

## IT Committee

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**From:** Michael Williams <michaelwilliams@pueofarm.com>  
**Sent:** Thursday, May 20, 2021 12:44 PM  
**To:** Kelly King; Yukilei Sugimura; IT Committee; CARE Committee  
**Subject:** Michael Williams written testimony in support of Visitor Accommodation moratorium  
**Attachments:** Michael Williams' testimony re proposed Visitor Accommodation Moratorium 5-20-21.pdf

Aloha kakou. As requested, I attach my written testimony.

## Testimony in support of a moratorium on new visitor accommodations

Submitted to the CARE and IT Committees on 5/20/21 by Michael Williams, President, Maui Tomorrow Foundation

Aloha, Council Committee Chairs Sugimura and King. Maui Tomorrow supports a moratorium on new Visitor Accommodations, until the Maui Island Plan ratio of 1 visitor to 3 residents is restored.

1. In fact, we propose that the Council take action to reduce the number of Visitor Accommodations by allowing owners of condos that can currently operate legally and commercially as Short Term Rentals, but who do not intend to operate that way, to permanently opt their condo out of the STR class through a dedication scheme. Right now, if one of these condos is sold to a new buyer, that new user may immediately start operating a commercial Visitor Accommodation.

Prior to the GY 2021 tax year, such owners could file a declaration that they did not intend to operate as an STR and opt out of the STR RPT class and into the NOO class, where tax rates have been considerably lower. But the opt out was temporary, for one year at a time, so that the condo could return to the VA inventory at any time in the future. In 2020 the Council passed an ordinance revoking this opt out right and required all such condos to be taxed as STRs no matter their actual use. As a result, over 1600 condos were shifted out of the NOO class into the STR class this year. Many of those owners became upset, hundreds filed appeals of their new classification, and many have written letters to the editor claiming the sudden tax increase was unfair.

If the Council changed the law to allow those owners to return to the NOO class so long as they permanently dedicated their property to not be allowed to operate as an STR, it is likely that most, maybe more, of those 1600 owners would so elect. Right now, there are roughly 13,000 condos in the STR class. We think that this proposed change in the law will result in a permanent reduction in the number of commercial Visitor Accommodations.

2. Even the hotel trade associations admit that, until the temporary interruption of the pandemic starting in March 2020, Maui was suffering many negative impacts of over-tourism. Quoting from the written submission of the Hawaii Hotel Alliance to your committees, "We believe the conversation should focus on the causes of the negative impacts of tourism, "taking housing away from local families", "clogging our streets", and "destroying neighborhoods across Maui County." HHA decried what it called non-compliance with "environmental, health, and safety regulations."

Taking a timeout on any further increase in Visitor Accommodations make sense until the pandemic's effects are in the rear view mirror, and we can develop a plan to return to the Maui Island Plan ration of 1 visitor to 3 residents. Such a timeout will not cause any loss of the jobs generated in 2019 when the tourist industry was operating at full steam.

3. The public testimony has been overwhelmingly in support of such a timeout. Here is a summary of the written testimony re the Visitor Accommodation Moratorium provided to the IT Committee meeting 5-17-21:

Note; the e-comment system characterizes each written comment as "Support" or "Oppose", or sometimes no characterization, but many of them labeled "Oppose" are actually in favor of the moratorium—I don't know if these mistakes occur when the comment is submitted by the testifier, or by Committee staff.

There were 126 comments on the agenda item, and 66 more on the whole agenda—all of the latter were about the moratorium.



I found 19 ecomments in support mislabeled as "Oppose". And 15 not labeled or called "neutral" which were all in support.

There were only 5 ecomments genuinely in opposition: 2 from individuals, and 3 from trade groups: 1 from the Hawaii Hotel Alliance, 1 from the Hawaii Resort Development Assoc (Timeshares) and 1 from the Bricklayers Union.

**All told then, there were 192 ecomments to the IT Committee by 5/17/21—187 in support of the moratorium, and 5 opposed. 96% in support, 4% opposed.**

4. The hotel trade groups made arguments against the moratorium that were sadly just wrong, very wrong, on the facts. Jerry Gibson, a long-time leader in Hawaii's hotel and visitor industry, and currently president of the Hawaii Hotel Alliance, acknowledged that there are many negative effects of over-tourism—crowded roads, parks, beaches, use of scarce resources of water and sewers, but he said this is due to "thousands" of illegal, "criminal" operators of STRs throughout Maui's residential neighborhoods.

