

MICHAEL P. VICTORINO
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DEPARTMENT OF FINANCE
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

November 2, 2020

Honorable Michael P. Victorino
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Michael P. Victorino 11-2-20
Mayor Date

For Transmittal to:

Honorable Keani Rawlins-Fernandez, Chair
Economic Development and Budget Committee
200 S. High St.
Wailuku, Hawaii 96793

RECEIVED
OFFICE OF THE
COUNTY CLERK
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Dear Chair Rawlins-Fernandez:

SUBJECT: A PROPOSED BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48.305, MAUI COUNTY CODE, RELATING TO CLASSIFICATION OF REAL PROPERTY

Transmitted herewith is a proposed bill entitled, "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48.305, MAUI COUNTY CODE, RELATING TO CLASSIFICATION OF REAL PROPERTY."

Currently, the owners of condominium units that are not rented and whereas transient vacation rental use is permitted, can file a claim form to have their real property tax rate classification changed from a short-term rental to a "non-owner-occupied." This tax relief measure is also available to planned development properties. The proposed amendment to Maui County Code 3.48.305.C. allows units occupied as long-term rentals or where transient vacation rental use is not permitted to be classified as "non-owner occupied." The proposed ordinance also places an agriculture zoned vacant land condominiums in the agriculture classification as opposed to the "non-owner-occupied" classification.

The purposes of the proposed bill are as follows:

1. To improve tax rate classification parity between condominium/planned development real property and non-condominium real property. Currently, tax rate classification based upon actual use is only afforded to condominium and planned development real property.

- To improve tax relief program parity. The average dollar amount of tax relief realized by the condominium and planned development properties subject to actual use classification exceeds other tax relief programs as shown on the table below:

TAX RELIEF PROGRAM COMPARISON				
Program	Number of Parcels in Program	Total Tax Relief	Average Relief Per Parcel	Largest Tax Relief Amount for a Single Family Residential Property
Condominium/Planned Development Actual Use Classification	1,904	\$12,170,109	\$6,392	\$81,523
Agriculture production	3,458	\$13,562,273	\$3,922	\$26,763
Home exemption / Owner-occupied tax rate	26,844	\$76,621,001	\$2,854	\$80,054
Circuit Breaker	499	\$494,410	\$991	\$6,500

- To create an incentive for owners to convert vacant residential real property into long-term rentals.
- To improve real property tax parity between real property with similar permitted uses. As a result of COVID-19 transient accommodation restrictions, the Real Property Assessment Division received numerous complaints regarding the inequities of the actual use classification program. Taxpayers subject to short-term rental's real property taxes stated that it is unfair for their neighbors to have a lower tax burden for the same real property.
- Improve revenue stability. Currently, there are over 11,000 parcels where the owners have declared an actual use of a short-term rental. If the owners of these same 11,210 properties had declared "non-owner-occupied" use for the 2020 assessment year, Fiscal Year 2020-2021 real property tax revenues would have been reduced by \$48,957,014 or 13%. Further, this reduction would have occurred without a requirement to convert to a long-term rental.

Parcel Count	Percent of Parcels	Assessed Value	Short-term Rental Tax Rate	Short-term Rental Real Property Taxes	Non-owner-occupied Effective Tax Rate	Non-owner-occupied Real Property Taxes	Revenue Reduction
11,210	100%	9,432,950,700	\$11.08	\$104,517,094	\$5.89	\$55,560,080	-\$48,957,014
5,605	50%	4,716,475,350	\$11.08	\$52,258,547	\$5.89	\$27,780,040	-\$24,478,507
2,803	25%	2,358,237,675	\$11.08	\$26,129,273	\$5.89	\$13,890,020	-\$12,239,254

6. Improve real property tax parity between condominium and non-condominium vacant land zoned agriculture. Vacant, non-condominium, agriculture zoned land is taxed at the agricultural tax rate. Vacant, condominium, agriculture zoned land is taxed at the “non-owner-occupied” tax rate.

Due to the reasons noted above, there have been numerous attempts to end the actual use classification program. In 2019, a proposed ordinance amendment failed because it did not address the impact on long-term rentals. The proposed ordinance submitted herewith addresses these issues by ensuring that long-term rentals can remain in the “non-owner-occupied” tax rate class.

The estimated revenue impacts of the proposed bill are as follows:

1. If tax rates remain unchanged for Fiscal Year 2021-22, real property tax revenue could increase about \$9,000,000 if this ordinance is enacted. This assumes that 25% of the parcels will be rented long term and will not be subject to a classification change. This would be an average tax increase of \$6,392 for the 1,428 non rented parcels permitted for transient accommodation use and currently classified as “non-owner-occupied” for real property tax purposes.

Tax Rates Remain Unchanged and 25% of the Units are Rented Long Term				
Total Number of Parcels	Total Value of Parcels	Average Value of Parcels	Total Real Property Tax Change	Average Real Property Tax Change at \$11.08
1,428	1,758,686,250	1,231,573	\$ 9,127,582	\$6,392

2. If tax rates are adjusted so that real property taxes are revenue neutral for Fiscal Year 21-22, 11,799 parcels in the short-term rental class would receive an average tax reduction of -\$662. The 1,428 reclassified properties would incur an average tax increase of \$5,456. The projected 476 long term rentals would have no change in tax.

