Planning and Sustainable Land Use Committee (2021) on 2022-06-02 9:00 AM

Meeting Time: 06-02-22 09:00

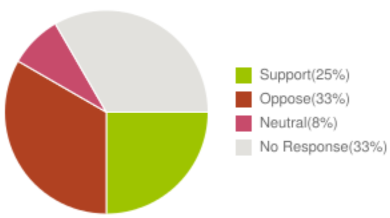
eComments Report

Meetings	Meeting Time	Agenda Items	Comments	Support	Oppose	Neutral
Planning and Sustainable Land Use Committee (2021) on 2022-06-02 9:00 AM	06-02-22 09:00	4	12	3	4	1

Sentiments for All Meetings

The following graphs display sentiments for comments that have location data. Only locations of users who have commented will be shown.

Overall Sentiment



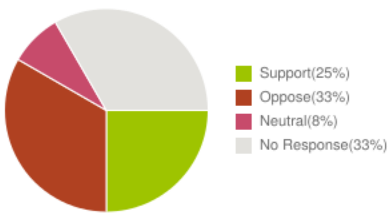
Planning and Sustainable Land Use Committee (2021) on 2022-06-02 9:00 AM
06-02-22 09:00

Agenda Name	Comments	Support	Oppose	Neutral
A G E N D A	3	1	2	0
PSLU-34 CC 21-422 PHASING OUT TRANSIENT ACCOMMODATIONS IN THE APARTMENT DISTRICTS (PSLU-34)	6	1	1	1
PSLU-52 BILL 82 (2022) BILL 82 (2022), RELATING TO PERMITTED USES IN THE M-2 HEAVY INDUSTRIAL DISTRICT (PSLU-52)	3	1	1	0

Sentiments for All Agenda Items

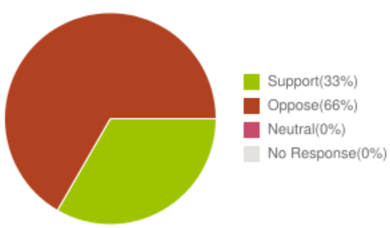
The following graphs display sentiments for comments that have location data. Only locations of users who have commented will be shown.

Overall Sentiment



Agenda Item: eComments for A G E N D A

Overall Sentiment



Guest User
Location:
Submitted At: 10:28am 06-01-22

Its pretty sad that you want to restrict/take peoples rights to their property, take from home owners and give them to someone else. Clearly you do not understand what the “make up” of these vacation rentals entail. What next will you come up with? You can own a car here on Maui, but not drive it, or you can only drive it if you live here on Maui full time, or you will be forced to give you’re car to someone else? You want to FORCE people to give their properties away, that is as unamerican as it comes. It also screams that you support the hotels and time shares, which by the way are taking over Maui with your blessings. How many hotels/time shares have been built here just in the past 6 years? MANY No restrictions there, and they’re on the water front, greedy hotels that want to squash out the little guy.
I live here on Maui for the past 10 years, and own a small condo, which is a vacation rental, for the past 17 years.

You have no idea what those buildings are like, or the cost to own one, they were built 50 years ago specifically for vacation rentals. They have NO fire sprinkler systems, thin floors and walls, you can hear someone walk across the floor or move a chair upstairs, squeaky bed, you can hear their phone conversation, or someone's sneeze two doors down or across the courtyard, each condo comes with one parking spot per condo, no street parking, one dumpster (that's all there is room for) this is not conducive to long term rentals, they were not built for long term living, they're small spaces crowded in, and resemble the years ago old term "living like rats" that's why they're short term rentals, they're hotel rooms, people crowded together long term do not fare well in tiny places.. Parking is always a nightmare, parking lots are tiny, parking stalls are tiny, the parking lots were crammed in and built 50 years ago are for small cars, there is no room for expansion. Pets are not allowed, there is only ONE parking spot, NO storage, no visitor parking, no handicapped parking, and condo's come with exorbitant payments and condo dues. They are not ADA compliant, they're too small, no handicapped parking, wheel chairs will not go down cement stairs, nor grassy embankments, nor fit in front doors, or interior doors/bathrooms that are tiny, these buildings were built in the 70's, electrical wiring does not support AC. Run the dishwasher, microwave, toaster and oven at the same time, or you could blow a breaker. Is that how buildings today are built? The answer is no.

These condo's were not acquired free, they come with payments. These buildings are NOT like buildings built as apartments, they are small 1 bedroom condos, some with small lofts, or studio apartments, all come with major cost to upkeep. Just the condo dues alone are $1,500 - $2,000 per month, plus taxes, plus insurance, plus flood insurance, and a mortgage payment , this DOES NOT support affordable housing. Forcing people to do long term rentals on these condo's doesn't solve any housing problem, payments, dues etc. are tooo high, even selling them for half price does not get rid of condo dues nor payments, nor taxes etc. Are you going to attempt to change the by-laws that govern the use of these buildings? Those by-laws that were created when these condo's were built? By-laws, can not be changed without a vote of the majority of the condo owners. These bylaws govern the condo's use, and inflict strict condo rules on owners which are passed on to the occupants whether a home owner or tenant, examples include; no surfboards, no bicycles, no storage bins on lanais, no plants, clothes, towels nothing hanging on the rails of the lanais, no exterior decorations, flags, seasonal decorative lights etc.. some By-laws say no owner occupants nor long term tenants. Condo's come with those rules and more, they also include a front office, for STR rentals, again they were built for vacation rentals, they're called condotels, they come with managers, housekeepers, gardeners, office staff, handy men, are you willing to put those people out of jobs as well?

How are tenants going to be able to afford these building's that come with multiple assessments? Sea Walls that fail, new roofs, new paint, new doors, new windows, siding, doors, pools, , spalling lanai's, spalling building framework, repave old and crumbling parking lots, failing cast iron pipes in the grounds, and that run thru interior walls, sewer pump stations, that require constant maintenance and huge fines should they fail, none of these items are FREE to fix, they all come with Millions of Dollars of assessments passed on to the condo owners, which add an additional $500- $1,000+ a month, in payments.

People don't build hotels whose rooms are used for long term rentals, these condo's mimic hotel rooms they were not built for long term use, they're built for short term use, bring your suitcase, nothing else. Purchase of food items, cans foods, chips, bread etc. get stored in the fridge because there is no room in the small kitchens whose shelves were not designed for storage other than space for dishes, pots and pans and silverware. These condo's are different than apartments, they're like hotel rooms, yet you want families to rent them long term?

Ten years ago I could not find a job here on Maui what so ever. During covid there was no one here to rent short or long term to, the banks and county did not stop collecting taxes or payments from homeowners, and all those buildings sat vacant. What would happen if this happened again? Propose another bill to turn the STR apartments back into vacation rentals so you can collect higher taxes to support the county? Hawaii as well as other states let tenants skip making payments on rents during covid, so landlords went without rents, that isn't incentive for landlords, as the banks did not forgive payments, condo associations did not forgive condo dues, and the State of Hawaii, Maui County, still collected property taxes, no forgiveness to homeowners, and no one could evict a tenant not paying rent.. . This short sighted attempt to take peoples properties is terrible. You will put banks back in the foreclosure business, which is a way to help collapse an economy. Banks do not sell property cheaply especially when they add on delinquent association condo dues, attorneys fees, and all of the past due interest and payments to the sales price.

A $5,000 mortgage payment, is not affordable tenant housing. This proposal is not a solution to affordable housing. Affordable housing does not involve taking peoples properties, it involves long term planning, and building the right type of housing. The State was flooded with CARES money, where did that go? Why isn't it being put to good use? If you want affordable housing, build apartments that are equipped for families or multiple tenants, which include parking, storage space, soundproof walls, include space for the handicapped, allows pets,

and has affordable rents. How would you like to vacation at your favorite spot in the country and find your only option is a hotel, and oh the rates are exorbitant because there are less options on where to stay, would you go? Probably not, and that may collapse that states economy by people staying away, and oh the flight to get there is crazy money because of the cost of fuel!
With this proposed bill you're not considering future impact here on Maui, you're pandering to greedy hotels that are taking over, and you're allowing it. Why don't you make the hotels or time shares build affordable housing, they have deep pockets, or suggest they give up some of their rooms for long term rentals? They have plenty of rooms, and make sure the tenants don't get charged for the hotels daily parking fees, maybe they could share some of their space with the residents here on Maui, I'm sure they'd love to "give back".
I am the "mom & pop" business you are trying to put out of business, the one you are discriminating against, not to mention that all of us homeowners/condo owners support other businesses here on Maui. Inflation is coming, you are not preparing for things to come, you're only living for todays "I wants" , not preparing for the future of the disaster that is looming, is a disaster in the making. .

Guest User
Location:
Submitted At: 4:38pm 05-31-22

Take a good look at the below for some concerning facts. Before even getting into specifics, the first point explicitly states what should be a major red flag for residents. While the council may think this is beneficial for residents, the unfortunate issue is that if this does pass the amount of taxable income from TVR's is a significant portion (almost 9%!) of the county budget. That doesn't include the new 3% county TAT. Do we truly think this loss will help the county to achieve its goals of funding affordable housing?

1. This Bill Would Defund Affordable Housing for Maui County:

Maui County's recent Comprehensive Affordable Housing Plan, calls for the County to "increase funding into the Affordable Housing Fund to $58 million annually."
This increased contribution to the Affordable Housing Fund will be used to effectuate necessary infrastructure updates and to allow the County to play a meaningful role in the development of truly affordable housing.
If this legislation is passed, we estimate thatthe County stands to lose as much as $74 million in property tax revenue annually (which is roughly 8.77% of the total operating budget!).
This loss in revenue would make it difficult for the County to maintain the services it currently provides, and it would make it impossible to increase funding to the Affordable Housing Fund.
Without the revenue, there is no investment in Affordable Housing, and there will be property tax increases for everyone else.

2. This Bill Will Harm the County, the State, and Many Others:

The STR property tax class in Maui County is expected to produce $137,908,224 in property tax revenue for the County in FY 2022 (more than 5 times as much as the Hotel class or the Owner-Occupied class).
With there being roughly 13,466 properties in the STR class overall, the average amount of tax paid by each property is $10,241 per property.
This legislation is designed to remove just over 7,300 properties from the STR property tax class, which equates to roughly $74 million in lost revenue! That is equal to 8.77% of Maui County's operating budget for this year.
The only way to make up for this huge loss in revenue is to increase property taxes for everyone else..
This bill will also remove 7,000+ units from paying TAT, which we estimate to be a loss of roughly $69 Million in TAT revenue for the State of Hawaii. Now that the County will also be charging a 3% surcharge, it will result in direct loss of revenue for the County as well
Conveyance Tax losses could be substantial, but are difficult to estimate at this time. These 7,000 properties currently equate to billions of dollars worth of real estate, but some estimate that they could lose as much as half their value the moment this legislation is passed. That will be devastating for conveyance tax revenue, and devastating to individuals who own these properties. There is the distinct possibility that this legislation could also cause a bit of a financial crisis, since many current owners will suddenly own more on their mortgages than the units are worth. That is essentially what happened on a national level in 2008, and we all remember how bad that was.

