

Clarita Balala

From: PSLU Committee
Sent: Wednesday, August 05, 2020 1:24 PM
To: Clarita Balala; Ana L. Lillis
Subject: FW: Approved PSLU-59 Transient Vacation Rentals in the Apartment District
Attachments: PSLU-59 2020-08-05 RFLS Closing TVR.pdf; PSLU-59 2020-08-05 Ord TVR.docx

From: Melody Andrion
Sent: Wednesday, August 5, 2020 1:23:29 PM (UTC-10:00) Hawaii
To: Ana L. Lillis; PSLU Committee
Cc: Michael Hopper
Subject: Approved PSLU-59 Transient Vacation Rentals in the Apartment District

Attached e-signed by Michael Hopper the ordinance regarding the subject matter. Thanks!

NOTICE: The Information in this transmittal (including attachments, if any) is privileged and confidential and is intended only for the recipient(s) listed above. Any review, use, disclosure, distribution or copying of this transmittal is prohibited except by or on behalf of, the intended recipient. If you have received this transmittal in error, please notify me immediately by reply email and destroy all copies of the transmittal. Thank you.

REQUEST FOR LEGAL SERVICES

Date: July 21, 2020
From: Tamara Paltin, Chair
Planning and Sustainable Land Use Committee

RECEIVED

By Dept. of the Corporation Counsel at 12:16 pm, Jul 21, 2020

TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Michael Hopper, Esq.

Subject: TRANSIENT VACATION RENTALS IN THE APARTMENT, LIGHT INDUSTRIAL, AND HEAVY INDUSTRIAL DISTRICTS (PSLU-59)

Background Data: Please see attached bill.

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

Requestor's signature <u>Tamara A. M. Paltin</u> Tamara Paltin	Contact Person <u>Richard E. Mitchell or Ana Lillis</u> (Telephone: 270-7662 or 270-7660, respectively)
--	---

☐ 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): August 5, 2020

REASON: For posting on the August 12, 2020 committee meeting agenda

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: MJH	ASSIGNMENT NO. 2019-0101	BY: maa
------------------	--------------------------	---------

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): _____

See attached revised Ordinance.

DEPARTMENT OF THE CORPORATION COUNSEL

Date 08/05/2020

By /s/Michael J. Hopper

(Rev. 7/03)

pslu:ltr:059acc01:alkl

Attachment

ORDINANCE NO. _____

BILL NO. _____ (2020)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.12,
MAUI COUNTY CODE, RELATING TO TRANSIENT VACATION
RENTALS IN THE APARTMENT DISTRICTS

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

SECTION 1. Findings and purpose. The purpose of this ordinance is to prevent the conversion of long-term rental and owner-occupied apartments in the Apartment Districts by prohibiting transient vacation rentals on properties on which transient vacation rental use had not been conducted in lawfully existing dwelling units prior to January 1, 2020.

Prior to April 20, 1989, transient vacation rentals were not prohibited within the Apartment Districts. On this date, Ordinance 1797 took effect and amended Chapter 19.12, Maui County Code, to require that buildings and structures within the Apartment Districts be occupied on a long-term residential basis. However, Section 11 of Ordinance 1797 states that the ordinance "shall not apply to building permits, special management area use permits, or planned development approval which were lawfully issued and valid on the effective date of this ordinance." On March 4, 1991, Ordinance 1989 fully deleted transient vacation rentals as a permitted use in the Apartment Districts with some exceptions. Subsequently, effective December 8, 2014, Ordinance 4167 expressly restated the exceptions set forth in Section 11 of Ordinance 1797 and

declared the intent of the Council to exclude the requirement of long-term-residential occupancy from buildings or structures having, on or before April 20, 1989, lawfully issued and valid building permits, special management area use permits, or planned development approval. Accordingly, such buildings or structures were expressly permitted to be operated as transient vacation rentals. Additionally, Ordinance 4167 allows transient vacation rental uses for reconstructed buildings and structures, subject to certain requirements. The intent of this ordinance is to prevent the further expansion of transient vacation rental uses in the Apartment Districts. This ordinance is not intended to affect existing, lawful transient vacation rentals in the Apartment Districts if they were in operation prior to January 1, 2020.

The lack of affordable long-term rental and owner-occupied housing units continues to be a crisis in Maui County.

SECTION 2. Section 19.12.010, Maui County Code, is amended to read as follows:

“19.12.010 Purpose and intent. A. [Multiple-family apartment districts are generally established outside of the high density core of the central portion of a town. It is applicable to areas where multiple-family units are indicated; yet, the areas have not reached a transitional stage wherein public, semi-public, institutional and other uses are desirable.] The purpose of the apartment districts is to provide higher density housing options than the residential and duplex districts. Multiple-family apartment districts are generally established within or near the urban core of a town to provide residents with access to jobs, services, amenities, and transportation options. Uses within the apartment districts are appropriately located near, and are compatible with, uses in the various business, residential, public/quasi-public, and park districts. Apartment districts can provide a transition between residential districts and business districts.

B. Apartment districts [shall] must consist of two types: A-1 apartment district and A-2 apartment district.

C. [Buildings] Residential buildings and structures within the apartment district [shall] must be occupied on a long-term residential basis[.], except as otherwise provided in this chapter."

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

"19.12.020 Permitted uses. Within the A-1 and A-2 districts, the following uses are permitted:

A. Any use permitted in the residential and duplex districts.

B. Apartment houses.

C. Boarding houses, rooming houses, and lodging houses.

D. Bungalow courts.

E. Apartment courts.

F. Townhouses.

G. [Transient vacation rentals in buildings and structures having building permits, special management area use permits, or planned development approval that were lawfully issued by and valid on April 20, 1989. Buildings and structures with such permits and approvals may be reconstructed, and transient vacation rental use shall be permitted, provided that:

1. The reconstruction conforms to the original building permit plans, special management area use permits, or planned development approval; and

2. The reconstruction complies with the building code and all other applicable laws in effect at the time of the reconstruction.] Transient vacation rentals in 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 conducted in any lawfully existing dwelling unit within the building or structure prior to January 1, 2020, as determined by real property tax class.

3. If any such building or structure is reconstructed, renovated, or expanded, then transient vacation rental use is limited to the building area as it can be confirmed to have been approved or lawfully existing on April 20, 1989. The

number of bedrooms used for transient vacation rental must not be increased.

H. Bed and breakfast homes, subject to the provisions of chapter 19.64 of this title.

I. Short-term rental homes, subject to the provisions of chapter 19.65 of this title.”

SECTION 4. Existing lawful transient vacation rental uses in any building in the Apartment Districts may continue to operate as allowed by Ordinance 4167 if any unit in the building was conducting lawful transient vacation rental use prior to January 1, 2020, as determined by real property tax class. The initiation of new transient vacation rentals in any building in the Apartment Districts is prohibited as of January 1, 2020, if no unit in the building was used for conducting lawful transient vacation rental use prior to January 1, 2020, as determined by real property tax class, notwithstanding Section 11 of Ordinance 1797.

SECTION 5. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 6. This ordinance takes effect upon its approval.

APPROVED AS TO FORM AND
LEGALITY:

/s/ Michael J. Hopper

MICHAEL J. HOPPER
Department of the Corporation Counsel
County of Maui
2019-0101
PSLU-59 2020-08-05 Ord TVR