

**DISASTER, RESILIENCE, INTERNATIONAL AFFAIRS, AND
PLANNING COMMITTEE**
Council of the County of Maui

MINUTES

March 8, 2023

Online Only via BlueJeans

CONVENE: 1:33 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Tamara Paltin, Chair
Councilmember Nohelani U'u-Hodgins, Vice-Chair (Out at 4:14 p.m.)
Councilmember Tom Cook, Member
Councilmember Tasha Kama, Member
Councilmember Keani N.W. Rawlins-Fernandez, Member (In at 2:02 p.m.)
Councilmember Shane M. Sinenci, Member
Councilmember Yuki Lei K. Sugimura, Member (In at 2:35 p.m.)

STAFF:

Paige Greco, Legislative Analyst
James Krueger, Senior Committee Analyst
Richard Mitchell, Legislative Attorney
Maria Leon, Committee Secretary
Clarita Balala, Senior Committee Secretary
Lei Dinneen, Council Services Assistant Clerk
Tammy Frias, Supervising Committee Secretary
Nālani Fujihara, Hawaiian Language Communications Specialist
Richelle Kawasaki, Legislative Attorney
Jarret Pascual, Legislative Analyst

Angela Lucero, Executive Assistant to Councilmember Paltin
Susan Clements, Executive Assistant to Councilmember U'u-Hodgins
Jared Agtunong, Executive Assistant to Councilmember Cook
Stacy Takahashi, Executive Assistant to Councilmember Cook
Sarah Sexton, Executive Assistant to Councilmember Rawlins-Fernandez
Gina Young, Executive Assistant to Councilmember Sinenci
Axel Beers, Executive Assistant to Councilmember Johnson
Kate Griffiths, Executive Assistant to Councilmember Johnson

Roxanne Morita, Council Aide, Lānaʻi Residency Area Office
Jade Rojas-Letisi, Council Aide, Makawao-Haʻikū-Pāʻia Residency Area Office

ADMIN.:

Scott Teruya, Acting Director, Department of Finance
Marcy Martin, Real Property Tax Administrator, Department of Finance
Jacky Takakura, Planning Program Administrator, Department of Planning

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Michael Hopper, Deputy Corporation Counsel, Department of the
Corporation Counsel

OTHERS: Diana Bresnan
Sandra Mubarak
Madeline Monaco

PRESS: *Akakū: Maui Community Television, Inc.*

CHAIR PALTIN: . . . (*gavel*) . . . Will the Planning and Sustainable Land Use Committee [*sic*] meeting of March 8th come to order. The time is now 1:30. Oh, will the DRIP meeting of March 8th, 2023 come to order. The time is now 1:34. And I will be your Chair for this meeting, my name is Tamara Paltin. If everyone can please silence their cell phones and other noisemaking devices, that will help our cause. Members, in accordance with the Sunshine Law, if you are not in the Council Chamber, please identify by name who, if anyone, is in the room, vehicle, or workspace with you today. Minors do not need to be identified. Also, please see the last page of the agenda for information on meeting connectivity. I am in the Council Chambers today, so I'm with all of you. And with us today, we have Committee Vice-Chair Nohelani U'u-Hodgins. Aloha 'auinalā.

VICE-CHAIR U'U-HODGINS: Aloha, Chair. Thank you.

CHAIR PALTIN: Thank you. And we also have Councilmember Tom Cook. Aloha 'auinalā.

COUNCILMEMBER COOK: Aloha.

CHAIR PALTIN: And also Councilmember Tasha Kama. Aloha 'auinalā.

COUNCILMEMBER KAMA: Aloha 'auinalā, Chair. Looking forward to a wonderful DRIP meeting.

CHAIR PALTIN: Thank you. I got to remember that now. And we also have...Member Rawlins-Fernandez, I think, will be joining us at a later time. She was still upstairs, I believe. So, excused at this time. From Hāna, we have Councilmember Shane Sinenci. Aloha 'auinalā.

COUNCILMEMBER SINENCI: Aloha 'auinalā, Chair, from my home office at 68 Kauiki Street. I'm here with District Staff Don Atay and the neighbor's dog. And there's no testifiers at the District Office. Thank you.

CHAIR PALTIN: Thank you. And we also have Member Yuki Lei Sugimura. I know she's somewhere in the building, but not here at this time. So, excused at this time as well. Our Non-Voting Members are Councilmember Gabe Johnson and Council Chair Alice Lee. They're not required to be here, but they're welcome to join us as at any time. From the Administration, we have Acting Planning Director Kathleen Aoki. From the Department of Finance, we have Acting Director Scott Teruya, as well as Real Property

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Tax Administrator Marcy Martin. And our Deputy Corporation Counsel today is Michael Hopper. Our Committee Staff, we have Committee Secretary Maria Leon, Legislative Analyst Paige Greco, and Senior Committee Analyst James Krueger, as well as Legislative Attorney Remi Mitchell, and Assistant Clerk Lei Dinneen.

**ITEM 1: BILL 4 (2023), CONVERTING APARTMENT BUILDINGS FROM
TRANSIENT VACATION RENTAL USE TO LONG-TERM
RESIDENTIAL USE**

CHAIR PALTIN: Oh, so, on our agenda today we have one item, DRIP-1, which is Bill 4(2023), Converting Apartment Buildings from Transient Vacation Rental Use to Long-Term Residential Use. Members, because we only have one item on the agenda today, I will ask for opening comments from our Department representatives before receiving testimony. So, this bill...oh. This Bill 4, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.12, MAUI COUNTY CODE, RELATING TO CONVERTING APARTMENT BUILDINGS FROM TRANSIENT VACATION RENTAL USE TO LONG-TERM RESIDENTIAL USE." Bill 4's purpose is to allow property owners of buildings located in the Apartment District to permanently convert property from transient vacation rental use to long-term residential use by filing a declaration with the State of Hawai'i, Bureau of Conveyances, and providing notice to the County. So, that's in perpetuity. Correspondence...there's also in your Granicus correspondence dated February 6, 2023 from the County Clerk transmitting a letter from the Department of Planning dated December 29, 2022 relating to Bill 4. Correspondence dated March 1st, 2023 from the Department of Corp. Counsel transmitting a revised proposed ordinance of Bill 4 entitled, "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.12, MAUI COUNTY CODE, RELATING TO CONVERTING APARTMENT BUILDINGS FROM TRANSIENT VACATION RENTAL USE TO LONG-TERM RESIDENTIAL USE." The Committee may consider whether to recommend passage of Bill 4 on first reading, with or without revisions. The Committee may also consider the filing of Bill 4 with another related action. With reference to this agenda item, one or more executive meetings could be anticipated in accordance with Section 92-5(a)(4), Hawai'i Revised Statutes, to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committees...Committee. So, I misspoke, it's Jacky Takakura on the line for the Planning Department. Ms. Takakura, did you have any opening comments that you'd like to share with the Committee?

MS. TAKAKURA: Good afternoon, Committee, DRIP Committee, not PSLU. So, I don't have any presentation, but I do want to say thank you for taking this item up. We had taken this to the Planning Commissions back in September, and the Commissions and the Department supported the bill that came from the Committee, PSLU Committee, last year. We just had some minor revisions to the bill, which we had sent back to you. And we did support the proposal that came from PSLU to require 100 percent of agreement by owners. So, that's what was transmitted back to the County Council. So, yeah, we're basically in support of what the PSLU had proposed last year. Yeah, so, that's what you have before you. Thank you.