3. This Bill is Yet Another Gift to the Hotel Industry!:

During the pandemic, the Hotel properties were the only properties that were assessed at a lower value due to lost revenue, and they were openly given priority in reopening when restrictions started loosening.
Now, through this bill, the County is eliminating the only real source of competition on the island that the hotels have.
These impacted properties are not “illegal short term rentals.” They are mostly professionally managed units in buildings that have historically been used for the purpose of transient accommodations. The main difference between these units and the hotels is that they are usually family owned, as opposed to the hotels that are owned by multinational corporations.
The only group that will benefit from this bill is the hotel industry, as the reduction in revenue this bill will cause will be devastating for everyone else in the County.
It will be most devastating to anyone that hoped the Affordable Housing Plan would actually produce affordable housing.

4. The Impacted Properties are Not Suitable for Our Residents:

The proposed legislation aims to “create long-term affordable housing opportunities for residents,” but the reality is that these properties are not suitable for that.
Parking is generally 1-2 spaces per unity, and the spaces are primarily for compact vehicles.
Units were designed as transient accommodations to begin with, and have minimal storage for families or long term occupancy.
Units are all 30+ years old, and have high maintenance fees and high special assessments to cope with aging infrastructure. Some recent special assessments have been as high as $100,000 per unit.
Impacted properties are primarily located in the sea level rise exposure area, and will face financial and practical challenges with climate adaptation. Turning these into “affordable housing opportunities” will almost certainly ensure deferment of critical infrastructure updates for many of these properties, and an increased risk of catastrophic circumstances (like the Miami Condo Collapse).

5. Is this Legislation Even Legal?

The counties are granted zoning authority by the State of Hawaii through HRS § 46-4, which does allow “for the amortization or phasing out of nonconforming uses or signs over a reasonable period of time in commercial, industrial, resort, and apartment zoned areas only.”
However, TVR use is explicitly permitted pursuant to the Maui County Code, and has been conducted in the Apartment Zoning Districts for a very long time by many properties. This is hardly a “nonconforming” use. Therefore, it is unlawful to abruptly eliminate the use in this manner.
These properties clearly have a vested property right to conduct transient rentals, and the proposed legislation will result in a lot of litigation against the county. Some might argue this legislation is a government taking or violation of due process, and there will likely be claims for zoning estoppel, and it will ultimately cost the County (i.e. tax payers) a lot of money to sort out.

Guest User
Location:
Submitted At: 8:19am 05-31-22

Legal memo re Phasing Out the Minatoya condo-TVRs
Submitted as written testimony for the PSLU Committee meeting of 6/2/22
From Michael Williams, 808-264-4884; MichaelWilliams@PueoFarm.com

Background
In 1991, the Council banned TVR use in the Apartment districts. Many owners objected, and soon Corporation Counsel was asked for a legal opinion on whether the non-conforming use could continue in buildings constructed before the ban. Deputy Corp. Counsel Richard Minatoya issued an opinion letter that concluded such use could continue.
These condos, all in buildings constructed before 1989, were allowed to continue renting short term to tourists. In 2016, the Council codified that opinion so that TVR use was explicitly allowed in those older buildings. There are about 7,000 such condos.
Now several Council members want to phase out that nonconforming use so that these condos can no longer be

operated as TVRs.
There are two important policy reasons for this proposal:
1. Reduce the number of tourists back toward the Maui Island Plan prescribed balance of 1 visitor for 3 residents. In 2019 and again this year, that ratio has reached 1 visitor to 2 residents. Maui Island has a resident population of about 155,000. Therefore, we should not have more than about 52,000 visitors on any given day. In July and August this summer we had a daily census of about 75,000 visitors---23,000 too many.
2. Increase the amount of housing units available for residents, either as live-in owners, or as long term renters. It is not knowable now how many of these 7,000 condos will become residences for locals, but surely many of them will.
CM Johnson, in July, made this zoning change one of his top five priorities in implementing the Comprehensive Affordable Housing Plan.
CM Paltin agreed to take the issue up in her Planning and Sustainable Land Use Committee. She submitted a draft bill to the Council at its August 24, 2021 meeting, along with a resolution to send the draft bill to the three Planning Commissions, as required by the County Charter for any zoning change. The Council agreed unanimously to the requested referral. CM Paltin has put it on her committee's agenda for June 1, 2022.
In the meantime, CM Rawlins-Fernandez proposed an alternative bill that would eliminate TVR use only in the Minatoya condos outside the 3.2' sea level rise zone. That bill is also on tomorrow's agenda.
LEGAL ISSUES
The affected owners are certain to file legal challenges to this zoning change if the Council approves it. There are likely to be challenges to its constitutionality under the Fifth Amendment Takings Clause and also under a Hawaii statute that deals specifically with the elimination of nonconforming uses in Apartment districts.
1. Federal law:

Under the controlling federal case law, this zoning change would not be a "taking" and would not require compensation to the owners even if they could show a reduction in value. Without going into detail, the basic us Supreme Court rulings on these zoning changes is that if the owner is left with other reasonable uses of the property, no compensation is due even if there is a diminution in value. Here, the owners can still use the property as a long-term rental, as their own principal place of residence, or as a second home. There are a couple very recent lower court decisions that have examined new zoning changes eliminating or greatly curtailing use of residential property for short term rentals and found they dis not violate the federal constitution and did not require any compensation to the owners: Hignell v City of New Orleans, 476 F. Supp 369 (US Dist. Ct E.D. Louisiana 2020); Nekrilov v. City of Jersey City,. (__ F. Supp. __, 2021 WL 1138360--only the Westlaw citation is currently available—US Dist, Court, D. New Jersey.)

These two decisions thoroughly analyze the case law in reaching their conclusions. (I have attached both to the cover email.)
It is important that the bill contain a statement of the "public purpose" that justifies the change in zoning. Here there are several: preserve the island's natural resources, reduce strain on its infrastructure, and help to alleviate a critical housing shortage.
2. State law:
When I discussed this proposed phase out with Planning Director Michele McLean last year, she called my attention to a state statute that provides for the elimination of non-conforming uses in Apartment districts. HRS 46-4 (a) provides in relevant part:
". . . a zoning ordinance may provide for elimination of nonconforming uses as the uses are discontinued, or for the amortization or phasing out of nonconforming uses or signs over a reasonable period of time in commercial, industrial, resort, and apartment zoned areas only."
The concept of amortization of the financial impact on property owners of a zoning change is a well-established principle in US law. There is a large body of case law from other states, but so far as I have found, no Hawaii case has ever interpreted HRS 46-4 (a). Director McLean suggested a reasonable period of time in this case would be three years.
CM Paltin's proposed bill would eliminate the TVR use as soon as the condo is sold—i.e., no new owner could acquire the right to TVR use. This rule does not appear to allow any "time period" if the current owner must or wants to sell soon. It also would allow some gamesmanship in the identity of the "owner". Suppose the owner is a corporation, and a new investor acquires an interest in the corporation, but the recorded 'owner' on Maui's real property rolls stays the same?
CM Rawlins-Fernandez's alternative would phase out only those TVR's in the apartment district that are outside the seal level rise zone, allowing those 3000 or so TVR condos threatened by seal level rise to continue

operating. But it has the same legal flaw as the Paltin bill—the loss of TVR use is immediate when the bill takes effect, and allows no reasonable amortization time period.

I believe the bills should be redrafted so that TVR use is ended 2-3 years after the bill's passage. Use of a corporation as owner would not matter, a sale would not matter. Moreover, the time between the passage of the bill and its effective date would allow the courts to rule on the legality of the change before any TVR use must cease. If the court thought the time period should be longer than 2 or 3 years, the bill could be amended accordingly before any tourist was turned away.

3. Corporation Counsel's analysis.

When this proposed phase out of the Minatoya condos came up in the July 19, 2021 meeting of CM Johnson's committee, Corp Counsel Daniel Kunkel promised CM Molina to produce an opinion in writing about phasing out TVR use by a future date, like 2025? So, if I could just get comments from Corp. Counsel on that.

MR. KUNKEL: I would need to get back to you on that, and I can do that.

VICE-CHAIR MOLINA: Okay. If we could get that in writing.

MR. KUNKEL: Sure.

Committee Chair Johnson followed up with a letter on July 30 to Corp Counsel that made this request:

"Please indicate whether the Council can legally establish an end date
for the phasing out of the short-term rental homes exemption in the
Apartment District."

Corp Counsel responded with a formal letter on August 27 but declined to answer CM Johnson's and CM Molina's question. Mimi Desjardins said:

"This subject matter was referred to the Planning and Sustainable Land Use Committee during the August 24, 2021, Council meeting (County Communication No. 2l-4221). Because the matter will be taken up by PLSU, the preference is to address this substantial matter in that forum."

Of course, the affected condo owners will be opposed.

The hotels will favor the bill because it will reduce their competition for tourists. There are several thousand TVR condos in the hotel zone, and they will support the bill for the same reason.

The Realtors Association of Maui has stated its opposition too, maybe because many realtors act as rental agents for the TVRs.

The many small businesses who sell stuff to tourists will probably oppose the bill as well.

On the other hand, residents who would like to own or rent their own home here will be in favor of the bill, as will those of us who think Maui has an over-tourism problem.

Although these condos would not become "affordable" homes, to the extent they increase the supply of homes for owner occupants or long-term renters, that increase in supply should work to open the lower end of the housing market to lower income residents.

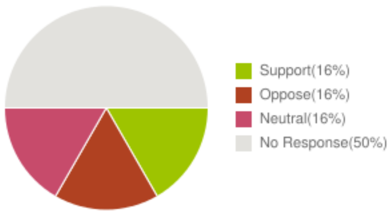
2. Are TVRs worth the costs?

It is not at all an established fact that condos with TVR use are more highly priced than similarly situated condos barred from such use. Take the very interesting situation at the Palms at Wailea I and II. These are essentially identical, side by side, high end condo complexes. PW I was built before 1989 and contains Minatoya condos. PW II was finished in 1991 and does not allow TVR use. Yet an analysis of real estate sales records shows that sales prices are consistently higher for PW II condos than for PW II. An owner tells me that second home owners prefer the peace and quiet at PW II, while in PW I there is a constant churn of tenants every week, strangers around all the time, and any more late night parties.

Conclusion

The County should support phasing out TVRs in the Apartment district but grant them 3 years before the phase takes effect, to allow owners to adjust their plans for using their condo in some fashion other than as a TVR.

Overall Sentiment



PSLU Committee
Location:
Submitted At: 1:03pm 06-02-22

Testimony received by PSLU Committee.

Guest User
Location:
Submitted At: 10:18am 06-02-22

Aloha Council Members,

I support this most recent version of PLU34, essentially giving the choice to the HOA and owners of individual condo and apartment complexes to phase out TVR if the majority of their owners vote for that.

Much Mahalo,
Colleen P Medeiros

Pamela Tumpap
Location:
Submitted At: 9:10am 06-02-22

Please see attached written testimony.

