

REQUEST FOR LEGAL SERVICES

RECEIVED
By Corporation Counsel at 1:11 pm, Feb 10, 2023


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: SMC	ASSIGNMENT NO. 2023-0136	BY: GMR
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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): _____

Please see attached email and revised unsigned bill.

DEPARTMENT OF THE CORPORATION COUNSEL

Date 3/1/2023

By Stephanie Chen

(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 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 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 use to long-term residential use. A. Owners of property where transient vacation rental use is allowed under section 19.12.020(G) may 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 Moloka'i: 100 percent.

C. The declaration must state the following:

1. Owners must use the property for long-term residential use only.

D. 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.

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

F. Recordation of the declaration constitutes a 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.

G. 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.

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 use to long-term residential use that is determined to be complete.

I. 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.

J. 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.

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

SECTION 3. Section 19.12.020, Maui County Code, is amended by amending subsection G to read as follows:

"G. Transient vacation rentals in [building] buildings and structures meeting all of the following criteria:

1. The building or structure received a building permit, special management area use permit, or planned development approval that was lawfully issued by and was valid, or is otherwise confirmed to have been lawfully existing, on April 20, 1989.

2. Transient vacation rental use was legally conducted in any lawfully existing dwelling unit within the building or structure prior to September 24, 2020 as determined by real property tax class or payment of general excise tax and transient accommodations tax.

3. The number of rooms or units allowed for transient vacation rental use may not increase beyond those allowed for such use as of January 7, 2022. Existing transient

vacation rentals may be reconstructed, renovated, or expanded if no new rooms or transient vacation rental units are added.

4. The property owner or operator holds general excise tax and transient accommodations tax licenses and is current in payment of State and County taxes, fines, or penalties assessed in relation to the transient vacation rental.

5. The planning director and director of finance must maintain a publicly available list of all transient vacation rental units allowed under this section to the best of the departments' knowledge at the time the list is posted. The list is informational only and is not a confirmation of zoning or allowable uses. Inclusion of a property on the list does not establish any right to operate a transient vacation rental unit, and no person may rely upon the list to establish the right to operate as a transient vacation rental unit. Any interested person must consult the department with respect to any specific property's ability to operate as a transient vacation rental unit.

6. Advertisements for transient vacation rental use must include the subject property's registration number, which is the subject property's tax map key number, without punctuation marks.

7. A declaration in accordance with section 19.12.025 must not have been filed."

SECTION 4. New material is underscored. In printing this bill, the County Clerk need not include the underscoring.

SECTION 5. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

STEPHANIE M. CHEN
Deputy Corporation Counsel
County of Maui
LF2023-0136
DRIP-1 2023-03-01 Ord Amd Ch 19.12
drip:misc:001abill01:pmg

INTRODUCED BY:

TAMARA PALTIN

DRIP Committee

From: Stephanie Chen <Stephanie.M.Chen@co.maui.hi.us>
Sent: Wednesday, March 1, 2023 5:59 PM
To: DRIP Committee
Cc: Graham Resell
Subject: Transmittal - DRIP-1 Ord Amd Ch 19.12
Attachments: DRIP-1 2023-03-01 Ord Amd Ch 19.12.pdf; DRIP-1 2023-02-10 RFLS Greco.pdf

You don't often get email from stephanie.m.chen@co.maui.hi.us. [Learn why this is important](#)

DRIP Committee Chair:

In accordance with our discussion earlier today, please see attached the revised and unsigned bill for an ordinance amending Chapter 19.12, MCC.

Thanks,

Stephanie

Stephanie M. Chen
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