

COUNCIL OF THE COUNTY OF MAUI

**DISASTER, RESILIENCE,
INTERNATIONAL AFFAIRS, AND
PLANNING COMMITTEE**

March 24, 2023

**Committee
Report No. _____**

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Disaster, Resilience, International Affairs, and Planning Committee, having met on March 8, 2023, makes reference to Bill 4 (2023) entitled “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.”

Bill 4’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.

Your Committee notes that the Council’s Planning and Sustainable Land Use Committee (2021-2023 Council term) (“PSLU Committee”) previously met on November 3, 2021, and June 2, 2022, to discuss Resolution 22-154, which referred Bill 4 to the Lāna‘i, Maui, and Molokai Planning Commissions for review. The PSLU Committee reported on the matter through Committee Report 22-53, and the Council adopted Resolution 22-154 on June 21, 2022.

Your Committee received testimony in support of the proposed bill citing the desire to ensure more properties in Apartment District are used for long-term use, whether owner or non-owner occupied.

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A Deputy Corporation Counsel expressed concerns with the proposal bill and requested an executive meeting to discuss the concerns.

Your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel in accordance with Section 92-5(a)(4), Hawai'i Revised Statutes.

Following the executive meeting, your Committee reconvened in regular session.

Your Committee amended the bill to incorporate the Director of Finance's request to include language that requires declarations to be recorded with the State Bureau of Conveyances by December 31 immediately preceding the assessment year in order to be reclassified for real property tax purposes.

Your Committee voted 4-2 to recommend passage of Bill 4, CD1 (2023) on first reading. Committee Chair Paltin and members Cook, Rawlins-Fernandez, and Sinenci voted "aye." Committee members Kama and Sugimura voted "no." Committee Vice-Chair U'u-Hodgins was excused.

Your Committee is in receipt of Bill 4, CD1 (2023) from Committee Chair Paltin, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Disaster, Resilience, International Affairs, and Planning Committee RECOMMENDS that Bill 4, CD1 (2023), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.12, MAUI COUNTY CODE, RELATING TO CONVERTING APARTMENT BUILDINGS FROM TRANSIENT VACATION RENTAL USE TO

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LONG-TERM RESIDENTIAL USE,” be PASSED ON FIRST READING and be ORDERED TO PRINT.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



TAMARA PALTIN, Chair

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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 subsection 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 Molokai: 100 percent.

C. The declaration must state that the owners must use the property for long-term residential use only.

D. A copy of the draft 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.

E. 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 complete declaration.

F. After the director determines the draft declaration to be complete, the property owners must file the declaration with the State of Hawai'i bureau of conveyances on or before December 31 immediately preceding the assessment year in order to be reclassified for real property tax purposes.

G. 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.

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.

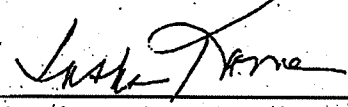
7. A declaration in accordance with section 19.12.025 must not have been filed."

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.

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INTRODUCED BY:



Upon the request of the Mayor.