

# REQUEST FOR LEGAL SERVICES

**Date:** February 10, 2023  
**From:** Tamara Paltin, Chair  
Disaster, Resilience, International Affairs, and Planning Committee


**TRANSMITTAL**

**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Victoria J. Takayesu, Esq.

**Subject:** **BILL 4 (2023), CONVERTING APARTMENT BUILDINGS FROM TRANSIENT VACATION RENTAL, BED AND BREAKFAST, OR SHORT-TERM RENTAL USE TO LONG-TERM RESIDENTIAL USE (DRIP-1)**

**Background Data:** Please see the attached bill. Please submit the response to drip.committee@mauicounty.us with a reference to DRIP-1.

**Work Requested:** ☒ FOR APPROVAL AS TO FORM AND LEGALITY  
☐ OTHER:

Requestor's signature  _____ Tamara Paltin	Contact Person  Paige Greco _____ (Telephone Extension: 7660)
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☐ ROUTINE (WITHIN 15 WORKING DAYS) ☐ RUSH (WITHIN 5 WORKING DAYS)  
☐ PRIORITY (WITHIN 10 WORKING DAYS) ☐ URGENT (WITHIN 3 WORKING DAYS)

☒ SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): 4:30pm March 1, 2023  
REASON: For posting on the March 8, 2023 DRIP Committee agenda.

**FOR CORPORATION COUNSEL'S RESPONSE**

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR: ☐ APPROVED ☐ DISAPPROVED ☐ OTHER (SEE COMMENTS BELOW)  
☐ RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DEPARTMENT OF THE CORPORATION COUNSEL

Date \_\_\_\_\_

By \_\_\_\_\_

(Rev. 7/03)

drip:ltr:001acc01

Attachment

ORDINANCE NO. \_\_\_\_\_

BILL NO. 4, CD1 (2023)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.12, MAUI COUNTY CODE, RELATING TO CONVERTING APARTMENT BUILDINGS FROM TRANSIENT VACATION RENTAL, BED AND BREAKFAST, OR SHORT-TERM RENTAL USE TO LONG-TERM RESIDENTIAL USE

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. This Ordinance's purpose is to allow property owners of buildings located in the Apartment District to convert real property voluntarily and permanently from bed and breakfast, short-term rental, or transient vacation rental use to long-term residential use by filing a declaration with the State of Hawai'i Bureau of Conveyances and providing notice to the County.

SECTION 2. Chapter 19.12, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

**"19.12.025 Conversion of real property from transient vacation rental, bed and breakfast, or short-term rental use to long-term residential use.** A. Owners of property where transient vacation rental, bed and breakfast, or short-term rental use is allowed under sections 19.12.020(G), 19.12.020(H), and 19.12.020(I) may opt to voluntarily and permanently discontinue the use by filing a declaration with the State of Hawai'i bureau of conveyances in a form prescribed by the department in accordance with this section.

B. The declaration must apply to the entire parcel and must be executed by the percentage of property owners as follows:

1. Island of Lāna'i: 100 percent.
2. Island of Maui: 67 percent or 10 percent more than the votes required under the property's bylaws and other governing documents, whichever is greater.
3. Island of Molokai: 100 percent.

C. The declaration must state the following:

1. Owners must not use the property as a transient vacation rental home, bed and breakfast home, or short-term rental home.

2. Prior to recording the declaration, property owners are solely responsible for and must update and record any applicable bylaws and covenants, conditions, and restrictions associated with the property consistent with the declaration.

D. The property owners must file the declaration with the State of Hawai'i bureau of conveyances.

E. Recordation of the declaration constitutes a voluntary and permanent forfeiture on the part of the owners, and all successors and assigns, of any right to transient vacation rental, bed and breakfast, or short-term rental home use on the applicable parcel.

F. A copy of the recorded declaration must be filed with the director by September 1 of any calendar year. Within forty-five days of receipt, the director must review the declaration and determine whether it is complete.

G. The director must not accept an application for a short-term rental home permit, bed and breakfast home permit, or conditional permit for transient vacation rental use.

H. The director must notify the department of finance, real property assessment division of the recordation of a declaration permanently converting property from transient vacation rental, bed and breakfast, or short-term rental use to long-term residential use that is determined to be complete.

I. The provisions or application of this title must not be construed to affect, interfere with, or abrogate any covenant, condition, limitation or restriction contained in any deed, contract or other agreement, whether recorded or otherwise, relating to the use of any land, building or structure. Whenever the provisions or application of this title impose greater restrictions upon the use of land, buildings or structures than are imposed by any such covenants, conditions, limitations or restrictions, the provisions and application of this title govern the use of that land, building or structure.

J. The director must enforce the failure to abide by the declaration as a violation of this title."

SECTION 3. New material is underscored. In printing this bill, the County Clerk need not include the underscoring.

SECTION 4. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

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Department of the Corporation Counsel  
County of Maui  
drip:misc:001abill01:pmg

INTRODUCED BY:

*Tamara D. M. Paltin*

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TAMARA PALTIN

## **DRIP Committee**

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**From:** DRIP Committee  
**Sent:** Friday, February 10, 2023 12:43 PM  
**To:** CorpCounselRFLS@co.maui.hi.us  
**Cc:** DRIP Committee  
**Subject:** request for legal services re: BILL 4 (2023), CONVERTING APARTMENT BUILDINGS FROM TRANSIENT VACATION RENTAL, BED AND BREAKFAST, OR SHORT-TERM RENTAL USE TO LONG TERM RESIDENTIAL USE (DRIP-1)  
**Attachments:** 001acc01 (signed).pdf