Jason Economou
Location:
Submitted At: 2:02pm 06-01-22

Aloha Committee Chair Paltin and Committee Members,

I am submitting this testimony on behalf of the REALTORS Association of Maui and our 2,000 members in my capacity as their Government Affairs Director. The REALTORS Association of Maui (RAM) remains strongly opposed to the legislative proposals put forth in County Communication 21-422 (dated 08-04-2021) and in Correspondence from Council Vice-Chair Rawlins-Fernandez dated 10-29-2021. Notwithstanding, RAM supports the most recent legislative proposal contained in the Correspondence from Committee Chair dated 05-27-2022.

As we have expressed in previous testimony, the two legislative proposals put forward in 2021 failed to recognize the well established equitable doctrines of vested rights and zoning estoppel in Hawaii jurisprudence. The fact remains that transient accommodations are a permitted, and thereby “conforming,” use within the Apartment Districts. As such, the County of Maui cannot simply eliminate the use and strip property owners of a vested right that is both explicitly permitted by zoning, and supported by countless assurances from county officials over the span of decades. To do so would be a clear violation of Hawaii law, and a likely violation of state and federal due process. With that in mind, we urge this committee to abandon the previous proposals in whole, and focus exclusively on Committee Chair Paltin’s most recent proposal.

The newest proposal from Committee Chair Paltin does an excellent job of balancing the vested rights of property owners against this Council’s desire to reduce the number of TVRs. This method of voluntary conversion is necessary to avoid harsh legal and economic consequences for the county, and it is likely to succeed over time given the consistent trend of tax increases placed on the short term rental class. In that sense, if these properties are to be removed from the short term rental property tax class upon conversion, this legislation is more of a tax relief measure than a land use restriction.

Ultimately, the County of Maui must recognize that it has a duty to respect and uphold the vested rights of individuals, as well as a duty to preserve the economic well being of the county. We know that the earlier proposals would violate vested rights of property owners, and we have economic data that strongly suggests those proposals could eliminate approximately 14,000 jobs and upwards of $2 billion from Maui County's annual GDP. These consequences can largely be avoided simply by incentivizing the actions you want and working with property owners, instead of against them.

The REALTORS Association of Maui recognizes that this Council's interest in phasing out transient accommodations in the Apartment Districts is well intended, and seeks to address the concerns of the community. Notwithstanding, two of the three proposals you have before you are essentially unlawful and accompanied by significant negative economic consequences (a slide deck outlining those consequences is attached). With that in mind, we urge you to focus your efforts on other issues facing the county, or move forward with the newest legislative proposal from 05-27-2022.

Mahalo,

Jason A. Economou
Government Affairs Director
REALTORS Association of Maui

Guest User
Location:
Submitted At: 8:18am 06-01-22

Mahalo for the opportunity to submit testimony.

I think the new proposal is the right thing to do in this situation. This protects the rights of property owners and doesn't take the right away from property owners who have utilized this right for many years.

I would think the higher tax rates that these owners pay for these properties, is a substantial piece of the county budget.

And it's good for the consumers who visit the island to have at least a few other choices than super high-priced resort hotels.

Sincerely,

Cheryl Ramos

Guest User
Location:
Submitted At: 6:53am 06-01-22

Dear Chair Paltin, Vice Chair King, and Members of the Committee:

On behalf of Airbnb, mahalo for the opportunity to comment on recent proposals to phase out transient accommodations in apartment districts. Airbnb has worked to advocate for a reasonable short-term rental policy that ensures our compliance with local laws and supports the tourism industry in Maui County. We are deeply concerned by the proposed phasing-out of transient accommodations, which (1) risks harming the local economy; (2) interferes with the stable framework for short-term rentals currently in place; and (3) poses a direct conflict with state law.

Negative impact on the local economy
Airbnb has been proud to play a critical part in the County's recovery from the COVID-19 pandemic. The typical

Host in Hawaii earned more than $11,500 in 2021, which represents about two extra months of pay for the median US household and is far more than most Americans received in government-provided stimulus payments. Since 2010, Hosts in Hawaii have earned a total of approximately $2 billion. Each Host and property in turn contributes to the local economy by supporting local small businesses that provide maintenance, housekeeping, management, landscaping, and other services.

Phasing out transient accommodations in certain zones prevents Hosts from earning critical income, deprives the local economy of vital support during challenging times, and reduces tax revenue for the County. Those consequences will likely be compounded by other proposals that seek to limit the overall number of transient accommodations in Maui.

Interference with existing regulatory framework
Airbnb has worked with Maui to support a reasonable regulatory scheme for short-term rentals, providing stability, transparency, and certainty to Hosts and guests. At the heart of that framework is the compliance agreement between Airbnb and Maui, signed in 2021, which gives the County powerful tools to enforce its regulations. Under that agreement, Airbnb took down more than 1,300 listings without TMK numbers in late January and continues to take down noncompliant listings on a monthly basis.

We urge the Committee to continue to leverage our existing compliance framework and utilize its two-year planning process to develop comprehensive, reasonable regulations for hospitality accommodations across the island. That approach would prevent ad hoc, patchwork amendments from disrupting ongoing efforts and shifting the regulatory goalposts for Hosts, platforms, and County staff charged with enforcement.

Direct conflict with state law
The proposed phasing-out of transient vacation rentals in apartment districts stands in tension with state law. Hawaii Revised Statutes, Section 46-4, protects the “continued lawful use” of buildings or premises for residential purposes and bars local laws from amortizing or phasing out nonconforming residential uses. See, e.g., Robert D. Ferris Trust v. Planning Commission of County of Kauai, 138 Hawaii 307 (2016) (“preexisting lawful uses of property are generally considered to be vested rights that zoning ordinances may not abrogate”); Kendrick v. County of Kauai, No. CAAP-20-00057, Haw. Intermediate Ct. App (2020) (“plain and obvious meaning of the state statute [HRS, Section 46-4] . . .provides that a nonconforming use shall not be lost unless discontinued”)). The phase-out proposals at issue target the offering of a residential dwelling unit as a transient accommodation in apartment districts–a fundamentally residential use protected by the state statute. Kendrick, No. CAAP-20-00057, Haw. Intermediate Ct. App, *13 n.2 (planning commissions have found that transient vacation rentals qualify as “residential use”).

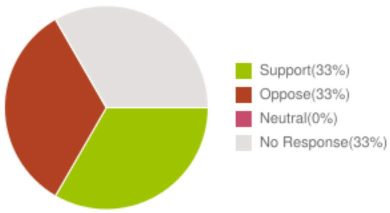
* * *

Mahalo for taking our comments and concerns into consideration. As always, we welcome an opportunity for continued discussion and collaboration on fair, reasonable regulations of transient vacation rentals in Maui County.

Sincerely,

Ayisha Irfan
Airbnb Public Policy

Overall Sentiment



Guest User
Location:
Submitted At: 8:42pm 06-01-22

Aloha PSLU Committee,

I support BILL 82 (2022) AMENDING CHAPTER 19.26, MAUI COUNTY CODE, RELATING TO PERMITTED USES IN THE M-2 HEAVY INDUSTRIAL DISTRICT with an AMENDMENT: Located on the same lot as business or LIGHT industrial (M1) uses.

I support the redevelopment of under used but already developed parcels. Utilities are already connected, making these parcels cheaper to develop. These areas have already been disturbed and cement poured. Redevelopment in the right places is better for the island.

Bill 82 will enable the redevelopment of underutilized retail like Queen Ka'ahumanu center. The empty stores could be converted to apartments, This would be a great place for affordable and workforce housing to be integrated into a mixed use building.

Business and light Industrial are appropriate with residential. This could help to redevelop overimpacted but underutilized areas in Kahului and Lahaina.

Housing near businesses could create walkable neighborhoods in the heart of town, and out of SLR-XA.
It will not impact truly industrial areas like P_lehunui.

Thank you for your time,
Karen Comcowich
Lahaina, HI

Guest User
Location:
Submitted At: 8:37am 06-01-22

Wednesday, June 1, 2022

Testimony

Bill 82, Related to permitted Uses in the M-2 Heavy Industrial District

As an Architect, a Planner and Chair Person for Kihei Community Association Design Review Committee, I OPPOSE allowing Residential usage in the M-2 Heavy Industrial District.

This bill is a mistake because it would permit land that has been deemed for Industrial use to be used for a higher use without proper vetting. Developers would be able to purchase less expensive Industrial land and use it as if they had purchased Residential land with no questions asked.

Most Heavy Industrial land is not in locations that are good for homes. Such land is usually not in places with the infrastructure that supports Residences, such as sidewalks, shopping, schools, parks and recreation.

If there is a particular project that would be well suited for Residential use in an existing Industrial zoned location, then the proper procedure for review and development must be followed. This includes changes to the existing community plan and changes to the zoning. These processes will allow oversight by the planning department and the community in order to do what is best.

Bill 82 should not be accepted. It will degrade the quality of Community Planning in Maui.

Thank you for your consideration of this very important matter.

Sincerely,

Randy Wagner, AIA, LEED AP

PSLU Committee
Location:
Submitted At: 2:26pm 05-31-22

Testimony received by PSLU Committee.

PSLU Committee

From: Maui Vacation Rental Association <jenrusso@mauivacationrentalassociation.org>
Sent: Wednesday, June 1, 2022 3:21 PM
To: Kelly King; Keani N. Rawlins; Tasha A. Kama; Alice L. Lee; Mike J. Molina; Tamara A. Paltin; Shane M. Sinenci; Yukilei Sugimura; Gabe Johnson; PSLU Committee
Subject: PSLU item 34
Attachments: PSLU 34 June 2 2022 testimony.pdf

Aloha e Planning and Sustainable Land Use Committee,

Mahalo for the opportunity to submit testimony.

Please see attached.

best,

Jen Russo
MVRA

August 11, 2020

Honorable Tamara Paltin, chair
Planning and Sustainable Land Use
And Committee Members
Council of the County of Maui
200 High Street
Wailuku, Hawaii 96793

RE: PSLU 34

Thank you so much for the opportunity to comment on PSLU 34.

We feel this newest iteration of the proposal that allows for voluntary TVR use change is better legislation. This could satisfy the goal of having a pathway for property to change its use away from short term, but leaves that decision to do so to be implemented by owners.

We do not support the other proposals that compel or force a change in TVR use on the owners, which could create many costly lawsuits for the county. Those proposals could also have more devastating financial consequences for the county, who get 37% of their real property tax from short term rentals.

This fiscal year Maui County's operating budget is the largest ever set at $1.07 Billion dollars, and for the first time will be going into the billions of dollars. This will be over a $200 Million increase, or 27% over last fiscal year.

