

MINUTES

of the

COUNCIL OF THE COUNTY OF MAUI

June 18, 2021

THE REGULAR MEETING OF THE COUNCIL OF THE COUNTY OF MAUI, STATE OF HAWAII, WAS HELD ONLINE ONLY VIA BLUEJEANS, ON FRIDAY, JUNE 18, 2021, BEGINNING AT 9:04 A.M., WITH CHAIR ALICE L. LEE PRESIDING.

COUNCIL CHAIR ALICE L. LEE: Will the Maui County Council meeting of June 18, please come to order.

Before we begin Members, just wanted to say please look at the, in the chat, and the morning greeting is in there so just for your information, when you go to Saigon Café in the morning, and you say, to Jennifer, the owner, xin chao, xin chao.

Okay, roll call.

DEPUTY COUNTY CLERK JAMES G.M. KRUEGER: Chair, proceeding with roll call.

ROLL CALL

PRESENT: COUNCILMEMBERS SHANE M. SINENCI, MICHAEL J. MOLINA, KELLY T. KING, GABRIEL JOHNSON, TAMARA A.M. PALTIN, NATALIE A. KAMA, VICE-CHAIR KEANI N.W. RAWLINS-FERNANDEZ, AND CHAIR ALICE L. LEE.

EXCUSED: COUNCILMEMBER YUKI LEI K. SUGIMURA.

(Councilmember Sugimura was not present when the roll was called; however, she arrived at 9:09 a.m.)

CHAIR LEE: Xin chao, everyone. Good morning and yes, I look forward to a very productive meeting. Thank you.

Everyone, we have eight present and one excused for now. Deputy Clerk, correct?

DEPUTY COUNTY CLERK: Yes, Chair. A quorum is present to conduct the business of the Council.

For the record, I am Deputy County Clerk James Krueger. Also present from the Office of the County Clerk are County Clerk Kathy Kaohu; and Legislative Division staff Joyce Murashige, Lauren Saldana, and Dell Yoshida.

Joining the meeting from the Department of the Corporation Counsel is Corporation Counsel Moana Lutey.

CHAIR LEE: Opening remarks, may we call on Vice-Chair Rawlins-Fernandez.

OPENING REMARKS

The opening remarks were offered by Council Vice-Chair Keani Rawlins-Fernandez.

(Councilmember Sugimura arrived at the meeting at 9:09 am.)

CHAIR LEE: Thank you. Enlightening words, beautiful. Clerk, Mr. Clerk.

Oh, yes. Now, may I ask everyone to join me in reciting the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

The Members of the Council rose and recited the Pledge of Allegiance.

CHAIR LEE: Members, at this time we will set, oh, before I mention that, before we proceed with today's agenda, may I please request that everyone keep their microphones muted unless it's your time to speak. Decorum shall be maintained at all times.

So, at this time, we will set the Consent Calendar. For the first time, it's maiden voyage. Are there any requests to add or remove items from the Consent Calendar?

Okay, are there any objections? Oh, Member Sugimura.

COUNCILMEMBER SUGIMURA: In the Consent Calendar, is there 21-272, the contracts? Just asking.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

COUNCILMEMBER SUGIMURA: Cause actions on the Consent Calendar, 21-272 is listed.

VICE-CHAIR RAWLINS-FERNANDEZ: Um, yes. It's part of the exercise.

So, because this is our maiden voyage, if Member Sugimura, if you would like to remove 272, because you would like to request a grant or contract from it, then you may request its removal from the Consent Calendar now.

COUNCILMEMBER SUGIMURA: I do not have that request, but I know that our fellow Members often do, and I was wondering why it was in the Consent Calendar, so?

CHAIR LEE: Well, do others have a request to remove that item from the Consent Calendar? Now is the time.

Member King.

COUNCILMEMBER KING: Sorry, I was trying to find my cursor. Um, I don't have a need to remove it, but can we still remove items from the grants and contracts, or we cannot? Okay, then maybe, yeah, maybe we should remove it.

CHAIR LEE: Okay.

Any objections to removing that item from the Consent Calendar.

MEMBERS VOICED NO OBJECTIONS.

CHAIR LEE: No objections. So, ordered. Okay, that one is out.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Um, so, Member Sugimura asked why it was in the Consent Calendar? And I explained. But I'll explain one more time. We're doing this for the first time, and so I wanted to go through this exercise, so that Members have a feel for how easy it is to remove something from the Consent Calendar. Mahalo, Chair.

CHAIR LEE: Okay. Any more questions, Members?

Member Kama.

COUNCILMEMBER KAMA: Thank you, Chair. So, um, Vice-Chair, it was a very easy ask to remove something from the Consent Calendar, is it just as easy to add something to the Consent Calendar?

VICE-CHAIR RAWLINS-FERNANDEZ: Absolutely.

COUNCILMEMBER KAMA: Thank you.

CHAIR LEE: Very good, so far. The voyage is okay.

Any other questions, or proposals to add or remove anything? If not, we will proceed with the Consent Calendar.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I'll explain, Clerk, Deputy Clerk. So, this part of the agenda, we set the calendar, the Consent Calendar and then we proceed with public testimony. After the meeting minutes, then we'll take action--

CHAIR LEE: Oh, that's right, that's right.

VICE-CHAIR RAWLINS-FERNANDEZ: --on the Consent Calendar.

CHAIR LEE: Exactly. I'm sorry. Okay. We'll come back to the Consent Calendar after we're done with testimony and the minutes.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, proceeding with the presentation of testimony on agenda items. Members of the public may testify by connecting to the Council's online meeting by phone or video conference through the information posted on today's agenda.

Individuals connected by phone are currently on mute and will be unmuted when it is their time to testify. Individuals connected by videoconference should keep both their video and microphones off and should turn them back on when it is their time to testify.

Testimony is limited to the items listed on the agenda. Individuals may testify for three minutes per item. When testifying, please state your name and the name of any organization you represent, as well as the items on which you will be testifying. Please also identify to the Council if you are a paid lobbyist.

After your testimony has concluded, please disconnect from BlueJeans. Once the testimony period is closed, only the Councilmembers, staff, and designated resource persons will be connected to the meeting. All other individuals will be disconnected. The remainder of the meeting can be viewed on Akaku Channel 53 or on mauicounty.legistar.com. Individuals may also be disconnected from the meeting at any time for breaking decorum.

Chair, the first person we have signed up to testify is Keisa Liu, to be followed by Nick Drance.

CHAIR LEE: Okay, and then after Mr. Drance, maybe you can let us know how many people in total have signed up, okay?

Ms. Liu, good morning.

PRESENTATION OF ORAL TESTIMONY

MS. KEISA LIU (testifying on Committee Report No. 21-39):

Good morning. Aloha, Chair Lee, Vice-Chair Rawlins-Fernandez, Councilmembers, and members of the public. My name is Keisa Liu, and I am here to testify on CR 21 *[sic]*, first reading on the visitor accommodation moratorium bill. As I've stated in previous testimony, I am in full support of this bill. I believe we the community are in a toxic relationship with the tourism industry. It is time for us to set boundaries, so we can establish a healthy relationship. We need time to evaluate our situation, and ask ourselves, is it balanced? Are we the people reaping the same benefits? Do we feel like equal partners? Or do we feel used and abused?

I said this once and I will say it again, our quality of life, our environment, and our resources are at the mercy of the tourism industry and it's time for us to do more to protect the residents of Maui County. And I'm going to ask again, please take the time during the moratorium to investigate how we can regulate the amount of tourist that come to our islands by plane? I understand this is a Federal level request, but our Congressman Kaiuli'i Kahele is a Hawaiian Airlines pilot and on the Committee for Transportation and Infrastructure, surely he can give us some type of guidance.

Cause here's what I see, airlines have been increasing their flights to Maui at an unregulated and alarming rate. And I believe this was done to justify . . . increase the size of our airport and build more visitor accommodations. I believe the goal was to

keep us so busy and stressed and distracted that we would not have been able to mobilize, mobilize against the expansion until it was too late. But then COVID happened, and we were reminded what our life was like before the traffic and the smell of banana boat. We were reminded that the quality of our lives mattered.

Now the airlines are attempting to pick up that momentum again by offering cheap flights to Maui. The destruction of our quality of life is not worth the money. We need this bill. And thank you, Councilmembers for taking action to put the people ahead of profits. Mahalo for your time and for allowing me to voice my thoughts and suggestions on this matter.

CHAIR LEE: Thank you. Any questions for the testifier, Members? If not, thank you Keisa, Ms. Liu.

DEPUTY COUNTY CLERK: Chair, the next testifier is Nick Drance, to be followed by Darla Palmer-Ellingson.

Chair, after Mr. Drance, there are nine more testifiers.

CHAIR LEE: Thank you.

Mr. Drance.

MR. NICK DRANCE [testifying on County Communication Nos. 21-278 & 21-280; Committee Report Nos 21-38, 21-39, & 21-44; and Bill Nos. 56 (2021), 57 (2021), & 58 (2021)]:

There we go. Okay. Alright. Thank you. Good morning, Chair. Council. I would like to testify on six agenda items, 21-39, 21-280, 21-38, 21-278 and 21-44. My written testimony I sent in two days ago is generally what I was going to say. I changed my mind. I was going to read what I thought, I'm going to read what I thought about all night long and what woke me up in the middle of the night.

Regarding 21-39, the more I think about my testimony on these items today, mull it over in my head, I realize something, I think these measures really, merely indicate respect for our land and the water, I expect will pass. What makes me angry and what woke me up at 4:00 a.m. this morning is why the heck isn't this unanimously passed as quickly as possible, as quickly as we can find a way to put teeth in it?

Why should we grovel, hat in hand like orphans asking for another bowl of porridge? Why should we have to fight about getting more and more commercial buildings and mainland stores and hotels all built by and for people who don't live here. They do

nothing for us but destroy our way of life and treat a tiny special place like this, as if it is the mainland.

What's going on here? You're going to hear plenty of testimony explaining why this moratorium is so desperately needed and yet we already know these things from prior testimony. That means we're trying to convince you to watch over our interests, so I wonder, are we represented or are we ruled over? Is it your job to protect us and our island from outside threats? Don't the people that live here come first before those who do not? This should be unanimous.

The Planning Commissions from all three of the islands voted to add climate mitigation wording to the Countywide plan in CR 21-38. Not only do they vote for it unanimously, but they also added even stronger wording. If they were voting on this, as you are asked to do, it would surely be unanimous, so why isn't it? It should be with you. Whomever this historic moment is lost on will need to explain to their children, grandchildren, and future generations. It's impossible for a Hawaiian or anyone else to vote against this if they love and respect the land that god has blessed us with and put in our care. Why should there be so much urgency in building hotels that it couldn't wait two years until the south and westside communities have had a chance to say, have their say in the matter?

Again, do the people who don't live here take priority over the people who do? I really hope that Michelle is holding off on the issuance of permits until this is decided. It's only a matter of weeks. Everyone else does in situations where policy like this is being debated. I'd like to ask my representative to tell us the answer, and if there's a rush on permit requests, then we'll all know that people think the system is rigged against residents. Packing in stores, and hotels, and condos we can't afford on both sides of Piikea between Azeka and Safeway has already been approved. You guys let the Maui Coast expansion happen despite the public outrage. Am I at three minutes?

CHAIR LEE: Yes. Could you go on to your next item?

MR. DRANCE: Okay. Alright. Just in 10 seconds. I wish, I ask Councilmembers to come to South Kihei, and sit in the traffic and look at the beaches and see what it's like already, before the Maui Coast expansion.

CR [sic] 21-280, relating to the expeditious submission of proposed hotel moratorium with the planning commission. Some of us see the urgency about the welfare of this island more than others, as I said, as you know, as you can see. As one of them, I urge the Council to approve 21-280 without delay.

Regarding 21-38, unanimous vote by the islands, Maui County to include wording related to climate change in the . . . countywide plan. As I've mentioned, after embracing the original request by the CARE Committee that the countywide plan be revised, the Maui, Moloka'i, and Lāna'i Planning Commissions built on that by suggesting additional wording that strengthened the original request. Let us support their wishes with the same sense of urgency that their unanimity demonstrates. Obviously, there is widespread support for addressing the conditions we see right before us, right now, today and into the future.

Climate change jeopardizes our way of life. The entire western third of the mainland is in drought conditions. Hoover Dam reservoir is at its lowest level since it was built in 1931. Water levels are down as much as the Statue of Liberty is tall. Their hydro-generators cut production 15 percent and in a couple of months it'll be 20. They stopped giving water to the farmers.

Drought has been a problem for so many years, that's what we see today. Do we think that the island of Maui is immune from something that's obviously happening around the globe? According to the Maui News yesterday, once again we ourselves find ourselves in drought conditions. The clock is ticking. Let's get moving on this, please.

CC 21-278, relates to the establishment of agricultural land designation. So much of our island has been rezoned to urban from agricultural without the approval of residents. Switching it back sounds refreshing. Some of you may be tired of hearing me talk about the Maui Island Plan that demands that we maintain a small town, rural nature of our island. That's per residents, as I've said time and again. That plan was approved at every level of government and established by ordinance. Not following it is essentially against the law. No one is above the law. Changing land designated as ag, then changing it back to urban, now back to ag is right, particularly since the first change occurred since after the plan was approved. Let's make things right and do this every where you can, until all community plans are updated. It's too late in some places. The builders have already had their way with the land.

Regarding CR 21-44, the establishment of conditional permits for zipline and bungee jumping. Council, time and again residents who reside on properties adjacent to these businesses have asked for their right to live in peace on their own properties be respected. Effective permitting requirements will protect those rights and ensure that we don't have traffic jams in pastures and the like. They deserve respect.

Very quickly, section "M. Ordinances". These bills relate to capital improvements related to Waiale land acquisition. They look great. I don't know about the other things included in this item to comment on. The ability of the Mayor to engage the

U.S. Department of Agriculture relating to the Lahaina Watershed, we need help in the South Maui Watershed, as of five years ago. That's important.

Limited exclusions related to excavations associated with cesspools. Cesspools are a major issue according to the State of Hawaii, on our island. So anything happening to, watching over excavations with regard to them is important.

The other item about the effect of drainage on adjacent properties. The problem with the Maui Lu property, in fact, this is exactly what it is, they took care of what's in front of them and the wastewater, rainwater, so forth, is draining off on either side of them, so that's kind of a loophole there. Last, lastly, issues of excavation relating to the County Archaeologist, actually this is a legitimate problem in the proposed luxury 22-acre Wailea resort area. This is something that we really, really need to pay attention to.

So, Council, in summary, all of my testimony today and every time you've heard from me is about respecting the land and the people. I'm at a point where it's time to say the people like me, the Sierra Club and other organizations ask only for that and we shouldn't have to come to you with hat in hand.

Councilmembers, thank you so much for all the good work that you do. I appreciate it. As I've said many times before, we have never seen a Council that works as hard and does such landmark wonderful things that you do. Mahalo nui.

CHAIR LEE: Ms. Paltin has a question.

MR. DRANCE: Yes.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Drance for your testimony. My question was for 21-278.

Um, we had about five hearings on this matter and we couldn't come to a consensus to change it back to agricultural and the reason was, they wanted to have um, an ag subdivision, which kind of was like gentleman estates.

MR. DRANCE: Yeah.

COUNCILMEMBER PALTIN: Just to clarify, you're asking for this to be changed back to agriculture?

MR. DRANCE: Well, the last--

COUNCILMEMBER PALTIN: . . . but I couldn't get--

MR. DRANCE: Well, the last thing, the last thing we want is gentleman estates. I can't say that if I had millions of dollars, I wouldn't do it myself, although I probably would grow things, well let's, you know, I mean, I'm, I tell the truth, I totally would grow things that I could take to farmers market and, and all that stuff, but I wouldn't make a lousy dishonest excuse of pretending like I'm treating it as ag land, and meanwhile, it's, you know, my estate. So, let's get this thing converted to ag land and do it properly without gentleman estates, and I'm sorry, but you can tell by the tone of my testimony this morning. And I want to be nice about it.

Your job, Councilmembers is to protect us, the residents, and to protect this island. No fooling around, no games. The people that live here now come first before the people that don't live here. So, gentleman estates is not what the people of this island want. We want agricultural land. We want the Maui Island Plan adhered to and I'm tired of griping about this, and nobody else pays attention to core vision statement, and mission statement. We want small town rural atmosphere preserved. Focus Maui Nui documented that. The same goes for this land, put it back to ag and no games. Sorry for yelling.

COUNCILMEMBER PALTIN: So, you want it back to ag. Got it. Thank you.

MR. DRANCE: I'm sorry for yelling.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. Um, aloha Nick. I just wanted to follow-up on that issue of the Maalaea Mauka land. You know, that was the original request from the developer to put it back to ag, so they could develop it into an ag subdivision.

MR. DRANCE: Oh. Ag subdivision or--

COUNCILMEMBER KING: Yes. So, the, at which we would not have any control over it if it was converted to ag. So, the, the budget includes a, you know, a proviso in the Open Space Funds to purchase that land and keep it in open space.

MR. DRANCE: Okay.

COUNCILMEMBER KING: That's what, that's what the budget, this current budget coming up starting July 1, has in it.

MR. DRANCE: And that's what I thought as I read this, that was my understanding about the County allocating funds to--

COUNCILMEMBER KING: To convert it to ag, then the current owner may just hang on to it and develop it. So, just to let you know, that's what you're asking.

MR. DRANCE: Sorry. Yeah, sorry. I got that confused with the Waiale property capital improvements and purchase of lands. I got the two mixed up. But you see the intent of what I'm trying to say.

COUNCILMEMBER KING: So, you would support it staying in open space?

MR. DRANCE: Absolutely. And this is the point, Councilmember, this is the point that I'm trying to make. I feel like I'd like to see a list of all the land that was converted from ag and open land to urban since community plans were established. So, we talk about exceptions to SMA permits and stuff like that, look, you know, why have the rules if people can make exceptions carte blanche? Why establish a community plan, if people can change the land use designations that were established at the time? I don't mean to be on a rant this morning, but you can see, you know, people are angry.

COUNCILMEMBER KING: Yeah. I just--

MR. DRANCE: I'm passionate. I'm so sorry.

CHAIR LEE: Thank you. Thank you, Mr. Drance.

MR. DRANCE: Alright.

CHAIR LEE: You're only our second testifier.

MR. DRANCE: I'm so sorry.

CHAIR LEE: No, no. Thank you.

MR. DRANCE: Mahalo.

CHAIR LEE: Thank you very much. Any more questions from other Councilmembers? Alright, thank you. And now we'll go to our third testifier.

MR. DRANCE: Thank you so much. Aloha.

DEPUTY COUNTY CLERK: Chair, the next testifier is Darla Palmer-Ellingson, to be followed by Mike Moran.

MS. DARLA PALMER-ELLINGSON, CLIMATE ACTION ADVISORY COMMITTEE (testifying on Committee Report No. 21-39):

Good morning. Xin chao, County of Maui Councilmembers. My name is Darla Palmer-Ellingson and I'm submitting this testimony on behalf of the Climate Action Advisory Committee, or CAAC in support of CR 21-39.

Climate Action Advisory Committee provides community input and proposals to Maui County Council and Administration on issues related to the effects of the climate crisis of Maui County and actions to mitigate and adapt them.

The proposed moratorium on building permits for visitor accommodations is just a small pause to consider our future. It does not affect current projects including those that have approval but have not yet started construction. Construction will still continue. Some say that this does not go far enough. Overtourism is killing the environment and our way of life and is going to kill tourism without action.

Our post pandemic economic recovery has exceeded expectations. Domestic travel to Maui in April 2021 was 178,000, this is already almost up to pre-pandemic levels with April 2019 at 209,000. Before the pandemic, our mood, traffic, and whole way of life was at risk from overtourism. Tourism should be a healthy and appropriate mix of our economy; it is not as evidenced by how far it's exceeding our community plans. We are at a tipping point, facing diminishing returns where Maui is no longer no ka oi. If you keep allowing more visitor accommodations to be built, more visitors will come.

The effects of increased tourism and worsening the climate crisis and eventually making Hawaii unable to support human life is even more profound. As the Hawaii Legislature, as you know, declared a climate crisis for the State, an increase in visitor lodging will result in an increase in visitor traffic and other environmental impacts. We therefore ask that this item continue to be addressed under the CARE Committee as it moves forward.

In a 2010 study, UH Manoa published an energy economics emissions rates generated by visitor demand are estimated to be higher than that of residents by a factor of 4.3 for carbon, 3.2 for methane and 4.8 for nitrous oxide. That's mostly due to the huge amounts of greenhouse gas emissions from trans-pacific flights and from the intense use of rental ground transportation. 18 million tons of CO2 equivalent emissions were

generated by air travel in 2019, to and from Hawaii. That can be compared to a total of 7.8 million tons from all power plants and refineries, and 4 million tons from all ground transportation. Do you want to continue . . . emissions? Almost done. If I could just wrap up.

CHAIR LEE: Sure. Go right ahead.

MS. PALMER-ELLINGSON: This data does not begin to address the impacts of tourism once they're on island, where tourists far outnumber residents and exceed our community plans. Maui does not need more visitor accommodations and more visitor traffic. On the contrary, we desperately need to reduce them for climate change reasons, and to increase resident housing. The CAAC urges the County Council to consider preserving our island culture, support resident housing, embrace potential climate crisis benefits, and pass CR 21-39, creating a moratorium on building permits for visitor accommodations. Mahalo.

CHAIR LEE: Okay. Thank you, Ms. Ellingson. Questions?

Mr. Johnson.

COUNCILMEMBER JOHNSON: Thank you for your informative testimony, Ms. Ellingson. I just wanted to clarify your question, your data, I was trying to write it down. Can you tell me again what is the amount of carbon spent per visitor coming here or the total tonnage?

MS. PALMER-ELLINGSON: Sure. Um, 18 million tons of CO2 equivalent emissions were generated by air travel in 2019, to and from Hawaii.

COUNCILMEMBER JOHNSON: And then do we have a formula for carbon budget, like per person? Or is there, do you know that? Did you mention that?

