Bill 101 is officially approved and able to be included in charges for rooms.

Having the County TAT levied upon October 1, 2021, the date which Bill 101 may become effective, puts hotel operators at a disadvantage. Primarily, these hotel operators will not be able to disclose the new tax to guests in advance, and therefore, may not be able to collect the new tax as the guest already booked their room at a specific price including tax. Furthermore, timeshare resorts will need to update their Hawaii disclosure statements and file with the Department of Commerce and Consumer Affairs ("DCCA").

Councilmember Alice Lee, Chair
Councilmember Keani Rawlin-Fenandez, Vice- Chair
September 30, 2021
Page 2

Accordingly, MVWC respectfully requests the County TAT not be levied until, at a minimum, the date immediately subsequent to being signed into law by the Mayor to allow: 1) appropriate notice to be given to travel partners that the law has been signed; 2) hotel operators to charge for the County TAT that is officially passed; 3) booking engines to be updated with the new County TAT; and 4) rental agreements to be modified with the new required language. Furthermore, making the County TAT levied after it officially becomes law provides resorts adequate amount of time to properly notice guests that the law has been officially signed into law.

Based upon the foregoing, MVWC recommends the following amendments to the County TAT bill:

1. Amend the second sentence of Section 3.47.010 of Bill 101 to state "This tax is considered levied on the date after the Bill has passed. "

Mahalo for your consideration of these amendments.

Aloha,

A handwritten signature in black ink, appearing to read "Denis Ebrill", followed by a period.

Denis Ebrill
Senior Vice President
Marriott Vacations Worldwide Corporation

AQUA-ASTON

H O S P I T A L I T Y

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2021 SEP 30 AM 10: 50

OFFICE OF THE
COUNTY CLERK

September 30, 2021

TO: Councilmember Alice Lee, Chair
Councilmember Keani Rawlin-Fenandez, Vice- Chair
Members of the Maui County Council

FR: Aqua-Aston Hospitality

RE: Comments on Bill 101 Relating to County Transient Accommodations Tax

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

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

Thank you for allowing Aqua-Aston Hospitality, LLC ("Aqua-Aston") to provide **Comments and Amendments** on Bill 101 establishing a new chapter 3.47 to the Maui County Code, implementing a county transient accommodations tax. Aqua-Aston has engaged in hotel and resort management in the state of Hawaii for over 75 years.

Bill 101 establishes a county transient accommodation tax of three percent (3%) ("**County TAT**"). The new County TAT imposes a monthly tax on the gross rental or gross rental proceeds derived from the furnishing of transient accommodations. Every transient accommodation broker, travel agency, and tour package that arrange transient accommodations, and every operator, and occupant of a resort time share vacation unit, must pay to the County the tax imposed. The County TAT takes effect upon the approval of the ordinance.

Aqua-Aston understands the County's intentions in establishing the County TAT in response to Act 1, Special Session Laws of Hawai'i, which stripped the County of allocated State Transient Accommodations Tax. Nevertheless, we have concerns with the implementation of the additional 3 percent increase. The Council intends to have the County TAT levied from October 1, 2021, which is the same day that it is being heard for second and final reading. Accordingly, the County TAT would be retroactively applicable to reservations made on October 1, 2021 even though the bill has not been officially signed by the Mayor.

Having the County TAT levied upon October 1, 2021, the date which Bill 101 may become effective, puts hotel operators at a disadvantage. Primarily, hotel operators will not be able to: 1) disclose the new tax to guests in advance; and 2) collect the new tax as the guest already booked their room at a specific price including tax. Hotel operators will not be able to charge guests for the County TAT until Bill 101 has been officially passed and signed into law. Therefore, Hotel operators will need to pay for the County TAT themselves for reservations between October 1 and the date Bill 101 is officially approved and able to be included in charges for rooms.