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CHAIR PALTIN: Thank you. Before I call on Director Teruya, maybe I should explain a little bit of the history of the bill too. Because we have two new Members, and Ms. Takakura did allude to it. So, before I call on Mr. Teruya. In the 2021-2023 Council term, the Planning and Sustainable Land Use Committee met on this matter on November 3rd, as well as June 2nd, 2022. On August 4th, 2021, a bill amending Chapter 19.12, Maui County Code, to phase out transient accommodations in Apartment Districts was introduced by me through CC 21-422, which is attached to a resolution. And the purpose was to create long-term affordable housing opportunities. The A-1 and A-2 Apartment Districts permitted for transient vacation rentals until the date after December 31st, 2021 on which property is sold or transferred. On October 29th, 2021, Councilmember Rawlins-Fernandez transmitted a revised proposed bill that A-1 and A-2 districts permit TVR use if Directors determine building or structure is within the State sea level rise be...or a/k/a the SLR-XA, and that one would be January 1st, 2023. So, this is all stuff that we had been through before and didn't kind of make it forward. On May 27th, 2022, I introduced a further revised proposed bill adding a new section 19.12.025 to allow property owners of buildings in A-1 and A-2 districts to permanently convert property from TVR use to long-term residential use by filing a declaration with the State's Bureau of Conveyances, and providing notice to the County. This proposal does include need of execution by 100 percent of property owners. In May 31st, 2022, Corp. Counsel transmitted a revised proposed bill, allows Planning Director to enforce declaration as a violation of Title 19. The Committee report dated June 21st, 2022, noted that the prior terms PSLU Committee considered 67 percent execution of property owners to be reasonable, but the bill attached to the Committee report said 100 percent. So, that's kind of the history of it. At first it was meant to be like a phase out upon resale. Member Rawlins transmitted a bill that would phase out at a date certain specifically outside of the SLR-XA. And then it evolved into a voluntary by 100 percent, and then the three Planning Commissions heard that bill. Moloka'i and Lāna'i were in approval of 100 percent, and Maui Planning Commission was in approval of 67 percent. Any questions so far for clarification? No? Okay. Sorry, Mr. Acting Director Teruya. Any opening comments?

MR. TERUYA: Good afternoon, Chair and Members. Scott Teruya, Acting Finance Director. On behalf of Administration, meaning Mayor Bissen, and myself as the Finance Director, I think we are in support of the measure provided that it is 100 percent of the property owners and in perpetuity. So, I think we can go along with this measure and we're supporting it. Thank you, Chair.

CHAIR PALTIN: Thank you, Director Teruya. At this time, we do have three public testimony and, I believe, eight written testimony, maybe 16, it's hard to tell if they're different or the same. So, since we do have public testimony, I'll read the instructions. Public testimony will be accepted only for agenda item DRIP-4 [sic]. Oral testimony via phone or video conference will be accepted. Please note that if you are signed in, you are on the list to testify, even if you did not request to testify. Please let Staff know in the chat if you are signed on and do not intend to testify. Testifiers wanting to provide audio or video testimony should have joined the online meeting via the BlueJeans link or phone number noted on today's agenda. Written testimony is encouraged, and can be

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submitted via the eComment link at mauicounty.us/agendas. Oral testimony is limited to three minutes per item. If you are still testifying beyond that time, I will kindly ask you to complete your testimony. Unless you want to testify anonymously, please indicate your name, organization, and items you would like to testify on in the chat. We ask that you state your full name, but if you prefer to testify anonymously, Staff will identify and refer to you as Testifier and assign you a number. Please also indicate the agenda items. Well, in this case it's just DRIP-4...or -1, Bill 4. You may indicate in the chat if you do not wish to testify. However, chat should not be used for discussion or comments. Please be courteous to others by turning off your video and muting your microphone while waiting for your turn to testify. Once you are done testifying, or if you do not wish to testify, you can also view the meeting on *Akakū* Channel 53, Facebook Live, or mauicounty.us/agendas. Thank you all for your cooperation. And before proceeding, may I please request that everyone keep their microphones muted unless it's your time to speak. Decorum must be maintained at all times. Any person who behaves in a manner that disrupts, disturbs, or impedes the orderly conduct of any Council meeting can, at the discretion of the presiding officer or a majority of present Councilmembers, be ejected or banned from Council meetings, or if participating remotely, muted or dropped from the meeting. Examples of disruptive behavior include heckling, shouting, use of profanity, threatening, or slanderous remarks made to any Member of the Council Staff or general public. It will be considered a breach of decorum for members of the public to use the chat for anything other than testimony sign up. Staff has been monitoring individuals joining today's meeting by phone call and by video, and we will do our best to take each person up in an orderly fashion. At this time, we will call on testifiers wishing to testify on our only agenda item, DRIP-4 [sic]. And the first testifier is Diana Bresnan. Diana Bresnan, it's your first...it's your turn to testify, and then she'll be followed by Sandra Mubarak. And reminder, Members, clarifying questions only to the testifier. I see Diana Bresnan?

. . . BEGIN PUBLIC TESTIMONY . . .

MS. BRESNAN: Aloha. Aloha.

CHAIR PALTIN: Aloha. Go ahead.

MS. BRESNAN: Thank you. My name is Diana Bresnan. I realize that the County had the best intentions when they passed Ordinance 5160, but there was some unintended negative consequences that should be remedied. My property was changed to a short-term rental property through that process because one owner had rented their property years ago, was fined by the Association, and sold their property. Now myself and all of my neighbors are having negative consequences because of that. It may be relatable for you to think about it this way. If...in your neighborhood, if there's one person who has a home daycare, and the County came in and decided that because one home daycare existed, your entire neighborhood is now going to be zoned commercial. So, now, there are lots of commercial businesses coming in, and noise and disturbances, and the only way for you to get your quiet little neighborhood back is to get 100 percent of your neighbors to sign a declaration saying that no commercial business will ever be

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done in this neighborhood again, including the one who has the daycare. So, chances of you getting your quiet neighborhood back are zero. And that's what's happening to many of our property owners. Hawai'i law, the Condominium Property Act, requires 67 percent owner approval to change a declaration. The declaration is what defines use of property. So, if Hawai'i law, which has been in effect since 2006, only requires 67 percent for condominiums to change their use of their Association, I don't understand why the County would do something that conflicts with that and require 100 percent. Those who've expressed opposition to the 67 percent approval have a vested interest in short-term rentals. They are not interested in the long-term housing. The opposition is coming from those who benefit financially from short-term rentals. They're fully aware that getting 100 percent approval is nearly impossible, and this will preserve their financial benefit of continuing to get short-term rentals. I hope that the County will consider what's fair and just for property owners. Amending declarations with 67 percent owner approval is nothing new. It's been the law and the typical process for many, many years. And passing an ordinance that's too restrictive will really make it unusable. So, I appreciate you listening, and I appreciate the work that you do as well, and I hope that you will make a decision that works for the best of the community. Mahalo.

CHAIR PALTIN: Thank you, Ms. Bresnan. Members, any questions for the testifier? Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair, and mahalo, Ms. Bresnan. So, you're just saying that instead of 100 percent, you're proposing that 67 percent of the area owners approve?

MS. BRESNAN: That's correct, which is consistent with 514B.

COUNCILMEMBER SINENCI: Okay. Thank you. Thank you, Chair.

CHAIR PALTIN: Thank you, Member Sinenci. Any further clarifying questions for the testifier? Member Cook.

COUNCILMEMBER COOK: Thank you, Ms. Bresnan. So, basically, you feel that by having...not having 100 percent is going to enhance compliance? It would encourage more people to limit their short-term rentals?

MS. BRESNAN: Absolutely. We've never done short-term rentals except for one person, and now our entire property is classified as short-term rentals. And if we don't have the opportunity to change that, I'm fearful that our quiet neighborhood now turns into short-term rentals. And right now, it's long-term housing. So, the County is basically pushing us the other direction. 67 percent is very reasonable. That's what most declarations require to make any changes, including use of the property. So, I feel it's very much in alignment.