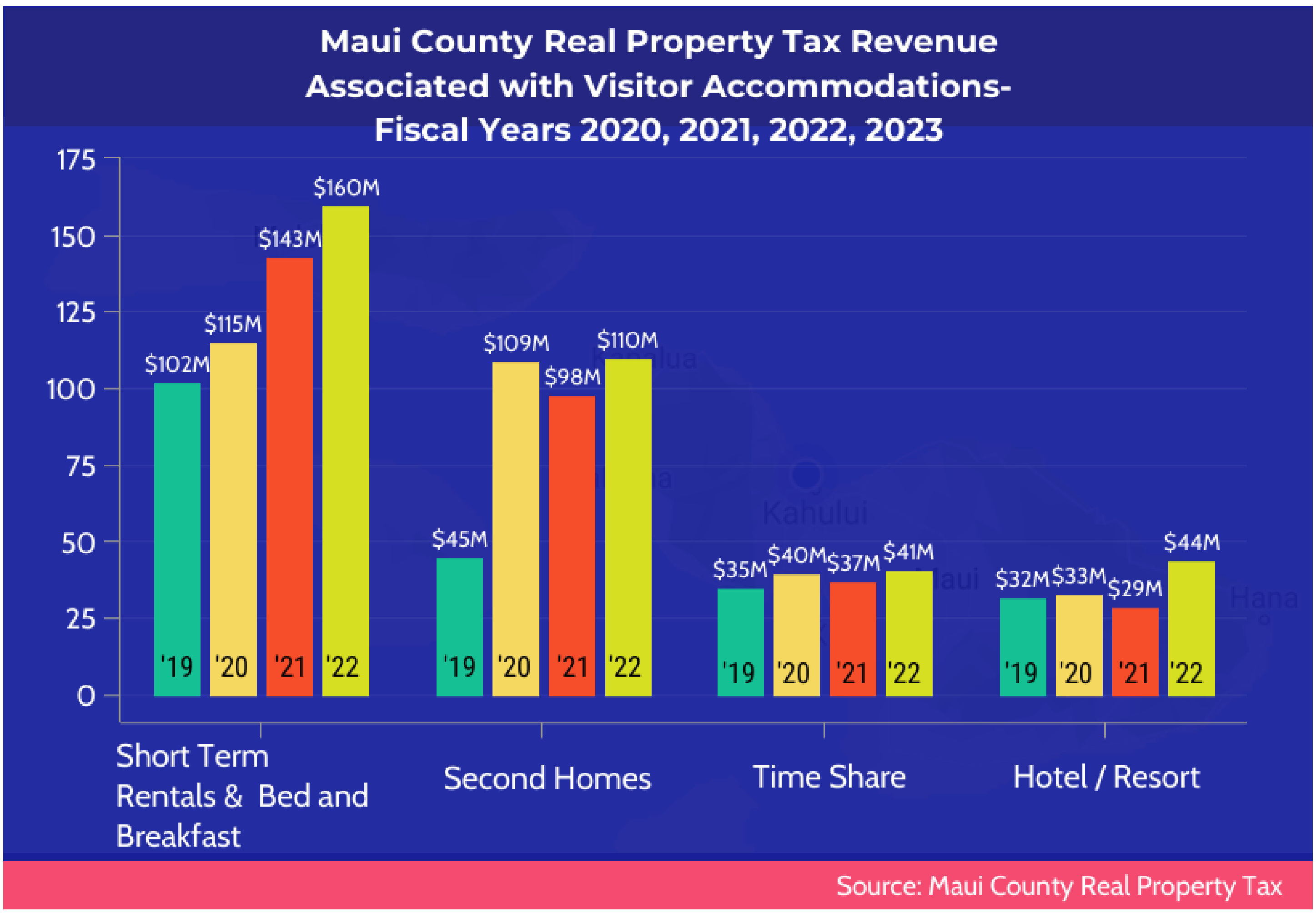
In all, the county will raise $430 Million in property tax revenue. Vacation Rentals will raise $160 Million in RPT tax, 12% more than last year. This was an increase of $17 Million in tax dollars, the highest increase in all the tax classifications. This year Short Term Rentals represents 37% of the real property tax revenue, and 15% of the total operating budget. The average short term rental property tax is $11,600.

Much of the increases in revenue in property taxes overall came from the increase in values of properties. Total assessments rose $4 Billion overall in Maui County in fiscal year 2022-2023. Increases in assessed values were 5% overall in the short term classification. Short term rentals will contribute $12.1 Million in revenue to the Affordable Housing Fund, the largest contribution of all the classifications, and the largest contribution to date. Over the last 5 years the short term rental classification has generated $31.5 million dollars for the affordable housing fund.

MAUI VACATION RENTAL ASSOCIATION

Visitor accommodations raise 82% of Maui's property tax revenue with second homes included. These numbers show Short term rentals are a significant contributor to the County of Maui, and a legitimate and critical part of the economic engine for Maui.

That being said, as the council considers changes in TVR use by buildings, I think there is a necessity to know how this affects future budgets, and the total amount of reductions to future tax proceeds. These properties also contribute State TAT tax as well as County TAT tax.

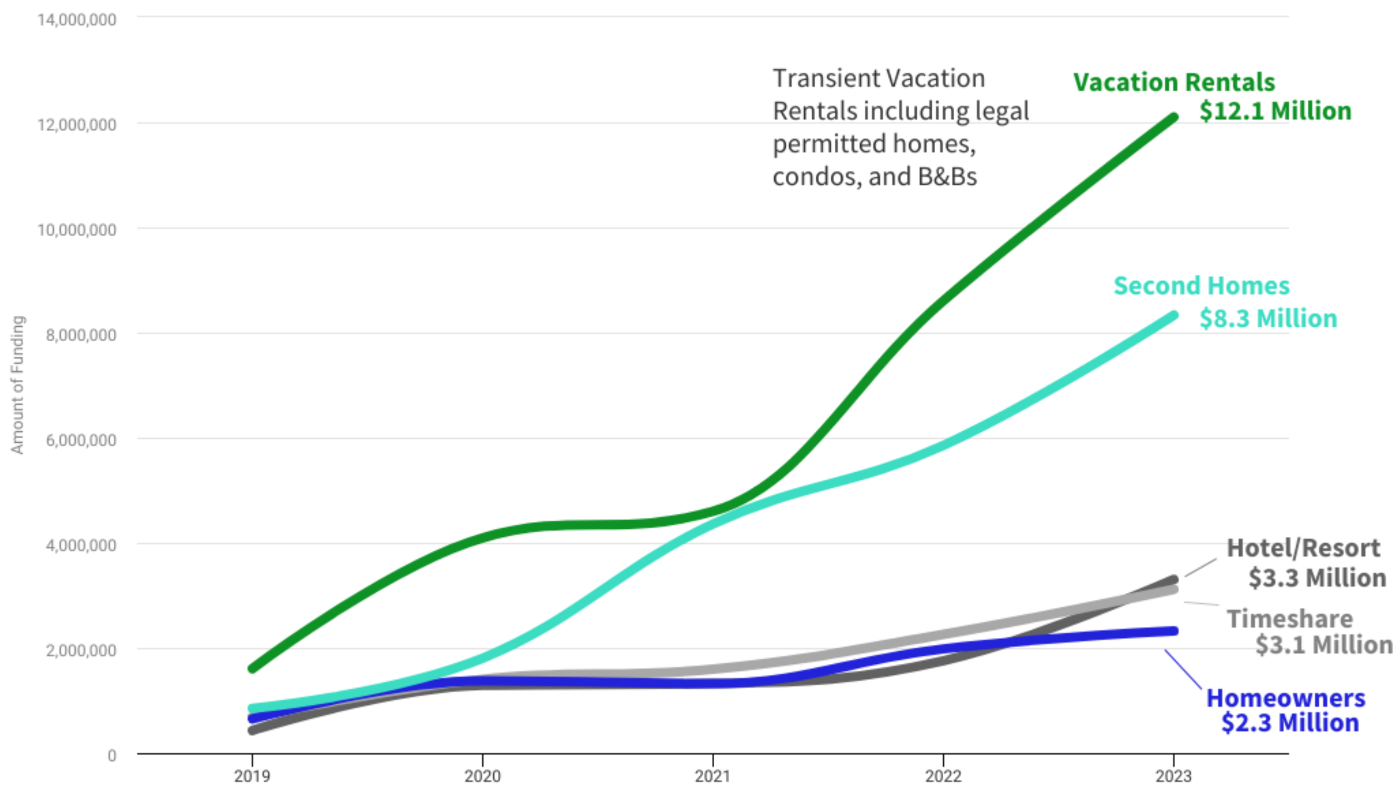


140 Hoohana St. Ste. 210, Kahului, HI 96732-2467

MAUI VACATION RENTAL ASSOCIATION

Who Pays for Maui's Affordable Housing Fund?

FY2019-2023 Review



Vacation Rentals have contributed a total of $31.5 million from 2019-2023
Second Homes have contributed a total of $12.3 million from 2019-2023
Timeshares have contributed a total of $9 million from 2019-2023
Homeowners have contributed a total of $8.3 million from 2019-2023
Hotel/Resorts have contributed a total of $4.8 million from 2019-2023

Source: Maui County Real Property Tax

Mahalo,

Jen Russo
Executive Director

Short Term Rentals

- Hotels
- Time share Condomiums
- Airbnb, HomeAway etc
- Bed And Breakfast

Complaints: Loud parties in residential neighborhoods

Airbnb: not a problem

- Host and guests are evaluated if noisy, unruly, damage ..... POOR REVIEW-BLACK LISTED

Who owns condos AirBnb

- Retired lawyer from Kansas City Missouri
- Why are Hawaii State and Maui County Governments going after AirBNB owners???
- I am an older, eventually to be retired person
- Another source of income besides social security

Are you targeting us because we are a new industry without a well-organized legal team to protect us??

Already taxed too much!

GET 4.17

TATT 10.25

MTATT 3

17.42% off the gross

Property tax doubled from 1000 to 2000

Plus

federal income tax

state income tax

Calculated on the net profit.

We also have to pay:

Monthly Condominium fees

Condo assessments

Cleaning fees

Maintenance

Appliance repair

Remodeling

Utility bills

- Cable
- Electric

Insurance

Why are you going after short term rental owners as if we are rich, evil people to be taxed and regulated out of existence???????????

We are scapegoats for low supply of long term rental units.

Unfair: real cause is the Maui Planning department

Maui water department

new construction

- **Takes too long**
- **Too much red tape**
- **Too expensive-**
- **How many years to get a water meter?**
- **How much will water meter cost?**

J Mickey Damerell

Senior citizen

MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

PSLU-34
Phasing Out Transient Accommodations in the Apartment Districts
Thursday, June 2, 2022

Aloha Committee Chair Paltin, Committee Vice Chair King, and
Members of the Planning and Sustainable Land Use Committee,

The Maui Chamber of Commerce would like to offer our **comments on PSLU-34**.

In looking at the agenda for this item, it is very unclear as to what correspondence that the committee will be acting on. Therefore, we are commenting on all three items that the committee is in receipt of.

Item #1 – County Communication 21-422. The resolution included in this communication will eventually phase out all Transient Vacation Rentals (TVR) in the A-1 and A-2 districts. The Chamber **opposes** this resolution and **requests that this item be filed**. The units built prior to Ordinance 1797 (1989) have been excluded from any consideration of removing the vested TVR rights as per Section 11 in that ordinance. Furthermore, in an attempt to codify that section (section 11, Ordinance 1797), Ordinance 4167 (2016) was passed. Based on the information in the "Minatoya Opinion" and the above-mentioned ordinances, we feel that the proposed bill could be construed as a "taking" and could cost Maui taxpayers an unknown amount in litigation. As we have shared previously, the majority of these properties would not become affordable rentals for local residents if they are not allowed to be used as short-term rentals. Most of these units are in areas where visitors frequent, have desirable amenities, and are beachfront or close to the beach, which makes their value and therefore, the cost to rent, extremely high. We believe there are other ways to address the need for affordable housing and rentals. Lastly, we are concerned with the date of December 31, 2021 as a unit may have been sold between then and now with the understanding that TVR's are allowed. We believe a date in the future should be used to give proper notice to owners and so it is then incumbent upon a realtor if a unit is sold to inform the new seller of this change, should this bill pass.