Office: 820 Mililani St, Ste. 600, Honolulu, HI 96813 T 808-931-1400

Mailing Address: 6649 Westwood Blvd., Orlando, FL 32821

Aqua-Aston respectfully requests the County TAT not be levied until, at a minimum, the date immediately subsequent to being officially passed to allow: 1) appropriate notice to be given to guests and travel partners; 2) hotel operators to charge for the County that is officially passed; 3) booking engines to be updated with the new County TAT; and 4) rental agreements to be modified with the new required language.

Accordingly, Aqua-Aston recommends the following amendment to Bill 101:

1. Amend the second sentence of Section 3.47.010 to state "This tax is considered levied on the date after the Bill has passed."

Mahalo for your consideration of these amendments.

Respectfully submitted,

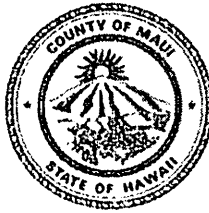
A handwritten signature in black ink, appearing to read "Debrill", with a stylized flourish at the end.

Denis Ebrill
Aqua Aston Hospitality, LLC, Managing Director

MICHAEL P. VICTORINO
Mayor

LORI TSUHAKE
Director

LINDA R. MUNSELL
Deputy Director



**DEPARTMENT OF HOUSING
& HUMAN CONCERNS
COUNTY OF MAUI
2200 MAIN STREET, SUITE 546
WAILUKU, MAUI, HAWAII 96793
PHONE: (808) 270-7805**

September 29, 2021

RECEIVED
2021 SEP 30 AM 11:08
**OFFICE OF THE
COUNTY CLERK**

Honorable Alice Lee, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Chair Lee and Members:

**SUBJECT: COMMITTEE REPORT NO. 21-87
AFFORDABLE HOUSING COMMITTEE
A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96, MAUI
COUNTY CODE, RELATING TO RESIDENTIAL WORKFORCE
HOUSING POLICY APPLICANT SELECTION PRIORITY**

Thank you for the opportunity to provide the Department's testimony on the proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96, MAUI COUNTY CODE, RELATING TO RESIDENTIAL WORKFORCE HOUSING POLICY APPLICANT SELECTION PRIORITY".

As stated during the Affordable Housing Committee's multiple discussions, the Department supports the concept of developing a centralized database for residents interested in workforce housing units, as well as a central place for disseminating information about current and upcoming workforce and affordable housing projects. The Department also supports encouraging residents to become better prepared for rental and homeownership opportunities by working with a HUD certified housing agency.

The Department also feels strongly that other proposed changes in the legislation are significant and are deserving of adequate time and review to verify that the suggested changes in the law will result in the intended outcome. Our discussions with the development community strongly indicate that there has not been adequate consultation or discussion to insure that intended outcomes will be achieved, and there is significant opinion that the proposed changes will have a negative, rather than a positive impact on housing projects.

Having said that, the Department has concerns about several very specific amendments as proposed:

TO SUPPORT AND EMPOWER OUR COMMUNITY TO REACH ITS FULLEST
POTENTIAL FOR PERSONAL WELL-BEING AND SELF-RELIANCE

1. Department management of the project wait lists, both for rental and for sale projects.

The Department has no objection to referring lists of interested residents to developers for their projects and requiring the developers to prioritize these residents for units. However, determining eligibility of the families on the list should be done by the developer. For rental projects, the liability associated with making an error when determining eligibility can be significant, especially, for example, if the project developer has been granted Low Income Housing Tax Credits. From discussions with the project developers, it is clear that the staffing and cost required to complete the work would be significant. For for-sale projects, the developers' ability to obtain financing is dependent upon finding qualified buyers. Developers have significant investment in these projects and delays in determining eligibility increase the cost of development thus making homes less affordable to our residents.

The Department believes that the responsibility for maintaining the wait list and determining eligibility should continue to be borne by the project and the developer. If the Council is concerned about mortgage steering, for instance, we believe that there are alternate avenues to address this issue than to shift the workload to the County and the Department. This can be done either through training for developers, or by providing more clearly written selection procedures that developers must adhere to.

2. Priority based on length of residency.

The amendments proposed were modeled after a policy currently in effect in the District of Columbia (DC), with one very significant difference. The DC model places priority on the wait list based on the length of time the individual has been on the interest list, rather than the length of their residency.