COUNCILMEMBER COOK: Thank you.

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CHAIR PALTIN: Members, any further clarifying questions? I just had one question, Ms. Bresnan. Is there any difference to you...in HRS 514B is, anytime you get that 67 percent, you can then change your declaration and bylaws. But if we pass this bill at 67 percent, it would be in perpetuity. You wouldn't be able to pass a declaration with 67 percent, then not be able to do short-term rental, and then pass another declaration to go back to short-term rental. You understand that, right?

MS. BRESNAN: I do understand that. I wish that the ordinance could just be repealed so that we wouldn't have to go through this process, but absent a better possibility, we're doing everything we can to just try to preserve what we intended our property to be.

CHAIR PALTIN: Thank you. Okay. Seeing no further questions, the next testifier will be Sandra Mubarak, to be followed by Madeline Monaco. Sandra Mubarak, it's your turn to testify.

MS. MUBARAK: Can you hear me?

CHAIR PALTIN: Yes.

MS. MUBARAK: Okay. I have lived in Mahinahina Beach for 14 years on and off. I am in semi-retirement, and I do have to travel back and forth. And so, I'm not absolutely full time there, but I intend to be there when I fully retire. The reason we bought in Mahinahina Beach is because even 14 years ago, we had no short-term rentals. That is a very desirable thing for all of our neighbors. We know each other very well. We like our quiet neighborhood, and we don't want short-term rentals to occur because we know that it's not going to be a quiet neighborhood like it is now. We are aware that when we voted for 67 percent it wasn't in perpetuity yet, whatever the word is...perpetuity...we could not go back and that is very acceptable for all of us. We are in agreement that the County of Maui is trying to decrease short-term rentals and give us long-term rental possibilities, and that's what we want. We want to be long-term renters or long-term owners. Those of us who can't be there full time don't want to just be sitting there with double the taxes, which is what happened to us in December of 2021. We just were all shocked within a few weeks that we learned that we were going to have our taxes doubled, and it doesn't make any sense to us at all because we are trying to be long-term, 100 percent. So, please consider the 67 percent, and understand that we are trying to be long-term properties, not short-term at all. Thank you.

CHAIR PALTIN: Thank you, Ms. Mubarak. Members, any questions for the testifier? Member Kama.

COUNCILMEMBER KAMA: Thank you, Chair. And so, thank you for being here. So, my question to you is, what is 67 percent of? How many units are there?

MS. MUBARAK: 32.

COUNCILMEMBER KAMA: Okay. Thank you. Thank you, Chair.

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CHAIR PALTIN: Members, any further questions for the testifier? Seeing none. Thank you so much for your testimony. Next up, the last testifier on the line...or on the list is Madeline Monaco. It's your turn to testify at this time.

MS. MONACO: Aloha, and thank you for the opportunity to testify. I also support revising Ordinance 5160 to allow properties that do not allow short-term rentals to have an accurate tax classification. I also would like to see the language amended to the language that was approved last year by the Maui Planning Commission, and I request the County adopt that language, which stated that allow...that communities would be allowed to have 67 percent owner approval to permanently prohibit short-term rentals. I say this because, as you probably know from your own experience, and I certainly know from my own experience leading other homeowner associations and work organizations, it's almost impossible to get 100 percent of any organization to vote, and even more difficult to get 100 percent of people to agree on any given issue. I fear that if the language is not changed, the bill may not...may have the opposite effect, and actually encourage some communities to rent short-term. So, if Ordinance 5160 is to be effective, I ask that you please align with Section 514B-32, and change the language to reflect the same 67 percent requirement for approval of the declaration. I also want to just echo the sentiments that were just expressed by the other two testifiers, and in our community, we do not allow short-term rentals. It's one of the main reasons I, and many other owners, chose to live in a quiet haven. We don't want transient vacation renters in our small residential community. As someone said, one owner violated that policy years ago, and were fined, and subsequently sold their unit. No other unit owners rent their units long-term...short-term, sorry. And in fact, there are several owners who rent their units long-term at reasonable prices. It's been very frustrating for our small community to be classified as short-term rental because some of us are Hawai'i residents, and those who are not Hawai'i residents either do not rent their units at all, or they rent for more than 180 days. The fines that we have set forth in our own declaration are \$20,000, plus \$10,000 per day, which is consistent with County short-term rental violation fees. So, I ask that the Council please change the language accordingly to make Ordinance 5160 an effective piece of legislation. And I thank you for your consideration.

CHAIR PALTIN: Thank you, Ms. Monaco. Members, any clarifying questions for the testifier? Seeing none. Oh, sorry. Member Sinenci, go ahead.

COUNCILMEMBER SINENCI: Mahalo, Chair, and mahalo, Ms. Monaco, for your testimony this afternoon. Just for clarification, the neighbor that sold their property, they sold it with the short-term rental permit?

MS. MONACO: I actually bought that property. And no, I don't believe I have a short-term rental permit.

COUNCILMEMBER SINENCI: Okay. Thank you.

MS. MONACO: I never rented my unit.

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COUNCILMEMBER SINENCI: All right. Thank you.

MS. MONACO: I would . . . *(inaudible)*. . .

CHAIR PALTIN: If I can clarify that, I believe this is what is called the Minatoya property. So, Minatoya is allowed by zoning, and not by permit. These properties, A-1, A-2 properties, allowed to do short-term rental without a permit because it's a legacy usage. Did anyone else have any clarifying questions for Ms. Monaco? I had one question. If it...if it turns out to be 100 percent, how many more residents of your 32 units would you need?

MS. MONACO: You know, I'm actually not sure. I know that we have over 67 percent who voted to change our declaration to that higher fine structure. So, I actually don't know the answer to that, Councilwoman Paltin.

CHAIR PALTIN: Okay. And if it is not to pass, or if it passes at 100 percent, would you...would you continue to have that property, or would you sell it to somebody who is interested in doing short-term rental?

MS. MONACO: Oh, no, I'm living here. I plan to be here full-time.

CHAIR PALTIN: Okay. Thank you for answering that. Seeing that it looks like there's no further questions. So, thank you so much for your testimony.

MS. MONACO: Thank you.

CHAIR PALTIN: That was the last testifier on the list. At this time, I'm going to do a last call for testifiers either on BlueJeans, telephone, or in the Chambers. If you wish to provide testimony at this time, please head on down, unmute yourself, or I think, for the phone it's star six ...oh, sorry, star four. I always say six on accident--star four. I'll do a three, two, one. Oh, I just got a correction, the Minatoya is not allowed by zoning, it's allowed prior to zoning. So, legacy use...not zoning, legacy use. My bad. All right. And at this time, I'd like to welcome, Councilmember Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha, Chair. My apologies for my tardiness. Aloha 'auinalā kākou, mai Maui nui a Kama. I think that's all I need to say, yeah? No testifiers at the Moloka'i District Office. Mahalo, Chair.

CHAIR PALTIN: Thank you. Aloha 'auinalā. So, nobody came forward for last call on public testimony. We do have about 16 written testimonies in eComment, which we will accept into the record. And then close oral public testimony?

COUNCILMEMBERS: No objections.

CHAIR PALTIN: And written testimony continues to remain open.

. . . END PUBLIC TESTIMONY . . .

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CHAIR PALTIN: Members, I would like to open the floor for discussion. And as we're a kind of slim Committee, I will just not put any kind of timer on anyone unless you start to repeat yourself, and we'll go by raised hand who wants to go first. Oh, Member Kama.

COUNCILMEMBER KAMA: Thank you, Chair. So, if I could, I was trying to ascertain what that 67 percent was. So, I think maybe the best question is to find out what is 100 percent. I mean how many units are we talking about, so that I can figure out what is the 67 percent that they're talking about.