He cited state statistics (not Maui-specific statistics) that while the number of hotel rooms in the "legitimate" visitor industry has not increased over the past decade, the number of visitors has greatly increased, all due to illegal STRs, which he said have "exploded". He said enforcement of STR laws has not been effective.

From his written testimony:

"At the heart of this matter of a moratorium on building permits for visitor accommodations appears to be a desire to control the negative impacts of tourism across Maui County. At HHA and throughout the legitimate visitor industry, we share this concern. **We believe the conversation should focus on the causes of the negative impacts of tourism** and not the parts of the visitor industry that are crucial to our health, our culture, and our way of life here in the islands.

"In 2009, Hawaii had 43,000 hotel rooms which ran at high occupancy with seven million visitors to our shores. In 2019, we had the same number of hotel rooms but more than 10.2 million visitors. In the last 20 years, our total hotel room count on Maui has actually fallen, while at the same time legal and **illegal short-term rentals have exploded**, effectively permitting a 6,000 room hotel and a 10,000 room illegal, unhosted B&Bs directly into the heart of some of our most coveted neighborhoods and fragile ecosystems across the county. The vast majority of these short-term rental operators do not live in Maui County. While we have made progress in putting tougher laws on the books to deter these criminals from operating illegal hotels in our neighborhoods, **our hardworking partners at the county have admitted that we still lack the resources and tools to rollout effective and critical enforcement.**

"If it is the intent of the Council to align the interests of kama'aina and the visitor industry, then a moratorium on 'permits for visitor accommodations' (which reads as no more hotel rooms) is, in my belief, a misinformed approach. Rather than single out hotels, which contribute to our communities in countless ways, **we should focus more on enforcement against the literal thousands of illegal short-term rentals that are taking housing away from local families, clogging our streets, breaking the law, not contributing to our tax base, skirting environmental compliance, non-compliant with basic health and safety regulations, lacking in community contributions, and destroying neighborhoods across Maui County.**" (Emphasis added.)



Maui Hotel and Lodging Association echoed this argument in its written testimony in a comment:

**"It is our position that visitors should be encouraged to stay in Maui's purposely constructed and zoned resort areas. If development is paused in these resort areas, the already extensive proliferation of illegal short-term rentals in our residential communities will likely increase to fill the void. This must not be allowed to continue."** (Emphasis added.)

Both hotel trade groups are very, very wrong about illegal STRs in Maui County. I am Chair of the Cost of Government Commission. We are conducting an investigation into the policy options available to the Council and Mayor to better manage the negative impacts of over-tourism by managing Visitor Accommodations. As a first step, in 2019 we investigated the County's enforcement of STR laws. Members of our Temporary Investigation Group met with Michele McLean and Jordan Hart, and their STR enforcement team. We requested and received many documents from them concerning their enforcement effort and its success. We became convinced that problem is under control here, even if it is still bad on Oahu. I don't think there are more than 200 property owners here still operating illegally as STRs, as contrasted with the 13,500 legal STRs in the County. The Planning Department has a good surveillance system that seeks out internet ads for illegal STRs and responds to citizen complaints about potential violators. Armed with the \$10,000/day fines the Council passed two years ago, the Administration has shut down almost all illegal STRs. Those property owners still flaunting the law are very likely to get caught, fined, and shut down.

**Our problem is not illegal STRs—it is the 13,500 legal ones. That is on top of the 2500 timeshares and 7250 hotel rooms.**

5. There are at least two ways to use the legislative tools at your disposal to manage those:
  - A. Allow all the 13,000 condo owners now taxed as STRs to permanently opt out of the STR business through some dedication scheme. There are well over 1,000 such owners who prior to this year opted out of the STR class into the lower-rate NOO class temporarily, one year at a time. The Council removed that option for this tax year, and hundreds of howls have gone up from the owners affected—many of them have filed Property Tax appeals over that change. If the Council allowed them to opt out, but only if permanently, we would see the number of STRs drop substantially. Not just a cap on visitor accommodations, but a decrease.
  - B. Use the property tax tool to incentivize the owners of those condos who continue to operate as commercial STRs to convert them to LTRs, or NOOs, or if not to pay their fair share to offset the negative impacts of the tourist they bring here: pay more for roads, parks, police, fires, emergency services, hospitals, water supply improvement, wastewater treatment improvements, affordable housing. Some will choose to rent long term instead and opt into the new LTR class next year.

Mahalo for the opportunity to testify on this important issue.

Michael Williams, 5-19-21

President, Maui Tomorrow Foundation.