MS. PALMER-ELLINGSON: I have some factors for emissions that when you add in tourism, those emissions are greatly increased. So, the tourism numbers for carbon are 4.3 times greater for carbon, 3.2 times greater for methane, and 4.8 times greater for nitrous oxide. And I also wanted to offer within the CAAC, we've got some great climate scientist and engineers and really fabulous people, so if you want any additional information, I'd be happy to provide that to you.

COUNCILMEMBER JOHNSON: Okay. Alright, thank you so much, Ms. Ellingson. I have no further questions, Chair.

CHAIR LEE: Okay. Any other questions? If not, thank you very much, Ms. Ellingson.

MS. PALMER-ELLINGSON: Thank you.

COUNCILMEMBER SUGIMURA: I have a question.

CHAIR LEE: Mr. Clerk.

COUNCILMEMBER SUGIMURA: Chair.

CHAIR LEE: Yes. You have a question?

COUNCILMEMBER SUGIMURA: I do, yeah. Thank you. Nice seeing you, Darla.

MS. PALMER-ELLINGSON: Hi.

COUNCILMEMBER SUGIMURA: Hi, the, the impacts that you're, the data that you gave us, thank you very much. It's caused by air travel, is that what you said?

MS. PALMER-ELLINGSON: It's air travel and ground transportation and other environmental impacts just by having, you know, the sheer volume of additional people on the island.

COUNCILMEMBER SUGIMURA: So, for air travel, um, the, those are the number of flights coming in and related to this year, visitors.

MS. PALMER-ELLINGSON: Right. Yes.

COUNCILMEMBER SUGIMURA: And the ground transportation that your scientist have gathered, where did that data come from?

MS. PALMER-ELLINGSON: Um--

COUNCILMEMBER SUGIMURA: What is the date?

MS. PALMER-ELLINGSON: This is from a study from UH Manoa.

COUNCILMEMBER SUGIMURA: That you can, you can then connect the number of visitors on the ground renting cars or something that is causing this ground transportation, correct?

MS. PALMER-ELLINGSON: Yes. There's a study on energy economics that I can send you. I can see if there's any more updated data that's been collected since then. I would be happy to do that as well.

COUNCILMEMBER SUGIMURA: So, air travel, the only, I've been saying, and I'm not sure if it's clear, but the only person, or only group that can stop air travel here, which are bringing visitors to Maui, Lāna'i, Moloka'i, or Maui County is the Federal government. So how do you anticipate stopping or maybe your group has a theory about how we can stop air travel, and create, you know, better climate or, you know, not have this climate impacts. Does your group have a, have a suggestion?

MS. PALMER-ELLINGSON: I'm so glad that you asked me that. You're entirely correct. I think that there's very, very little impact we can have legally as far as stopping air travel. How you can stop it is to stop building vacation rental rooms. If there's not rooms for people to stay in, they won't come here.

COUNCILMEMBER SUGIMURA: That's interesting, cause they're still coming here. But thank you.

CHAIR LEE: Alright. Any more questions.

MS. PALMER-ELLINGSON: If you stop it right now, they're only going to fill up the rooms that are, that are existing right now. And there's other strategies that you can employ, like you know, creating more resident housing rather than visitor accommodations from some of those existing units.

CHAIR LEE: Okay. Thank you. Thank you, Ms. Ellingson. No more questions? Appreciate you coming to testify.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, the next person we have signed up to testify is Mike Moran, to be followed by Christopher Delauney.

MR. MIKE MORAN, KIHEI COMMUNITY ASSOCIATION (testifying on County Communication No. 21-280 and Committee Report No. 21-39):

Aloha, Chair Lee and xin chao to you and to the Council.

CHAIR LEE: Thank you.

MR. MORAN: Mike Moran, speaking for the Kihei Community Association and unpaid speaker. We are not paid.

We're testifying this morning on two items, 21-280 and 21-39. We'll try to keep it brief and not repeat the things that you've heard so much before. But on 21-39, we ask you to approve it at its first reading. And one new piece of information, related information, is what we feel the community is asking for and those Councilmembers that are supporting are asking for, is a pause here. We're asking to take a break and figure out what we can do?

And I thought that was an interesting editorial in Civil Beat this morning, where a business group based on Honolulu was looking at many other places that are facing similar situations with, we can call it overtourism, and they looked at many other places to see what they are doing? They're not talking, they're already taking actions and that was the gist of it is like, well yes, we understand Hawaii is different from other places, it doesn't mean that we can't look at other locations and maybe get a bit from column A and column B and see what they are suggesting to change the parameters of the tourism. So, in your spare time, if you guys have spare time, you might take a glance at that pretty short editorial in Civil Beat, this morning.

And of course, that relates, that also relates to the second item which is 21-280, and as just we speak for South Maui, that's our by-laws, to say we speak for our district, we had just given general approval that we heard from the community, but in the last few weeks we have had so much input in South Maui from our community saying we want to support this as well, even though this is going beyond our district, but they felt this was worthwhile because yes, it is one island, it is one County. So, what happens in one part of the island certainly affects all of the others.

So, we do ask you to please expedite that and get it onto the planning commission. We know that that's going to take quite some time. If you send it on immediately, they still have to find time to get it on the agenda, go through that process. So, it will, it won't be happening immediately, or not near as quickly as the other, 21-39. So, please do send that on, and we just refer back in conclusion to that old expression, if you keep doing the same thing over and over, and expect to change, some call that insanity. So, we have to do something. Other places are doing something to address the similar problem, we have to take action, too.

So, we commend the Council for taking these actions today and as you have been all along. I'm watching, as much as I can. It's a lot easier to sit home and watch on TV, but that you are ramming through that West Maui Plan, and we thank you for the good work that you're doing overall. Aloha, everyone and mahalo for the opportunity.

CHAIR LEE: Aloha. Any questions, Members? If not, Mike, thank you very much for coming by, and always appreciate your suggestions, or solutions, and resources. Thank you very much.

MR. MORAN: A hui hou.

CHAIR LEE: Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, our next testifier is Christopher Delauney, to be followed by Raymond Michaels.

MR. CHRISTOPHEY DELAUNEY, PACIFIC RESOURCE PARTNERSHIP (testifying on County Communication No. 21-280):

Aloha, Chair and Councilmembers. Chris Delauney with Pacific Resource Partnership and I'm a registered lobbyist. So, we're in opposition of any moratoriums related to visitor accommodations. Specifically, in our testimony, we oppose 21-280, but it sounds like, from hearing the testimony, that we may have missed another one. But if there's anything else, we oppose that as well.

You know, I think the bottom line too is that this proposed bill lacks data showing that a moratorium on visitor accommodations will limit the amount of tourists visiting Maui. And it does not provide data showing the impacts that tourism is having on the County's environment and residents' quality of life. Instead, the bill specifically states that the moratorium will remain in effect and maintain the number of current transient accommodation units until the Council enacts legislation addressing the findings and recommendations presented by the Budget, Finance, and Economic Development Committee-established Tourism Management Temporary Investigative Group. So, shouldn't you have the findings and recommendations first before passing any type of legislation, especially something that's extreme as a moratorium?

And, you know, I think you're not going to stop tourists from coming here, you know, as we've heard, the County doesn't have control over flights coming in. That's a Federal jurisdiction. And people are going to find creative ways and what is going to happen is they're going to be outside of the hotel zoned areas and they're going to eventually go into the residential. So more of this will be pushed in the residential. You know, people are going to find creative ways to capitalize and make some money. And I think what we want to do is keep them more in the hotel area, you know, so it's managed that way.

But anyway, I also think that a moratorium is just going to hurt the real property tax revenues, you know the visitor accommodations pay a higher real property tax than residential and so forth, and in order for Maui to have funds to, you know, build infrastructure, and maybe even more affordable housing, and so forth. It could actually utilize that real property tax to do that, so, I don't really see any benefit for Maui with this moratorium, cause like I said, I don't think it's going to stop tourist from coming to Maui. And I think you have to have the studies done first, before you impose a moratorium bill. Thank you.

CHAIR LEE: Thank you, Mr. Delauney. Any questions, Members?

Ah, yes, Ms. Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Delauney for your testimony.

I just wanted to clarify the part about when you were speaking about data, where do live on Maui County?

MR. DELAUNEY: I actually live on Oahu, but I have family in Maui.

COUNCILMEMBER PALTIN: Okay, and--

MR. DELAUNEY: We represent the construction industry, so we have a lot of our members are from Maui, too.

COUNCILMEMBER PALTIN: Okay, I just, I mean, when you say data, do you also take into effect citizen kilo science, in the data that our citizens are collecting that they see on the streets every day, that they see already. I mean, there's not just one sort of data, and like you said, the testimony that we've been hearing is a form of data in and of itself. And oftentimes when you talk about economic data, the quality of life is not something that is measured in terms of that numbers of science, it's a feeling that our residents are feeling, so, is that being taken into account in the data that you speak of?

MR. DELAUNEY: Well, what I'm saying is that there's nothing linked, there's no data supporting this moratorium that I have seen--

COUNCILMEMBER PALTIN: Thank you. You answered my question.

MR. DELAUNEY: And to clarify too--

CHAIR LEE: Okay, thank you. Okay, thank you, Mr. Delauney.

MR. DELAUNEY: Oh, okay, thank you.

CHAIR LEE: Thank you. Members, I do want to remind you, your questions are supposed to be clarifying questions, right?

Member King.

COUNCILMEMBER KING: Thank you, Chair. Yeah, I just wanted to clarify with Mr. Delauney, have you ever asked for data before a new hotel or hotel expansion was approved? Because, you know, you're saying to, we should get all this data before we stop it, but meanwhile, we're marching forward expanding, expanding beyond our maintaining capacity, and no one ever looked, has anyone ever looked at data, that kind of tourism data before they do those approvals?

MR. DELAUNEY: Well, I thought, I thought the plans had special areas designated for hotel development. It has to be zoned that way and for visitor accommodations.

COUNCILMEMBER KING: But it doesn't demand, it doesn't demand that they be built. It might allow for them, but it doesn't say they have to be built.

MR. DELAUNEY: Well, I think it's in the plans--

COUNCILMEMBER KING: The other question I have for you is, have you looked at the data as far as the construction industry, because you're talking about construction jobs. And the data from DBEDT shows that, "construction industry performed the best and full recovery by April 2021 at 101.9 percent of the January 2021 level", so construction is at the top of industries for success, it never really faltered during the pandemic and now it's actually higher than it was pre-pandemic. So, have you looked at that data when you were talking about new construction jobs?

MR. DELAUNEY: Yeah, well, I'm also concerned about small businesses, too. How does this impact businesses?

COUNCILMEMBER KING: I just asked you if you looked at that data--

MR. DELAUNEY: No.

COUNCILMEMBER KING: --because you're talking about--

MR. DELAUNEY: No.

COUNCILMEMBER KING: --getting data--

MR. DELAUNEY: If you could provide yeah, I don't, yeah, if you could provide that, if you can make it public, that would be great. So we can--

COUNCILMEMBER KING: It's public, it's in the DBEDT report. It's actually dated, 2021.

MR. DELAUNEY: Okay. So, we'll take a look. Thank you.

CHAIR LEE: Okay, Members. I think, Member King, you got your answer.

COUNCILMEMBER KING: Yeah, I did. Thank you, Chair.

CHAIR LEE: Mr. Delauney, you hit some sensitive points, I guess, and the Members are somewhat reacting. Any more questions, Members? If not, thank you, Mr. Delauney.

MR. DELAUNEY: Thank you.

CHAIR LEE: Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, the next person we have signed up to testify is Raymond Michaels, to be followed by Jordan Hocker.

MR. RAYMOND MICHAELS (testifying on County Communication No. 21-280):

Good morning, Council. My name is Raymond Michaels, I'm here representing the Construction Industry on Maui.

We're aware of the two moratoriums currently being discussed by the County Council, which proposed immediate halt on new development servicing the visitor industry. It's our understanding that new developments, which do not have an active and issued building permit would immediately be ceased if this moratorium passes. The CIM understands the good intent of this moratorium, and in some instances, we agree with the goals of the moratorium proposals. However, the sequencing of the moratorium proposal is reckless and poorly planned.

As the impacts of COVID-19 demonstrated, the danger of the local community relying heavily on a tourism industry, we agree that our community has grown too largely reliant on tourism. The CIM also agrees that our community and beaches have become too overcrowded with visitors. The CIM also agrees that Maui's ecosystem is fragile and in decline. One of the contributors being too many visitors slathered in

sunscreen that harm our reefs and marine life. On the contrary side, the proposed sequencing of these moratoriums will negatively impact our economy further.

For the County to troubleshoot and develop plans after the moratorium is dangerously backwards. We also have little faith in the County's ability to plan and execute community plans and create economic diversity. To date, the performance on this matter has been non-existent and the performance, quite honestly, worthy of being fired for in the private sector. If we are to diversify our economy to reduce the visitor population, then that plan should be made, invested in, and rolled out prior to impacting visitor and building industries, the only two economic drivers in our community. Without these two sectors, we all fail.

The ripple effect of government intervention reaches far beyond the well intent source actions. Following basic supply and demand, if there's a greater scarcity of visitor lodging, then pricing will become attainable only for the elite, taking another step into Maui's unattainable status. If lodging prices becomes to egregious, inevitably there'll be an influx of residential investors willing to gamble with illegal TVR accommodations which will only compound the rising prices of the scarce housing supply.

There will also be legal ramifications from landowners and developers. Substantial capital is extended to entitlement and design efforts, all which predicate a building permit. If developments are cancelled after millions have been invested into these programming and design phases, the County will be at legal risk.

The CIM ultimately wishes to see our economy diversify and believes that environmental protections will be a result, attracting new economy sectors. And incentivizing these new sectors is the job of public leaders and obviously, our public leaders have failed. As a result of this failure, our public leaders are arbitrarily taking the offensive in the only manner they know how. Attacking our building and visitor industries. We find it offensive that public leaders who receive their livelihood from taxpayers, I'm almost done.

CHAIR LEE: Can you conclude?

MR. MICHAELS: Yeah. I'm almost done.

We do find it offensive that public leaders who receive their livelihood from taxpayers consistently attack the economic sectors that fund public budgets. Following the example of leadership, of public leadership, perhaps proposed legislation should be introduced to reduce public officials' salaries in proportion to these decree driven economic moratoriums, which would be fairly justified.

The CIM is adamantly against this moratorium. We see this moratorium as a one-sided decree to push Maui one step further to becoming an island for the elite, and our people will continue to be jobless, poor, and homeless. Only after there's a successful community plan in place, then should there be talk of limiting visitor population. Thank you for your time.

CHAIR LEE: Thank you, Members. I mean, thank you, Mr. Michaels. Members, please only clarifying questions. I know you don't agree with him, but clarifying questions. None. Thank you, Mr. Michaels.

MR. MICHAELS: Thank you.

CHAIR LEE: Mr. Clerk.

DEPUTY COUNTY CLERK: The next person we have signed up to testify is Jordan Hocker, to be followed by the individual calling in from the phone number ending with these last four digits, 9537.

MS. JORDAN HOCKER (testifying on County Communication No. 21-280 and Committee Report No. 21-39):

Aloha, Councilmembers. Thank you so much for your time today. It's nice to see everyone again. I feel like we just get to see so much of each other lately. So, yeah, so I'm here to testify on agenda item CR 21-9 *[sic]* and 21-280.

Obviously, I think you know this already, I couldn't support this moratorium more. And part of that is because overtourism is such a systemic issue and it reaches all of these different areas of our life. One of the previous testifiers talked about data. There are two types of data, there's quantitative, which is numbers and there's qualitative, which is harder to measure. In a recent poll that was taken, I believe by the Star Advertiser about how residents, Hawaii's residents feel about tourism, it's something like 60 to 70 percent of us, that it's on a runaway train. And what my problem is, is that paid lobbyist also often, people who are making quite a bit of money off of the tourism industry, illustrate this dooms day scenario that like quite frankly, we're living already.

When it comes to the data, the data is out there. The State actually, and I've given testimony on even just the amount of money it takes to live here. The State has put all of that out and if you have those questions, those numbers are out there. And while the numbers do get listened to, and we do have data scientists who are breaking all of this down, reality is that what we go through every single day, the fact that I am not at the DMV yet, I'm literally sitting in the parking lot of the new DMV building because this

is so important to me. I'm taking time out of my day, that I don't get paid for to say, hey, something got to give.

A moratorium is not the end of the world. It's obviously, like based on the things I heard, not going to cripple the construction industry. It's not going to cripple the tourism industry, which is obviously bouncing back. So, one of the things that I keep hearing from lobbyists is, okay, great, so you don't give um places to stay, they are going to stay in illegal short-term rentals, right. I personally volunteer to police my community of illegal vacations. And I'm pretty sure that the community, or the County at least, already has enforcement. If we anticipate this being a thing that could possibly happen, then it looks like we'll . . . to focus on it, but it's not a reason to say, let's just trash this entire thing. It's saying, okay--

CHAIR LEE: You're frozen, Ms. Hocker. You want to turn off your video? Try again. Say something.

Mr. Clerk, we can come back to her, if she comes back on.

(See pages 25 and 26 for completion of testimony.)

DEPUTY COUNTY CLERK: Okay, Chair. Then, proceeding with the next testifier in the meantime, the next person signed up to testify is the person calling in from the phone number ending with the last four digits, 9537, to be followed by Pamela Tumpap. 9537, it's your time to testify. You're unmuted, please begin testifying.

MR. FREDERICK STEINECK (testifying on County Communication No. 21-280):

Yes, hi, this is Frederick Steineck. I wasn't aware that I was scheduled to testify. So, forgive me for not being prepared here. I'm a local resident here, and an employer of a local staff, around 50 employees in the construction industry. And again, I really, my intent was to listen in, to learn a little bit more about this issue.

CHAIR LEE: Excuse me. You don't have to testify. You can continue listening, if you want to.

MR. STEINECK: Well, it, I haven't heard anything on this point yet. So maybe I'll just bring it up and it can be taken into consideration or into the discussion, if it isn't already part of it. But I haven't heard anything about it, yet.

CHAIR LEE: Okay, proceed, please.

MR. STEINECK: Thank you. So, my only, the only thought I really had that I thought would add some value to this discussion is, I remember many years ago, well not that many really, maybe five, ten years ago, the community plan was a big topic of discussion and the fact that the community plan was, was stalemated and had not been updated as it should have been. And I guess my question is, is, has there, are the two, is that related to the problem that we're having today where they seem to be building outside of the intent of the community? And is that the root cause of the issue? Or has there been any work done to get to the root cause of the issue?

Because my understanding is the County's, the County's kind of dictates the directions for the community based on the local residents, and the purpose and values established for the community. And it seems like with that plan, there should be a roadmap for, for development. And without that plan, it seems like we're grasping at straws for some ad hoc solutions that, that may not really resolve the issue. Actually, I think it's known that it won't resolve the issue, it's a temporary stop gap, but it might have a whole another set of cause and effect circumstances . . . consequences that are unintended and may not be, may not serve the community well.

CHAIR LEE: Okay.

MR. STEINECK: So, if I could summarize, I guess the question I have is, what's been done to identify the cause for the delay in the community plan? And what is the, what is the, what is the solution that's been adopted to get that on track so that, you know, the enterprises, and residents have a roadmap for, you know, their enterprises?

CHAIR LEE: Okay, well thank you very much for your testimony. What is your name?

MR. STEINECK: My name is Frederick Steineck.

CHAIR LEE: Can you spell your last name, please?

MR. STEINECK: Sure. It's S-T-E-I-N-E-C-K.

CHAIR LEE: Oh, okay.

MR. STEINECK: I apologize. I think my assistant may have put me down to testify. I may have asked her to do that and then forgot.

CHAIR LEE: Alright. That's fine. That's fine. Thank you. Are there any questions, Members? If not, thank you, Mr. Steineck. Mr. Clerk, may we have the next testifier, please.

DEPUTY COUNTY CLERK: Chair, I believe Jordan Hocker has connected once more.

CHAIR LEE: Okay, fine.

Ms. Hocker.

MS. HOCKER: Okay, thank you, Councilmembers. Sorry about that. Luckily there's free Wi-Fi at the DMV. So, thank you all for that at this new building.

So, where I was essentially is what I hear a lot coming from people who, you know, probably stand to lose the most, but also gain the most, while the rest of us are left here in the lurch, is that there's this whole doomsday scenario proposed around this moratorium and the reality is the doomsday scenario is literally happening right now. There's no way around that. So, when it comes to specifically, like, okay, what about illegal lodgings? I think that there's ways around that. I think that the community at-large, doesn't want illegal short-term vacation rentals in their neighborhoods to begin with, so why don't we call on them?

I mean it's us that you should be listening to in the first place, and I do feel that many of you are. But what it comes down to is that yes, quantitative data is really important, but right now, it is a quality-of-life issue. And it has been a quality-of-life issue. And as I've stated in my last testimony, the tourism industry right now is not even really paying a living wage to a majority of their employees. And so, when they come forward with a doomsday scenario, when they're already actively not taking care of our community, that is a huge issue for me.

And so, from where I sit, this moratorium is simply a pause, it's not a doomsday scenario. The industry has well bounced back. Personally, I want to see more affordable houses being built than anything else, and we have a limited amount of space here so why don't we use it wisely?

I guess I'll just end to say that sure, we can't stop people from flying here, but as a little bit of qualitative data, if I'm trying to go to a place for a vacation and I can't find a place to stay and I cannot find a car, I'm probably going to say, shit, I mean shucks, we cannot, I'm sorry, I'm a bit of a sailor and this is the second time I've done it, I promise, I won't do it again. I, I guess we can't take that vacation right now. Okay. So, that's the aim on that.

I will personally volunteer my time as you see me volunteering my time to follow allegations of illegal vacation rentals. I'm happy to do that. I'm literally happy to donate my time to the County to do that, and I know many other testifiers who are like, yeah, I

would follow this call. So, maybe there's a hotline already? I don't actually know how that's handled? But I don't think it's a reason to throw the baby out with the bath water, and I think that this is forward thinking. I think that we can't delay any, any longer and just urge you, urge you to hear us. I urge you to hear the people who are working hard with their volunteering, every single day, and I thank you for--

CHAIR LEE: Thank you, Ms. Hocker. Are there any questions, Members?

MS. HOCKER: I'm sorry, can I add one last thing? Um, this moratorium needs to apply to the entire island, okay? Cause if it doesn't, then you're right, we're going to be popping up with a . . . hotel permits in areas that are not resort areas and we would need to keep . . . sorry.