CHAIR PALTIN: Oh, if I can clarify. It's by property. So, each property has however many units. Like I think their property was Mahinahina Beach, so there's 32 units. So, 67 percent of 32 is a little bit over half, maybe like...maybe 20 or something like that, rough math. And then, you know, another property might have like 100 units. So, 67 percent would be 67 of those units. And I think the total of those A-1, A-2, could possibly be like 7,000 units or around there. Oh, I see Ms. Martin nodding her head, so I'm kind of accurate. So, does that sufficiently answer your question?

COUNCILMEMBER KAMA: Yes. Because then it helps me to understand why they are looking at 67 percent as opposed to 100 percent. Thank you.

CHAIR PALTIN: Okay. Great. Anybody else have any...oh, Member Cook.

COUNCILMEMBER COOK: So, if there was 100 units and 99 people agreed, but one person didn't, that could potentially eliminate this from being enacted?

CHAIR PALTIN: So, it would depend on if the bill that passes is 100 percent bill or a 67 percent bill. Or the other option, I think, was whatever the Board requires to amend their documents plus 10 percent. So, if we went with 100 percent, one person could hold up the conversion. If we went with 67 percent, one person couldn't hold up the conversion. Is that clear enough?

COUNCILMEMBER COOK: Yes. A follow-up question, please?

CHAIR PALTIN: Sure.

COUNCILMEMBER COOK: So, if there's 100 people, and 70 people voted to accept it, the other people would be forced to be in compliance?

CHAIR PALTIN: Well, beyond just voting to change your Board HOA things, you would also have to file a declaration with the Bureau of Conveyances, and assert that this change would be in perpetuity, and some other little paperwork stuff. So, just the vote in and of itself is not enough. You need to do some extra steps.

COUNCILMEMBER COOK: Okay. I guess I'd like to say I'm very supportive of this bill. My understanding, the intent is, it's going to provide more long-term residential housing for people to...for long-term rentals instead of short-term rentals. And so, my question is,

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it seems like the 100 percent...well, my comment, it seems like the 100 percent criteria might be a pretty high bar that might actually, as some of the testifiers indicated, prevent this from happening. And so, I don't know the mechanics of it, but I'm supportive of the bill, and I would not want a technicality that like to prevent it from being successfully implemented. That's my comment.

CHAIR PALTIN: Thank you. Any other questions, comments, discussion from the Members? Member U'u-Hodgins.

VICE-CHAIR U'U-HODGINS: Thank you. Okay. My understanding, Maui is going to be stricter than Lānaʻi and Molokaʻi, or are we going to make all three islands the same, or are we going to allow the islands to be different?

CHAIR PALTIN: That's what we're deciding today. Just to throw in another little twist, I think. To disagree with the Planning Commission's recommendation, at full Council it will take two-thirds of the vote to pass. So, that's six people. It doesn't apply to Committee. But...so, the Planning Commission recommended 67 percent for Maui.

VICE-CHAIR U'U-HODGINS: Yeah.

CHAIR PALTIN: Maui Planning Commission. So, if we change it to 100 percent, I believe we'll need six votes to pass it at full Council. But it's...that's a recommendation from the Planning Commission. So, it's within our purview here, and at the Council, to say which one we want. For me, I have a bill that kind of more closely represents the Planning Commission's recommendations where it's like, you know, 100 percent for Lānaʻi, 100 percent for Molokaʻi, is what those Planning Commissions recommended, and then 67 percent for Maui Planning Commission. And then, there's another bill where it's 100 percent for all. And so, that's kind of the decision before us today. And, you know, if Members did want to get a legal opinion, Corporation Counsel had requested that we go into executive session to hear their opinion. And as this is a seven Member Committee, I believe that would require a vote...affirmative vote of four of the Members.

VICE-CHAIR U'U-HODGINS: Okay. And then we would also need the same amount if we were to move Molokaʻi and Lānaʻi to 67 percent as well, right?

CHAIR PALTIN: If we were six Members at full Council, I believe. Yeah.

VICE-CHAIR U'U-HODGINS: Yeah, okay. I also had a question regarding the language in the bill for, I guess, your first paragraph in (c), where it says: "The declaration must state the following: The owners must not use the property as a transient vacation rental home, bed and breakfast home, or short-term rental home." And then on another one, it says same thing, different situation...(c) again, "Owners must use the property for long-term residential use only." Are we going to change that language to make it uniform?

CHAIR PALTIN: Yeah. That was different versions of the bill. I think the long-term rental use only was the one that had come back from Corp. Counsel.

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VICE-CHAIR U'U-HODGINS: Yeah.

CHAIR PALTIN: If we go with that one, we would also need to add long-term rental use only or non-owner occupied.

VICE-CHAIR U'U-HODGINS: Okay.

CHAIR PALTIN: Because long-term rental use is somebody that lives there more than 180 days. But, you know, we would just specify there could be owners that own the unit and live somewhere else for 182 days, and so, they only live over there for less than 180 days or something like that. So, just...if we go with owners must use the property for long-term residential use or non-owner occupied use, I think it would be more accurate, and that could be an amendment we make when we take the motion up.

VICE-CHAIR U'U-HODGINS: Okay. Thank you.

CHAIR PALTIN: Any further questions from any of the Members? Member Cook.

COUNCILMEMBER COOK: Does the Finance Director have a comment on this?

CHAIR PALTIN: He made a comment, but did you have further question, or do you look like you want to say more stuff? Okay, go ahead. You can say more stuff.

COUNCILMEMBER COOK: I was trying to leave it as broad as possible.

CHAIR PALTIN: Go ahead, Acting Director Teruya.

MR. TERUYA: Thank you, Chair and Members. It's not a matter of the percentage. I'm not that worried about whatever you guys choose to do. But I do think that in this...somewhere in the bill, it should have an application...I mean effective date, is that better to state? So, it's saying that you need to apply by September 1st, and the Director has 45 days of the receipt to review the declaration and, you know, vet it. But it should identify, for taxation purposes, it must...it will take effect the following calendar year effective January 1. So, they don't think that it's upon whenever they turn it in or it gets recorded. For real property, everything is as of January 1. So, if we could just maybe allow even Ms. Martin to provide the language, or have your Council do some revisions as to when it would take effect. That's all my comments. Thank you, Chair.

CHAIR PALTIN: Thank you, Acting Director Teruya. And this is regarding 19.25.025G. We'd like to see an amendment that would add...will take effect the following calendar year; is that correct?

MR. MITCHELL: Yes, Chair. This is Remi Mitchell. It could either go...preferably in F actually, subsection F.

CHAIR PALTIN: Oh, in subsection F instead of G.

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MR. MITCHELL: Just clarify the gap between when it must be submitted and when it actually goes into effect, per Director Teruya's comments.

CHAIR PALTIN: Okay. Well, we'll leave where you want to put it.

MR. MITCHELL: And we have the legislative intent right here. We've jotted down his comments.

CHAIR PALTIN: Okay. So, we can...they can decide where exactly they want to put it in the bill as long as they have the legislative intent. Any further questions, comments, discussion from the Members?

COUNCILMEMBER KAMA: Chair.

CHAIR PALTIN: Oh, Member Kama.

COUNCILMEMBER KAMA: Since...I want to make sure I'm looking at the right bill.

CHAIR PALTIN: Oh, sure. I think we're working off of the February 10th, 2023 bill entitled, "CONVERTING APARTMENT BUILDINGS FROM TRANSIENT VACATION RENTAL BED AND BREAKFAST OR SHORT-TERM RENTAL USE TO LONG-TERM RENTAL USE, DRIP-1" and it says assign to SMC, Assignment number 2023-0136 by GMR. Sorry.