The debate about whether durational residency runs contrary to Fair Housing or Constitutional law aside, the Department is deeply concerned about the proposed durational residency from a logistical aspect. The documentation and verification process to determine the length someone has been a resident, minus absences, would be subject to errors and challenges, and we foresee significant and perhaps unnecessary administrative time devoted to determining length of residency and defending residency calculations.

3. County requirement to purchase units as proposed in 2.96.090(D)(4)(d).

The Department believes that it would not be in the best interest of the County to require the purchase of all workforce housing units, prior to those units being sold at market. We encourage the Council to amend this section to give the County the right to purchase, but not be required to purchase. This change will allow the County to evaluate the value and necessity of the purchase before making a decision. Aside from the expense and unpredictability of these purchase requirements, there are additional concerns and cautions that should be exercised before compelling the County to purchase homes. These include the County's limited capacity to hold residential real estate, to sell homes, and the inadequacy of planning for a land trust of some kind to possibly take ownership of homes.

4. Publication requirements for rental projects as proposed in 2.96.100(3).

Publication in social media outlets tends to attract a great number of non-local applicants for rental projects.

To add further context to the Department's comments, we note that Chapter 2.96 MCC was enacted in 2006, and after very careful consideration and much debate, was amended in 2015. As a result of the amendments, data indicates that MCC 2.96 which originally had produced almost no units between 2006 and 2104, enabled nearly one thousand (1,000) housing units completed or under construction today. Additional projects representing another fourteen hundred seventy-four (1,474) units have executed workforce housing agreements with the County and are pending. The majority of these units are workforce units. This has been a significant shift in momentum in favor of housing development for our community. Inasmuch as the amendments proposed to Chapter 2.96 MCC will also impact projects utilizing 201H and MCC 2.97 processes, we would respectfully ask this body to thoroughly vet these proposed changes with the community before taking action, and possibly losing the momentum we have gained in recent years.

The Department appreciates your time and consideration. Should you have any questions, please feel free to contact me at Ext. 7805.

Sincerely,



LINDA R. MUNSELL
Deputy Director of Housing and Human Concerns

xc: Honorable Michael P. Victorino, Mayor
Housing Division



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COUNTY CLERK

2021 SEP 30 AM 11:09

RECEIVED

September 30, 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: Comments on Bill 101 ("**Bill 101**") ("A BILL FOR AN ORDINANCE ESTABLISHING A NEW CHAPTER 3.47, MAUI COUNTY CODE, IMPLEMENTING A COUNTY TRANSIENT ACCOMMODATIONS TAX")

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

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

Thank you for allowing ARDA Hawaii to submit testimony **providing comments** to the proposed bill establishing a new chapter 3.47 to the Maui County Code, implementing a county transient accommodations tax. ARDA Hawaii is the local chapter of the trade association for the timeshare industry. Timeshare is an important and stabilizing part of the tourism industry and Maui's economy. Timeshare owners have made a long-term commitment to Maui by purchasing and owning real property in the County. These owners are consistent and dependable visitors who bring substantial tax dollars to the County and continue to come even during periods of economic downturn.

Bill 101 establishes a county transient accommodation tax of three percent (3%) ("**County TAT**"). The new County TAT imposes a monthly tax on the gross rental or gross rental proceeds derived from the furnishing of transient accommodations. Every transient accommodation broker, travel agency, and tour package that arrange transient accommodations, and every operator, and occupant of a resort time share vacation unit, must pay to the County TAT once it takes effect upon the approval of the ordinance. Pursuant to Section 3.47.010, the new County TAT is "considered levied on October 1, 2021." The County TAT takes effect upon the approval of the ordinance.