CHAIR LEE: Thank you. Thank you very much for coming. Mr. Clerk, may we have the next testifier, please.

DEPUTY COUNTY CLERK: Chair, the next person we have signed up to testify is Pamela Tumpap, to be followed by Ariella Upton.

MS. PAMELA TUMPAP, PRESIDENT, MAUI CHAMBER OF COMMERCE, (testifying on County Communication No. 21-280 and Committee Report No. 21-39):

Aloha and xin chao, Happy Juneteenth, and Happy Father's Day for all the father's this Sunday. Chair Lee, Vice-Chair Rawlins-Fernandez, and Members of the Maui County Council.

I'm Pamela Tumpap, President of the Maui Chamber of Commerce, and advocacy is one of my many activities. We would really like to share our strong concerns on Committee Report 21-39. I would like to testify on both bills, but on 21-39, on the moratorium and new visitor accommodations in South and West Maui.

We support green initiatives to help preserve the environment, visitor education, responsible tourism, and sustainability for our island community. Visitor accommodations are some of the top leaders addressing green initiatives, including educating visitors about sunscreen and our ocean life, reducing waste, switching early on to compostable food ware, phasing out water bottles and so much more.

Before a moratorium is put in place, we'd like to see more significant data released on the purpose of the moratorium, what environmental outcomes are expected to be achieved, balanced with what the visitor industry is already doing? And considered

along with the impacts of stopping new visitor accommodations construction in the planned resort areas of South and West Maui?

We think we should be seeing a holistic picture before a moratorium is instituted. Sustainable solutions include balancing environment, economy, social well-being, and culture. While this bill was rewritten from an environmental standpoint, it is also important to recognize economic impacts.

The visitor industry is generating significant revenue. \$73 million in real property tax revenue in FY21, which provides the County with resources to invest in economic diversification, which is desperately needed, while also raising revenue for other programs like affordable housing and rentals, social services, infrastructure and more. They employ thousands of Maui residents hoping to provide for them and their families, accounting for approximately 75 percent of all private sector jobs. We have heard from many businesses and individuals not familiar with this moratorium who question why the process is being rushed. They feel it's not the right time and feel that a moratorium is very inflexible, and we need the most flexibility during this period of economic recovery.

Hearing those concerns, we just sent you this morning, a letter, it was published yesterday with many of the concerns heard, and by this morning before this meeting we received 78 signatures asking that you not put the moratorium in place.

Further, we are concerned that if passed, this bill may face legal challenges, that's something we've heard, and that creates a burden to the County and cost for taxpayers. This is not the time to fight and settle a case and take up so much time when there is so many important impacts that we need to work on. And it seems like there is a chance of potential legal challenges with this bill.

Therefore, in addition to the Chamber's . . . I'll just finish this sentence and then move on. We oppose this measure and ask that it be deferred and appreciate the opportunity to provide testimony. And if I may move on to 21-280?

CHAIR LEE: Pam, could you hold up one second?

MS. TUMPAP: Sure.

CHAIR LEE: Ms. Paltin, did you want to ask a question, first?

COUNCILMEMBER PALTIN: Yeah, I just wanted to clarify when, I think you said 73 million is generated by the visitor industry through real property taxes?

MS. TUMPAP: Uh huh, real property, we have 73 million in real property tax revenue from hotels and timeshares in FY 21.

COUNCILMEMBER PALTIN: Just hotels and timeshares, not short-term rentals?

MS. TUMPAP: Not the entire visitor industry.

COUNCILMEMBER PALTIN: Okay.

MS. TUMPAP: Not the trickle-down effect.

COUNCILMEMBER PALTIN: I just was wondering if at all you would consider that generated from the environment also being that these are shoreline properties and it could be said that, you know, when you're looking at our real property tax revenue, the majority of the revenue is generated by shoreline properties and so, it could be interpreted that the environment is generating this revenue.

MS. TUMPAP: Are you asking me for clarification on my testimony or asking me to respond to that suggestion?

COUNCILMEMBER PALTIN: Clarification. If it's not--

MS. TUMPAP: So, so, this, this is currently based on what the hotel and timeshare properties are generating. And so, yes, are they, many of them on the shorelines, yes, they are. And, you know, we do understand that we do want to look at, you know, this bill is based on impacts to our environment, but this number is based on the data on real property tax, which I don't believe in generating the real property tax classifications, there's any language on impact to the environment.

COUNCILMEMBER PALTIN: And you don't have the data about shoreline real property tax, how much is generated?

MS. TUMPAP: I guess the question would be, no I don't, does the County? I haven't seen any data like that from specific, I'm sorry, I hadn't seen any specific breakdown from county real property tax that looks at just the units that are shoreline versus some of them that might be more inland. And I'm not sure what you mean by shoreline in terms as how far in from the shore you are looking at?

COUNCILMEMBER PALTIN: I guess as--

MS. TUMPAP: Yeah, so I'm sorry, I don't have that data, but if you folks have it, we'd love to have it.

COUNCILMEMBER PALTIN: Okay, thank you.

MS. TUMPAP: Yeah. Thank you.

CHAIR LEE: Pam, and everybody else, if a Member asks you a question that you think is not pertinent to your testimony, or if you don't know the answer, can you just say, "I don't know". Okay. Easier, easier that way, okay? Cause, otherwise, you go around and around and around. And yes, I'm sure that kind of data, the County should have, Real Property Division would have that information.

So, thank you for your testimony. Did you have another item that you wanted to speak on?

MS. TUMPAP: Yes. Thank you, Chair Lee. We wanted to also speak on CR 21-280. You know, we are alarmed by the potential negative impacts of this bill, as well as the other moratorium on new, we know its new visitor accommodations on Maui and the creation of the TIG. We understand the resolution today is to send the bill to the Maui Planning Commission and wanted to share our thoughts on that.

We agree that issues like affordable housing and rentals, infrastructure, traffic, and ways to improve our resident quality of life for all things that must be urgently addressed. What we disagree on is the methodology of simultaneously placing a moratorium on new visitor accommodations and creating a TIG after the fact. We believe that a TIG should be created now with broad participation, including industry leaders from every impacted industry, and that the TIG should address these issues. And if legislation is needed to address the strong community concerns, that that happen right now before the need for a moratorium.

We consistently share that the Chamber of Commerce opposes all moratoriums, and it's because they are inflexible. We've heard Councilmembers say that the moratorium will only last two years, but two years is significant when looking at growth. According to a leading, to leading State Economist Paul Brewbaker, Maui would forego about \$200 million per year in associated jobs and incomes because of the moratorium. This will directly impact Maui's residents.

Lastly, data shows that the majority of new visitor accommodations in last 25 years, 20 to 25 years have been from vacation rentals, not conventional lodging. Conventional lodging like hotels, condos-tells, and timeshares are built in appropriately zoned areas, typically where other lodging and visitor attractions are. Many have said we cannot stop visitors from traveling to Maui and if they cannot find a place to stay in legal accommodations are too expensive due to demand, they may knowingly or

unknowingly stay in illegal vacation rentals. Instead of a moratorium, let's start with a TIG and truly address residents' concerns and tackle the illegal vacation rental problem we have now.

I'd be happy to speak on some other data on that subject later on. We also appreciate the opportunity to share other concerns on the moratorium today and ask that you defer this measure while looking at the letter that was sent to you this morning. The visitor industry is our economic driver. It supports many other industries, activities, retail, restaurants, transportation, agriculture, manufacturing, and non-profit organizations. With this support, other industries can grow and help to further diversify our economy. We are the most dependent County in the State on the visitor industry. Accommodations provide employment to thousands of Maui County residents.

And again, we ask that you review that letter this morning with 78 signatories that feel this moratorium is problematic and not the right thing to do at this time for the reasons noted. The quality of life of those employed by the industry depends on a vibrant visitor industry. Mahalo.

CHAIR LEE: Okay, thank you, Ms. Tumpap. Members, questions? First, first, from Member Paltin and then Member Molina.

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Ms. Tumpap for your testimony. It seemed that this testimony was focused on the TIG and you said that it should include leaders from the visitor industry. I was wondering if you could clarify like what you envision that TIG? Like is it just leaders from the visitor industry?

MS. TUMPAP: Thank you for asking the question. Actually, I mentioned all industries affected, and by that, I mean not just the direct visitor industry, but we're talking, not just the hotels and resorts, we're talking about the broader industry, restaurants, retail, activities, agriculture. You know, we saw the devastation with COVID, when the visitor industry was highly challenged. That devastation trickled down throughout our community to every, basically to every industry, and I can tell stories all the way down to hair salons.

COUNCILMEMBER PALTIN: So, basically everyone connected to tourism, and were you envisioning Councilmembers or others, just living in the public that weren't connected to the visitor industry.

MS. TUMPAP: Oh, absolutely. I mean, of course, we want community groups, environmental groups, Councilmembers. What we often have in testimony is we have three minutes

to share. And even between community members, we don't really get to have dialogue on the different ideas, which is what TIGs are for, right? To, to allow people not to just share for three minutes, but interaction.

COUNCILMEMBER PALTIN: Thank you. And, and then, I just, my follow-up question, this TIG that you had described with all of these folks on it, is it significantly different than the Mayor's working group on tourism?

MS. TUMPAP: I couldn't tell you. I know that the Mayor has a working group on tourism, but I don't believe the Mayor's working group is specifically focused on the moratorium. And I understand this TIG will be focused on a moratorium proposal so to me that would be significantly different.

COUNCILMEMBER PALTIN: Okay, thank you.

MS. TUMPAP: Mahalo for the opportunity.

CHAIR LEE: Mr. Molina, then Mr. Johnson.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. Good morning, Ms. Tumpap. I just wanted to clarify your testimony, you mentioned the legal challenges and that expressed in that letter. Can you elaborate on that as to why the visitor industry and building industry would sue the County of Maui over this type of legislation, which has been supported by a lot of our citizens out there in the community. Could you further expound on that?

MS. TUMPAP: Not really, other than to say, I understand that some of the concerns relate to it being a zoning issue and being handled in an appropriate way. And this would not, this would not be for CR *[sic]* 21-280, but in fact, my understanding is that concern comes around with CR 21-39. So, I would leave that to the lawyers, and I could not, I could not say I've heard of anybody specifically saying that they would do that, what I'm saying is there have been other locations, and other challenges where that's occurred.

COUNCILMEMBER MOLINA: Thank you. Thank you, Madam Chair.

MS. TUMPAP: Mahalo.

CHAIR LEE: Mr. Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. Good morning, Ms. Tumpap. Just a quick clarifying question.

MS. TUMPAP: Yes. Good morning.

COUNCILMEMBER JOHNSON: Does the Maui Chamber of Commerce track job openings in the hotel industry?

MS. TUMPAP: So, we do not specifically do that right now, but we actually are launching a new software where we can help do that. We've got a few online job postings--

COUNCILMEMBER JOHNSON: So, you don't, you don't know, so you don't know presently like how many openings there are in the industry that you are advocating to have more jobs for?

MS. TUMPAP: I do not.

COUNCILMEMBER JOHNSON: So I'll give you specific, on, on Lanai, we have 100--

MS. TUMPAP: But the MHLA might.

COUNCILMEMBER JOHNSON: Okay, well, on Lanai we have a 100 job openings for our resort, we can't even fill them. So, it's kind of hard for me to hear the, the talking point that we need more rooms and more, and it's going to create more jobs when we don't, we can't fill the ones that we have already. So, I just wanted to know if you guys are tracking that and if you're not, that's okay. Thank you, Chair. I have no further questions.

CHAIR LEE: Alright. Any, Member King.

COUNCILMEMBER KING: Thank you, Chair. And to follow-up, maybe Pam, maybe you can contact your sister organization, the Chamber Commerce of Hawaii that just did a survey that showed nearly . . . member companies found a vast majority had difficulty filling open positions. That's from the Hawaii Chamber. But what I wanted to ask you.

MS. TUMPAP: I'm sorry. I'm sorry.

COUNCILMEMBER KING: --when you, when you, that was in--

MS. TUMPAP: Was the question that, on my testimony that you're asking me to contact the Chamber of Commerce of Hawaii?

COUNCILMEMBER KING: Yeah, I'm asking if you would because you said you don't have the data and they seem to have data, so, if just to clarify your statements, maybe you could back it up with some data.

MS. TUMPAP: But their data would be different from Maui County. Their collecting other data.

COUNCILMEMBER KING: Right . . . done it, maybe you can follow that same process and try to figure that information out? Because you are saying a lot about data. Do you have any data on, I mean, I'm assuming that you understand we're not going to lose any RPT revenue, because whatever we have right now, we'll still have, so the real property taxes.

So, do you have any data on what the lost revenue RPT is projected if we do this moratorium?

MS. TUMPAP: Yes. The data that I have is actually based on data that comes from Paul Brewbaker and that data, I think I just shared with you. Um, but let me pull that number up, so that I have it at hand.

COUNCILMEMBER KING: Does Paul Brewbaker work with our RPT office in our County?

MS. TUMPAP: Work with, I'm sorry, what office?

COUNCILMEMBER KING: With our real property tax office? I mean--

MS. TUMPAP: I can't tell you how Paul Brewbaker came by the data, but he's been doing research on the data. And so, let me pull that up for you really quickly. Because it's a significant amount of data. I mean, it's significant, he's projecting over just the two-year moratorium, we would lose \$200 million per year, so that would be \$400 million.

COUNCILMEMBER KING: Based on what? Based on lost--

MS. TUMPAP: I can't answer that. I can let Paul Brewbaker explain how he comes to that factor, but he's got significant details on that and he's working on the report which hasn't yet been fully released.

COUNCILMEMBER KING: Okay. I'm just interested in that data because, you know, I know he did come to the IT Committee and talk about things like renovations and remodels which are not in the moratorium. So those are not banned.

MS. TUMPAP: I will absolutely ask that he share with you. I believe he shared; I believe he shared a memo with you right after his presentation. And I thought he had included some of that information in the memo that he sent to all Councilmembers.

COUNCILMEMBER KING: Yeah, I haven't seen that, I just heard reports because I was in another meeting and I heard reports from my staff who attended it, not only was he not addressing the bill per se, but he was calling in from a car dealership to make this presentation. So, I'm not sure how organized that presentation was? And I just think this data, if you are trying to base your testimony on data, then you should have data, you know, prepared for, and this is another thing, is like, can the Chamber start preparing data, what's going to happen with every new increased hotel? What is the.

MS. TUMPAP: So the Chamber doesn't have the financial wherewithal to hire all these consultants, because that's not a key part of what our mission is, so we try and work with partners who work in that realm. But what I can do is ask that Paul reshare his email that was sent to the Council, and if we have a copy of it, we'll be happy to forward it to you.

COUNCILMEMBER KING: Okay. My last question to you is, because you're talking about the top two industries, is, do you see Maui as always being dependent on tourism first, or do you, does the Chamber see a potential for diversifying our economy to the point where the other opportunities can be equal? Other opportunities for other industries like the health industry, the film industry, the technology industry, the agriculture industry? Do you foresee and do you support a diversified economy?

MS. TUMPAP: Thank you so much for asking that question. Yes. As we shared with you after our last testimony, we sent out everybody, our legislative proposal from last January again, and you'll see in that, yes, we want to support great diversification. We want to support industries that also leverage what we've accomplished with the visitor industry. We do see that there's a need to sustain the visitor industry, and that industry with the support it provides now, helps us further diversify.

But it's critical that we diversify our economy, and you know, we all strongly support agriculture, technology industry, we can do a lot more in the tech industry, whether film is in there as well. Medical tourism is in there, as well, and in some areas, by not doing that diversification, there are pop-up things happening that are underground. There are some medical tourism things happening out of private homes, for example. So, what we want to see is the allowance of those things to maximize the benefit and create additional higher paying jobs.

COUNCILMEMBER KING: Okay.

CHAIR LEE: Any more questions? If not, thank you very much, testifier, Ms. Tumpap. Appreciate you coming by.

MS. TUMPAP: Thank you. My pleasure. Thank you, Chair Lee.

CHAIR LEE: Thank you.

Mr. Clerk, next.

DEPUTY COUNTY CLERK: Our next testifier is Ariella Upton, to be followed by the individual.

CHAIR LEE: Let us know how many more, so we can plan on taking a break?

DEPUTY COUNTY CLERK: --okay. After Ariella Upton is the individual calling in from the phone number ending with these last four digits, 3493, and then after that individual, there's four more testifiers.

CHAIR LEE: Okay. We'll take the break after Ms. Upton.

Ms. Upton?

DEPUTY COUNTY CLERK: Ms. Upton, your, we see, but you appear to be muted.

CHAIR LEE: Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ; Mahalo, Chair. I see Ms. Upton is unmuted on both our end and her end, either something is going on with your device. You may need to restart and then perhaps we can call on her after the next testifier, while she logs off BlueJeans and then logs back on?

CHAIR LEE: Oh, good. She got it. Mr. Clerk, who's the next one?

DEPUTY COUNTY CLERK: Our next testifier is the individual calling in from the phone number ending with the last four digits, 3493.

MS. ASHLEY MCGUIRE (testifying on Committee Report No. 21-39):

Aloha everybody. My name is Ashley McGuire, I'm a resident of Maui. I grew up in Kihei and I now live in Keokea. I would like to start just by saying that I support this moratorium, and anyone who is hearing me coming in saying I'm a resident and that I grew up in South Maui, probably understands why I am in support of this moratorium.

I watched my hometown change beyond recognition and I attribute it personally and I think many others will agree, whether we have sufficient data, numbers, quantitative data to prove that or not, we are feeling that the tourism industry is responsible for that stark change. When you look at the way hotels and condos have gone up, the way places like the Maui Lu took out entire coconut groves to put in more buildings, those are things that are irreparable. And those were spaces that people could have utilized for . . . for community gatherings, and instead they are prioritized to visitors.

And whether those places were zoned for visitor accommodating or not, we, I think as a community understand that this industry is out of control and that we import over 90 percent of our food when we have a ridiculous amount of available land. And I think that we also haven't discussed much in, I agree with all of the other points that the other supporters of this bill have made. I second all of those things, that was so many things, that I completely agree with, I'm not going to reiterate.

But one thing that we missed out on talking about was resource usage. We have finite resources on this island and the majority of the water comes from the Pu'u Kukui Watershed in the westside or the . . . mountains on the eastside, neither of which are benefitting from tourism. These are places where kalo farmers have water stolen from them on a regular basis, to support these golf courses, and condominiums, and new tourism development that are using our water, our energy, and our people.

The resources that we could be, human beings are resources that could be utilized in other ways than devoting their lives to slave industry of tourism, where we are forced to feel as if we have no other choice, but to succumb to the tourism industry because, like previous testimony said, sorry, a testifier said, that they're presenting the doomsday situation and manipulating and forcing us into feeling like we have no other choice. And I think that we as a species are a lot more creative than that, and I think we as a community are a lot more creative than that.

So, I'm just going to end here, because like I said, I agree with all of the other supporters, and they said I think more than enough to solidify the passing of this bill. I think that it's clear to see that those who came to speak in opposition of it were those who were going to benefit from it not passing. And those of us who are desperately pleading for this regulation of this out-of-control tourism industry are those who are being every single day negatively impacted by it. This is me sitting for an hour and a half, unpaid with a toddler waiting to say this testimony because I desperately want a better future and better opportunity for my daughter on this island.

Thank you so much, everyone for listening. Again, I completely support this moratorium and I am only one representative of a very large community who feels the same way. Aloha and mahalo.

CHAIR LEE: Thank you. Member Paltin, question?

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Ms. McGuire for your testimony. And I just wanted to clarify your statement that Pu'u Kukui Watershed Preserve doesn't benefit from visitors. That's contrary to my knowledge because they do have a lot of partnerships with the hotel and just wondering what you were basing that statement on?

MS. MCGUIRE: Yeah. I'm basing that mostly on people I know who farm kalo on the westside in Waihee, in Waiehu where, and out in Kahakuloa where they are reporting low stream levels, in times, when yes, we are in a drought, but even over winter, when there is plenty of water, the same is seen on the eastside. And I think that there's an unfair diversion of water away from traditional farming practices. And while, yes, the water is still flowing and many kalo farmers are still able to farm, not everyone is able to, there's not water in all of the crown lands that were designated for Hawaiians to farm upon.

And I think that needs to be addressed before we can start talking about putting more water in places that it doesn't naturally flow to sea anymore because of all these diversions. And many parts were put in for, you know, the cane industry, the sugarcane industry but are now being utilized in ways that many of us in the community feel are not appropriate to what we're looking to do with this island as a community, which is to be sustainable.

COUNCILMEMBER PALTIN: Okay, thank you. And, and, just to clarify, it's not only the visitor industry, a lot of our residents in West Maui get water from those diversions, but yes, I agree that it does happen but it's not only. Thank you.

MS. MCGUIRE: Yes, and I agree with that too, it's not only, of course. Never just one problem, but it's definitely a contributing factor for sure.

COUNCILMEMBER PALTIN: Thank you.

MS. MCGUIRE: Thank you. Thank you.

CHAIR LEE: I think that does it for questions. Members, it's, I have no idea what time it is. It's like 10:35, could be 10:36, but let's come back at 10:50. 10:50, Okay?

Recess. This meeting is in recess until 10:50.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:35 A.M., AND WAS RECONVENED AT 10:52 A.M., WITH ALL MEMBERS PRESENT.)

CHAIR LEE: Will the Maui County Council meeting of June 18, please reconvene? May we have the next testifier, Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, the next individual we have signed up to testify is Junya Nakoa, to be followed by Dave Jorgensen. I believe Mr. Nakoa called in. I'm not quite sure--

MR. JUNYA NAKOA, [testifying on County Communication No. 21-264, Committee Report No. 21-39, and Bill No. 57 (2021)]:

Hea. I stay.

CHAIR LEE: I hear him. I hear him.

MR. NAKOA: Hello?

CHAIR LEE: Hi.

MR. NAKOA: Yea, you cannot miss this voice.

CHAIR LEE: I know. It's impossible.