MS. GRECO: So, Chair, if you don't mind. I'll clarify real quick. This is Granicus number 4 and on the agenda, this is number 3.

CHAIR PALTIN: Sorry, Member Kama, I didn't clarify that from the start.

COUNCILMEMBER KAMA: Okay.

CHAIR PALTIN: So, Granicus number 4, item number 3 on the agenda. Member Cook.

COUNCILMEMBER COOK: Thank you, Chair. I guess I'm still a little confused. I'm supportive of this. I think it's beneficial to the community. I don't understand the trigger that is going to encourage it, and where the threshold where it potentially would discourage because the 100 or 67 percent. I guess I don't understand. If it's 67 percent of the...if 67 members out of a 100, 68 agree to this, then does that...does that change the use for the entire facility? So, they'll all be long-term rentals --

CHAIR PALTIN: If we go with the 67 percent, then short-term rental usage or transient vacation rental usage of less than 180 days would be prohibited for the entire property.

COUNCILMEMBER COOK: Excellent. Thank you for that clarification. It seems like a more practical...an easier way to get that implemented than 100 percent. So, thank you for the clarification.

CHAIR PALTIN: Sure thing.

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MR. HOPPER: Chair?

CHAIR PALTIN: Mr. Hopper. We're not necessarily taking unsolicited legal advice, but if any of the Members would like to ask a question from Corp. Counsel? Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I would like to hear Mr. Hopper's comments, if you may.

CHAIR PALTIN: Sure thing. Mr. Hopper.

COUNCILMEMBER KAMA: Now we're soliciting.

MR. HOPPER: I just didn't want to go through the meeting without explaining as to why we have not signed the 67 percent bill as to form and legality. We do have legal problems with that threshold, and we didn't want you to...I didn't want to have you go through and think that we didn't have an issue with that. The bills that we've approved as to form and legality all had 100 percent as the required number of owners. We did have legal concerns with requiring a non-100 percent majority in this case to essentially impose a mandatory land use limitation through zoning. I can go into the details of the issues that our office has had with that in executive session. However, I wanted to make that clear that the bills that we have signed have had 100 percent of the unit owner being required to have approved the declaration. I think the declaration for the purposes of this are separate from the...separate from the issue of the private declaration that...private declaration and private CC&Rs that are...that are a part of HRS 514B. This is a governmental limitation on use rather than a private covenant, so we do think that's distinguishable. And I can go into the details of why we would have issues with that, I didn't want to necessarily go into all those details in open session in the event there's a lawsuit in the future on this item. But I didn't want to go through without at least raising that as an issue as to why we would not be able to approve it as to form and legality of the bill with the 67 percent requirement. Thank you.

CHAIR PALTIN: Thank you, Mr. Hopper. And I would take this opportunity to say that there's no requirement that Corp. Counsel sign off on the bills as to form or legality. Our legislative attorneys have drafted them in accordance with the law, and we're the only County that does that practice. We've passed other bills that have not been signed off by Corp. Counsel. So, it's not the intention that Corp. Counsel be a tenth Councilmember. That being said, it would require a motion and the affirmative vote of four of the Members for us to go into executive session if you'd like to hear more from Corporation Counsel. Member Kama.

COUNCILMEMBER KAMA: Chair, I would so move to go into executive session.

VICE-CHAIR U'U-HODGINS: Second.

CHAIR PALTIN: It's been moved by Member Kama to go into executive session, and seconded

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by Member U‘u-Hodgins. Discussion, Member Kama.

COUNCILMEMBER KAMA: Pure curiosity. I mean I was kind of like leaning towards the 67 percent because we all know that 100 percent is too much, I think, to attain. And if you want people to voluntarily do something, to me, if 67 percent say yay, then it's a go. But to get 100 percent to say, and we want more affordable housing, I'm just curious as to why, and what the caution is. So, thank you, Chair.

CHAIR PALTIN: Member U‘u-Hodgins, as the seconder, any discussion?

VICE-CHAIR U‘U-HODGINS: Thank you. I will echo exactly what Member Kama said, out of curiosity. And then as well, I would like to ask Corp. Counsel, if we need to go into executive session, the difference between the State law and then our County law, and how does that take into effect. Thank you.

CHAIR PALTIN: Thank you. I saw Member Cook. You raised your hand?

COUNCILMEMBER COOK: I would vote to go into executive session so I could ask a question for clarity. I'd like us to do this in such a way that we can just like make it happen.

CHAIR PALTIN: Thank you. Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I'm not sure if Mr. Hopper already cited the section under HRS 92, but if that could be clearly stated for the record, under what law are we going into executive session.

CHAIR PALTIN: Thank you. I did note in the...when I introduced the thing, with reference to this agenda item, one or more executive meetings could be anticipated in accordance with Section 92-5(a)(4), Hawai'i Revised Statutes, to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County Council and the Committee.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

MR. HOPPER: That's correct.

CHAIR PALTIN: Thank you. So, if there's no further...oh, Member Cook.

COUNCILMEMBER COOK: Could we take a five-minute recess? I mean...anyway.

CHAIR PALTIN: It's okay with me. Does anyone have objection to a five-minute recess?

COUNCILMEMBER COOK: And we could do that during the transition. I just need to go to the restroom.

CHAIR PALTIN: Oh. Okay. Can we vote, and then we'll...is that a possibility?

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MR. MITCHELL: Chair, do we have a motion pending for the executive session?

CHAIR PALTIN: We sure do.

MR. MITCHELL: Can we dispose of the motion?

CHAIR PALTIN: Sure.

MR. MITCHELL: And then we do need some time to prepare the Chambers for executive session. So, during that time, if folks need...is that the phrase, a pause for the cause? If you need to pause for the cause, that would be the time.

CHAIR PALTIN: You think you can hold your pause? Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And then we have it in your notes who is going to be in the executive session and all of that procedural stuff.

MR. MITCHELL: Thank you, Member Paltin [sic]. I will walk through that...I'm sorry. Thank you, Member Rawlins-Fernandez. I will walk through that process very slowly so we get it right. Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Mitchell. Mahalo, Chair.

CHAIR PALTIN: Awesome. Okay. So, all those in favor of going into executive session, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay, that's unanimous, with Member Sugimura excused.

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VOTE: AYES: Chair Paltin, Vice-Chair U‘U-Hodgins, and Councilmembers Cook, Kama, Rawlins-Fernandez, and Sinenci.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Sugimura

MOTION CARRIED.

ACTION: APPROVE; RECESS open meeting and CONVENE executive meeting.

MR. MITCHELL: And Chair Paltin, before we go into executive session, could we state for the record the names and the titles of each person who will be in executive session.

CHAIR PALTIN: Sure. I will be in executive session. My name is Tamara Paltin, and I'm the Chair of the DRIP Committee. We will also have Committee Vice-Chair U‘u-Hodgins. Do you need their first names too?

MR. MITCHELL: Last name is sufficient, Chair.

CHAIR PALTIN: Thank you. Member Cook, Member Rawlins-Fernandez, Member Sinenci, Member Tasha Kama, Acting Director Teruya, Real Property Tax Administrator Marcy Martin, Legislative Attorney Remi Mitchell, Legislative Analysts Paige Greco and James Krueger, Committee Secretary Maria Leon. And Corp. Counsel, can you please let us know who from your office will be attending our executive session?

MR. HOPPER: Thank you, Chair. I believe it is just myself, Deputy Corporation Counsel Michael Hopper.

CHAIR PALTIN: Thank you.

MR. MITCHELL: Chair, can we check to see whether the Planning Director will be participating?

CHAIR PALTIN: Ms. Takakura or Acting Director Ross [sic] Aoki, would you be participating with the executive session?

MS. TAKAKURA: I'm available. I'll leave that to Corporation Counsel if they need me there.