Item #2 – Correspondence from Council Vice-Chair Rawlins-Fernandez 10-29-2021. The resolution included in this correspondence will allow TVRs if they are within the 3.2-foot sea level rise exposure area. The Chamber would like to comment on this proposal.

PSLU-34
Thursday, June 2, 2022
Page 2.

We appreciate the recognition that oceanfront properties in this exposure area were often meant to be TVR's and those in more inland areas in the A-1 and A-2 district were intended to be for local residents. If this bill moves forward, we would suggest including a date in the future when this bill would take effect and a phase out plan.

Item #3 – Correspondence from Committee Chair 05-27-2022. The resolution included in this correspondence will allow property owners of buildings in the Apartment District to permanently convert property from transient vacation rental use to long-term residential use. The Chamber would like to **comment** on this proposal. We recognize that you are seeking to create a path to long-term rentals if there is 100% agreement from all property owners. We would like to better understand if this legislation is in response to multiple properties seeking this option or if this is hopeful legislation. We have heard of 1 possible property that may benefit from this, but would like to also know how many properties you think will utilize this legislation in the next two years, should it pass.

Mahalo for the opportunity to testify on these proposals.

Sincerely,

Pamela Tumpap

Pamela Tumpap
President

62 North Market Street, Suite 302, Wailuku, Hawaii 96793 808-244-0081 legislation@MauiChamber.com MauiChamber.com

REALTORS® ASSOCIATION OF MAUI, INC.

Jason A. Economou
Government Affairs Director
441 Ala Makani Pl • Kahului, HI 96732
phone 808-243-8585 • fax 808-873-8585
Jason@RAMaui.com • www.ramaui.com

June 1, 2021

Committee Chair Tamara Paltin
Planning and Sustainable Land Use Committee
Council of the County of Maui
200 South High Street, 8th Floor
Wailuku, Hawaii 96793

RE: Phasing Out Transient Accommodations in the Apartment Districts (PSLU-34)

Aloha Committee Chair Paltin and Committee Members,

I am submitting this testimony on behalf of the REALTORS Association of Maui and our 2,000 members in my capacity as their Government Affairs Director. The REALTORS Association of Maui (RAM) remains strongly opposed to the legislative proposals put forth in County Communication 21-422 (dated 08-04-2021) and in Correspondence from Council Vice-Chair Rawlins-Fernandez dated 10-29-2021. **Notwithstanding, RAM supports the most recent legislative proposal contained in the Correspondence from Committee Chair dated 05-27-2022.**

As we have expressed in previous testimony, the two legislative proposals put forward in 2021 failed to recognize the well established equitable doctrines of vested rights and zoning estoppel in Hawaii jurisprudence. The fact remains that transient accommodations are a permitted, and thereby "conforming," use within the Apartment Districts. As such, the County of Maui cannot simply eliminate the use and strip property owners of a vested right that is both explicitly permitted by zoning, and supported by countless assurances from county officials over the span of decades. To do so would be a clear violation of Hawaii law, and a likely violation of state and federal due process. With that in mind, we urge this committee to abandon the previous proposals in whole, and focus exclusively on Committee Chair Paltin's most recent proposal.

The newest proposal from Committee Chair Paltin does an excellent job of balancing the vested rights of property owners against this Council's desire to reduce the number of TVRs. This method of voluntary conversion is necessary to avoid harsh legal and economic consequences for the county, and it is likely to succeed over time given the consistent trend of tax increases placed on the short term rental class. In that sense, if these properties are to be removed from the short term rental property tax class upon conversion, this legislation is more of a tax relief measure than a land use restriction.

Ultimately, the County of Maui must recognize that it has a duty to respect and uphold the vested rights of individuals, as well as a duty to preserve the economic well being of the county. We know that the earlier proposals would violate vested rights of property owners, and we have economic data that strongly suggests those proposals could eliminate approximately 14,000 jobs and upwards of $2 billion from Maui County's annual GDP. These consequences can largely be avoided simply by incentivizing the actions you want and working *with* property owners, instead of against them.

The REALTORS Association of Maui recognizes that this Council's interest in phasing out transient accommodations in the Apartment Districts is well intended, and seeks to address the concerns of the community. Notwithstanding, two of the three proposals you have before you are essentially unlawful and accompanied by significant negative economic consequences (a slide deck outlining those consequences is attached). With that in mind, we urge you to focus your efforts on other issues facing the county, or move forward with the newest legislative proposal from 05-27-2022.

Mahalo,

Jason A. Economou
Government Affairs Director
REALTORS Association of Maui

Overview: economic impacts of proposed TVR exclusion from apartment-zoned areas

Maui County may remove approximately 6,750 condo units from its TVR inventory, under new proposal

- A proposal advanced by Maui's County Council would exclude TVRs (transient vacation rentals) from apartment-zoned areas.[1]
- Maui County previously adopted a moratorium on new transient accommodations.[2]
- Proposed zoning change would exclude, from Maui's lodging inventory, 6,749 of 7,306 *pre-existing* condominium units in apartment-zoned areas:[3]
  - 5,929 short-term rental units, 214 timeshare units
  - 238 long-term rental units, 260 owner-occupied units
  - 656 not identified units (pro-rate 92.4 percent transient : 7.6 percent resident)
- An estimated 557 units residential; an estimated 6,749 units subject to zoning change

[1] See Maui County Council (August 2021) (https://mauicounty.legistar.com/View.ashx?M=F&ID=9718863&GUID=E6B7CC3E-94F2-4BFA-A97A-D557AF010372).
[2] Maui County adopted a "moratorium on new transient accommodations" in January 2022 (https://www.mauicounty.gov/DocumentCenter/View/131251/Ordinance-5316-eff-01072022).
[3] Overall enumerations courtesy Maui Vacation Rental Association

Macroeconomic impacts of excluding TVRs from apartment-zoned areas in Maui County: profound, adverse

- $2.74 billion in foregone aggregate output (reference: Maui County potential GDP $11-12 billion)
- Nearly $750 million in foregone Maui County workers' earnings
- More than $135 million in foregone state government tax receipts
- More than 14,100 jobs lost in Maui County

Direct and indirect (Type I) effects

Million $ or as noted	**Maui**	**Others**	**Statewide**
Output	-1,972	-383	-2,355
Earnings	-549	-102	-650
State taxes	-102	-16	-119
Jobs *(number)*	*-10,470*	*-1,878*	*-12,348*

Because of inter-industry linkages, widespread adverse impacts; because of inter-county linkages, statewide ramifications

Direct, indirect, and induced (Type II) effects

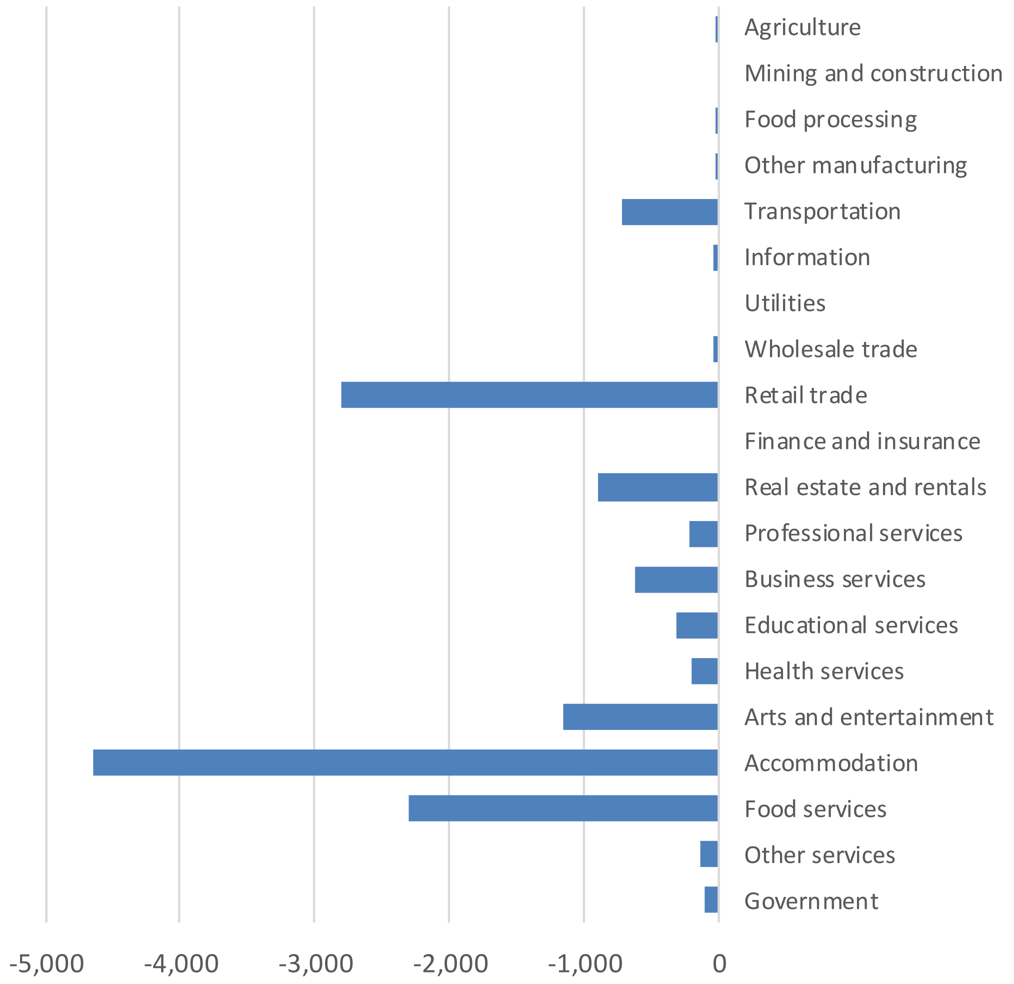
Million $ or as noted	**Maui**	**Others**	**Statewide**
Output	-2,737	-508	-3,246
Earnings	-748	-138	-885
State taxes	-137	-23	-160
Jobs *(number)*	*-14,126*	*-2,555*	*-16,681*

Interindustry impacts *induce* broader negative consequences as residents reduce their consumption

Source: application of Research and Economic Analysis Division (READ), Hawaii Department of Business, Economic Development, and Tourism (DBEDT) (March 2022), *The 2017 Hawaii Inter-County Input-Output Study* (http://dbedt.hawaii.gov/economic/reports_studies/2017-inter-county-io/).