MR. NAKOA: Yea, yea, yea, yea. Okay. Howzit you guys? Sorry, but my wife trying to work over here. Get too much haoles on the island, sorry, my bad. But, um, what you call, the first one I like talk about is 21-264, that's the slippahs for the lifeguards. Give those buggahs slippahs, cause they, they over there, they protect the Kaanapali like that. Some plenty times yea they gotta jump in the water go get 'em. Cause they dunno what the heck they doing. Cause the hotels, I guess they not educating their, their tourist on where to swim and how to swim and all that kind stuff, so yea, go take care the lifeguards so they can get nice slippah. Okay, that one pau. Um, what you call, where the other one?

Oh, yea, yea, yea, okay, Bill 57, as the one for the flood prevention one yea, for the kine. Just to let you guys know, my Nakoa ohana we get land yea, right here in Kahana and get the Kahana flood zone, flood the kine, the dam. My braddah, he take care that buggah, yea. The buggah stay in the middle of our land, so we like try, kind of, I'm trying to call the Planning Department and Public Works on how we can make this

situation settled, yea. And even the Maui Land and Pine, I call those buggahs up and trying to kind, so just wanted to let you guys know about that buggah too. Okay, pau that one.

The next one going be da kine, 21-39, the one everybody talking about, the tourist, yea. You know what, brah, locals first, tourist after. Um, you know, Yuki, I think one of her questions that wasn't clarifying earlier, when ask is how we going stop them guys from coming? Yea, I agree, no build the vacation rentals and then um, you know, and then tell the Planning Department no approve short-term rentals, like that. That's where they going if they not going in the hotels. You know, cause, you know, the hotels is already built, let em go over there, cause we cannot do nothing with that, you know, just let em go over there, let em stay inside the hotel zone like everybody was talking about, yea so they no go all over the place, go stay.

So, you know, following the Facebook thing the Maui Bound, they all checking if they get openings, you know, they booking their stuff like four, five months ahead. You know, if get hotel opening, get the rental car place like that, you know what I mean. So, eh brah, it's their fault if they no more place for stay when they come cause . . . they the dummies. You know what I mean.

When I go Vegas, I make sure I get one room, so I can crawl in after I pau lose all my money, you know what I mean. So, I know what I doing? But, you know, so these guys gotta stop, you know what I mean, and you know what, as a, I am a Maui resident long time, long time, I live over here. You know, get the other guy from the Pacific Resource, he calling in from Honolulu, heck brah, who is he for say kuleana over here when he live Honolulu. Leave us alone, you just stay in Honolulu, gun funit.

And then, you know, all these hotels, yea, you know, they no pay the workers, brah, enough that they only can have only one job, brah. I know, I was one union rep, and I, you know what, I talk to all the, the union members of ILWU. I know the last time had the one representative from ILWU, he no talk to his members, I going tell you straight up. I talk to em every damn time. I go, I go Napili Market, I go anywhere, they all grumbling to me, eh Junya, how come this, how come that. And I'm going talk to them, cause it's just me, yea, you know what I mean. But the ILWU, the officers inside there, they like stand there, sit behind their desks, and I know cause I use to work for them and then, um, you know what I mean. They want, I neva ride their wave, so they when get rid of me. So, yea, the hotels not taking care their workers, and all that kine stuff, so nuff already. Locals first.

Last night, I go, my daughters go take me go eat dinner for Father's Day cause my oldest daughter going be Honolulu. Ho brah, brah, Hula Grill, but da kine, ah, I going finish up, I going finish up.

But um, the, the, had like four sailboats came in all at once, brah, and each of um get 100 people each, that's like 500, 400 people, you know what I mean, coming off of that boat. And so, they accommodated, and you know, and the thing is, we the locals not accommodated.

Today, right now, as we speak, get one Little League Baseball All-Star Tournament happening on Maui. But only get hundred people can go, that's the players, coaches, the league officials, and the kine, so, brah, hundred people for two teams. That, these kids when work hard for, for, for be able to play all-stars, they buss their okoles for do 'em and then here we telling only hundred people can go. And then the tourist come over here, oh my god, oh I was so sick, I was all bum out. But that's all I get for say to you guys, and have a good weekend cause I am right after this.

CHAIR LEE: Okay, Junya. Are there, yeah, we have questions for you.

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Nakoa for your testimony. I was wondering if you could clarify the Kahana flood control, which item that was on the agenda?

MR. NAKOA: Oh, that was da kine one, da Bill 57, I think, I think. Is that the one? The Lahaina, Lahaina, da Lahaina water--

COUNCILMEMBER PALTIN: Oh, oh, okay. Thank you. Thank you.

MR. NAKOA: I just wanted for bring em up cause that's . . . going to Planning, yeah.

COUNCILMEMBER PALTIN: Thank you.

CHAIR LEE: Any more questions, Members? If not, Junya you have a wonderful Father's Day, okay.

MR. NAKOA: Yessah . . . Alrighhht!

CHAIR LEE: Next, next testifier. Ah, you're muted. You're muted.

DEPUTY COUNTY CLERK: Apologies. Our next testifier is Dave Jorgensen, to be followed by Debra Greene.

MR. DAVE JORGENSEN (testifying on County Communication No. 21-280 and Committee Report No. 21-39):

Aloha.

CHAIR LEE: Aloha.

MR. JORGENSEN: Aloha. Can you hear me? Can you see me?

CHAIR LEE: You're not, um, the connection is a little weak?

MR. JORGENSEN: I'm having, you guys are freezing up a lot. I'm . . . am I being?

CHAIR LEE: Dave, where are you calling from? Can you try again?

MR. JORGENSEN: Can you hear me?

CHAIR LEE: Yes.

MR. JORGENSEN: Hello?

CHAIR LEE: Yes.

MR. JORGENSEN: Is that better? I've been--

CHAIR LEE: And now it's getting weak again, Dave. You want to jump off the call and come back on in a minute or so? Can we have our next testifier.

Mr. Clerk.

(See pages 42 through 47 for completion of testimony.)

DEPUTY COUNTY CLERK: Chair, the next person signed up to testify is Debra Greene.

CHAIR LEE: Okay.

MS. DEBRA GREENE (testifying on Committee Report No. 21-39):

Good morning. Can you hear me?

CHAIR LEE: Yes.

MS. GREENE: Excellent. Thank you. Good morning, Chair Lee and Councilmembers. It's Debra Greene. I cannot get my camera to work with BlueJeans. It works on the other platforms, but I'm not trying to hide.

I'm testifying in support of CR 21-39, the moratorium on visitor accommodations bill. This bill is about respect for people who live here. It's about respect for the land, respect for the water, respect for the creatures, large and small. Respect for, respect for and protection of the scarce resources of this precious place that we call home. And because we are an island with scarce resources, we need to protect them. This bill is desperately needed.

Waiting for two years before approving more visitor accommodations is not an extreme measure by any stretch. It's an important pause button. It's all it is, it's a pause button. Regarding stopping air travel, if we build it, they will come. If we don't build it, they will not. There are very few people who will come to Maui if they don't have accommodations. People don't spend money on airfare and rental cars and engage in a long flight across the ocean for hours and hours to land on a remote island without having a place to stay. They plan in advance. They're not going to risk having no place to stay.

We can beef up enforcement of illegal vacation rentals, if need be. I really like the idea of citizen volunteers policing the illegal vacation rentals and establishing a hotline. We do have some control over visitor numbers and this bill is an important way that we can exert some control and curb overtourism and the damage that it causes. Thank you so much.

CHAIR LEE: Thank you, Ms. Greene. Do we have questions, Members? If not, thank you, Ms. Greene.

MS. GREENE: Thank you.

CHAIR LEE: May we have the next testifier?

DEPUTY COUNTY CLERK: Chair, Dave Jorgensen has returned.

CHAIR LEE: Okay.

MR. JORGENSEN: Good morning and xin chao, Chair Lee, Councilmembers, and staff. My name is Dave Jorgensen. I'm an attorney in Wailuku and I'm testifying on behalf of the American Resort Development Association of Hawaii or ARDA Hawaii. I am a registered lobbyist. I'm here today to testify on two items, CR 21-39 and CC 21-280.

And I'm testifying against the proposed moratorium on visitor accommodations. ARDA Hawaii believes there are inherent flaws in both bills. We're heartened that several of the problems with the bill initially proposed in CR 21-39, have been addressed to some extent. However, the fact that the first proposal from the CARE Committee is still advancing, notwithstanding the fact that the modified bill in CC 21-280 confirms the proposed amendments are to go to the Planning Commission is problematic.

ARDA suggests that the bill in CR 21-39, to amend Chapter 40 also be sent to the commission for further study and public input, and that a tourism management temporary investigating group be formed before any moratorium is enacted. We also hope that the concerns of Corporation Counsel have been taken into account, and if not, that they will be heard and addressed before any measure proceeds. I note that neither proposal has been approved as to form and legality by Corp. Counsel.

Implementing these moratoria for visitor accommodations will have far reaching and long-term impacts on real estate, construction, tourism, and the whole island economy. And there will be many unintended consequences of this action which must be considered, including serious negative impacts on employment in general, and on the hundreds of businesses and many thousands of employees that support the industry. From restaurants, to retail stores, to activity providers, to suppliers of all the products that support these businesses. We ask that you also keep in mind that the visitor industry in general and the time industries, timeshare industries specifically, contribute much to Maui, its people, and its economy. From paying taxes, to supporting the Charity Walk, to contributing greatly to many non-profits, and to providing jobs.

While the timeshare industry certainly cares about the environment, and has a vested interest in protecting it, and we recognize the need for responsible tourism and better management of Maui's precious resources, doing careful consideration must be given to a broader impacts of these moratoria. We simply ask that this not be rushed into, and that all legal concerns be addressed, and all positions be fully considered, and we strongly urge that both of these bills be referred to the Maui Planning Commission for vetting, after careful consideration and public comment.

If I may, Chair Lee, I'd like to turn to the proposal to amend Chapters 19 and 20 of the code, as reflected in CC 21-280. It's interesting that the exact same language is being suggested to amend two separate chapters in the code, I'm assuming Corp. Counsel will have an opinion on that. An opinion letter from the Cades Shuttes Law Firm, was submitted to the Council by ARDA Hawaii, I'll try to briefly and quickly summarize that letter.

Even though the current resolution has been revised, we believe it remains fundamentally flawed. The resolution fails to advance a legitimate government, government interest in several ways. For example, an increase in hotel rooms and other transient accommodations has not caused an increase in the daily visitor population. On the contrary, hotel rooms on Maui have declined from 8577 units in 2000 to 7251 units in 2020. Only a handful of hotels have been built during the last 25 years, yet the daily visitor count has continued to increase. Thus, there's no factual basis to conclude that the moratorium would cause the daily visitor count to stabilize or decrease. No data or study has been presented in support of this conclusion.

Contrary to the findings on the transient accommodations under regulated hotels and certain other transient accommodations such as timeshares are heavily regulated. For example, hotels and timeshares may only be developed in areas that are designated for hotel use, not in residential neighborhoods, consistent with existing zoning laws. In this way the development of hotel and timeshare units voids the potentially adverse effects on neighborhood character, area infrastructure, and the availability of on-street parking.

Finally, the assertion that the prohibition on the development of transient accommodations is intended to address negative impacts on the environment, and purportedly overwhelmed infrastructure does not withstand scrutiny. No rational review leads to the conclusion that developing transient accommodations over a period that would exceed, may exceed two years, has any effect on carbon emission levels, climate change, or global warming. Nor has any data or study been presented to support such conclusion or the conclusion that the County's infrastructure is overwhelmed due to the continued development of transient accommodations.

The resolution calls for an investigation and recommendations regarding the carrying capacity for the island of, the island, in the Maui Island Plan and for heavily visited traversed locations addressing infrastructure loads, roadways, wastewater facilities, water use and other County facilities, and environmental impacts. Resting the resolution on demonstrably flawed and unsupported factual premises severs the connection between the purported purposes of the reso and the actual effects of the resolution.

CHAIR LEE: Dave, can you conclude, please?

MR. JORGENSEN: Yes. The Cades Schutte letter also explains why the resolution is unconstitutionally vague and that it violates equal protection clause, but I will just end by saying ARDA opposes both moratorium and suggest that a TIG be created for both before any moratorium is enacted. Thank you.

CHAIR LEE: Thank you. Yes, we have a question.

Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. Good morning, Mr. Jorgensen. Just a quick clarifying question, does the Maui, is it Art of Maui, track job openings in the resort industry?

MR. JORGENSEN: There are statistics that are created by ARDA Hawaii, that are gathered. I don't have those with me, but I can get them to you.

COUNCILMEMBER JOHNSON: Okay. I would love that, because that's the kind of point that I made earlier, is that we have two hotels on the island of Lanai and there's a hundred job openings we can't even fill. So I wanted to find out if your organization tracks the openings, because if it does and it does find that there are a lot of openings that they are unable to fill, how can I follow the logic that we need more homes, or more houses, or, I'm sorry, more hotels? So, that's my clarifying question and I would love to get that data from you, when you can. Mahalo.

MR. JORGENSEN: Yes, sir. Thank you.

CHAIR LEE: Anybody else? If not, thank you, Mr. Jorgensen.

MR. JORGENSEN: Thank you.

CHAIR LEE: Mr. Clerk, oh wait. We have, do have a question.

Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. So, Mr. Jorgensen, you mentioned the equal protection clause, what does that refer to? Sounds like a constitutional something, what does that refer to?

MR. JORGENSEN: Essentially, it involves government decision-makers treating different people in, all relevant respects in similar fashions. So here in this case, going through the various iterations of these proposals, there's been references to bed and breakfast homes, for instance, now that's not included is my understanding. There's no rational basis for treating transient accommodations differently from other businesses that service visitors, and so that's an issue that, you know, we're also pointing out, that was also pointed out by, in the Cades Schutte opinion letter.

COUNCILMEMBER SUGIMURA: Oh. Thank you.

CHAIR LEE: Any more questions?

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Jorgensen. I just wanted to clarify that last part, that you were saying about the equal protection clause, about bed and breakfast and then not bed and breakfast. I wasn't clear if you meant it would be more constitutional to take bed and breakfast out, and not allow any more bed and breakfasts? Or it would be, I wasn't clear.

MR. JORGENSEN: No, I'm sorry. Thank you for the question and I'm sorry for the, any confusion I created. The point is that these proposals treat transient accommodations different than other industries that serve the visitor industry, and in theory could increase carbon emission levels and the use of roadways and infrastructure. My point about the bed and breakfast was prior versions of the bill had bed and breakfast included and now it's not included as I understand it in the current version. So, but I didn't mean to imply that the equal protection clause only would apply to the bed and breakfast being included or not. It has to do with the bill not applying to all other industries that might affect this, this issue as well.

COUNCILMEMBER PALTIN: Thank you. That clarified it well for me. Thanks.

MR. JORGENSEN: Thank you for the question.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. Aloha, Dave. Thanks for your testimony. So, your, your position is that all industries should be treated equally? I'm not clear on what, I'm assuming that ARDA recognizes that the Council has the authority to treat different sectors within the industry differently, because we do that in our real property tax, we have different tax rates for different categories. So, I'm not sure why you're, what your issue of constitutionality and how different industries or even different sectors within an industry can be treated differently.

MR. JORGENSEN: Well, again, the people who are, the purpose of these bills and the intent of these bills as stated, is to protect the environment and decrease tourism. Other industries do the same thing. Other industries can impact positive or negative on the tourism industry and according to the logic of the bills affect the environment. What I'm saying is under the equal protection clause, all industries should be, similarly situated should be treated in similar ways.

COUNCILMEMBER KING: Okay, so if you--

MR. JORGENSEN: So, the real property tax issue is a little bit in opposite to, to the issue, but I understand what your question is saying.

COUNCILMEMBER KING: Yeah, and we've had, we've had moratoriums that have passed before and not held up to challenges in court. So they're not specifically on the building industry, so, you're saying that, that, that doesn't hold up anymore? I'm not sure what you're saying? Why you're saying this?

MR. JORGENSEN: Well, number one, the challenges such as they were, I'm not intimately familiar with prior challenges to moratorium issued on Maui. But what I'm saying, there's still equal protection issues that concern ARDA and others on these bills. And again, I'm assuming that Corp. Counsel will weigh-in on those and advise the Council accordingly.

COUNCILMEMBER KING: Yeah, we've had, we've had good research into these bills by attorneys in OCS, who assured us they're pretty airtight. They follow a pattern of other such moratoriums across the country that have stood up to challenges.

MR. JORGENSEN: Well, my concern with the prior testimony of the counsel for OCS was that they were only doing the minimum to just get over the hurdle. And I would, I would suggest that it should be more than just doing the minimum, but I understand that they have advised the Council on these matters.

COUNCILMEMBER KING: I'm not sure what that means, but I'll let it go. Not sure what you're talking about but, this, you know, this is not meant to, again, this is not meant to solve all the problems. It's meant to put a pause, to stop the bleeding while we work on solutions. So I'll just reiterate that. Thank you, Chair.

CHAIR LEE: Okay, any more questions? If not, thank you, Mr. Jorgensen.

MR. JORGENSEN: You're welcome. Thank you and thank you for your hard work.

CHAIR LEE: Thank you.

Mr. Clerk.

DEPUTY COUNTY CLERK: Next individual we have signed up to testify is Nathaniel Kinney, to be followed by Kenny Barr.

CHAIR LEE: Nathaniel Kinney.

MR. NATHANIEL KINNEY, HAWAII REGIONAL COUNCIL OF CARPENTERS (testifying on
County Communication No. 21-280 and Committee Report No. 21-39):

Hello, Chair and Members. Nathaniel Kinney, Hawaii Regional Council of Carpenters in opposition to 21-280 and 21-39.

We are extremely worried about the consequences of these moratorium bills, and as I'm sitting here listening to some of the other testifiers, like specifically the testifier before us, now there is constitutional issues involved, we are wondering if this is really the best way to achieve any sort of preservation of the environment. Particularly concerning to us though is the more, the more economic arguments of the \$400 million in lost economic activity that is going to result of these moratoriums.

To Councilmember Johnson's points about, like, you have a hundred job openings, and you can't find any workers. There's a number of reasons why that could be, like, I mean, when you, what happened with the pandemic is, you basically stopped an entire, several entire industries and people have been severed from their jobs. And to try to like, restart up everything on a dime, just businesses don't work like that, that's, that's just the nature of things. You know, the airlines are having trouble bringing back people, doesn't mean that people are able to go back to work or even remain in the islands, because again, there is a lack of affordable housing, people lost their jobs and may have left. And you know, there's, there's several, there's several reasons why there could be job openings and people that can't fill them.

I've been in close contact with the ILWU, they're telling us that their members, the hotels are not at capacity and they have not hired back. They are probably about 50 percent of their labor capacity and there's a lot of people on their bench. Now, when you add in the moratorium on building, we already, the carpenters' union already has a 40 percent unemployment on Maui, adding in these types of moratoriums would only lengthen the time that people are on the bench and perhaps put them in destitution economically.

So, I would suggest, and I do, do have concerns about the fact that, you know, why, why, why is it now we're going to set up the hotlines to crackdown on the illegal bed and breakfast? Why wasn't that done before? There's been a lot of lip service, about cracking down on the illegal transient vacation units that are in the community, that are, that are taking away vital affordable housing units from the citizens. And then we're going to do this after the moratorium passes.

The unfortunate consequence of these moratoriums is that we're not going to see how badly it affects the citizens of Maui and their employment opportunities until well after those two years or perhaps even longer. And then to come back and try to repair that damage, again it just does not work like that, like people move away, people will get pushed into poverty, people will get pushed into Section 8, and that's why we would urge much more caution when putting in such a radical idea, not just on one part of the island, but now the entire island.

CHAIR LEE: Mr. Kinney. Mr. Kinney, could you please conclude, please?

MR. KINNEY: Yes. Thank you. That's it.

CHAIR LEE: That's it? Oh, okay.

MR. KINNEY: Yes.

CHAIR LEE: Members, questions?

Member King.

COUNCILMEMBER KING: Thank you, Chair. Thank you, Mr. Kinney. When you brought up, I wanted to address when you brought up that we're only now just addressing illegal, non-permitted rentals, short-term rentals. And so, how long have you been in your position with the union?

MR. KINNEY: I just recently started.

COUNCILMEMBER KING: So, you were not around when, four years ago when we started the effort to crackdown on illegal, unpermitted short-term rentals, and we actually, the Council put money into the budget to hire extra people to enforce so that the Planning Department is now telling us that we have less than, somewhere around 150 at the most of illegal rentals, right now. We've actually done a good job of cracking down in the last years.

MR. KINNEY: Well, I, I, I'm still just again, it's all of the counties. The issue is not unfamiliar to everybody, it's been, it's been front page news for a, for a long time.

COUNCILMEMBER KING: --new effort to do this and we've actually been working on this for, this is my third term and we've been working on this ever since I got on the Council.

MR. KINNEY: Right.

COUNCILMEMBER KING: So, it's not something we just started because of the moratorium, we've been working on it and it's been successful. We've been able to crackdown on the illegals. So, I would just ask you if you could maybe get a little more familiar with where we're at and I'm happy to talk to you offline to tell you what, you know, efforts we have done. But the other question I have for you is the Carpenters' Union considered part of the construction industry?

MR. KINNEY: Um, yes. Definitely, they are part of the construction industry.

COUNCILMEMBER KING: The DBEDT report that says construction industry has never really gone under during the pandemic and that they are, as of April, that the whole construction industry is up 101.9 percent of what they were before the pandemic, so actually doing better even than before the pandemic. So you're saying that doesn't apply to your union folks, your workers?

MR. KINNEY: I, I, we found, we found something actually different. What we found is that year over year since 2016, you've actually seen a decrease every year in building permits and economic activity related to construction. And then the bench, the bench that we have on Maui suggests that there is a significant, we went, we've been going through a significant softening and it is continuing to extend. Now it wasn't as if COVID . . .

COUNCILMEMBER KING: You answered my question, but if you could send that information, because the DBED report that came out in May, just last month, shows that private building permits increased 2.3 percent during the first quarter of 2021, so building permits are actually increasing according to the State data. If you have different information, could you send it to us?

MR. KINNEY: Sure.

CHAIR LEE: Thank you. Thank you, Mr. Kinney. Thank you. Are there any other questions for Mr. Kinney? If not, let's move forward.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, the next individual signed up to testify is Kenny Barr, to be followed by Dick Mayer.