ARDA Hawaii understands the need for the County to establish the County TAT, however, we have concerns with the timing of the application of the additional 3 percent increase. The Council intends to have the County TAT levied from October 1, 2021, which is the same day that it is being heard for second and final reading. Essentially, this would mean that the

County TAT would be retroactively applicable to reservations made on October 1, 2021, even though the bill has not been signed by the Mayor. Timeshare operators will not be able to disclose the new tax to guests in advance. Furthermore, timeshare operators will not be able to charge guests for the County TAT until Bill 101 has been officially passed and signed into law. Therefore, operators will need to pay for the County TAT themselves for reservations between October 1 and the date Bill 101 is officially approved and able to be included in charges for rooms.

Moreover, timeshare resorts will need to update their Hawaii disclosure statements and file with the Department of Commerce and Consumer Affairs ("DCCA"). This is often a time-consuming process requiring approval from the DCCA. Having Bill 101 be effective upon approval and levied on October 1, 2021, will lead to inadequate disclosure to customers. Imposing the County TAT in this manner will make it impossible for developers and operators to provide full and fair disclosure to buyers, owners, and other occupants.

Accordingly, ARDA Hawaii respectfully requests the County TAT not be levied until, at a minimum, the date immediately subsequent to being officially passed to allow: 1) appropriate notice to be given to travel partners that the law has been signed; 2) hotel operators to charge for the County TAT that is officially passed; 3) booking engines to be updated with the new County TAT; and 4) rental agreements to be modified with the new required language. Further, the any additional time will provide developers and timeshare operators time to update disclosure statements with DCCA and provide consumers with full and fair disclosure.

Specifically, ARDA Hawaii recommends the following amendment to Bill 101:

1. Amend 3.47.010 to state " This tax is considered levied on the date after the Bill has passed."

Mahalo for your consideration of our comments. We look forward to working with the Council on implementing a policy that will enhance the ability of developers and operators to comply with the new existing laws and requirements that compel fair and full disclosure of the County TAT to consumers.

Respectfully Submitted,



Mitchell A. Imanaka
Chair
American Resort Development Association of Hawaii

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To: Council Chair Alice Lee and Maui County Council Members
Fr: Lynn Britton

2021 SEP 30 AM 11: 28

RE: Testimony for the Oct 1 County Council meeting, on the following items:

- HSAC Legislative Package
- Air traffic noise over Ma'alaea
- Requiring registration numbers for transient rentals in apartment districts
- Implementing a County Transient Accommodations Tax

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I am submitting my personal testimony to the Council for these items on the Oct 1 agenda:

HSAC Legislative Package

I support the assessment of impact fees on tourism-related vehicles as well as a green fee surcharge on transient accommodations and hosting platforms. We must address the goals of environmental protection and enhancement. Restoring Ma'alaea Bay and the watershed are crucial for Maui's future. In addition, we must focus on placing rental car rentals in the resort areas of the island so that it is not automatic that they rent a car at the airport. Public transportation and resort shuttles need to be encouraged and marketed to visitors.

Please be sure that the fees go directly to the individual counties where the revenues are generated and not follow the precedent of traffic fines that go to the State general fund.

Aircraft Noise Abatement over Ma'alaea

Please lend your support to Ma'alaea's request for action from the appropriate airport officials and the FAA, to bring relief to residents and visitors from the excessive noise caused by air traffic at low altitudes directly over Ma'alaea.

Air traffic has increased continuously for the past 20+ years (with exception of short period of the pandemic-related travel disruptions) and now is near historic highs. Flights are routed directly over the community, at low altitudes, and the noise is frequently so loud that normal conversations and phone calls have to be interrupted until the offending jet airliner passes by.

This is not only a nuisance, but a real health issue, and a real problem that can and should be addressed. The simple solution is to route traffic over the uninhabited area between Ma'alaea and North Kihei. Aircraft actually fly that space from time to time in present day.

Ma'alaea Village and Haiku face similar problems. Although neither the Maui County Council nor the Mayor have direct authority over airport operations or the FAA, the Council can recognize the problem and request the appropriate authorities take action to address.

Requiring registration numbers for transient rentals in apartment districts

I support the Planning Director's recommendation to require registration numbers for transient rentals in apartment districts approved by all Planning Commissions. It is also important to make sure that ties in with the real property tax roles.