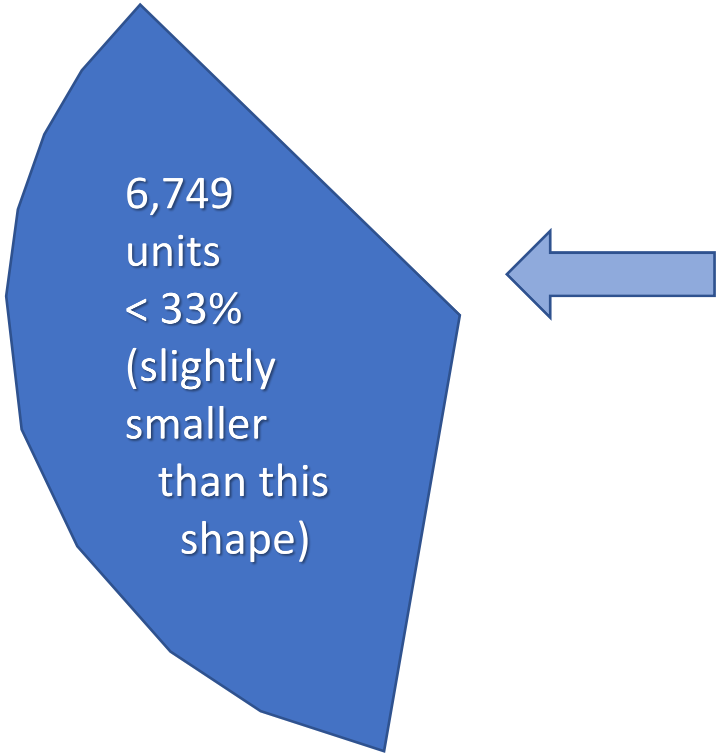
Contraction in Maui County output, earnings, state taxes, jobs is extensive and *pervasive* across industries

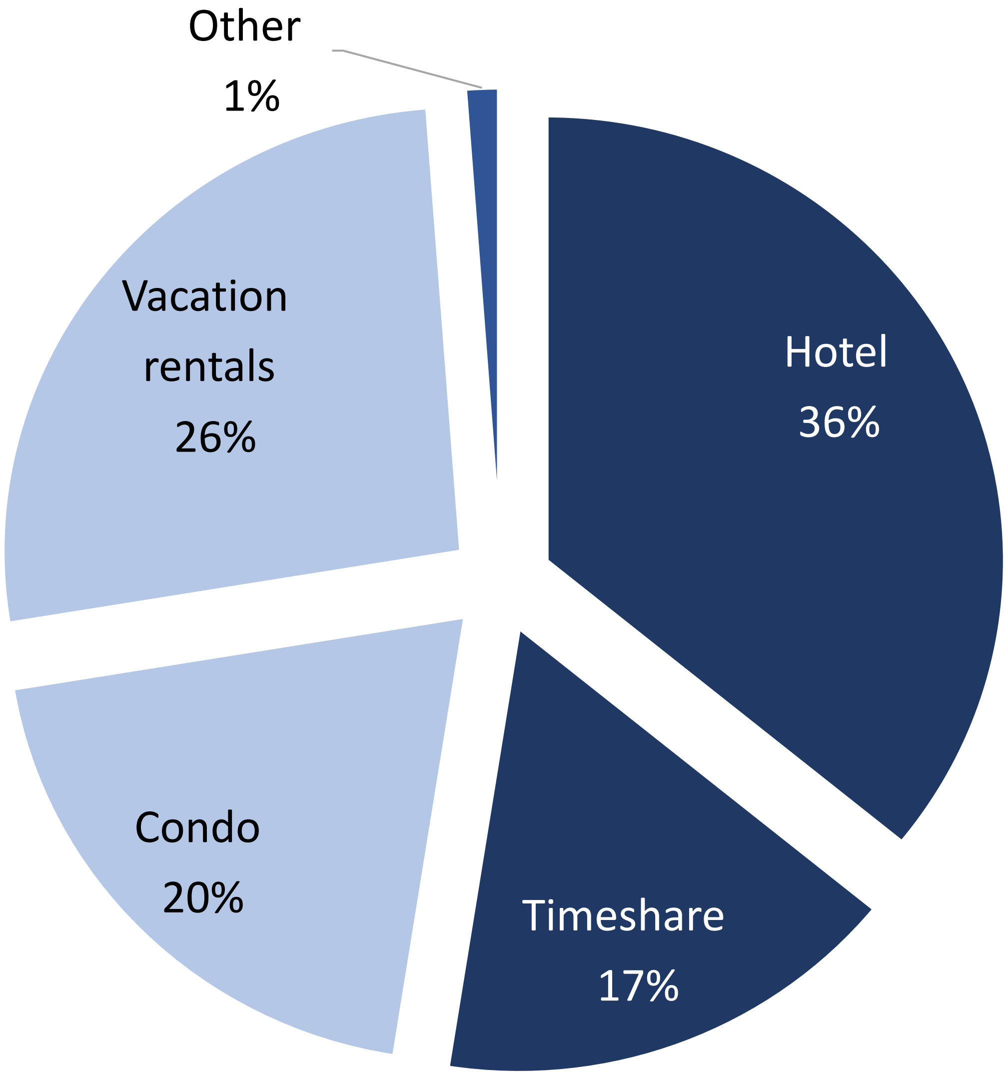
Million $, or *jobs*	Output	Earnings	State taxes	Jobs
Agriculture	-0.5	-0.1	0.0	*-5*
Mining and construction	0.0	0.0	0.0	*0*
Food processing	-0.6	-0.1	0.0	*-4*
Other manufacturing	-0.5	-0.2	0.0	*-4*
Transportation	-138.3	-32.6	-5.3	*-715*
Information	-9.5	-2.0	-0.4	*-30*
Utilities	0.0	0.0	0.0	*0*
Wholesale trade	-7.5	-2.1	-0.2	*-34*
Retail trade	-416.7	-118.3	-19.5	*-2,793*
Finance and insurance	0.0	0.0	0.0	*0*
Real estate and rentals	-312.7	-41.0	-11.0	*-887*
Professional services	-28.9	-10.1	-1.5	*-211*
Business services	-69.3	-26.6	-3.5	*-613*
Educational services	-30.3	-11.5	-1.5	*-311*
Health services	-34.5	-10.8	-1.6	*-199*
Arts, entert., recreation	-107.1	-40.5	-5.2	*-1,151*
Accommodation	-1,239.3	-325.0	-71.0	*-4,650*
Food services	-304.4	-114.3	-15.4	*-2,297*
Other services	-20.5	-6.1	-0.8	*-126*
Government	-16.7	-6.4	-0.5	*-96*
Maui County totals	-2,737	-748	-137	*-14,126*



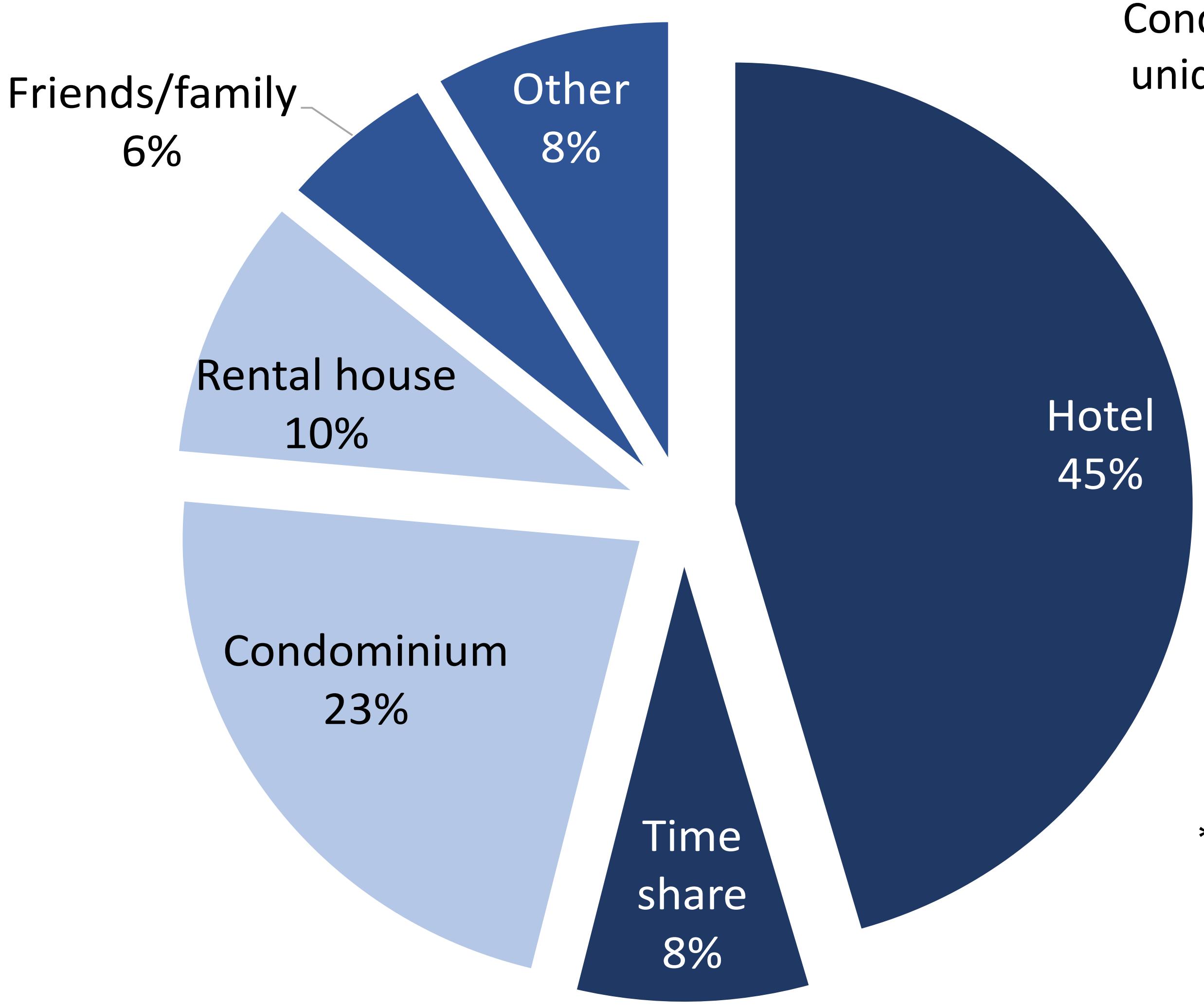
Exclusionary zoning has extensive adverse impacts because it removes almost one-third of Maui lodging inventory

Proposed apartment zoning change removes up to this many lodging units from Maui County visitor plant inventory