CHAIR LEE: Mr. Barr.

MR. KENNY BARR (testifying on County Communication No. 21-280 and Committee Report No. 21-39):

Good morning, Council. Can you hear me?

CHAIR LEE: Yes.

MR. BARR: That's a question you hear from everybody who calls in, isn't it? Anyway, Kenny Barr from Kihei, I've been a resident for a while, and I would like to testify in favor of 21-39, and also make a few comments on 21-280.

I'm in favor of your bill. I, first time testifying on this. I've listened to many, many meeting on the TV and I wanted to testify and put my two cents in. I really appreciated the lady who spoke before the break that you took. She summed it up for everybody who's in favor for this, the Kihei woman who cares about her kids and how it is to grow up in Kihei.

So, I wanted to touch on the Maui Coast Hotel which you've heard plenty about, and I think that's a perfect example of, of what's been going on here. Because that hotel, when they held their, Planning Commission held their meetings, and was brought into question about the SMA right, so the SMA having been there for five years has to do with basically with mitigating environmental concerns, but it has to take traffic into account. And your testifier for the traffic was talking about like there was no significant impact. And I don't know if that was a State guy, or it was the developers? But that was like the most absurd comment because, if you live in Kihei, you know that between 3:00 in the afternoon and 8:00 at night, the traffic is completely stopped from Foodland by Life's a Beach, all the way down past Kam III. It's stop and go for five hours all because of the crosswalks and the, the traffic lights. So, to say there's no traffic impact was just, I think that really ticked off a lot of people, because that's not the case here.

Um, I do respect the construction workers who have been talking, the heads of unions and everything, and you gotta see their point of view. On the other hand, if you remember and Alice brought this up in one of the meetings that in, through the '70s and '80s, and into the '90s, the working population here that built Kihei and everywhere else, it went along pretty smoothly. But then in the early 2000's, when they were going to build the three hotels in Wailea, plus the airport terminal, I believe the union brought in, I'm going to just say, hundreds, could have been thousands of workers from the mainland to do all this work at the same time. So, a lot of them decided to stay, obviously, because it's Maui, and then, so now, you know, they are in a position to have to keep trying to present more jobs for all of these workers that are here now. And that's really nobody's fault, but it's not a, it's not a valid point, and to continue building now as far as the way of life here on Maui. So, on that item, that is about it.

Pam mentioned something about the businesses that need to have a continued growth to keep making more money. Well, when we're at 100 percent, they're going to still make the same amount of money that they were making before COVID, so what she's talking about is bringing in more business and more traffic and more people and it's not really going to help the island. And the people who are servicing, those farmers are going to still make, still provide the same amount of, of product to the hotels that are in existence. So I'll wrap it up here on 38, on 21-39.

On 21-280, I just, I just want to say, because I've never testified on this before, but the only reason I'm saying this is because, listening to the Molokai Planning Commission about the short-term rentals and bed and breakfasts, they were highly supportive of doing away with all of them in residential areas. And I'm suggesting also that, I know there's so many, so many different variations of this bill to satisfy everybody, but basically, I would love to see if it, if it was no short-term rentals or bed and breakfast in R-1, R-2, and R-3, that's in all the neighborhoods. And if those people, of course, the ones who do complain are not making a lot of money, they could rent to long-term renters and that would solve a big problem on this island. And the other thing is they could also go buy a condo on Kihei Road in the visitor area and rent their condo and make all the money they want. So, that's my suggestion on 21-281.

CHAIR LEE: Thank you.

MR. BARR: Thank you.

CHAIR LEE: Mr. Barr, we have a question for you from Member Paltin.

MR. BARR: Yes.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Barr for your testimony. If I may, I just wanted to clarify if your perspective was coming, are you still in the taxi business, and would you consider that visitor industry related?

MR. BARR: I am still in the taxi business and I would consider it related. But as far as I can see, the taxi business is doing pretty well, and um, at least now, of course, there's no rental cars. But anyway, in answer to your question, yes, I'm in the business and I do consider it, but then again, like that lady that called in before the break, I'm just saying that even if I could work 17 hours a day driving a cab . . . and making lots of money, your, your quality-of-life matters. And I'm getting older, so I know for me, I don't have much time is left for the quality of life. But for that lady and for a lot of other people, it matters, you know, and that's why a lot of people moved here, that's why the people were lucky enough to grow up here, it matters.

And anything that you can do, the five of you can see through this, anything you can do to protect that quality of life we have and of course we also work for those eight months, there's no getting away from it, that Maui could be the most perfect place in the world to live and still make a living when things come back to normal here without, without eroding the quality of life and do more and more business. I hope that answers that question from the heart.

COUNCILMEMBER PALTIN: Yes. Thank you so much, Mr. Barr and here's to hoping that you have many more years of quality of life and best wishes. Thank you for your time and your testimony.

CHAIR LEE: Mr. Molina

MR. BARR: So far. So good. Thanks Alice. Thanks to all of you for doing your job. Aloha.

CHAIR LEE: Thank you.

COUNCILMEMBER MOLINA: Hey, Kenny. This is Mike Molina, if you're still on the call?

MR. BARR: Hey, Mike. Yeah.

COUNCILMEMBER MOLINA: Hi, Kenny. You mentioned you've operated a taxi business for many years in South Maui and you bring an interesting perspective with regards to the log jam of traffic at certain points, certain times of the day in Kihei. Are you seeing a lot of potential road rage and maybe it's partially caused by the visitors or influx of visitors? From your perspective as a taxi operator are you sensing a lot of frustration and potential road rage?

MR. BARR: Maybe not so much road rage, I mean, it's still Maui and people still have aloha, at least the local people that live here. You know, we're used to letting people out and we know what it's like to try and make a left turn on Kihei. So you always try to go out of your way to do it. And visitors, let's face it, I mean, I don't what to make it sound terrible, but their way of life is always to get ahead. If it's a merge, it's to go to the very end and force your way in. If you're going on Kihei Road, and there's somebody waiting on the collector, they're not going to let you in because it's not their way of life. How can you blame them, because they don't know the difference? You know, they don't know the feeling of letting somebody in and have them wave to you. So, but anyway, to your question, I don't really see anybody yelling, fighting anybody down here. It's just a lack of courtesy and a lack of aloha. That's it.

COUNCILMEMBER MOLINA: Thanks for your perspective, Kenny. I think that's another good reason why we need to really look at how we manage tourism in itself and educating our visitors. Thank you very much, Kenny. Thank you, Madam Chair.

CHAIR LEE: Member King.

MR. BARR: You're welcome. Thank you. Thanks, Mike. Aloha.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. Hey, Kenny, I got one more question for you.

MR. BARR: Yes. Yep.

COUNCILMEMBER KING: It's Kelly. Thanks for testifying. And I hope you, I know you were saying this is your first time, I hope it's not the last time because you've been around a long time and I do really value and respect your opinion. But I just wanted to clarify that you, from your testimony, I'm ascertaining that you see, you as a taxi driver, who is out and about all the time, you see the full return of tourism to South Maui, because that's what's being reported, you know, that we have the same pre-pandemic numbers now. Do you see that?

MR. BARR: Definitely. I don't see any, to me, it looks like Christmas and New Year's week. It just never changes and the same on the highway. I know they lowered the highway speed to 35, and a lot of people aren't happy about it. I, I'm not happy about it. I mean how fast can you go over here, there's so much traffic, there's a traffic light just waiting for you to stop for the red light. So, um, I, you know, I, I, I just think the traffic is just really getting terrible here.

COUNCILMEMBER KING: Yeah. Okay. Well, I think, I really appreciate your perspective, you know, most of us are stuck in these meetings all day long. So, we're not out and about like you and wanted to clarify if that is what you are seeing. Thank you and have a great weekend.

MR. BARR: Thanks for the compliment about calling in and caring. That's a very nice compliment. Thank you. I appreciate that. Okay. Aloha. Have a good day.

COUNCILMEMBER KING: Aloha.

CHAIR LEE: Aloha. Are there any further questions? No?

Okay, Mr. Clerk.

DEPUTY COUNTY CLERK: The next testifier is Dick Mayer, to followed by Johann Lall.

CHAIR LEE: Mr. Mayer. You're muted. James, can you help him?

DEPUTY COUNTY CLERK: He appears to be unmuted on our end, now.

CHAIR LEE: Oh, okay, I see it. Dick, you can start talking.

MR. DICK MAYER (testifying on County Communication Nos. 21-278 and 21-280, and Committee Report Nos. 21-38 and 21-39):

Okay, can you hear me?

CHAIR LEE: Yes.

MR. MAYER: Okay. Thank you. I'm not sure, what happened, but okay. I have four items that I'm going to comment on, two of them very briefly.

The first one is Maalaea land purchase, Maalaea Mauka. I'm concerned that switching it from a project district, which it is now, to a agriculture may raise the cost of that land. And I don't know the stage of negotiations between the County and the landowner? I know there's State funds involved, surprise, surprise, County funds, etc., and I would hate to see the price of that land go up because of a redesignation which would allow the gentlemen estates on that land. I think what the County really wants to do is to purchase that land and make it into open space, and that's really where it should be put, not necessarily into agricultural subdivisions that would be very expensive.

I could imagine 25 estates properties on there, that would be very expensive and create the, up the assessed valuation and create a windfall profit for the landowner. And I don't think that's really what you intend to do, so please check with the attorneys, find out the status of those negotiations. If they are already completed, and there's an agreement to purchase it . . . put it into ag or anything else, it's probably not important, but if the negotiations are ongoing, you certainly don't want to increase the value of that land.

The second item, with regards to the climate statements being put into the Countywide Policy Plan, I strongly endorse doing that. I believe that it goes along with what, to me is a very important motto, and that is to think locally and act locally. We cannot change the climate situation of the whole planet for everybody, but we can do our part here on Maui. And putting that into the Countywide Policy Plan indicates our steps here on this

island, in this County to begin implementing measures that we can take to reduce the effects of climate change worldwide. And I hope every community will do something comparable to that and I think we'd all be better off as a result. So, please pass that into the Countywide Policy Plan.

The other two items are the moratorium. The two of them, I strongly endorse but I have some concerns. First, I'd like to respond to Councilmember Yugimura's *[sic]*, Sugimura's statement that the Federal government is the one that regulates airplane flights. I think it should be made very clear that that is exactly the reason we do need this moratorium because we do not have control of the airplane flights or even ships coming into our harbors. We cannot affect tourism that way, but what we can do is make it more difficult for tourists that might want to come here to get accommodations, and that is exactly what this moratorium is asking for. So, I agree with the, Councilmember Yukimura's *[sic]* concern with the airplane flights, but I think that's the justification for having the moratorium.

I would hope that we would utilize the two-year moratorium period to get a better grasp on diversifying our economy. And one of the institutions that you fund and help and support that's been on Maui now for several decades is the Maui Economic Development Board. I would urge that you put a little fire under their institution and get them to really begin thinking about diversifying our economy.

There are other industries and activities. I'll give one example, I could well imagine establishing in the R&T Park in Kihei, an upper division and graduate level university program, maybe in conjunction with the University of Oregon or UCLA or someone else on the mainland that would love to have a branch here on Maui that would invite students to come here and study some of the things that we have, oceanography, our hotel industry and restaurant industry, astronomy, all of these things are programs that would make for an excellent upper division and graduate level university. Those are the types of, they, they're in the R&T Park, they, they sponsored a larger R&T Park, but I've seen them do nothing to really put industries and activities in there and that's just one example.

Most importantly though, I think we need as a moratorium and then during the moratorium, not before it, that we establish a TIG committee, that will look how we can get a better handle on the taxes being paid by the visitor industry. I believe the property values of the various hotels are lower than is in order. One the possibilities would be to get away from the value of the buildings to an income approach. The hotels on Maui are right now raking in very, very large profits on their operations, they are taking all that money out of the island and we are not able with our tax system that we have now, on the value of buildings, to assess and tax those profits that are being made. We have some of the highest rates ever charged for hotels on Maui, etc., and I would hope

that that would be one thing, and to do that, I think what we need to do is work with the State Tax Office. There's been very little cooperation by the State Tax Office and the County of Maui.

There are two items on the moratorium. Let me continue with that, they go together.

CHAIR LEE: Go ahead, Dick.

MR. MAYER: Thank you. What we need to do is work with the State Tax Office to make sure that they are aware of all the visitor accommodations on the island. I don't think, all the Minatoya condos, for example, they're aware of it. If someone living in Illinois owns a condo here, gets his income paid out of state, we're . . . getting any of the income tax off of that property, the transient accommodation tax, the GET tax, and I think that the State is losing out on getting money. And I think we would be able to get better property tax values by working together with them and coordinating our, our efforts. What you could do with our State Legislators to put pressure on Hawaii property tax, Department of Taxation would be a great benefit, I think, to the County.

Mr. Jorgensen mentioned that the number of hotel units are declining. He represents the timeshare industry which has seen an increase over the same period that the hotel industry was declining. So, he's the last person that should be talking about the fact that we have fewer accommodations, in fact, more accommodations now than we had before. And some of them have increased the size of their units, so instead a two-beds, they might be three-beds. Those kind of things are happening. And I think what we need to do is really count beds in Maui County, not just hotel rooms and hotel units, or hotel buildings. So, all put together, and I could go on for a number of other points, but I think the moratorium is needed at this point. It will give us a break from the rapid growth of the tourist industry.

And lastly, we should recognize what the Hawaiian Tourism Authority itself says, is declining appreciation of the visitor industry by the residents of Maui. They do a survey of Maui residents every year and in their survey they've shown a steady decline in the appreciation of the visitor industry. So, I think as much as a few people may say get more jobs, I think the jobs will come in the tourist industry, I mean the construction industry, we're going to be building five or six solar farms, there'll be a lot of jobs out there over the next decade, and in the near future that will fill-in. And the construction, the carpenters' union will be hopefully upgrading. The Westin Hotel in West Maui just put in, like I said, a \$125 million renovation. All the hotels that are now, that are 30-years old could probably be doing the same thing. So I think, there's lots of rooms, adding rooms to just upgrading the quality of our visitor industry. Thank you.

CHAIR LEE: Thank you. Are there any questions for Mr. Mayer? If not, thank you, Dick. Happy Father's Day.

MR. MAYER: Thank you. And Happy Juneteenth and Happy Father's Day to those who are fathers.

CHAIR LEE: Okay. Thank you.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person we have signed up to testify is Johann Lall, to be followed by Spencer Hyde.

MR. JOHANN LALL (testifying on County Communication No. 21-280):

Hi. I am speaking strictly on my own behalf, in support of 21-280. So, I think, um, one thing that, that is not making sense to me is that a lot of the testimony by the lobbyist is about how great the tourism industry is for our economy, and it is. It's, you know, it brings in a lot of revenue and creates jobs and stuff. But to me, that's actually an argument for restricting any further, tourism, like it's not an argument that we need more. If it wasn't doing great, maybe that would be an argument that we need more hotels, but it's the other way around, I think.

And then another thing is that overtourism in itself is bad for tourism. Pretty much, every weekend I stand up paddle at Wailea Beach, and that beach is more crowded than it has ever been. Obviously, it's more crowded than it was during COVID, but it's also more crowded than it was years ago, or you know, a couple of years ago. And I would think that those resorts would see that as a negative impact. Because, you know, they're charging up to a thousand dollars or even many thousands of dollars for hotel rooms and they are trying to sell, you know, an exclusive experience. If you look at their, their ads, they show, you know, pristine empty beaches, that kind of thing, and so these people show up and they're on a beach where they're, the next umbrella is like three feet away. Like, that seems like it's not a, it's not something you want to spend that much money for.

So, ah, yeah, that's, it's, all of these things just don't make sense to me in the, the context that we are seeing from, you know, the testimony. I can understand why the construction industry would want to be building more, more hotels, but I would also argue that they would benefit from building more affordable housing, or you know, any number of other things. So, it seems like they shouldn't even specifically be that motivated to have more, more hotels and it, I think this has also been addressed, is, is

they bring in workers, they don't necessarily hire locals. Usually on days that I work from home, I get lunch at the gourmet market in, in Wailea and it's pretty easy to tell. Well so, it gets a lot of, I just want to say that there's a lot of folks who get lunch there who are in that industry and I would say that most of them are not locals, so.

CHAIR LEE: Alright. Thank you. Any questions for the testifier? If not, thank you very much.

Mr. Clerk. Mr. Clerk, we're going to take a twelve o'clock lunch break, so kind of move it along if you can.

DEPUTY COUNTY CLERK: Chair, the next testifier is Spencer Hyde, to be followed by Travis Liggett.

CHAIR LEE: Okay. No matter what, twelve o'clock we're taking a break. Lunch break.

MR. SPENCER HYDE (testifying on County Communication No. 21-280):

Aloha, Maui County Councilmembers. Thanks for listening to our testimony today. I wanted to just voice my support for the moratorium on further hotel development. I think that should expand across all of Maui, first of all. And the reason why I'm really, I really support this moratorium is because I'm really concerned about the lack of diversification in our economy. And if we continue to build and expand the hotel industry, that's actually the opposite of economic diversification. That's doing more of the same thing. And as a young person here, living on Maui, you know, I really care about my home, but I'm just concerned that many of my peers and I will not be able to have good economic opportunities here to, you know, for instance, afford a home, in our own homes.

So what this moratorium does is it, it's making one, a statement that our leadership here in Maui County is taking our overdependence on tourism seriously and saying okay, you know what, we're going to, we're going to actually start to change this and we're going to take that first step. And, yeah, I just you know, I'm trying to, I work for the DOE and I'm trying to, I'm working on a project to inspire, you know, our high school graduates to find good careers here on Maui and I've been doing a lot of research coming out of the Maui County Office of Economic Development, and it's really disheartening. If you look right now what jobs are hiring, it's mostly low-wage service industry jobs and that's, I'm sorry, but like, I feel bad, kids that, that really love this place, like they have to leave to find a decent job. And it's, it has to change, and I think it starts here with this moratorium. This is the first step, to say okay, we're not going to keep doing the same thing that we've been doing, cause it's not working for the kids.

So, thanks, thanks for your, thanks for listening and I really hope that you all show some courage and, and pass this moratorium. Thank you.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair and thank you, Mr. Hyde for your testimony. I really get excited when I see this age group paying attention and testifying. When you said first step, I was wondering just, if you had a second step in mind?

MR. HYDE: Yeah. That's a, that's a great question. You know, I heard, um, was it, um, who just testified before me? Dick Mayer was talking about MEDB. Yeah, I'm, I'm actually, that's what I, you know, it's going to take, um, well okay, I would say that right now, if there's ever a time to take that second step it's now because we're seeing a huge shift in--

CHAIR LEE: Mr. Hyde. Mr. Hyde, she's asking you, you what is the second step, I believe?

MR. HYDE: Yeah. Well, I'm sorry, but, yeah. Okay, I mean, I understand your question, to be frank, I don't have the answer for you. Like that's a very big question. Um---

COUNCILMEMBER PALTIN: Thank you. I didn't mean to put you on the spot, if you didn't have the answer. I just, for some reason I assumed that you were coming out of South Maui and I would like to encourage you and your students to participate in the South Maui Community Plan process as part of the step, if you do.

MR. HYDE: Yeah, no. I'm sorry, I wish I had an answer for you, but--

COUNCILMEMBER PALTIN: It's okay.

MR. HYDE: --I agree. It's a tough question and I'm trying to work on it as someone that is working in the DOE, how can we create, yeah better opportunities? It's um, you know, I would just say, to give one quick answer, we can now, like remote work is a, is a new thing that's happening right now, and we can take advantage of that right now. But if we just let this opportunity pass, then you know, we're not trying, we're not trying.

COUNCILMEMBER PALTIN: Thank you. Thank you, Mr. Hyde. Thank you, Chair.

CHAIR LEE: Okay, any more questions, Members? If not, thank you, Mr. Hyde.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, the next individual we have signed up to testify is Travis Legette, to be followed by Christina Goodness.

CHAIR LEE: And how many more after that?

DEPUTY COUNTY CLERK: Just one more after Christina Goodness.

CHAIR LEE: Okay, we'll go take one more after. Alright

MR. TRAVIS LIGGETT (testifying on County Communication No. 21-280 and Committee Report No. 21-39):

Aloha, I hope everyone is having a great day and I will keep my testimony very brief. I'm here just to reiterate the findings of my calculations that I did for the CARE testimony which took a slide from the Department of Environmental Management presentation on 3/17. And using that slide, you can calculate exactly how much of the injected wastewater at the Lahaina and Kihei municipal facilities is attributable to activities that were happening in 2019, but not in March 2020. So, it's not all tourism, but a big chunk of it is.

So, what we see in Lahaina, is that the reduction in millions of gallons injected per day is 67 percent, so, two-thirds of the injected wastewater in Lahaina is attributable to activities that were happening before the pandemic, but not in March 2020. In Kihei, it's 58 percent. So, when people say that there is no data to back-up, you know, the idea that our infrastructure is stressed, the data says that, in fact, a lot of this tourism activity gives rise to the majority of the injected wastewater.

So, my suggestion is we take this two-year pause to do two things. Take these passionate construction workers and direct their effort to affordable housing; and also, during the pause, go to 100 percent reuse as quickly as possible, as the Mayor's Office said they are committed to doing in that March 17 presentation. So that is all.

CHAIR LEE: Thank you. Are there any questions for the testifier?

Ms. King.

COUNCILMEMBER KING: Thank you, Chair. Thanks for being here Travis. Did, did you say that you sent those, those data points that you just talked about to the Council?

MR. LIGGETT: Yes, I sent that to the CARE Committee. I will resend it to the full Council.

COUNCILMEMBER KING: Okay, well, the Council can send, the CARE Committee can send it out, but there are two Members who aren't on the Committee, so if you send it to the full Council, that would be helpful.

MR. LIGGETT: Thank you.

CHAIR LEE: Okay. Thank you.

Alright, Mr. Clerk.

Thank you, Mr. Liggett.

MR. LIGGETT: You're welcome.

DEPUTY COUNTY COUNCIL: Chair, the next person we have signed up to testify is Christina Goodness, to be followed by Albert Perez.

Christina Goodness.

MS. CHRISTINA GOODNESS (testifying on Committee Report No. 21-39 and County Communication No. 21-280):

Okay. Can you hear me? Yeah.