Maui has been my home since 1973. I bought and lived in my Island Sands condominium in Ma'alaea from 1985 until my marriage in 2009 when I moved to Waiehu. Doing vacation rental helps me pay the bills, it also supports the small business owners that market and clean the unit and state and county tax coffers because I pay a very high real property tax and GET and TAT. Legitimate vacation rental owners like me would not object to the County's efforts to police illegal rentals that have been allowed to proliferate because of a lack of enforcement by the County.


Bill No. 101 Implementing a County Transient Accommodations Tax

I understand the County's interest in implementing a County Transient Accommodations Tax. The possibility of bringing in over \$50 million from a 3% tax is exciting. I caution the Council and the Mayor to focus on the need to re-establish Maui County as a quality visitor destination. Invest in our communities for the mutual benefit of residents AND the visitors who will be generating these new revenues.

Focus on enforcement against illegal rentals, provide funds to protect and preserve our special natural and scenic resources such as Ma'alaea Bay and the Pohakea Watershed, address climate change on our beaches and wetlands, improve infrastructure and help communities such as Ma'alaea eliminate injection wells and cesspools and provide transportation alternatives to relieve traffic on our roads.

Maui residents' concerns about 'over tourism' are legitimate and shared by many, but there is a conflict between talk of over tourism and efforts to tax the industry to produce additional revenues. There needs to be a well thought out plan for the future of Maui's visitor industry. It will take a concerted effort to return to Maui's original philosophy of "quality" over "quantity" that led to our success and focus on the desired goals of cultural, agricultural and environmental tourism that attract the quality visitor who appreciates the uniqueness of our island home.

Thank you for listening and for your service to all of Maui County's people.

A handwritten signature in black ink that reads "Lynn Britton". The signature is written in a cursive, flowing style.

Sincerely, with Much Aloha,
Lynn Britton

County Clerk

RECEIVED

From: Carol Daum <gncdaum@gmail.com>
Sent: Thursday, September 30, 2021 11:59 AM
To: County Clerk
Subject: written testimony 10/1/21 Maui Council agenda

2021 SEP 30 PM 1:28

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COUNTY CLERK

 You don't often get email from gncdaum@gmail.com. [Learn why this is important](#)

Aloha,

Please submit this testimony tomorrow for Agenda item #21-479:

As a member of the MVA and a resident in Maalaea I am requesting that you (this council) please vote to request action from the FAA requesting relief of aircraft noise by:

- (1) that Ma'alaea be declared a noise sensitive area,
- (2) that noise abatement procedures be established, and
- (3) that all arriving aircraft be required to fly approaches which avoid flying directly over Ma'alaea Village.

This aircraft noise directly overhead is very disruptive, constant and irritating to an otherwise very quiet village.

Respectfully,

Carol Daum
190 Hauoli ST
530-318-6452

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County Clerk

From: Lynn Britton <blb@maui.net>
Sent: Thursday, September 30, 2021 2:53 PM
To: Alice L. Lee; Keani N. Rawlins; Tasha A. Kama; Gabe Johnson; Kelly King; Mike J. Molina; Tamara A. Paltin; Shane M. Sinenci; Yukilei Sugimura
Cc: County Clerk
Subject: Additional input on 3 % TAT RE Testimony for October 1 Maui County Council meeting
Attachments: 3% TAT Bill 101 (2021).pdf; Testimony for October 1 Maui County Council meeting

Aloha!

I apologize for not reading the fine print in Bill No. 101 to implement the County TAT that the tax would go into effect OCTOBER 1, 2021!.

It is highly unfair to impose the tax now without giving TVRs a chance to change their methods of assessing TAT taxes for bookings, etc. It's impact on small businesses like myself and others like me that handle their own rentals is severe.

It is confusing- if you have already received payments for rentals through the rest of the year and next, is the 3% to be added or not?

More work on this legislation needs to be done.

Mahalo for your consideration!

With Much Aloha,

Lynn Britton

"The future depends on what we do in the present." Mahatma Gandhi

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2021 SEP 30 PM 3:20
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