CHAIR PALTIN: Mr. Hopper, would you like Ms. Takakura to be in executive session to explain

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anything?

MR. HOPPER: Chair, I don't think we would need that for...for the purpose of the legal questions. I think we could...most likely, if we've got questions for Planning, have them in open session in this case.

CHAIR PALTIN: Thank you. And at this time I'd like to recognize Councilmember Yuki Lei Sugimura. Aloha 'auinalā. And we just voted to go into executive session.

COUNCILMEMBER SUGIMURA: I heard.

CHAIR PALTIN: Does she need to...we need to revote? Oh --

COUNCILMEMBER SUGIMURA: Just add. I concur.

CHAIR PALTIN: Okay. And Councilmember Yuki Lei Sugimura will join us also in executive session.

MR. MITCHELL: And Chair Paltin, if we could exclude the Committee Secretary and the Analysts, we typically don't need them in executive session. The law requires we have only those who are necessary, and they would not be necessary for the executive session.

CHAIR PALTIN: Okay. Sorry, guys. I didn't mean to be exclusionary. We'll minus Maria Leon, Paige Greco and James Krueger; is that correct?

MR. MITCHELL: Chair, if I could just check in with the Committee Secretary one quick second, please.

CHAIR PALTIN: That's fine with me. Okay. Clarifying we will have Committee Secretary Maria Leon in, and Committee Analysts...Legislative Analysts Paige Greco and James Krueger out. Nothing personal. Okay. So, we did the vote and we will reconvene in executive session. How does 15 minutes sound to people, or 10? Wrong button, Member Sugimura. Okay. 10 or 15...10. Okay, 2:37, we'll reconvene in executive session --

MR. HOPPER: Chair?

CHAIR PALTIN: Yes.

MR. HOPPER: Chair, just checking. Would it be easier if I came to the Chamber, or are you going to send out executive session links? I can certainly come up if I would be the only one using that. I want to make it as easy as possible.

CHAIR PALTIN: Member Sinenci as well. So, your preference.

MR. HOPPER: Hmm. Okay. Thank you.

CHAIR PALTIN: Sure. Okay, we'll be back at 2:37 in executive session. . . . *(gavel)* . . .

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RECESS: 2:27 p.m.

RECONVENE: 3:51 p.m.

CHAIR PALTIN: . . . (*gavel*) . . . (Audio begins mid-sentence)...it is 3:50 p.m. And I just wanted to clarify that no documents, nonpublic documents, were distributed in executive session, and no votes were taken in executive session. There were a couple questions asked during executive session that our legislative attorney deemed could be asked in open session. I think it was by Member Sinenci, and possibly Member Rawlins-Fernandez. Member Sinenci, did you want to re-ask your question that didn't get answered in executive session because it was deemed appropriate for open session at this time? Oh, you're muted, Member Sinenci.

COUNCILMEMBER SINENCI: Sorry, I had to find my mouse. No, I reframed my question and got my answer, Chair. Thank you.

CHAIR PALTIN: Thank you. Member Rawlins-Fernandez, did you want to re-ask your question from...it was either about the Minatoya history or taxation issues?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I don't think that's an option. I think we have to. Right?

CHAIR PALTIN: Oh, I don't know that you got an answer in executive session. You just asked the question, and then Legislative Attorney Mitchell stopped us from answering it. So...

MR. MITCHELL: So, Chair, you do not have to ask it in open session. We just didn't have an answer to the question in executive session. So, if the Member would like to get an answer to the question in open session, she could choose to re-ask the question.

CHAIR PALTIN: But if you don't want to, you don't have to.

COUNCILMEMBER RAWLINS-FERNANDEZ: I'll think about it.

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR PALTIN: You're welcome. So, at this time, the Chair will entertain a motion to recommend passage on first reading of Bill 4, entitled: "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.12, MAUI COUNTY CODE, RELATING TO CONVERTING APARTMENT BUILDINGS FROM TRANSIENT VACATION RENTAL USE TO LONG-TERM RENTAL USE." Long-term residential use...and as a reminder, per Member Kama's question, we're going off of the bill that was item 4 on your Granicus.

COUNCILMEMBER SINENCI: So moved.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Second.

CHAIR PALTIN: It has been moved by Member Sinenci and seconded by Member Rawlins-Fernandez. Member Sinenci, as the movant, do you have any discussion?

COUNCILMEMBER SINENCI: Thank you, Chair. Yes. Everybody supports much needed affordable housing projects, Chair. However, in this current economic environment, building out 14,000 homes is simply not feasible. Bill number 4 is another important option to keep local families from moving to the mainland for cheaper options. As the legislature is setting tax rates without changing the zoning, in this case can incentivize more long-term rentals, and so that our local families may have a chance. Thank you, Chair.

CHAIR PALTIN: Thank you, Member Sinenci. Member Rawlins-Fernandez, as the seconder.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I echo the sentiments shared by Member Sinenci. Also, this bill went through the three Planning Commissions, as you stated in your opening remarks, and received unanimous support, so it was vetted in the communities. It went through multiple public hearings, had the opportunity for testimony to receive feedback, and for us to continue to craft and amend based on the feedback received. So, I am supportive of the direction of adopting the bill. Mahalo, Chair.

CHAIR PALTIN: Thank you. Members, any further discussion and/or amendments? Member Cook, followed by Member Sugimura.

COUNCILMEMBER COOK: Chair, I'll be supporting this. Our public testimony today from people who own apartments and are supportive of this. I'm supportive of this.

CHAIR PALTIN: Thank you. Member Sugimura.

COUNCILMEMBER SUGIMURA: I will not be supporting this based upon information that we received...or I received through executive session. And I think that's all I want to say. But I'm not going to be supporting it for a valid big reason. Thank you.

CHAIR PALTIN: Do you propose an amendment? No? Okay. We got Member U'u-Hodgins.

VICE-CHAIR U'U-HODGINS: Thank you. I actually just have a question. So, hypothetically, this gets passed. Do we do a second reading in the next Committee, or does this go to full Council?

CHAIR PALTIN: This will go to full Council for two readings. So, first reading and a second reading, hypothetically, if it gets passed.

VICE-CHAIR U'U-HODGINS: Okay. Perfect.

CHAIR PALTIN: And bill that's in the process.

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VICE-CHAIR U'U-HODGINS: And we can continue to make amendments if necessary.

CHAIR PALTIN: Oh, well, Chair Lee does not like Committee work on the Council floor.

VICE-CHAIR U'U-HODGINS: Got it.

CHAIR PALTIN: So, if you'd like to make an amendment, the preference will be here. If you try to make an amendment on the Council floor, it will likely get kicked back to Committee.

VICE-CHAIR U'U-HODGINS: Okay, okay. Thank you.

CHAIR PALTIN: Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Unless she submits an ASF that will be a CC onto the agenda so that it will have notice requirement, and then perhaps that...I don't know what Chair Lee's preference is, but I think that our overall collective goal is to pass good bills, and I think we all support that, and there's no law against it. Mahalo, Chair.

CHAIR PALTIN: Yeah, if you post an ASF, it could happen. But she doesn't like me personally to do Committee work on the Council floor, I've noticed. She lets other people, but not me. So, that's how it works. Member Sugimura.

COUNCILMEMBER SUGIMURA: So, based upon what was just shared, in your bill, if I could propose an amendment for 2.12.0...I should talk into the mic, right. Sorry. In 19.12.030...oh, 20, item number 2, B.2, Island of Maui, 100 percent...100 percent.

CHAIR PALTIN: It's been moved to amend 19.12.025.B.2 from Island of Maui, 67 percent or 10 percent more than the votes required under the property's bylaws and other governing documents, whichever is greater, to Island of Maui, 100 percent; is that correct?

COUNCILMEMBER SUGIMURA: Period.