CHAIR LEE: Yes.

MS. GOODNESS: Okay. Thank you so much. Aloha, I support the moratorium on building permits for visitor accommodations as expressed in CR 21-39 and CC 21-280. I'm a Maui resident, a graduate of Haiku, Kula, and Baldwin High School. I'm a voter and a taxpayer. I grew up here and have deep roots here. I also have family in construction, the visitor industry, schools, farming, and social services, and we talk about this issue a lot, by the way. You guys really started something.

While, and maybe just one little note, I mean I have my brother and others that are in construction, and just to note, that actually during the last year, they weren't really out of work, because they were considered critical workers. So, just kind of a note, I don't think it's just such a simple story.

I'm in favor of a moratorium because I think we are at a tipping point here honestly. The status quo is not working for my family. I'm genuinely asking for your help and action as I see this flood of visitors, that I'm going to see right now when I drive home

to Kaupo. Because besides the developed zones like Kihei and West Maui, the impact on remote, fragile, and kanaka communities is just really directly . . . with the rise of the visitors over the years.

The economic benefits of more visitors are real, but so is the not-so-good. You know, the rubbish, the unsafe behaviors, it's just not. If one percent of visitors drive on the backside and throw rubbish, that's just one percent, we can clean that up, we pay taxes. But if it's a hundred, if there's a thousand people and one percent throw rubbish, that's hundreds and etc., it's just not. But anyway, I hope this moratorium just gives us some breathing space to do more analysis, to do more, incorporate more data, and propose solutions that work for more of us, so that we're not putting people out of work, but go forward in a more conscience way.

So, for example, I really reject the premise that because no data can be found on carbon impact, that it's not an issue. We just have more work to do. We have more interesting and advanced analysis to do for good policy for our kids. I hope this two-year breathing space will help my kids and yours inherent an island where they can ride their bikes safely, they can know their neighbors, and they have a stake in the economy and the future of the island.

I also urge you to evaluate the rapid expansion of some other new kinds, that I see a lot when driving back and forth, like these mobile camping vehicles and the negative impact on the County. I don't even know how these fit into current planning frameworks, but it's a problem right now for me and my family. I just also want to thank you, Council for flagging this issue and watching out cause it's so future oriented. All of my comments are submitted in the spirit of perpetuating local community and the health of lahui. Mahalo.

CHAIR LEE: Thank you, Ms. Goodness. Any questions, Members? If not, thank you. Next testifier.

DEPUTY COUNTY CLERK: The next person we have signed up to testify is Albert Perez, to be followed by Joe McDermott.

CHAIR LEE: Mr. Perez.

MR. ALBERT PEREZ (testifying on County Communication No. 21-280 and Committee Report No. 21-39):

Aloha, Councilmembers. Can you hear me?

CHAIR LEE: Yes.

MR. PEREZ: Okay. Good morning. It's still morning, I think. I'm testifying on two items today, County Communications 21-280, this is the second moratorium bill that's been submitted.

I support that and I'd like to ask you to expedite it. There was a comment about having the TIG created first, but if we do that, then we'll have a rush of new hotel and other visitor accommodations being developed, which would defeat the purpose of a moratorium. So, we need to press pause while we take a breath and determine the best way forward.

Any now I will move on to CR 21-39, this is the, the first moratorium bill. You know, most visitors are back already, and we're supposed to surpass pre-pandemic levels by 20 percent in July. The Hawaiian Airlines reservation system has crashed. Southwest has more than doubled their flights and now United is adding direct flights from Newark, New Jersey for \$491. Those who say that we need to keep building more hotels to keep visitors from staying in illegal short-term rentals are ignoring the fact that visitors, especially return visitors are sharing information online about how to spend as little as possible. That's exactly the opposite of what we need, assuming a lack of enforcement against illegal short-term rentals would be bad public policy. So, let's stop building more visitor accommodations and continue to crackdown on the illegal rentals. And please, let's stop talking about a moratorium reducing the visitor industry, the existing visitor accommodations will remain, supporting the existing jobs.

You know the goal of corporations is to maximize the return to their shareholders, and they don't really care about our quality of life. The concept of limits is foreign to them. Maui Tomorrow use to warn about overdevelopment of tourism, killing the goose that lays the golden egg. Well, it turns out that the goose didn't die, the nest has been fouled. The unspoiled beauty of Maui that attracted tourist back then has been, excuse me, severely compromised. The tourists that come here now, don't care about the crowding or the lack of fish in the ocean. Many have a very entitled attitude and have been committing violence against local residents who ask them to wear masks or follow cultural norms. I personally have been told to get out of our sunset by tourist at Haleakala, and this process will continue.

The people who still want to come to a super crowded Maui with a degraded environment won't care about the impacts that continue to increase and our inflation adjusted revenue will decrease. I'm surprised that anyone would say there's no evidence that tourism is a major factor in environmental issues. We have a carbon footprint that's five times the global average, our water quality is affected.

We heard . . . who were able to harvest salt during the pandemic, but when tourism opened back up, the salt pans had an oily sheen, so they had to stop. The available beach area per person is shrinking as sea level rises and visitor numbers increase. Fish in the ocean have declined, traffic levels have increased. It's obvious that our environment is impacted by the visitor industry and it would be nice if that industry would do more to help us in protecting the aina that their visitors come to see.

As the OCS presentation showed, the County has a strong legal basis to pass a moratorium as long as the parameters that OCS outlined are followed. So, I urge you to pass CR 21-39. Mahalo.

CHAIR LEE: Questions, Members? If not, thank you, Mr. Perez. And may we have the last testifier, Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, the next testifier is Joe McDermott. One other individual did sign up after him and that is Darri Alvarez.

MR. JOE MCDERMOTT (testifying on County Communication No. 21-280 and Committee Report No. 21-39):

Aloha and thank you for letting me speak today. I've been participating in a number of these public forums for a while now, and what I've come to the conclusion is I doubt very much there's going to be any one thing said that is going to change the mind of someone for it or someone against it. I'm personally for the moratorium and what I am trying to do is step back, because I think there's good points on each side. What I don't hear either side really doing is working with one another and saying, I get you, you are right, I'm opposed to it but there is a problem with tourism. We need to do something. There is no alternative plan for that and that concerns me, about working together.

But mostly, what I'm asking you as Council people to do, is you're in this position of leadership, in my opinion to think not just short-term today. What's best for Maui today? It's what's best for Maui years from now and generations from now. Two years is nothing compared to the long-term look of this island, and we can see what's happening with the short-term philosophy of jobs, jobs, money, money, money. Two years will give us a chance to step back, and it will be nothing economically, long-term. All these dire world things, \$200 million lost. How do they know that? There's not that much that's going to go up beginning construction tomorrow if it was, there was no moratorium.

But what will happen if we don't step back and look at a long-term perspective, which I think is your jobs, it's not about you guys, it's about Maui, it's about families tomorrow, the kids that are here and their kids. And I'm asking you to instead of listening to the

pros and cons, just think what's wrong with taking a breather for two-years for a long-term look at this island. And some people may get mad at me that support it, but I think we do need from a long-term perspective to at least sit back and re-evaluate and plan and do this right. That's what leadership is all about. That's what a lot of great countries and counties and cities around this country, who think long-term are so successful.

Maui is not going to be Maui, if we continue on the way we're going at the rate we're going. And building every vacant parcel in sight will create jobs, but it's not going to create a quality of life for even those that come here, who I guarantee you, many are coming here now, not enjoying their trip because it's insane out there and the cost. So, I implore you to think long-term and as leaders of this County right now, to think about, not what's best for today, but for tomorrow. Mahalo.

CHAIR LEE: Any questions for the testifier? If not, thank you, Mr. McDermott.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, the last individual we have signed up to testify is Darri Alvarez. If there's anyone else in the meeting who has not testified, but wishes to do so, please indicate so in the meeting chat now.

Darri Alvarez.

CHAIR LEE: Ms. Alvarez.

MS. DARRI ALVAREZ (testifying on County Communication No. 21-280 and Committee Report No. 21-39):

Aloha.

CHAIR LEE: Aloha.

MS. ALVAREZ: My name is, yes, Darri Alvarez and I'm in support of Bill 21-39. As someone who has worked in the tourist industry for half of my life, I can attest that this notion of presenting tourism as the savior is a complete farce. According to data reported by the Economic Research Organization at the University of Hawaii, more tourism, more tourist does not equal jobs. In 2020, March of 2020, the tourist to job ratio was one to one, now in March 2021, that ratio is now two to one.

For myself, I've seen it firsthand, I was actually let go after the pandemic, and they're still hiring for my position, so, I, I've been impacted already. Also, on top of that, excuse

me, I have like a bunch of notes, but tourists are spending less, there's cheap travel which makes it worse. The hotels are planning to phase out many of the services offered by pre, offered pre-pandemic, like in-person--

CHAIR LEE: Ms. Alvarez. Ms. Alvarez, can you turn off your video? Turn off your video.

MS. ALVAREZ: Oh, sure. Sorry about that. Okay.

CHAIR LEE: Then we can hear you better.

MS. ALVAREZ: Okay. Thank you. So, while tourist are cheapened in a way, corporations are also capitalizing on the retraining of travelers' expectations while leaving their loyal employees in the dust. The very employees that will speak up for the industry, they have been indoctrinated to believe they could not survive without.

I have a quote from a post, Washington Post article, "Business is rebounding quickly across the country at hotels, restaurants and airlines, but millions of employees have been left behind as companies seek to lock in pandemic changes to their models and slash labor costs in the future." Um, so, I just want, that was just to support my argument to say that tourism does not, is not the savior for us, the local community. And we don't have the proper infrastructure to sustain visitors and residents now. So, what I would suggest is to implement that, before supporting more development on our island.

CHAIR LEE: Just in time. Thank you. Are there any questions, Members?

Member Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Ms. Alvarez. Mahalo for your testimony.

MS. ALVAREZ: Aloha.

VICE-CHAIR RAWLINS-FERNANDEZ: Did you email your testimony to Council? Or to the Clerk's Office?

MS. ALVAREZ: I haven't. But I can.

VICE-CHAIR RAWLINS-FERNANDEZ: Yes, please. Thank you.

MS. ALVAREZ: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo.

MS. ALVAREZ: Thank you. Mahalo.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR LEE: Any more questions? If not, thank you, Ms. Alvarez for coming by and testifying.

Mr. Clerk, ask for any more testifiers?

DEPUTY COUNTY CLERK: Yes, Chair. There's no one else currently signed up to testify. If there is anyone in the meeting who has not testified yet, but wishes to do so, please identify yourself now. This is our last call.

MR. JOHN BLUMER-BUELL (testifying on County Communication No. 21-280 and Committee Report No. 21-39):

Yeah. Hello. Can you hear me?

CHAIR LEE: Yes, we can, Jon.

MR. BLUMER-BUELL: Yeah, thank you, Alice. I'll be very brief, and I know you're going to lunch and I'm hungry too. I wanted to counter one thing I heard which was very disturbing and that is that we're somehow rushing into this moratorium. And I do want to say aloha to all the testifiers, even the paid lobbyists. But the information is on record, the Hana Community Association identified overtourism in the late 1980's and it's on record.

I got this information from Superintendent Don Reeser, we're friends. We were friends and I met with him a lot, I was a founder of the Kipahulu Ohana, one of them. And so, in those days, tourism built up to about a thousand cars a day, or a thousand people. The accurate information is still with the park. I talked to a park employee a few days ago, I said, how's it at the park? The numbers that day, without the campground being open, were about 675 cars, over a thousand people. So, there's no rush into this at all. This is a long-standing problem and Hana has been impacted way, way over the amount that other people have all along, because all the tourists that have been coming here from day one, always visit Hana. So, it's worse ever now. There's areas that I'm sickened by areas, like Waioka have been overrun, I think people who died there.

And last thing, I totally support the TIG idea, and our Chamber of Commerce should have their TIG, that's a temporary investigative committee for those who don't speak

acronym. And so should the visitor, you know, the whole visitor industry should have a TIG, and so should the Council. But the fact is they are using the TIG idea to delay the moratorium, and nothing else. And the TIG process is a good one, it should be done after the moratorium. I was a member of your General Plan Advisory Committee, we had a number of TIGs, and they were very useful and very helpful to get to the bottom, with all the TIGs, please invite members or appoint members from the communities to be on the, the TIGs, not just have them be Councilmembers.

And finally in your, the committee for the Council, I would urge you, as a long, possible long-term solution, to please get the best, hire the best attorney or attorneys you can and have them look into the legal aspects of challenging the Federal laws. I don't buy . . . start with Senator Schatz, we have power at the Federal level, we can get thing changed. And mahalo, and have a nice lunch. Thanks so much.

CHAIR LEE: Thanks, John. Questions, Members? If not, thank you.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, we did not receive any other requests to testify.

CHAIR LEE: Okay.

DEPUTY COUNTY CLERK: We have received written testimony.

CHAIR LEE: Members, any objections to receiving written testimony into the record and to closing public testimony?

MEMBERS VOICED NO OBJECTION.

THERE BEING NO OBJECTION, WRITTEN TESTIMONY
RECEIVED FROM THE FOLLOWING WERE MADE A PART OF
THE RECORD OF THIS MEETING:

1. Nick Drance, The Maui Miracle;
2. Pacific Resource Partnership;
3. Pamela Tumpap, Maui Chamber of Commerce;
4. Ashlie McGuire;
5. Spencer Hyde;
6. Jen Bal;
7. Hannah Bernard, Hawaii Wildlife Fund;
8. Sandra Brissette;
9. Kathy Cuddihy;

10. Kai Duponte;
11. Jerry Gibson, Hawaii Hotel Alliance;
12. Valerie Guarini;
13. Wayne N. Hedani, Kaanapali Operations Association, Inc.;
14. Jason Higa, FCH Enterprises dba Zippy's Restaurants;
15. Kanani Higbee;
16. Sarah Hofstadter;
17. Mitchell Imanaka, ARDA Hawaii;
18. Molly Jacobson;
19. Paul Janes-Brown;
20. Buck Joiner;
21. Joy Kaaz;
22. John Kevan and Angela Leone, Maui PRMA;
23. Wendy McCracken;
24. Richard Moss;
25. Bonnie Newman;
26. Ryan Nobriga, ARDA Hawaii;
27. Andrea Reiser Perkins;
28. Judy Pokipala;
29. Sherry Pollack, 350Hawaii.org;
30. Carole Sarra;
31. Robert B. Smith;
32. Matthew Sparks;
33. Larry Stevens;
34. Sara Tekula;
35. Paul and Pamela Van Horn-Beagle;
36. Madolin Wells;
37. Tina Wildberger, State Representative; and
38. Jasper Yun, Fairmont Kea Lani Maui.

CHAIR LEE: So ordered. Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, next up would be minutes. Should I proceed?

CHAIR LEE: Nope. Okay, Members, it's 12:15, you want to take a lunch break to 1:15?
How's that? Okay.

COUNCILMEMBER KING: Lunch until 1:30?

CHAIR LEE: Okay. 1:30, any of you have to go someplace in the afternoon?

Member Paltin.

COUNCILMEMBER PALTIN: I had something at 3:30, but I can try go move 'em.

CHAIR LEE: Okay. Yeah, 3:30 is cutting it close.

Member Kama.

COUNCILMEMBER KAMA: I have an eye doctor's appointment in Kihei at 3:30.

CHAIR LEE: Okay, Let's make it 1:15 and then let's try and get through it. That's going to be kind of tight, but let's see what we can do, okay? Meeting in recess until 1:15.

(THE MEETING WAS RECESSED BY THE CHAIR AT 12:15 P.M., AND WAS RECONVENED AT 1:18 P.M., WITH ALL MEMBERS PRESENT, EXCEPT MEMBER SUGIMURA, EXCUSED.)

CHAIR LEE: Will the meeting of June 18, Council meeting of June 18 please reconvene. Hello again, everybody.

Mr. Clerk, let's go.

COUNTY CLERK: Chair, proceeding with the minutes.

MINUTES

The minutes of the Council of the County of Maui's regular meetings of April 6, 2021 and April 16, 2021 were presented at this time.

CHAIR LEE: Council Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO APPROVE THE MINUTES AS READ, READ BY
THE DEPUTY CLERK.

CHAIR LEE: Second?

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Okay. Moved by Vice-Chair Rawlins-Fernandez, seconded by Member King, to approve the minutes as read by the County Clerk.

Any discussion? If not, all those in favor, raise your hand, say "aye".

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, VICE-CHAIR
RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBER SUGIMURA.

CHAIR LEE: Okay, I see one, two, three, four, five, six, seven. Eight "ayes", one "excused"; motion carries. Excused is Member Sugimura.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, proceeding with the Consent Calendar.

ACTION ON THE CONSENT CALENDAR

COUNTY COMMUNICATIONS

NO. 21-270 - ANDREW H. MARTIN, PROSECUTING ATTORNEY,
(dated May 27, 2021)

Transmitting a copy of the grant agreement from the State of Hawaii, Department of Transportation, for the Maui Prosecutor's Office Impaired Driving project in the amount of \$33,365.

NO. 21-271 - ERIC A. NAKAGAWA, DIRECTOR OF ENVIRONMENTAL
MANAGEMENT, (dated June 2, 2021)

Transmitting a copy of the Contract Modification Order No. 2 from the State of Hawaii, Department of Health in the amount of \$99,000 for Electronic Waste Collection.

CHAIR LEE: Council Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO FILE THE TWO ITEMS ON THE CONSENT
CALENDAR.

CHAIR LEE: Second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sinenci, to file the items in the Consent Calendar.

Discussion, Vice-Chair?

VICE-CHAIR RAWLINS-FERNANDEZ: No discussion on the Consent Calendar. Mahalo, Chair.

CHAIR LEE: All those in--

Member King.

COUNCILMEMBER KING: Yea, I don't, I don't have a concern with filing, but I just wanted to clarify the, cause I thought the Consent Calendar was to put stuff on there that needs to be referred that wasn't going to have action taken. But is it a combination of referrals and filing actions? That's what we're calling, okay, I just wanted to verify that. Alright.

CHAIR LEE: Yeah, today is a combination because of the contracts.

COUNCILMEMBER KING: But, I mean, those are the kinds of things that can go on the Consent Calendar?

CHAIR LEE: Yea. Right.

COUNCILMEMBER KING: It's for filing or for referral? That's, just wanted to clarify that.

CHAIR LEE: Correct.

COUNCILMEMBER KING: Okay.

CHAIR LEE: Okay. Any more discussion or questions? If not, all those in favor of the motion, raise your hand and say "aye".

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, VICE-CHAIR
RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBER SUGIMURA.

CHAIR LEE: Eight "ayes", one "excused"; motion carries. Excused is Member Sugimura.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, proceeding with county communications.

COUNTY COMMUNICATIONS

NO. 21-272 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,
(dated June 3, 2021)

Transmitting 103 contracts/grants for the month of May 2021.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO FILE COUNTY COMMUNICATION 21-272, EXCEPT
FOR THOSE CONTRACTS OR GRANTS THAT MEMBERS
WOULD LIKE TO PULL OUT.

CHAIR LEE: Okay, Members. Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Member Rawlins-Fernandez.

WITH MS. KAMA'S PERMISSION, I WOULD LIKE TO PULL
C7390, PULELEHUA DUE DILIGENCE.

COUNCILMEMBER KING: Point of order. Do we need a second first, before we?

I'LL SECOND THE MOTION--

CHAIR LEE: Oh, I'm sorry. I didn't see. Okay, seconded by Member King.

Discussion? Go ahead Member Paltin.

COUNCILMEMBER PALTIN: Okay thanks.

AND C7405, CORA BEACH PARK STUDY, TO THE HUMAN
CONCERNS AND PARK COMMITTEE, IF POSSIBLE.

CHAIR LEE: Any problem, Member Kama?

COUNCILMEMBER KAMA: No objections, Chair. It's been so long, Member Paltin. You couldn't remember the Committee name.

COUNCILMEMBER PALTIN: But I pulled through.

CHAIR LEE: Between Budget and West Maui Plan, oh my goodness, hard to get other things done. Okay. Any more discussion on these items? If not, all those in favor, say "aye", raise your--

COUNCILMEMBER KING: Chair. Chair.

CHAIR LEE: Yes, Ms. King.

COUNCILMEMBER KING: I don't know if you can see my hand.

SO, YEA, IF THERE ARE NO OBJECTIONS, I'D LIKE TO PULL
OUT CONTRACT C6968-2 AND REFER IT TO THE CARE
COMMITTEE. THIS IS HOUSEHOLD HAZARDOUS WASTE
COLLECTION AND DISPOSAL.

CHAIR LEE: Okay. We're just adding that to the original motion?

COUNCILMEMBER KING: No, I, yea, to refer it to the CARE Committee.

CHAIR LEE: Cause we really didn't vote on the other one.

COUNCILMEMBER KING: No, I think it's an open motion, but some of us are pulling items out of it, and then we can vote on--

CHAIR LEE: Okay. So, we're just adding to the original motion, okay.

Mr. Johnson.

COUNCILMEMBER JOHNSON: If I may, if it's the appropriate time.

I'D LIKE TO PULL OUT C7362, THE EMERGENCY RENTAL ASSISTANCE PROGRAM FOR THE AMOUNT OF \$39,700,000 TO BE REFERRED TO THE AFFORDABLE HOUSING COMMITTEE.

CHAIR LEE: Okay. Alright. Ordinarily, it would go to the Vice-Chair's Committee, yea? The CARE funding. I mean the recovery funds, right? But if no objections, no problem.

Member King, can you tell me the number of that contract again?

COUNCILMEMBER KING: Okay, it's C6968-2. Description is household hazardous waste collection and disposal.

CHAIR LEE: Okay. And then, Member Paltin, can you repeat your first two contract numbers?

COUNCILMEMBER PALTIN: Sure thing, it was C7390 and C7405.

CHAIR LEE: Okay. So, now, so far, we have four. Anybody else? Sure? Okay, so you heard the numbers. Okay, all those in favor of the motion of sending these contracts to the identified, to the standing Committee identified, raise your hand, say "aye".

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING, MOLINA, PALTIN, SINENCI, VICE-CHAIR RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBER SUGIMURA.