Revenue Neutral Short-term Rental Tax Rate							
Use	Number of Parcels	Total Value of Parcels	FY 21 Revenue	FY 22 Revenue	Rev. Neutral Tax Rate	Tax Rate Change	Average Tax Change
Short-term rental	11,799	10,279,134,785	\$113,892,813	\$106,080,671	\$10.32	-\$0.76	-\$662
2nd home, TVR use allowed	1,428	1,758,686,250	\$10,358,662	\$18,149,642	\$10.32	\$4.43	\$5,456
Long term rental, TVR use allowed	476	586,228,750	\$3,452,887	\$3,452,887	\$5.89	\$0.00	\$0
	13,703	12,624,049,785	\$127,704,362	\$127,683,200			

3. If the 207 agriculture zoned, vacant, condominium parcels were classified as agricultural in Fiscal Year 2020-21, it is estimated that real property tax revenue would have decreased by about \$46,000. This is mostly due to the higher valued parcels being taxed at the second and third tier tax rates for the “non-owner-occupied” class.

Vacant Land Condominium Agriculture Zoned Parcels				
Number of Parcels	Total Assessed Value	Tax Non-owner- occupied Effective Rate \$5.89	Tax Agriculture Rate \$5.45	Revenue Change
207	104,308,500	\$614,377	\$568,481	-\$45,896


The proposed bill will not impact:

- Properties in the “owner-occupied” tax rate class;
- Properties where transient accommodations are not permitted, and;
- Properties that are rented long term.

The proposed bill must be adopted prior to December 31, 2020 for implementation for calendar year 2021 assessments. I respectfully request this matter be expedited for review and action. Thank you for your immediate attention in this matter.

Should you have any further questions, please feel free to contact me at ext. no. 7474.

Sincerely,


SCOTT K. TERUYA
Director of Finance

Attachment

cc: Marcy Martin, AAS Real Property Tax Administrator

ORDINANCE NO. _____

BILL NO. _____ (2020)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48.305,
MAUI COUNTY CODE, RELATING TO CLASSIFICATION OF REAL PROPERTY

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

SECTION 1. Section 3.48.305, Maui County Code, is amended by amending subsection C to read as follows:

“C. When property is subdivided into condominium units, each condominium association or any entity filing a condominium property regime must file an annual report with the director of all units in the association, by tax map key number, before December 1 of each calendar year.

1. The director will prescribe the form of the list and any supporting evidence as necessary. The list must include whether the unit is vacant, occupied by the owner, or rented long term or short term, by month.

2. Each unit and its appertaining common interest must be:

a. Classified upon consideration of its actual use into one of the general classes as follows:

i. Owner-occupied. Only those units owned and occupied as a principal home and for which a home exemption claim was filed and granted will be classified as "owner-occupied."

ii. Non-owner-occupied. [Only those units] Units occupied by the owner for personal use where transient vacation rental use is prohibited by the comprehensive zoning ordinance. [or] Units occupied by a lessee for a term of at least six consecutive months or more [will be classified as "non-owner-occupied."].

iii. Commercial. Only those units occupied by the owner or a lessee for business or

mercantile activities will be classified as "commercial."

iv. Hotel and resort. Unless classified as "time share" or "commercialized residential," properties that are occupied by transient tenants for periods of less than six consecutive months, have eight or more lodging or dwelling units as defined in the comprehensive zoning ordinance, and employ more than twenty full-time persons, will be classified as "hotel and resort."

v. Time share. Units occupied by transient tenants for periods of less than six consecutive months that are subject to a time share plan as defined in section 514E-1, Hawaii Revised Statutes, as amended, will be classified as "time share."

vi. Commercialized residential. Units that serve as the owner's principal residence and that have been granted a bed and breakfast home permit, a short-term rental home permit, or a conditional permit allowing transient vacation rental use in accordance with the comprehensive zoning ordinance, will be classified as "commercialized residential."

vii. Short-term rental. Unless classified as "time share," "hotel and resort," or "commercialized residential," lodging or dwelling units, as defined in the comprehensive zoning ordinance, occupied by transient tenants for periods of less than six consecutive months [will be classified as "short-term rental,"], including properties granted a short-term rental home permit or conditional permit allowing transient vacation rental use. Units occupied by the owner for personal use or are vacant where transient vacation rental use is allowed by the comprehensive zoning ordinance.

viii. Agriculture. Units that are vacant land and are located in the County of Maui agriculture zoning district.

b. Deemed a parcel and assessed separately from other units.

3. The director may, after investigation, reclassify and reassess any unit in a condominium association found to be in violation of the owner's certification of actual use.

4. The director may require an owner to file a return providing information on the actual use of a unit. The return shall be in a form prescribed by the director. The director may require documentary evidence, such as a lease agreement indicating that a unit is occupied by a lessee for a term of six consecutive months or more, when a unit is classified as non-owner-occupied and transient vacation rental use is permitted. An owner who does not file the return or fails to respond to an inquiry of the director shall be classified at the highest tax classification allowed for the unit.

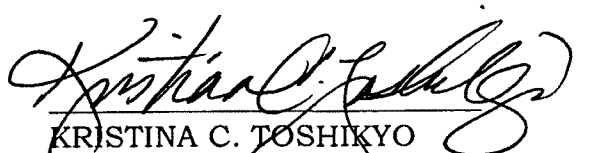
[4.]5. A condominium owner, the condominium association, or any entity filing a condominium property regime must notify the director of any change in a unit's classification within thirty days of that change.

[5.]6. If the required annual report is not filed on or before December 1, the director may classify all units in the project in accordance with subsection B for the following assessment year.”

SECTION 2. 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 3. This ordinance takes effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:



KRISTINA C. TOSHIKYO
Department of Corporation Counsel
County of Maui

2020-1299
2020-09-23 Ord Amd 3.48.305