CHAIR PALTIN: Period.

COUNCILMEMBER SUGIMURA: So moved.

COUNCILMEMBER KAMA: Second.

CHAIR PALTIN: Okay. It's been moved and seconded by Member Sugimura...moved by Member Sugimura, seconded by Member Kama. Member Sugimura, as the movant, discussion.

COUNCILMEMBER SUGIMURA: I think, as I said earlier on my vote, that I support the advice

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that we received in executive session. And so, therefore, I can't say anymore, and I'm just going to make that motion and leave it be.

CHAIR PALTIN: Member Kama, as the seconder.

COUNCILMEMBER KAMA: Thank you, Chair. So, my sense is that when I listen to the testifiers, right, they said that they only need 67 percent to change their DCC&Rs. They should go ahead and change their DCC&Rs to their 67 percent, because I don't want us to get put at risk. I don't think this County, we should put ourselves at risk. So, and also, it's more beneficial if we stay at the way we are and let them do the change because when it comes to taxes, we still are ahead. So, that's my sense. Thank you, Chair.

CHAIR PALTIN: Thank you. Any further discussion on the amendment? Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And as we also heard in testimony today, and last year when this was discussed in Committee and at Council and at several meetings, that if they could reach the 100 percent, then they would not have this problem. So, I don't know. It just seems kind of pointless too, to do this at 100 percent. That's all. Mahalo, Chair.

CHAIR PALTIN: Any further discussion on the amendment?

VICE-CHAIR U'U-HODGINS: I have a question on how this is going to work again.

CHAIR PALTIN: Sure.

VICE-CHAIR U'U-HODGINS: So, we make an amendment to do 100 percent, 100 percent, 100 percent. But to go against what the Planning Commission said, we need two-thirds vote in full Council. Is that what we discussed earlier?

CHAIR PALTIN: Yeah. When we get to the full Council, to pass a bill that says 100 percent, 100 percent, 100 percent, we'll need six votes to pass it.

VICE-CHAIR U'U-HODGINS: Okay. Thank you.

CHAIR PALTIN: In Committee, I think we would...a simple majority would pass anything, which is...for this Committee would be four votes. Any further discussion, comments, questions, suggestions?

COUNCILMEMBER SINENCI: Chair?

CHAIR PALTIN: Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. Yeah, I won't be supporting the amendment on the floor. I think one of the problems with 100 percent that...is that some people don't respond when they receive their certified mail, and they just refuse to accept it,

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thinking that it's something bad. And then also, you know, this is...this is kind of putting it back onto the owners by them initiating through the declaration, or with the Bureau of Conveyances. So, it's kind of like they're...you know, they're issuing it. We're not...we're not changing any of the zonings. I mean if they want to go ahead and apply for a conditional permit, possibly they could. So, I think we're pretty much covered. Thank you, Chair.

CHAIR PALTIN: Okay. Any further discussion before we take the vote? Member U'u-Hodgins.

VICE-CHAIR U'U-HODGINS: Thank you, Chair. I just want to state, I don't...this is such a weird situation. Because I don't love TVRs, but I also don't want to open us or the County to any lawsuits. So, it's super, super hard. Thank you.

CHAIR PALTIN: All right. Ready to call for the question. I'd like to do possibly a roll call vote. Do you want me to read it or do you want to read it? Okay. Member Cook.

COUNCILMEMBER COOK: This vote is on the amendment?

CHAIR PALTIN: On the amendment from 67 percent for Maui to 100 percent. Go ahead.

COUNCILMEMBER COOK: So, this amendment is for the 100 percent on all three, or this is the amendment for --

CHAIR PALTIN: Moloka'i and Lāna'i are already at 100 percent. The amendment is to include Maui as 100 percent, instead of 67 percent...instead of what is written here, 67 percent or 10 percent more than the votes required under the property's bylaws and other governing documents, whichever is greater.

COUNCILMEMBER COOK: Thank you.

CHAIR PALTIN: Okay. Roll call vote. Member Cook.

COUNCILMEMBER COOK: No.

CHAIR PALTIN: Member Kama.

COUNCILMEMBER KAMA: Yes.

CHAIR PALTIN: Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: No.

CHAIR PALTIN: Member Sinenci.

COUNCILMEMBER SINENCI: No.

CHAIR PALTIN: Member Yuki Lei Sugimura.

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have to own it, or use it for long-term rental...residential...or rental, I guess. So, live it in long-term, or have someone occupy it long-term. And so, with your amendment, then it allows it to be vacant for 180 days...181 days? 181 days, yeah. So, that would give them...that would recognize it in this bill.

CHAIR PALTIN: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. Mahalo, Chair.

CHAIR PALTIN: Okay. Any discussion on this amendment?

MS. GRECO: Chair? Excuse me. Could you state the motion one more time?

CHAIR PALTIN: Okay. The motion would be to amend 19.12.025.C.1. Owners must use the property...the declaration must state the following: "Owners must use the property for long-term residential use or non-owner occupied use only." Do we need to also add in owner...owner-occupied is long-term residential use, right?

MR. MITCHELL: Chair, this is Remi. I think you meant to say owner-occupied?

CHAIR PALTIN: Okay. Sorry, my bad.

MR. KRUEGER: Chair, just so Staff is clear. Our understanding is that the motion, the language to be, owners must use the property for long-term residential use or non-owner occupied use?

CHAIR PALTIN: Yeah. Because we can't stop somebody from keeping their property vacant legally, right?

MR. KRUEGER: Chair, this is James. Apologies. If the body's intent is to also allow owner-occupied use in there, perhaps that language should also be added into the motion just to be clear.

CHAIR PALTIN: Okay. Friendly amendment to say owner-occupied and non-owner occupied?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes.

CHAIR PALTIN: Okay. All right. Any further discussion on that amendment? Acting Director Teruya.

MR. TERUYA: Thank you, Chair. I think one of the problems that I'm having is we're taking two different Departments and we're co-mingling. A residential use in their definition and a residential use in our definition don't normally jive. I'm not saying not normally jive, but it doesn't...we're kind of talking Planning, and we're talking Real Property, and the same thing, but we're meaning different things. So, I'm a little confused. But I think...it's not that we...we might need a little bit more time just to work out what we're talking about here because when you're talking about owner occupied, in Planning's

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terms may differ from ours. Because if you are a owner occupant, you get the home exemption. You know, so why would you need this? You just apply for the home exemption and you get the owner occupant rate. So, I'm just not sure if we're talking two different things, and we're trying to make them one. So, maybe I'll defer to Ms. Martin and she might be able to clarify. But I think we're kind of talking two different terms.

CHAIR PALTIN: Ms. Martin.

MS. MARTIN: Chair, thank you. And I might defer to Deputy Hopper to confirm that long-term residential use is a Planning term. And I think it includes several things. So, I would check to see if it's in...that definition is in Planning's code.

CHAIR PALTIN: Mr. Hopper, would long-term residential use include...in Planning's definition, include keeping it vacant?

MR. HOPPER: We do have, I believe...is Ms. Takakura here with us? So, she may be able to assist on that as well. I can look up long-term residential use.

CHAIR PALTIN: Ms. Takakura, if you do know the answer to that, feel free to jump in.

MR. HOPPER: Occupancy of a dwelling, unit, or lodging unit by an owner, family, lessee, or tenant for 180 days or more per year. I don't know if occupancy means you actually have to be physically in the space though, if you're an owner. I don't think the County is issuing violations against, you know, owners in long-term residential areas for leaving their properties vacant. I don't think that's a violation, but Planning can confirm.

CHAIR PALTIN: Ms. Takakura.