CHAIR LEE: Okay, eight "ayes", one "excused", zero "noes". The excused is Member Sugimura.

So, that's C7390, C7405, C6968-2, and C7362. Okay. Mr. Clerk, that takes care of all the contracts, right?

DEPUTY COUNTY CLERK: Yes, Chair. Just to confirm that that vote was also on the filing of, of that main communication, correct?

CHAIR LEE: Yea.

DEPUTY COUNTY CLERK: Perfect.

NO. 21-273 - JEFFREY T. PEARSON, DIRECTOR OF WATER SUPPLY,
(dated May 28, 2021)

Transmitting the State of Hawaii Commission on Water Resource Management water use reports for March 2021 for all registered well reporters in the County of Maui.

CHAIR LEE: Mr. Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. May I please ask the Clerk also call up County Communication 21-274?

CHAIR LEE: Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: If not, so ordered.

Mr. Clerk.

NO. 21-274 - JEFFREY T. PEARSON, DIRECTOR OF WATER SUPPLY,
(dated June 2, 2021)

Transmitting the Department of Water Supply's Monthly Source Report and Groundwater Use Report for the month ending May 2021.

CHAIR LEE: Mr. Sinenci.

COUNCILMEMBER SINENCI: Mahalo, Chair.

I MOVE TO FILE COUNTY COMMUNICATION 21-273 AND 21-274, AS THESE COMMUNICATIONS AND PURELY INFORMATIONAL AND NO FURTHER ACTION IS REQUIRED BY THE COUNCIL.

CHAIR LEE: Okay. Second?

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR LEE: It's been moved by Member Sinenci, seconded by Vice-Chair Rawlins-Fernandez, to file County Communications 21-273 and 21-274.

Discussion, Mr. Sinenci?

COUNCILMEMBER SINENCI: None, Chair. Thank you.

CHAIR LEE: No, no further discussion? Okay. All those in favor of the motion, say "aye", raise your hand. This is to file these two communications.

(Councilmember Sugimura returned to the meeting at 1:26 p.m.)

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING, MOLINA, PALTIN, SINENCI, SUGIMURA, VICE-CHAIR RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

CHAIR LEE: Eight "ayes", zero "noes", one "excused". Oh, Member Sugimura, did you vote on that one? Okay, nine "ayes", zero "noes"; motion carries.

COUNCILMEMBER SINENCI: Thank you, Chair.

CHAIR LEE: Mr. Clerk.

NO. 21-275 - TAMARA PALTIN, CHAIR, PLANNING AND SUSTAINABLE LAND
USE COMMITTEE, (dated June 8, 2021)

Transmitting County Communication No. 15-152, from the Planning Director transmitting the Planning Director's Report and Recommendations related to Council Resolution No. 14-114, "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL TO ALLOW FOR THE CREATION OF AGRICULTURAL CONSERVATION LOTS".

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Krueger. May I request the Clerk to also call up, or to call up not only CC 21-275, but also to, CC 21-276 through 278?

CHAIR LEE: Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: So, ordered. Mr. Clerk.

NO. 21-276 - TAMARA PALTIN, CHAIR, PLANNING AND SUSTAINABLE LAND
USE COMMITTEE, (dated June 7, 2021)

Transmitting County Communication 18-351, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM D-2 DUPLEX AND R-2 RESIDENTIAL DISTRICT TO A-2 APARTMENT DISTRICT FOR PROPERTY IDENTIFIED AS TAX MAP KEYS (2) 4-6-011:011 AND (2) 6-011:028, LOCATED AT THE CORNER OF HONOAPIILANI HIGHWAY AND 266 DICKENSON STREET, LAHAINA, MAUI, HAWAII", and related documents.

NO. 21-277 - TAMARA PALTIN, CHAIR, PLANNING AND SUSTAINABLE LAND
USE COMMITTEE, (dated June 7, 2021)

Transmitting County Communication No. 18-285, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING HO'OMOANA FOUNDATION, A HAWAII NONPROFIT CORPORATION, A CONDITIONAL PERMIT TO ALLOW THE DEVELOPMENT OF THE HO'OMOANA OVERNIGHT CAMPGROUND FOR PROPERTY SITUATED AT HOKIOKIO PLACE AND LAHAINA BYPASS ROAD AND IDENTIFIED AS TAX MAP KEY NO (2) 4-7-003:031 (POR), LAHAINA, MAUI, HAWAII", and related documents.

NO. 21-278 - TAMARA PALTIN, CHAIR, PLANNING AND SUSTAINABLE LAND
USE COMMITTEE, (dated June 7, 2021)

Transmitting the following:

1. County Communication No. 19-347, from the Planning Director, transmitting copies of documents and the following proposed bills entitled:
 - (a) "A BILL FOR AN ORDINANCE TO AMEND THE KIHEI-MAKENA COMMUNITY PLAN AND LAND USE MAP FROM PROJECT DISTRICT 12 TO AGRICULTURE FOR PROPERTY SITUATED AT MAALAEA, WAILUKU, MAUI, HAWAII, TAX MAP KEY (2) 3-6-001:018"; and
 - (b) "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM OPEN SPACE ZONE, R-3 RESIDENTIAL AND ROAD/STREET RESERVE ZONE TO AGRICULTURE FOR PROPERTY SITUATED AT MAALAEA, WAILUKU, MAUI, HAWAII, BEING PORTIONS OF TAX MAP KEY (2) 3-6-001:018"; and
2. Planning and Sustainable Land Use Committee Report 20-9 (Recommitted).

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I MOVE TO DISCHARGE COUNTY COMMUNICATION 21-275
THROUGH 21-278 FROM THE PLANNING AND SUSTAINABLE
LAND USE COMMITTEE IN ORDER FOR THE COUNCIL TO
CONSIDER FILING OF THESE ITEMS TODAY.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Second? Moved by Member Paltin, seconded by Member King, to discharge the Committee of these one, two, three, four items.

Discussion?

COUNCILMEMBER PALTIN: I guess I'd just like to discharge it so that we can file it. Cause I can't auto file because it's been through Planning Commission review. And I believe we discussed this during the Chair's meeting. You know--

CHAIR LEE: This is just to discharge.

COUNCILMEMBER PALTIN: Yea.

CHAIR LEE: Yea.

COUNCILMEMBER PALTIN: Because I can't auto file.

CHAIR LEE: Okay. Thank you. Any other discussions or questions? Okay. All those in favor of the discharge, raise your hand and say "aye".

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries.

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I MOVE TO WAIVE COUNCIL RULE 7.G. RELATING TO
REFERRAL OF COUNTY COMMUNICATIONS 21-275
THROUGH 21-278 TO COMMITTEE. THIS MOTION IS
REQUIRED TO CONSIDER FILING OF THESE ITEMS TODAY.

COUNCILMEMBER KAMA:

SECOND.

CHAIR LEE: Moved by Member Paltin, seconded by Member Kama, to waive the Rule of the Council, okay, as explained by Member Paltin.

Any further discussion? If not, all those in favor say--

CHAIR LEE: Is that a question, Member Sugimura?

COUNCILMEMBER SUGIMURA: Yea, I have a question. So, one of the items, which is Dickenson, right, 21-276. I just have a general question, I don't know if it's for OCS or Corp. Counsel. So, if you file this, this is the item that I think is going through budget for possible consideration to purchase with the open, Affordable Housing Fund. So, what would happen to that item?

CHAIR LEE: I don't--

Ms. Paltin?

COUNCILMEMBER PALTIN: We're, we're just on the waiver. I'll, I can get into that discussion--

COUNCILMEMBER SUGIMURA: Okay.

COUNCILMEMBER PALTIN: --when we're on the filing part. I didn't want to, I wanted to--

COUNCILMEMBER SUGIMURA: Thank you.

COUNCILMEMBER PALTIN: --speak at it the correct time.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Okay. Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I'll just answer her question. I can make it real quick. So, this is a change in zoning bill. And the bill that you're talking about is in BFED Committee, so they're not the same. Mahalo, Chair.

CHAIR LEE: That was quick. Okay. All those in favor of the motion, say "aye", to waive the Rule.

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries.

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I MOVE TO FILE COUNTY COMMUNICATIONS 2, 21-275
THROUGH 21-278.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Moved by Member Paltin, seconded by Member King, to file the communications as mentioned by Member Paltin.

Discussion, Member Paltin?

COUNCILMEMBER PALTIN: Oh, I'll wait till after Mr. Krueger.

CHAIR LEE: Okay.

Mr. Krueger.

DEPUTY COUNTY CLERK: Apologies, Chair. I, I just wanted to clarify that this filing motion, it's filing the main communications on the agenda. But I wanted to know if that motion is also supposed to encapture the communications that the body also discharged, that which is 15-152, 18-351, 18-285, 19-347, and CR 20-9.

CHAIR LEE: Yes.

DEPUTY COUNTY CLERK: Okay.

CHAIR LEE: Yes.

DEPUTY COUNTY CLERK: Thank you.

CHAIR LEE: Okay. Discussion?

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Mr. Krueger. Thank you, Chair. Per Section 8-8.6.(4) of the Charter, "Revisions to zoning and land use ordinances proposed by the Planning Director shall be reviewed and acted upon by the Council no later than 180 days after receipt of the transmittal from the Planning Director." These county communications are well over the 180-day timeframe. By filing these items today, we can start from a clean slate. These items can also receive Planning Commission review again with new information, analysis, and community input.

For CC 21-275, relating to agricultural conservation lots, the item was heard five times by the previous Land Use Committee in 2018, without success in creating a community supported bill. In the current version, the value of agricultural lands for housing would be increased without adequate legitimate farming requirements.

For CC 21-276, relating to the change in zoning for Dickenson Street Apartments. It has come to my attention that the County is poised to purchase the property. We did hear this item once in Lahaina and we deferred it. The recommendation from Mr. Molina was for the landowner to meet with the PTA and other members of the community. And as of yet, I don't believe that has happened. So, filing this item will allow consideration of new information and better options for the property. As Member Rawlins-Fernandez said, the option of purchasing it by the County is currently in her Committee.

For CC 21-277, the Ho'omoana Foundation conditional permit for an overnight campground is in ongoing litigation on the project's entitlements. In my first term, in the first year, I met with Mr. Frampton about hearing this item because it was to address homeless issues. And he informed me they weren't prepared for me to put, agendaize this and that he would let me know if they were prepared. And it's been about three years and well over the 180-day timeframe. So, filing this item will allow time for the litigation to be resolved and the applicant can then reapply for a conditional permit.

For CC 21-278, relating to the change in zoning for the Maalaea Agricultural Subdivision, we also heard this item about five times. The County budget may support purchasing the property from the current owner. And filing the item today will prevent the property from subdivision and allow the Council to consider keeping the property in open space, pending any future change in zoning.

I kindly ask the Council's support of my motion to file CC 21-275 through 21-278. Thank you.

CHAIR LEE: Thank you. Very succinct. Members, any questions?

Yes, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. And then, I'll just reiterate what Deputy Clerk said in the closing of Member Paltin's comments. She just said CC 21-275 through 21-278. But the motion also includes CC 15-152, CC 18-351, CC 18-285, CC 19-347, and CR 20-9. And I support this motion with all of those in attempt to help Member Paltin clear the PSLU master agenda. And to, I think this is a great policy that I would love to work with the Planning Department on in keeping items fresh. Cause once it becomes stale, a lot of the data, the studies, the traffic reports, the EIS, the environmental impact statements, all of these, they don't really have an expiration date. And so, we've seen items come back up like zombie items. And they're using, you know, 10, 20-year-old reports that say there's no impact. But that was 20 years ago, and times are different. And so, I think this is a great first step in creating a policy of that type that I think no other County, or the State has right now. So, we can be trailblazers in that way as well. Mahalo, Chair.

CHAIR LEE: Good. Thank you. Just wanted to add onto that is like I am encouraging all of you to look at your master agendas. And you do have zombie related items on them. So, let's move out the cobwebs and get rid of, you know, file these items. You can always bring them back, so that at the end of the year we don't have, you know, to deal with this, this mounds of items that I, a lot of you tend to keep for sentimental reasons. Okay?

So, all those in favor of the I, the motion. Oh no, Member Paltin.

COUNCILMEMBER PALTIN: Sorry, for my second and final. I just wanted to share, you know, I'm not just doing this because I want to clear my master agenda. That's a side benefit. But the reality is, you know, for example, the Hanzawa Store when we tried to take it up in Committee, it took so long to get everyone up to speed to what was happening like 10 years ago. And then, ultimately, we decided to file it. And same thing with the Kaunakakai issue that Member Rawlins-Fernandez said. So, this was a great suggestion on how to address these issues, because by the time we get up to speed on what happened 20 years ago, 10 years ago, even 5 or 2 years ago, the meeting's over already because we only got three hours, you know? And I got, every time I have like new things being referred to the Committee and, and the 180 deadline is just not even possible with these years old item.

So, it's, it's the move that my Committee is going to make to the, to commit to the County to try and, and get up to speed. It might take a little while, but we're working in that direction so that, you know, when we point the fingers at Planning or so and so when the public is mad at us for how long things take, we're also pointing four fingers back at ourselves, and this is my attempt to address those fingers at myself. Thank you.

CHAIR LEE: Well, I don't know about you, but I don't think we're ever at fault. I'm just kidding of course.

Now, speaking of second and final, in the few moments, we'll be coming up to the moratorium bills. So, Members, we do have a deadline today. Two Members need to leave at 3:30. So, if without objections, how about the first round is two minutes for everybody and the second round is one minute? Because you know what, we have heard it all. Okay. Very good. Thank you. Thank you.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So, will that time limit be only for those items or for all the items?

CHAIR LEE: Those items, because the others are going by fairly quickly. I, I, okay, very good. Thank you, you guys. Alright, next is--

COUNCILMEMBER KING: Chair, did we take the vote on the filing?

CHAIR LEE: I thought we did?

COUNCILMEMBER KING: No, I don't think we took the vote. Everyone started talking after the motion and the second.

CHAIR LEE: Okay. If, in case we didn't, all those in favor, signify by saying "aye" and raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries. Okay. Very good. Thank you.

COUNCILMEMBER PALTIN: Thank you, Members. You're the best.

CHAIR LEE: I want to hear you say that at 3:30.

Okay. Mr. Clerk. Oh, not, wait, before you, Mr. Clerk, is Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Real quick. I thought I heard our two Councilmembers say that they, their appointment was at 3:30. Or do they have to leave at 3:30? The appointment is at 3:30?

COUNCILMEMBER KAMA: My appointment is--

CHAIR LEE: Member Paltin. Member Kama.

COUNCILMEMBER KAMA: My appointment is at 3--

CHAIR LEE: Member Kama.

COUNCILMEMBER KAMA: Thank you. My appointment is at 3:30 but I need to leave at 3 to get to Kihei from here.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: I'm going to try be mobile on the phone as best I can.

CHAIR LEE: You know what, why don't we just move up those items?

COUNCILMEMBER PALTIN: Okay.

CHAIR LEE: Okay?

COUNCILMEMBER KING: No objection.

CHAIR LEE: Alright. Okay. Very good. Thank you. Okay, the first one would be 21-280.

Mr. Clerk, we're going to take the moratorium bills out of order and bring um up.

NO. 21-280 - KEANI RAWLINS-FERNANDEZ, COUNCIL VICE-CHAIR,
(dated June 9, 2021)

Transmitting a proposed resolution entitled "REFERRING TO THE MAUI PLANNING COMMISSION A BILL FOR AN ORDINANCE ESTABLISHING CHAPTERS 19.98 AND 20.41, MAUI COUNTY CODE, DECLARING A MORATORIUM ON NEW TRANSIENT ACCOMMODATIONS ON MAUI".

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO ADOPT THE PROPOSED RESOLUTION AND TO REFER COUNTY COMMUNICATION 21-280 TO YOUR PLANNING AND SUSTAINABLE LAND USE COMMITTEE TO ALLOW FOR DIRECT REFERRAL OF THE PLANNING COMMISSION REPORT.

CHAIR LEE: And there's a second?

COUNCILMEMBER JOHNSON:

SECOND.

CHAIR LEE: Okay. Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Johnson, to approve CC 21-280, which is the referral to the Planning Commission. Oh, so it would be adopting the resolution attached.

Alright. Vice-Chair Rawlins-Fernandez, discussion?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Members, the under-regulated growth of transient accommodations has caused an excessive increase in tourism, which negatively impacts the environment, overwhelms County infrastructure, and diminishes residents' quality of life. Transient arrivals are quickly returning to or have exceeded pre-pandemic numbers. The transient to resident ratio is out of proportion to establish a policy, to establish the policy.

The Maui Island Plan approved nine years ago, after extensive community engagement, calls for a daily visitor count of no more than According to DBED, Maui daily visitor count grew from over 46,000 in 2010 to nearly 70,000 in 2019. Over the same period, the resident population remains steady at around 150,000.

As of two years ago, Maui exceeded the visitor-resident ratio cap established by Ordinance 4004 (2012). In response, the Council has recently deliberated on two proposals to temporarily pause the increase of visitor accommodation by enacting one or more moratorium ordinances.

I have initiated the necessary steps to form a temporary investigative group, or TIG, on tourism management within the Budget, Finance, and Economic Development Committee, as referenced in the attached bill. Main focus of this TIG will be a substantial reduction of vacation rentals, including the approximately 11,000 units on

the short-term occupancy list and aggressive enforcement of illegal transient accommodations. Steering tourism back into the hotel and resort area is of high priority. Mahalo, Chair.

CHAIR LEE: Member Paltin, and then Member King.

COUNCILMEMBER PALTIN: Thank you.

I'D LIKE TO MOVE TO AMEND THE PROPOSED RESOLUTION TRANSMITTED BY COUNTY COMMUNICATION 21-280 BY AMENDING THE ATTACHED PROPOSED BILL TO ADD THE FOLLOWING EXCEPTION, DISPLAYED IN ITALICS, TO PROPOSED MAUI COUNTY CODE SECTION 19.98.040, AND IT WOULD READ:

"E. ANY DEVELOPMENT THAT INCLUDES HOUSING UNITS, IN AN EQUAL NUMBER TO THE NEW TRANSIENT ACCOMMODATIONS THAT ARE:

1. AFFORDABLE TO VERY LOW INCOME OR LOW INCOME RESIDENTS, AS DEFINED IN THE RESIDENTIAL WORKFORCE HOUSING POLICY, FOR AT LEAST THIRTY YEARS;
2. MADE AVAILABLE FOR OCCUPANCY PRIOR TO OR CONCURRENT WITH THE NEW TRANSIENT ACCOMMODATIONS; AND
3. LOCATED IN THE SAME COMMUNITY PLAN AREA."

CHAIR LEE: Second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Okay. Moved by Member Paltin, seconded by Member Sinenci, to approve the, to propose this amendment to the main motion.

Any further discussion, Ms. Paltin? Member Paltin?

COUNCILMEMBER PALTIN: Thank you. The proposed exception will reinforce the County's, Council's desire to encourage affordable housing options for our residents.

This amendment is also proposed for the additional bill proposing a moratorium on building permits for transient accommodations, because we should maintain consistency in both bills.

Historically, hotels built housing for their workers as they constructed their properties. The hotel industry will have no one to employ if residents are continually pushed off island due to lack of housing options. Creating a one-to-one match of transient and affordable housing units benefits all parties. The proposed exception also allows those in the construction industry the opportunity to continue working during the moratorium.

And I think as we went over yesterday, 73 percent of the jobs in West Maui earn \$44,000 annually. And I think the Star Advertiser in 2019 said 54, 53 or \$54,000 was considered low income. And so, that's the reasoning why those AMI were selected, low income and very low income. I would respectfully request the Council's consideration of this amendment.

Oh, and I might need to make the disclosure that I did get a hearing before the Board of Ethics on June, June 9. And although their written ruling I don't think has come out yet, or it may have, I got an email that I'm cleared to participate in this discussion.

CHAIR LEE: Okay. Mr. Clerk, can you ask whomever is timing the speakers, two minutes on the first round and one minute on the second, with regard only to the two moratorium bills?

Okay. So, the seconder. Mr. Sinenci, do you have anything to add to the motion to amend?

COUNCILMEMBER SINENCI: Thank you, Chair. No. Just clarification, so basically, with every new transient accommodation, there, there must also include the equal amount of housing units, Member Paltin?

COUNCILMEMBER PALTIN: Yea. So, if you were to build 100-unit, 100 room unit hotel, you'd need to provide 100 of very low income and low income housing split evenly.

COUNCILMEMBER SINENCI: Mahalo. And historically, during the plantation times, plantation also provided. So, we do have that precedence in our Maui history. So, thank you. Mahalo, Chair.

CHAIR LEE: Yea. Before I call on you, Mr. Molina, were you going to talk about 2.96, Mr. Molina?

COUNCILMEMBER MOLINA: No. I was going to talk about the proposed amendment.

CHAIR LEE: Okay. In Chapter 2.96, there is a requirement for hotels. So, the requirement to, for them is 25 percent, yea, right now is codified. So, are you saying, during the moratorium any new hotel rooms developed would have to provide 100 percent and then after the moratorium, it goes back to 25 percent?

COUNCILMEMBER PALTIN: Yes. This is an exception for the moratorium. If they're, I guess depending on how badly they want to build during those two years, if they can be willing to be a community contributor to our, our housing crisis, then let's, let's work something out.

CHAIR LEE: Okay. Mr. Molina.

COUNCILMEMBER MOLINA: Yea, thank you very much, Madam Chair. I, I commend Member Paltin for this proposed amendment. Because one, it reaffirms this Council's commitment towards addressing the affordable housing crisis. And it is a crisis. And two, it prioritizes the need for housing for our residents, especially for those who are in the visitor industry and the construction industry. So, in my opinion, it will help to allay the fears that a moratorium will, you know, destroy the economy and the visitor industry and so forth. So, I think this is a very good compromise and an amendment that I can support. Thank you.

CHAIR LEE: Any other comments?

Member King, and then Member Sugimura. You're muted.

COUNCILMEMBER KING: Okay, I hope I didn't use up my minute. I thought I heard Member Rawlins-Fernandez say we were, she was proposing to, for this to PSLU, but are we, are we voting on--

CHAIR LEE: No, this is, this is going to the Planning Commission.

COUNCILMEMBER KING: This is, we're voting to send this to the Planning Commission, is that right?

