

## PSLU Committee

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**From:** Ed Bello <ed@bellorealty.com>  
**Sent:** Monday, August 24, 2020 1:51 PM  
**To:** PSLU Committee  
**Subject:** (PSLU-59) Transient Vacation Rentals in the Apartment, Light Industrial, and

Aloha Council members,

I am a 44 year Maui resident. I am in the real estate business and our company manages several LEGAL vacation rentals and have done so since the 1970's. I was involved in the Realtors Association of Maui's Governmental Affairs Committee for several years, including being present at Council deliberations that led to the existing laws regarding Transient Accommodation in 1989. I am thus very familiar with the issues at hand.

I strongly oppose the proposed legislation to unfairly take away property rights from owners of single family homes in Apartment Districts who are grandfathered under the original provisions of the existing ordinances. The present proposal before the Council suggests that the verbiage in the Law require that "Transient accommodation rental was conducted in a any lawfully existing dwelling unit within the building or structure prior to January 1, 2020, as determined by real property tax class."

This language clearly appears to be an attempt by Planning Department and Council staff and Council Members who are philosophically apposed to transient accommodations other than hotels to take away owner's rights through misinformation and deceit. The facts are that the Council changed the real property tax codes in the last few years to provide for higher tax rates for properties that conduct Transient Vacation Rentals TVRs). Those laws we properly passed an enacted. The same cannot be said about the actual application of those laws. The Department of Finance made very clear efforts to address properties in the Apartment Districts that contain apartment buildings with several separate owners who own those properties pursuant to the State of Hawaii Condominium laws by clearly communicating to those owners the change in rates, providing a detailed procedure to make the property managers that handle those large apartment properties notify the Finance Department which owners were conducting TVRs, and further, letters and other communications were sent to individual owners of these properties instructing them, in detail, as to the specifics of the new Tax Classifications and the owners responsibilities to comply with the new rules. What the County departments involved did not do is make any attempt to notify owners of single family homes of the changes in the law and those owners responsibilities. The result is that most of those owners have no idea that the tax classifications properties that they own and are legally operating as TVRs was changed. The great majority of these owners operating are legally and are following all laws, rules and procedures that they are properly informed of, including the payment of both GET and Transient accommodations tax to the State of Hawaii, which the State shares with the County. If in fact the County is concerned that they may not be properly collecting real estate taxes from some of these single family homes, the first step should be to make sure that the county has done it's job of properly identifying these owners (there are not that many) and letting them know of the changes in the law as they did with owners of apartments.

It appears to me from the history of irrational hostility of certain staff and Council members to the general idea that there are certain property owners in Maui that have been involved in legal rentals of TVR's since the time before hotels were built on the island, that this is another attempt to shift public opinion from the irresponsibility shown by these parties over the last 40 years in refusing to approve thousands of requests any responsible developers, large and small, to provide much needed housing to Maui's working people. The same people that are actively spending staff and council time in trying to stop a handful of law abiding citizens from legally operating TVRs and paying TVR taxes to the State, have for years worked actively to deny or delay permits for thousands to those who have tried for decades to build homes here. If they were really interested in affordable housing they would be looking for ways to make these projects work instead of nitpicking them apart.

These owners are paying all the taxes that they know about and are more than willing to follow the laws that they know about. If the intent is to make sure that people are operating legally and paying the proper taxes, the solution is for the County departments to do their job in collections not to use their failure to do their job and properly communicate with the taxpayers as a "gotcha" moment to take away the taxpayer's rights that do not like.

Maui's responsible tourism industry was not built by the large hotels and resort operators. It was built by small entrepreneurs who either built small apartment buildings in the resort areas of South and West Maui and sold them to loyal visitors who used them part or the year and shared their second homes with visitors who were not able to find room in the one Hotel that existed in South Maui (the Old Maui Lu) and the Old Sheraton and Kaanapali Beach on the West side. The big hotels came in AFTER these small homeowners gave many of the original visitors a taste of Maui No Ka Oi in what we used to call a vacation rental or cottage and now is called a TVR. These people are not criminals they are small business that contribute to the economy and welfare of Maui. Yes there are many illegal TVRs in Maui now but a large reason for this is that the same people that are pursuing this time wasting legislation have failed to enforce the same laws that they passed to control illegal TVRs. If they put in the same amount of time they waste harassing the legal TVRs into enforcement of their own rules most of this problem would go away. Go after the bad guys. I know that is harder than picking on the ones that are doing it legally but do your job. Passing laws is not enough if you don't even try enforcement.

There is a very easy way of solving this "problem" that misguided officials are pursuing. An affected owner can easily demonstrate their good faith in this matter by providing evidence of their intent to pay all taxes due to TVRs by providing evidence that they have been following all the laws that they have been legally informed of. That can be simply accomplished by requiring the Taxpayer to present evidence that they have been paying their State TVR tax. I thus support the revised language below which has been previously presented and is endorsed by prominent experts in the filed including the Realtors Association of Maui.

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Sincerely,

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