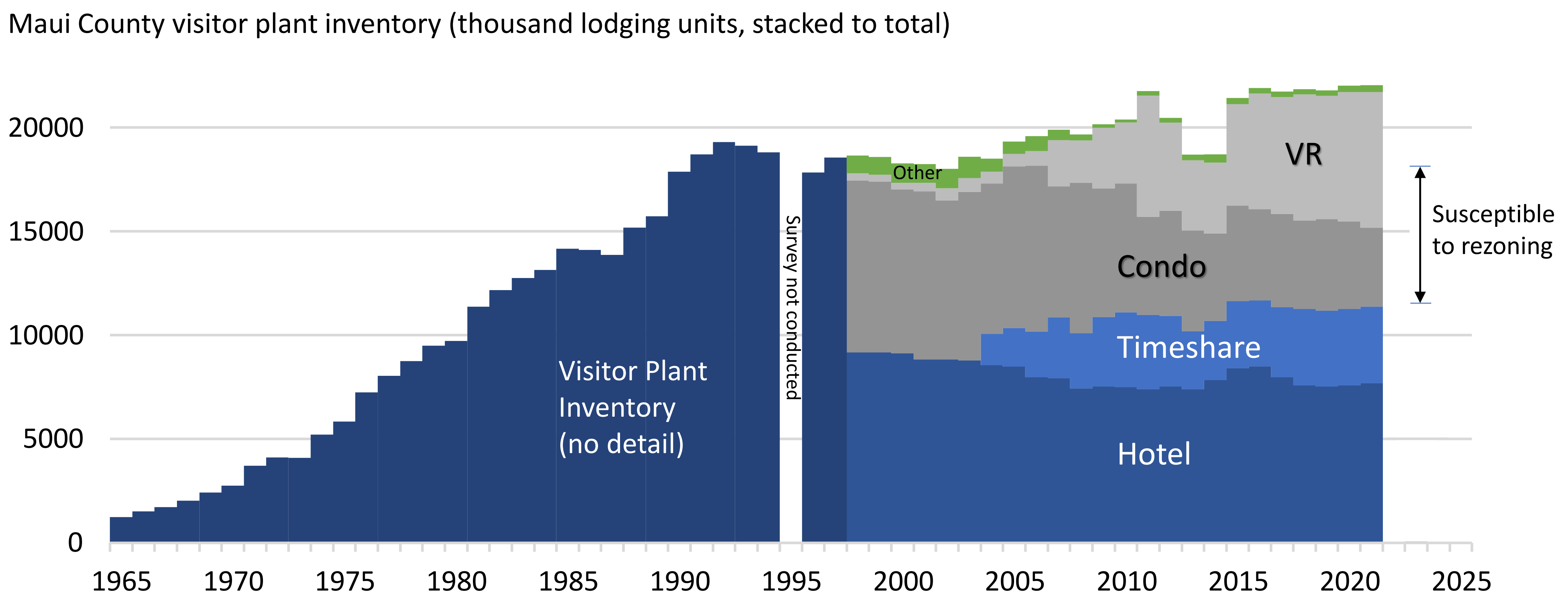
Not coincidentally, the one-third of Maui lodging inventory at risk corresponds with one-third of Maui visitors



Condominium and rental house unique lodging choice of 1/3 of arriving Maui visitors*

*After excluding 14-15 percent planning to stay in more than one lodging type

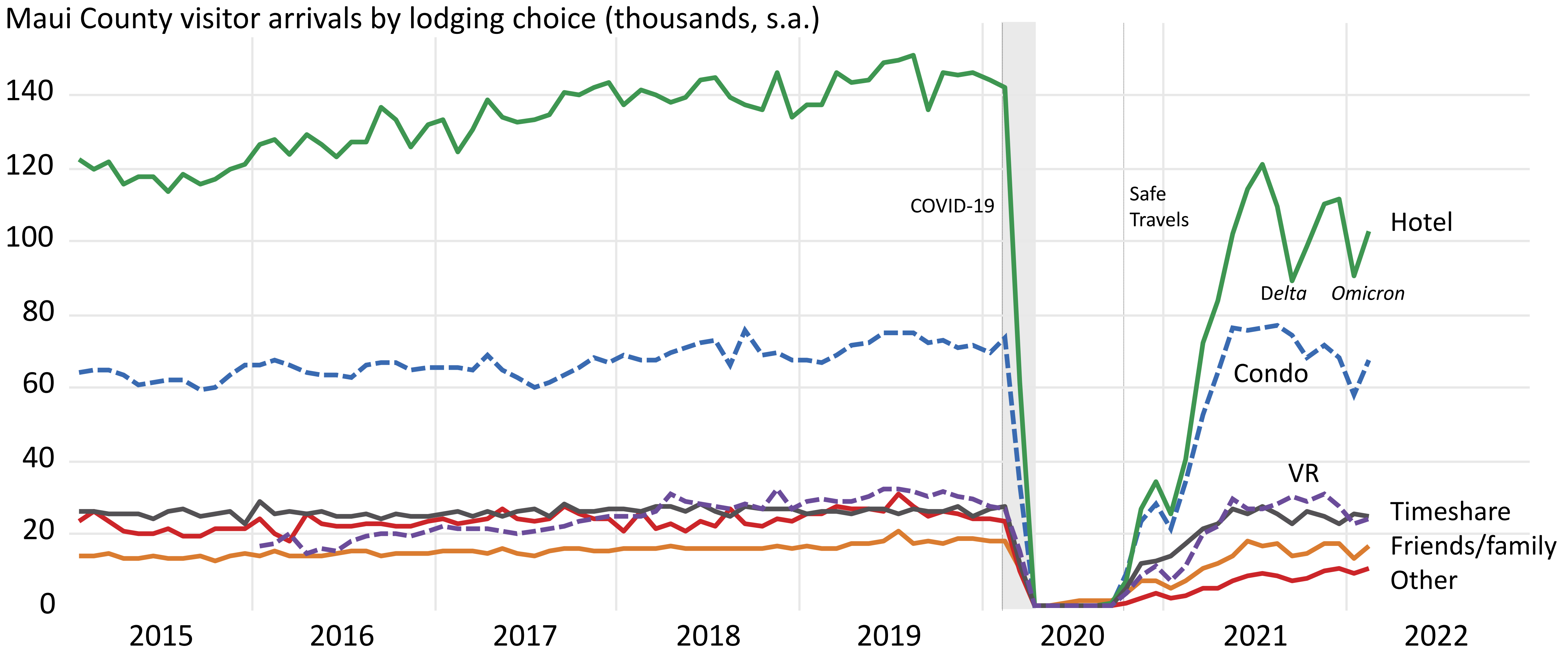
Maui's lodging inventory has evolved; potentially rezoned condo and VR units represent a disruptive change



Sources: Hawaii Visitors Bureau, Hawaii DBEDT, Hawaii Tourism Authority (triennial, and annual) (https://hawaiitourismauthority.org/research/visitor-plant-inventory/)

Context: economic losses of proposed TVR exclusion are extreme and unrecoverable

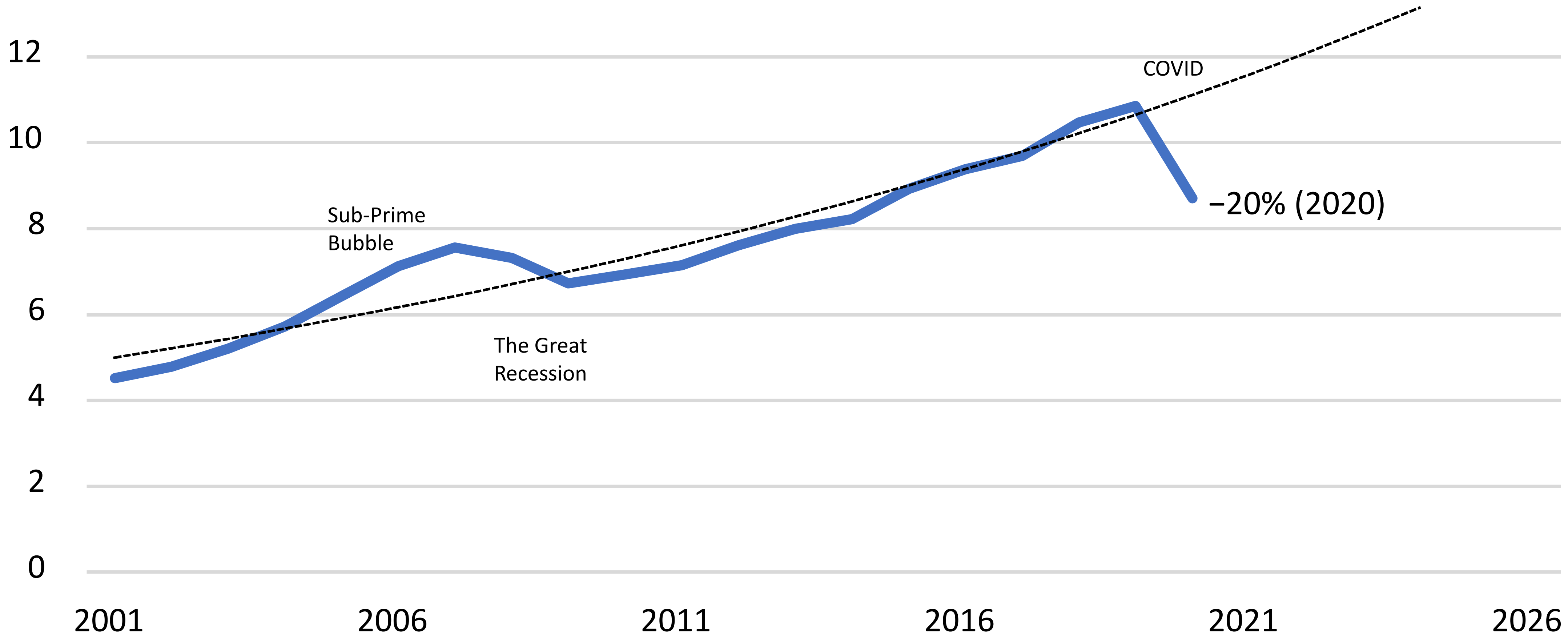
For reference purposes: removing condos and VRs essentially cuts off relatively *resilient* streams of Maui visitors



Source: Hawaii Tourism Authority (https://hawaiitourismauthority.org/research/monthly-visitor-statistics/), seasonally adjusted by TZ Economics.

For reference purposes: the output impact of TVR exclusion is roughly the equivalent of the Covid Recession

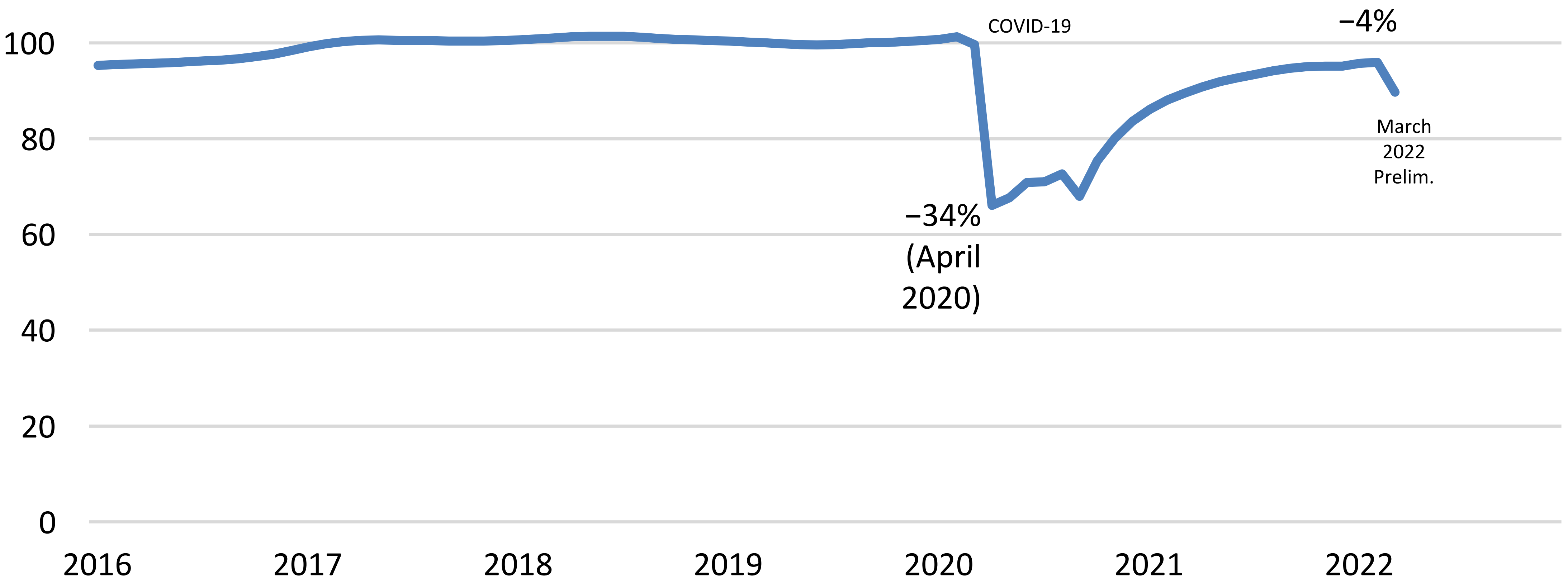
Annual nominal Maui County GDP and trend through 2019 (billion current dollars)