MS. TAKAKURA: Thank you, Chair Paltin. So, yeah, we have a definition for long-term residential, and it's basically long-term residential as compared to the transient use. You know, and that 180 days, that's a little bit different from the real property tax classes that you folks are discussing right now. You know, our threshold is that...you know, that the transient definition is less than 180 days, a permanent address for legal purpose is not...is not that unit occupied by the visitor. So, yeah. Director Teruya is correct, they have different definitions.

CHAIR PALTIN: That amendment wouldn't be necessary?

MS. TAKAKURA: For our purposes, that's correct.

CHAIR PALTIN: Okay. I entertain a withdrawal.

COUNCILMEMBER RAWLINS-FERNANDEZ: I withdraw.

CHAIR PALTIN: Okay. The next amendment, I will entertain a motion to amend 19.12.025.G for the legislative intent to include--and this is what Acting Director Teruya alluded to

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earlier--that the declaration must have been recorded on or before December 31st immediately preceding the assessment year in order to be reclassified for real property tax purposes.

COUNCILMEMBER RAWLINS-FERNANDEZ: So moved.

COUNCILMEMBER SINENCI: Second.

CHAIR PALTIN: Moved by Member Rawlins-Fernandez, seconded by Member Sinenci. Any discussion? Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. It makes sense to make this amendment. And Director Teruya explained, and we don't want to make it too troublesome for the Department. So, if we can help the...you know, if we can make it easier for everyone, then I'm all for it. Mahalo, Chair.

CHAIR PALTIN: Okay. Member Sinenci, any discussion as the seconder?

COUNCILMEMBER SINENCI: As for clarity, Chair, you're just taking out G and changing it to what you just said, yeah?

CHAIR PALTIN: Adding this legislative intent on to G? Yeah.

COUNCILMEMBER SINENCI: Okay. Thank you.

CHAIR PALTIN: Okay. Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. I wasn't here to hear what Director Teruya said, so, I wonder if you wouldn't mind?

CHAIR PALTIN: Sure thing. Acting Director Teruya, if you can clarify your request for this amendment.

MR. TERUYA: Thank you, Chair, and Member Sugimura. The whole purpose of this is just to make sure that the effective date is as clear for the Real Property Tax Division. Because we didn't want it to be passed on September 1st affecting the difference to be on November 1st or whatever date. As you know, Real Property is of January 1st of every year, and we just wanted to add that just for clarity purposes. So, I think it's a good amendment. Thank you.

COUNCILMEMBER SUGIMURA: Okay. Thank you.

CHAIR PALTIN: Any further discussion on this amendment? Do we need a roll call vote? All those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

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CHAIR PALTIN: Motion passes unanimously, with Member U‘u-Hodgins excused.

**VOTE: AYES: Chair Paltin, and Councilmembers Cook, Kama,
 Rawlins-Fernandez, Sinenci, and Sugimura.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Vice-Chair U‘U-Hodgins

MOTION CARRIED.

ACTION: APPROVE amendment.

CHAIR PALTIN: On to the main motion as amended. Any further discussion on the main motion as amended? Member Sugimura.

COUNCILMEMBER SUGIMURA: So, I'm going to be voting against the main motion. My amendment did not pass, and I think it's important because then I think that would have reduced the County's liability, which is a concern. And so therefore, I'm going to be voting against this motion. Thanks.

CHAIR PALTIN: Any further discussion, Members? Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. I just wanted to mahalo Mr. Hopper, you know, he does go ahead, and he's the lawyer for the Planning Commission. So, he did share his mana'o with the Planning Commission and so, it looks like the Planning Commission still went ahead, and took his advice, and wrote this recommendation. Thank you, Chair.

CHAIR PALTIN: Thank you, Member Sinenci. Any further discussion, Members? Seeing none. Oh, Member Cook.

COUNCILMEMBER COOK: Did I see Corp. Counsel not agreeing with that statement?

CHAIR PALTIN: Would you like to ask a question of Mr. Hopper?

COUNCILMEMBER COOK: I apologize, Chair. May I ask a question to Mr. Hopper?

CHAIR PALTIN: Go ahead.

COUNCILMEMBER COOK: Thank you. I was just curious, when you were with the Planning

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Commission, if you agreed with their...I'm just curious. Because you seem like you were disagreeing with it.

CHAIR PALTIN: Mr. Hopper.

MR. HOPPER: Well, I don't want to be in the middle of your discussion. I don't necessarily want to chime in. But I mean at the time, we don't approve bills as to form and legality before they go to the Planning Commission because we anticipate changes at the time. When this went through our approval process, that's when a lot of those issues got vetted, and so, they didn't have the full advice that you did going to the commission. And because those bills change from commission, they don't always have that at the time. So, I did want to note that. Well, the bill went to them signed off...the bill went to them with 100 percent, and they changed it...oh, I'm sorry. Your question couldn't be heard. I don't mean to add it.

CHAIR PALTIN: Member Rawlins-Fernandez, you had a question?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Mr. Hopper...can I ask Mr. Hopper a question, Chair?

CHAIR PALTIN: Sure.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. The bill that was transmitted to the Planning Commission, and they deliberated on, and then returned to us their findings and recommendations didn't change much.

MR. HOPPER: It was 100 percent --

CHAIR PALTIN: I can clarify that. We transmitted a bill that was 100 percent across the board, and we asked them to consider that we had received testimony that was 67 percent. They...Maui Planning Commission recommended 67 percent, and yet, Corporation Counsel transmitted us a bill from the three Planning Commissions that had 100 percent across the board. So, that was how that played out. Mr. Hopper, did you want to add anything to that description?

MR. HOPPER: We did note when we made that change, the reason why we had it at 100 percent despite the recommendation was because of legal concerns. So, we didn't just comment on it, but that's correct. I think that's the correct history.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Hopper. Mahalo, Chair.

CHAIR PALTIN: Sure thing. Any further comments, questions, concerns, suggestions? Seeing none. Roll call vote. Member Cook.

COUNCILMEMBER COOK: Yes.

CHAIR PALTIN: Member Kama.

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COUNCILMEMBER KAMA: No.

CHAIR PALTIN: Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aye.

CHAIR PALTIN: Member Sinenci.

COUNCILMEMBER SINENCI: Aye.

CHAIR PALTIN: Member Sugimura.

COUNCILMEMBER SUGIMURA: No.

CHAIR PALTIN: Member U'u-Hodgins is excused. And myself will be an aye. So, the motion passes, four ayes, two noes, Sugimura and Kama, one excused, Member U'u-Hodgins. That's it.

**VOTE: AYES: Chair Paltin, and Councilmembers Cook,
 Rawlins-Fernandez, and Sinenci.**

NOES: Councilmembers Kama and Sugimura.

ABSTAIN: None.

ABSENT: None.

EXC.: Vice-Chair U'U-Hodgins

MOTION CARRIED.

ACTION: Recommending FIRST READING of Bill 4, CD1 (2023).

CHAIR PALTIN: Without objection, the Chair will ask Committee Staff to incorporate nonsubstantive revisions to ensure consistency with the drafting guide for Maui County legislation. Any objections?

COUNCILMEMBERS: No objections.

CHAIR PALTIN: This concludes today's Disaster, Resilience, International Affairs, and Planning Committee meeting. Thank you very much, everyone. The time is now 4:21. This meeting is adjourned. . . . *(gavel)* . . .

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ADJOURN: 4:21 p.m.

APPROVED:



TAMARA PALTIN, Chair
Disaster, Resilience, International Affairs,
and Planning Committee

drip:min:230308min:ml

Transcribed by: Terianne Arreola

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CERTIFICATION

I, Terianne Arreola, hereby certify that pages 1 through 31 of the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 31st day of March 2023, in Wailuku, Hawai'i

A handwritten signature in black ink, appearing to read 'Terianne Arreola', is written over a horizontal line.

Terianne Arreola