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POLICE COMMISSION OFFICE OF THE  
COUNTY OF MAUI COUNTY CLERK  
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July 16, 2021

Honorable Michael P. Victorino  
Mayor, County of Maui  
200 South High Street, 9<sup>th</sup> Floor  
Wailuku, HI 96793

APPROVED FOR TRANSMITTAL

*Michael P Victorino* 7/19/21  
Mayor Date

For Transmittal to:

Honorable Alice L. Lee  
Chair, Maui County Council  
200 South High Street, 8<sup>th</sup> Floor  
Wailuku, HI 96793

RE: Ordinance No. 5174, Bill No. 142 (2020), A BILL FOR AN ORDINANCE  
ESTABLISHING CHAPTER 9.40, MAUI COUNTY CODE, RELATING TO SOCIAL  
HOST LIABILITY

Dear Chair Lee:

The Maui Police Commission, by a vote of eight to one, has authorized me to communicate to the County Council the Commission's position on Ordinance No. 5174, Bill No. 142 (2020), A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 9.40, MAUI COUNTY CODE, RELATING TO SOCIAL HOST LIABILITY.

On June 2, 2021, I was notified by the Maui Coalition for Drug-Free Youth of the above-referenced Social Host Liability Ordinance, which makes the Maui Police Commission the body to hear appeals of notices of violation of this new law.

The matter was placed on the Maui Police Commission agenda for its June 29, 2021 meeting. At the meeting, Commissioners were displeased to find out that there was no notice to the Commission about this Ordinance prior to the Coalition contacting the Commission on June 2<sup>nd</sup> and further displeased to realize that the Commission was being given this duty without being informed to provide any comments during its adoption by the Council.

COUNTY COMMUNICATION NO. 21-385

Honorable Alice L. Lee

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As you may know, Section 8-12.3 of the Charter of the County of Maui gives the Maui Police Commission the authority to appoint the Chief of Police and has the authority to remove the Chief. Furthermore, Section 8-12.2.1 of the Charter requires that the Police Commission adopt such rules as it may consider necessary for the conduct of its business and regulation of the matters committed to its charge by law.

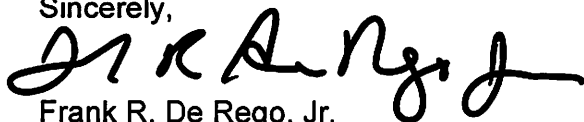
With regard to Section 9.40.050.B, Maui County Code, it requires the Chief of Police to adopt administrative rules to carry out the provisions of this new law. While the Chief may adopt administrative rules with regard to the process and procedures of the Maui Police Department when issuing notices of violation, it would be in violation of the Charter for the Chief to adopt administrative rules for the Police Commission. Pursuant to the Charter, the Police Commission must adopt its own rules to carry out its duties.

The Commission wants to make clear that its comments on this matter are not a reflection on the good work of the Council, the Maui Coalition for Drug-Free Youth or the substantive intent of the ordinance, including the the creation of an appeals process. However, the Maui Police Commission does not believe the appeals function should reside with this Commission.

The focus of the work of the Commission as currently defined in the Maui County Charter and its rules are on the Chief of Police, the budget for the Police Department, and reviewing and investigating complaints brought forth by the public on the conduct of the department or any of its members. The appeals process proposed in this ordinance would now have the Commission making judgments on members of the public – a major departure from its scope and focus on the police function and police misconduct within the community. Therefore, the Commission asks that the Council find another board or commission that is better fit to hear these appeals.

As the Ordinance is to take effect on September 1, 2021, the Maui Police Commission hereby provides notice that the Commission will not be implementing this Ordinance by that date.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank R. De Rego, Jr.", with a stylized flourish at the end.

Frank R. De Rego, Jr.

Chair

Maui Police Commission

cc: Acting Chief Dean M. Rickard  
Managing Director Sananda K. Baz