Source: U.S. Bureau of Economic Analysis (https://www.bea.gov/data/gdp/gdp-county-metro-and-other-areas)

For reference purposes: the employment impact of TVR exclusion is *not* as large as in April 2020, *but is permanent*

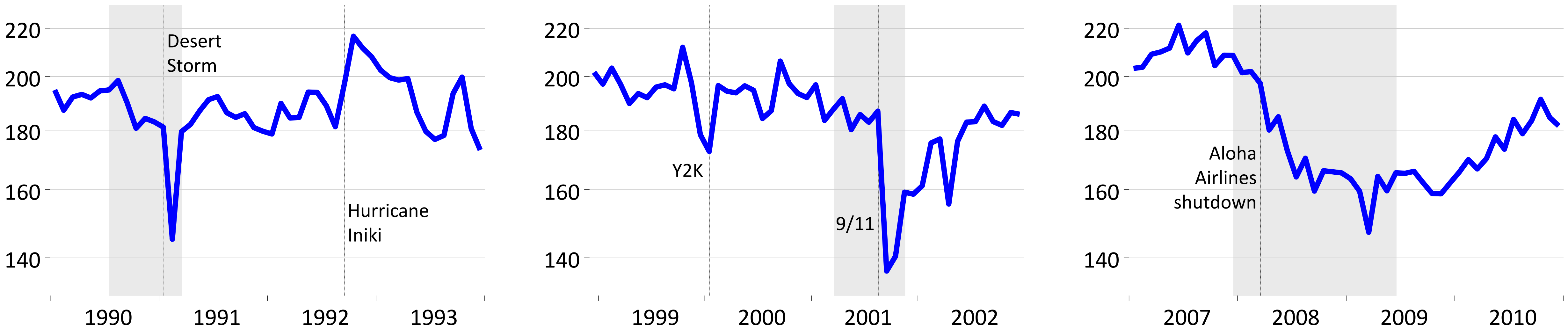
Maui monthly employment as percent of 2019 (thousand persons, seasonally-adjusted)



Sources: Hawaii DLIR, Hawaii DBEDT (https://files.hawaii.gov/dbedt/economic/data_reports/DLIR/LFR_LAUS_SADJ.xls)

For reference purposes: the visitor arrivals impact of TVR exclusion is like several prior shocks, *but without recovery*

Monthly Maui visitor arrivals (thousands, s.a.; log scale); U.S. recessions shaded



Gulf War

9/11

Great Recession

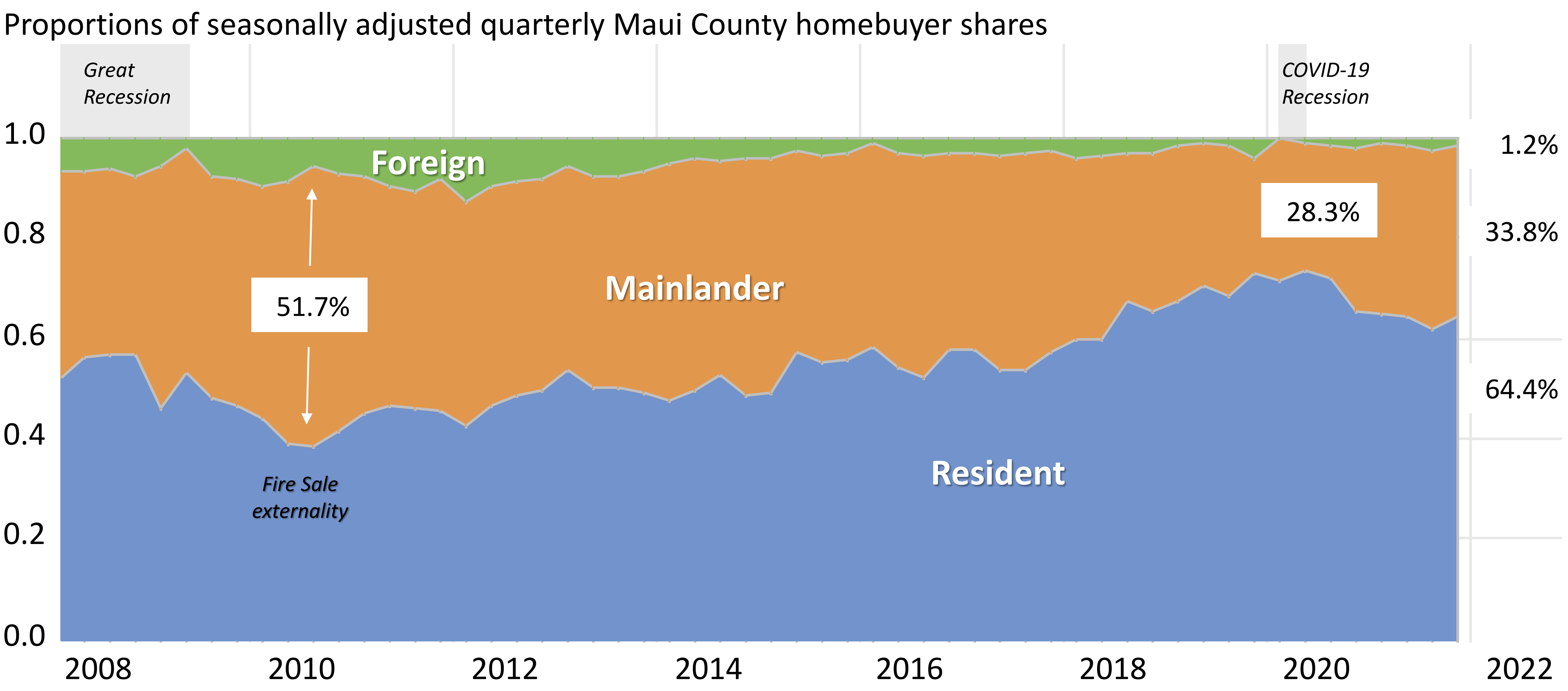
Appendix 1: rough sketch of underlying Maui visitor expenditure “at risk” assumption

To calculate what's at risk for Maui from excluding TVRs in apartment-zoned areas, estimate Maui's *potential* based on limited data: (1) Statewide per-person-per-day expenditure by visitor origin and accommodation choice; (2) Maui visitor arrivals by accommodation choice times average stay length (statewide) maps to visitor days and visitor expenditure

Distributed tourism receipts	**U.S. West**	**U.S. East**	**Japan**	**Other**	**Maui**
Maui arrivals share (sums to 1)	0.51	0.26	0.01	0.21	1.00
Same stay lengths as statewide (days)	8.65	9.68	5.90	3.14	8.78
Visitor days (Maui)	14,212,547	8,175,534	281,890	2,107,921	24,777,892
Estimated receipts (dollars/year)					
Hotel	1,397,357,289	931,406,494	33,674,184	693,513,164	3,055,951,131
Timeshare	201,189,888	105,218,192	3,142,360	90,871,087	400,421,527
Condo	567,407,342	385,591,795	11,825,186	283,232,144	1,248,056,467
Rental House	192,178,548	131,162,577	4,119,960	96,128,904	423,589,988
Friends/family/other	184,723,473	102,656,731	4,184,218	85,591,143	377,155,565
Total spending	2,358,133,066	1,553,379,059	52,761,690	1,163,745,299	$5,128,019,114
At-risk tourism receipts (?)					
Condo plus rental house	759,585,889	516,754,372	15,945,146	379,361,048	**$1,671,646,455**
Percent share in each group	32.2%	33.3%	30.2%	32.6%	32.6%

Appendix 2: U.S. mainland homebuyer shares of Maui sales *decreased* for a decade

If 2010s Maui housing is in short supply and less affordable, it can't be because mainland buyer shares increased

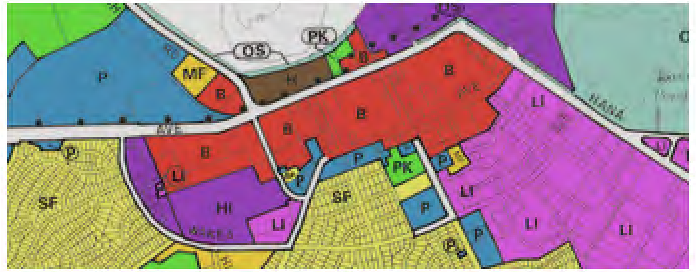


Sources: Bureau of Conveyances, Hawaii DLNR, as compiled by Title Guaranty and provided to Hawaii DBEDT (http://files.hawaii.gov/dbedt/economic/data_reports/qser/E_construction-tables.xls), seasonally-adjusted with a Census X-13 ARIMA filter.

From: Mark Hyde <markghyde@gmail.com>
Date: May 28, 2022 at 8:51:09 AM HST
To: Tamara Paltin <tampaltin@gmail.com>
Subject: Do Community Plans and the Maui County Code Mean Anything?

Do *not allow apartments in heavy industrial zones.* That's just plain nuts. The opposite of "planning." Heavy industrial zones are meant for uses that can be dirty, dusty, smelly, noisy, noxious, etc., all of which should be located in remote areas - like the harbor or off Veterans Highway.

Here's the map from the **community plan**, a county ordinance and law. Most of the area (red) in question is business, which is appropriate. There is some HI near the shopping center (purple). If that is the problem, amend the community plan to change the use to one suitable for apartments but don't back into an absurdity for the sake of convenience. Once the plan is amended as required by law, then amend the zoning consistent with uses permitted.



Here is what the community plan says HI areas are for.

<u>Heavy Industrial</u> (HI)

This is for major industrial operations whose effects are potentially noxious due to noise, airborne emissions or liquid discharges.

The Wailuku-Kahului Community Plan states the following at page 27. Note the word "shall."

10. All zoning applications and/or proposed land uses and developments shall conform with the planned use designations, as specified in the adopted Community Plan Land Use Map, and be consistent with the Community Plan policies.

Mark