CHAIR LEE: Yes.

COUNCILMEMBER KING: Okay. That's what I was hoping. Okay. And then, the other thing I was going to ask about was I thought there was already an exemption for where there already has a discretionary permit. So, if you look in the bill that was provided by Member Rawlins-Fernandez, 19.98.040, that, the first one says, "Exception". The first "A." under "Exceptions" is "Any new transient accommodation that has received its last discretionary approval prior to the effective date of the ordinance." So, that's already in the bill.

CHAIR LEE: Yea. She's just adding "E." and, yea, "E.". She's adding "E.".

COUNCILMEMBER KING: Okay. Cause in the ASF, all of that is underlined. But what we're talking about adding is just "E."?

COUNCILMEMBER PALTIN: The italicized. Italicized.

COUNCILMEMBER KING: Oh, okay. I didn't catch that. Sorry.

CHAIR LEE: That's okay.

COUNCILMEMBER KING: Okay. So, so, we would be, oh, I guess what this is saying is we could negotiate during the moratorium for a permit if housing was provided, is going to be provided. And is that, isn't that something that is being put into the West Maui Community Plan? Okay, so that--

CHAIR LEE: It doesn't look like there's room for negotiation. This is a requirement.

COUNCILMEMBER KING: Yea, I know, but it's in the, this, this policy is also in the West Maui Community Plan. So, if that passes, then, for the West Maui region, this is an ongoing requirement.

CHAIR LEE: Okay.

COUNCILMEMBER PALTIN: To clarify, the West Maui region requirement didn't specify very low income or low income. It just, I think said affordable housing or workforce or something. This one is specific to very low income and low income.

COUNCILMEMBER KING: Oh, okay. So, and it doesn't, it's not, it's basically . . . rentals. Or it could be rentals or for sale?

COUNCILMEMBER PALTIN: It didn't specify, but it would need to remain affordable for 30 years.

COUNCILMEMBER KING: Okay. Okay, thank you. Thank you, Chair.

CHAIR LEE: Okay. Oh, so, Ms. Sugimura. Did you have your hand up?

COUNCILMEMBER SUGIMURA: Thank you. Just question. So, what is the historical data that, what, what number of units have been built? Affordable housing that's tied to hotels? Does anybody have that data?

CHAIR LEE: Yea, 25 percent.

COUNCILMEMBER SUGIMURA: Well, how many units, actual units were built with this?

CHAIR LEE: Well, we would have to, we would have to take some time to retrieve that kind of information.

COUNCILMEMBER SUGIMURA: So, I guess my question is, is I'm wondering taking it from 25 to 100 percent, what is the impact of that for this amendment?

CHAIR LEE: Member Paltin?

COUNCILMEMBER PALTIN: The impact would be a lot more housing for our local people that are--

COUNCILMEMBER SUGIMURA: I understand, yea. I mean, I understand the sentiment, but what is the actual number of units that have been built? I mean, if we're going to say, okay, you're going to build, you know, hotel rooms during this moratorium period, but what you have to do is instead of building 25 percent of what you're building, now we're taking it to 100 percent. What is the actual impact of that? Are we going to actually get more houses or is it just a rhetoric, you know?

COUNCILMEMBER PALTIN: I guess it depends on how badly they want to build their hotel. I tried to book a room at the Hana Hotel for a funeral on July 11 and the cheapest was 1,900 and, \$1,951 or so. So, you know, they can make up the money on that end. And that's Hana. Like, what if it's raining the whole time you're there? Four Seasons, I think the cheapest was 2,900 and the most expensive was 26,000. The one available was 9,000 something. So, the impact would probably be higher room rates, I'm guessing, which I mean I don't know how much higher you can get than those room rates. But it's already pretty high and people are still coming in droves. So, I think it's a pass-on the buck to benefit our community in West Maui.

I believe the, what is now the Aina Nalu Hotel, used to be the affordable housing component right across from Pizza Hut. That used to be the affordable housing component, but it's all either termed out or become not affordable housing anymore. So, people have this memory in their mind of hotels providing these housing, but they've since termed out or found more profitable ways to become and, and thus the reason for the 30-year requirement.

But I mean, I'm sure the number is available if somebody wanted to do the research of how many have been provided. But it was a standard practice, I believe, in Elmer Cravalho's time. And I'm not sure who else. I, I used to live on County of Hawaii, so that was a little bit before my time in Maui County, and probably my life too.

CHAIR LEE: Okay. If I may make a comment here. I am not going to support this amendment, but I am going to support adopting the resolution because I think this is not final. This is not a policy that's going to be initiated tomorrow. What it basically does is sends this bill to the Planning Commission so that we can get more input. So, and which I am grateful for that, so I'm going to vote "yes" on the resolution and "no" on this.

Because some of us feel that, obviously, some of us feel that that this new requirement is excessive. But, but it's very clear that it has full support of others. So, we all have to be realistic, and we all are up against time constraints. Any more comments?

Member Kama, then Vice-Chair Rawlins-Fernandez.

COUNCILMEMBER KAMA: Chair, so I just want to make sure that I understand the conversation that we're having. So, in this amendment, Member Paltin, we're saying that, that if during the moratorium, if developers want to build and they want to expand, whatever the amount of units that they're expanding, they must build units one to one, right? So, are we talking about new homes? Are we talking about rentals? Or it does not matter? And on the--

COUNCILMEMBER PALTIN: It's, it's open ended. Either one.

COUNCILMEMBER KAMA: Okay.

COUNCILMEMBER PALTIN: As long as it's affordable for 30 years.

COUNCILMEMBER KAMA: And then, the other question I have was 2.96 says that, that if they're going to build, they have to build at least 25 percent of whatever the units are. So, in my mind I'm thinking, well, if they only had to do 25 percent, how many did we

already build? And would this amendment increase that, or not, would it not increase it? Or would it just be I going wait till the two years is over and then I might go ahead and do it? Cause that's what the options that they are being given with this amendment, is that correct?

COUNCILMEMBER PALTIN: That's correct.

COUNCILMEMBER KAMA: Okay. And if they decide to go ahead and build it, they must be built within that same site or anywhere as long as they can find the land--

CHAIR LEE: Same community plan.

COUNCILMEMBER PALTIN: Same community plan area.

CHAIR LEE: Okay?

COUNCILMEMBER KAMA: Okay. Thank you.

CHAIR LEE: Vice-Chair, did you have your hand up? No? Oh, you did.

VICE-CHAIR RAWLINS-FERNANDEZ: Yes.

CHAIR LEE: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. I just have a few questions and then my comments. My first question for Member Paltin, yes/no, did you get your, this proposed amendment passed legal scrutiny, our attorneys?

COUNCILMEMBER PALTIN: I think so. They, Wilton Leauanae helped with the PAF. And so, there's that. And then, yea, I don't know.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. I'm just wondering if it--

COUNCILMEMBER PALTIN: The OCS process.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Okay. Okay. And then, my feeling is that this amendment would make it more cumbersome. When we had this in, this discussion in the CARE Committee, both the Public Works Director and Planning Director asked to have it as black and white as possible to, to make the administration of this moratorium easier for them.

I do plan to expedite the TIG process, so that the work of the TIG is done before next budget session in about eight or so months, six months. Anyway, so, you know, for, for the moratorium, it won't necessarily last for two years. And so, I don't know if any houses would be built during that time that I would try to expedite the work of the TIG. If, I, I, I don't, I don't know if I support the amendment ultimately. But I would be okay with letting it go to the Planning Commission for feedback, because it, this isn't the end. We're just sending it to the Commission. So, in my last few seconds, I just, I guess I just wanted to get Corporation Counsel's feedback on the legality.

CHAIR LEE: You mean, your last few seconds that ended five minutes ago?

Corp. Counsel.

VICE-CHAIR RAWLINS-FERNANDEZ: Just cause it's--

CHAIR LEE: Corp. Counsel.

VICE-CHAIR RAWLINS-FERNANDEZ: --it's inconsistent with 2.96, so that's all.

CHAIR LEE: Corp. Counsel. Are you on the call?

FIRST DEPUTY CORPORATION COUNSEL RICHELLE THOMSON: Hi, Chair Lee. It's Richelle. I don't know if you can see me.

CHAIR LEE: Oh, hi, Richelle. I'm sorry. We have a question for you.

Vice-Chair Rawlins-Fernandez.

FIRST DEPUTY CORPORATION COUNSEL: Thank you. Was it whether we had the opportunity to review this amendment and how it would--

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, no. Member Paltin already answered me. I was just wondering, you know, Chair Lee brought up how the moratorium would then create a different rule that would be inconsistent with 2.96. So, I know a moratorium is already inconsistent with other parts of the Code, because that's what a moratorium would do. But as far as creating the exceptions, if that would be okay?

CHAIR LEE: Richelle.

FIRST DEPUTY CORPORATION COUNSEL: Thank you. I think that as this goes through, under review process with the Maui Planning Commission, we would need to take a

look specifically at that issue. And there are other parts in 2.96, including the opportunity for the application of credits. So, there are some nuances that I think we would really want to make sure we're not creating, you know, as you said, you know, areas where it's gray and open to many different interpretations. So, it, we would need to take a very close look at this issue as it goes through.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Thomson.

Cause I, I support the intent, Member Paltin. Mahalo for, you know, really thinking about our goal about getting affordable housing. But, yea.

CHAIR LEE: Member King. Member King, did you have your hand up?

COUNCILMEMBER KING: Thank you, Chair. So, I had, kind of, one of same concerns I think was touched on, and that's that the way this is worded, does that preclude anybody using credits to put towards that housing? Cause I, there's no, like, anything specific about building housing units. It just says includes housing units. And sometimes they, you know, they buy those credits and then they say they're including.

CHAIR LEE: Member Paltin.

COUNCILMEMBER KING: Oh, you're, you're muted.

COUNCILMEMBER PALTIN: Thank you. I'm open to a friendly amendment if that's what will help the bill get, or the amendment get passed.

COUNCILMEMBER KING: Okay. Yea, maybe just putting the word "includes new housing units be built" or something like that. But I just wanted to, I, I think Member Rawlins-Fernandez mentioned to us earlier that it might be good to put this in so that the Planning Commission can then deliberate on it, get the opinions from Corp. Counsel at that point. And, because I, anything that moves, moves the moratorium along, I think is good.

Moratoria are responses to emergency situations. And so, you know, the quicker we can get them done, the better, in my opinion because we have an emergency situation. We need to put a plug in it before it continues to get worse. So, that might help move things along as far as looking at that, whether we want to keep it in when it comes back to the Council.

CHAIR LEE: So, are you going to add additional--

COUNCILMEMBER KING: So, I just wanted, my request for a friendly amendment would be to put in, under 1, affordable to very low in, oh no, I'm sorry.

UNDER "E. ANY DEVELOPMENT THAT INCLUDES NEW HOUSING UNITS BUILT, IN AN EQUAL NUMBER TO THE NEW TRANSIENT ACCOMMODATIONS,".

So, just that it specifies that the units have to be new units that are built, and it can't be replaced with credits.

CHAIR LEE: Okay.

COUNCILMEMBER KING: It looks like she--

CHAIR LEE: So, that--

COUNCILMEMBER KING: --accepted the friendly amendment.

CHAIR LEE: Okay, that's the friendly amendment and that is what the vote is going to be on, alright, on the amendment. All those in favor of the amendment, raise your hand, say "aye".

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA, PALTIN, SINENCI, AND VICE-CHAIR RAWLINS-FERNANDEZ.

NOES: COUNCILMEMBERS KAMA, SUGIMURA, AND CHAIR LEE.

CHAIR LEE: Okay, I see six "ayes" and three "noes"; right? Motion carries. The "noes" are Sugimura, Kama, and Lee.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO WAIVE RULE 19.C. OF THE RULES OF THE COUNCIL SO THAT WE CAN TAKE FINAL ACTION ON THIS TODAY.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Wait. Shouldn't that have been done already?

VICE-CHAIR RAWLINS-FERNANDEZ: No. Well, we had to wait until the amendment, to see if the amendment was going to pass. Because we've now amending it to take final action, we need to waive Rule--

CHAIR LEE: Okay. Alright. So, seconded by, moved by Vice-Chair Rawlins-Fernandez, seconded by Member King, to waive the Rules of the Council.

Vice-Chair Rawlins-Fernandez. Anything else?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR LEE: Anything else?

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, yep. It just, we, we need to vote for it in order for the amended reso, so that we can take, so we can vote on the main motion on the floor.

CHAIR LEE: All those in favor of the motion, say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA,
PALTIN, SINENCI, AND VICE-CHAIR RAWLINS-
FERNANDEZ.

NOES: COUNCILMEMBERS KAMA, SUGIMURA, AND
CHAIR LEE.

CHAIR LEE: Okay, I see six "ayes", three "noes"; motion carries. The three "noes" are Sugimura, Kama, and Lee.

Vice-Chair Rawlins-Fernandez. Motion as amended.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay.

CHAIR LEE: Anything else?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. Alright. So, I--

CHAIR LEE: This one was supposed to be the short one.

VICE-CHAIR RAWLINS-FERNANDEZ: Yes. It's just there's, you know, there's the different Rules. And I didn't propose the amendment. It wasn't me.

CHAIR LEE: I know. I know.

VICE-CHAIR RAWLINS-FERNANDEZ: I, I just, okay, so I didn't make a motion to waive Rule 7.G., Deputy Clerk, because this is a resolution that doesn't have the force and effect of law. It's just sending it to the Planning Commission for their feedback. And so, I just wanted to point that out, cause I intentionally didn't do it because I don't believe that it falls within 7.G. But I don't want to mess up our procedure. So, I wanted to give our Deputy Clerk an opportunity to dispute my understanding of the Rules.

CHAIR LEE: Alright. So, do you have any comments to that, Mr. Clerk?

DEPUTY COUNTY CLERK: No comment, Chair. If the body agrees with that interpretation, then the body should proceed as it sees fit.

CHAIR LEE: Well, any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: If not, so, so ordered.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, for that clarification, Chair and Deputy Clerk. Yea, I think I made all my comments during the amendments that, and I ask for the--

CHAIR LEE: Okay. So, we're ready for the main motion as amended. Okay. Main motion as amended, all in favor, say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA,
PALTIN, SINENCI, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: COUNCILMEMBERS KAMA AND SUGIMURA.

CHAIR LEE: This time there are seven "ayes" and two "noes". The "noes" are Ms. Sugimura and Member Kama. Okay. Motion carries. That takes care of that one.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, proceeding with Committee Report 21-39.

COMMITTEE REPORTS

COMMITTEE REPORT
NO. 21-39 - CLIMATE ACTION, RESILIENCE, AND ENVIRONMENT
COMMITTEE:

Recommending that Bill 60 (2021), entitled "A BILL FOR AN ORDINANCE AMENDING THE BUILDING CODE TO ADD CHAPTER 40 RELATING TO A MORATORIUM ON BUILDING PERMITS FOR VISITOR ACCOMMODATIONS," be PASSED ON FIRST READING and be ORDERED TO PRINT.

DEPUTY COUNTY CLERK: And, Chair, the resolution that the body just adopted, that's RESOLUTION 21-98.

CHAIR LEE: Alright. Member King.

COUNCILMEMBER KING: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 21-39.

COUNCILMEMBER JOHNSON:

SECOND.

CHAIR LEE: Okay, moved by Member King, seconded by Member Johnson, to pass the proposed bill in Committee Report 21-39.

Discussion, Member King.

COUNCILMEMBER KING: Thank you, Chair. On February 5, 2021, the Council unanimously adopted Resolution 20-18 *[sic]*, "EXPRESSING SUPPORT FOR SUSTAINABLE TOURISM, EMPHASIZING QUALITY OVER QUANTITY", resolving that "it values

sustainable and strategically managed tourism - rather than an increasing quantify of tourists - to promote economic well-being, enhanced quality of life for residents, preservation of natural and cultural resources, and high-quality experiences for visitors". The Council also agreed to "continue to build upon policies and create incentives to ensure the County's natural and cultural resources will be protected and enjoyed for generations to come".

And I hope to help us do this with this proposed bill. The bill serves more than one purpose. As a Council, we declared climate emergency in 2019. And this year, State Concurrent Resolution 44 further emphasized the importance of an immediate just transition and emergency mobilization effort to restore a safe climate. The effects of the built environment on climate change are well-documented. And one purpose of this bill is to begin to follow through on our commitment and do what is necessary to restore a safe climate.

However, the primary purpose of this bill is also to temporarily, temporarily maintain the status quo in the development of hotels and other visitor accommodations in South Maui and West Maui until the respective community plans for the areas are updated or two years have passed, whichever is sooner. Maintaining the status quo while a comprehensive plan is completed has been a valid purpose for moratoria that has withstood legal challenges across the country.

The Maui Island Plan includes a policy calling for daily visitor population not to exceed one-third of the resident population. And in 2019, as we've heard repeatedly, Maui island greatly exceeded the desired visitor to resident ratio. Exceeding that number has had a dramatic impact on the environment and quality of life for residents, which is coming to a head with a recent surge in tourism following last year's period of rest from high visitor numbers.

Recently, on June 2, 2021, the Star Advertiser said that a new survey of State residents finds support for better regulation of tourism, including more government controls that could lead to limiting numbers at popular destinations around the State and charging higher use fees to offset tourist impact across the islands. Residents don't trust the tourism industry to manage itself. And 52 percent would prefer to limit the number of visitors. That was in the article.

According to Hawaii Tourism Authority's 2020 Resident Sentiment Survey, Maui is especially feeling impacts from the visitor industry. When asked whether "tourism has brought more benefit than problems?" Maui residents' responses showed the lowest level of agreement with that statement in the State of Hawaii. Now is the time to act toward a new vision of tourism with the health of our fragile island ecosystem to address the climate emergency and to protect the quality of life for residents.

I have heard the concerns from industry residents, from representatives and lobbyists about the need for well-paying jobs for our residents and young people. I am also concerned about the future of our families and community. That is why my office has reached out to the ILWU and even taken the step of hosting college-bound high school interns who come from low-income or first-generation families. As yet, I have not received a response from the ILWU explaining how they define a living wage despite their stated commitment to providing adequately paying jobs.

This week, my staff interviewed our, our new interns and asked them the question, "what is your vision for Maui?" These students who have grown up on Maui and witnessed the changes of recent years and have dreams to go to college for law and political science all stated that they wanted to see tourism on Maui managed and controlled, and wanted stronger protections to prevent further degradation to the environment. All of these students had strong connections and family in the tourism industry. And one student even had a parent who was forced to work two jobs at the hotel. These students explained that even their family members who depend on the industry for a living have concluded that tourism has become excessive. If we want to prevent the brain-drain of our young people living, leaving Maui, we should listen to these young people about the kind of Maui and opportunities they would like to see for their future.

This moratorium is not meant to be the ultimate solution. It's meant to give us a chance to stop the bleeding where we can and to use this pause to work on solutions. If you get a, if someone slashes your arm, you're not going to amble down to the hospital and to try to figure out what to do. You're going to first slap a band-aid on it and then go down to the hospital and have them come up with a plan for healing. That's what we're talking about.

Voting yes is a vote for smart development. And the majority of this Council ran on a platform of smart development. The moratorium allows us to pause when we make that longer-term plan for smart development. I'm hoping to send a message that this Council supports our residents. And let's pass this measure and support the people who call Maui home. The people who voted for us to make these types of changes and take action.

Your Committee voted 4-2 to recommend passage of the revised proposed bill on first reading. Colleagues, please support the measure and give us a chance to realign our policies with the Maui Island Plan. I ask for the Members support of your Committee's recommendations. Mahalo, Chair.

CHAIR LEE: Okay. Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair, to--

CHAIR LEE: You're muted. Okay.

COUNCILMEMBER PALTIN: Oh, thank you, Chair.

I'D LIKE TO PROPOSE A, MOVE TO AMEND THE PROPOSED BILL ATTACHED TO COMMITTEE REPORT 21-39, BY ADDING A SUBSECTION TO PROPOSED MAUI COUNTY CODE SECTION 4000.5 TO READ AS FOLLOWS, AND I'M GOING TO FRIENDLY AMENDMENT THIS ONE ON MYSELF BASED ON WHAT IS PRINTED IN THE ASF. SO, IT SHOULD SAY, THIS:

"D. THIS CHAPTER DOES NOT APPLY TO ANY DEVELOPMENT THAT INCLUDES NEW HOUSING UNITS BUILT, IN AN EQUAL NUMBER TO THE NEW VISITOR ACCOMMODATIONS THAT ARE:

1. AFFORDABLE TO VERY LOW INCOME OR LOW INCOME RESIDENTS, AS DEFINED IN THE RESIDENTIAL WORKFORCE HOUSING POLICY, FOR AT LEAST THIRTY YEARS;
2. MADE AVAILABLE FOR OCCUPANCY PRIOR TO OR CONCURRENT WITH THE NEW VISITOR ACCOMMODATIONS; AND
3. LOCATED IN THE SAME COMMUNITY PLAN AREA."

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Member Paltin, seconded by Member Sinenci, to make this amendment. More discussion, anybody else?

Member Paltin.

COUNCILMEMBER PALTIN: Thank you. The proposed exception will reinforce the Council's desire to encourage affordable housing for our residents.

A similar amendment is proposed for the legislation attached to County Communication 21-280, proposing a moratorium on new transient accommodations on Maui. We should maintain consistency in both bills.

And the rest is pretty much the same as the last amendment. I just wanted to add, since this one is more focused on climate emergency, it lessens the amount. You know, people usually build so many luxury homes and provide 25 percent affordable housing. With this one-to-one match, it lessens the amount of luxury homes or market-value homes that we need to get to our goal of the greatest need for the very low-income and low-income. So, in that way, we're not expending so much of our natural resources for these second, or luxury, or market-value homes to get what we need in terms of very low-income and low-income. And so, that's how I'm relating it to also helping the climate emergency. Because instead of building 75 percent more of something, we're doing the 100 percent like you had said. And I would respectfully request the Council's consideration of this amendment.

CHAIR LEE: Anybody else?

Member Sinenci.

COUNCILMEMBER SINENCI: Chair, yea, and, you know, I can understand that we want to go ahead and mirror the same verbiage as the previous bill. When we're, we're looking at our Department of Planning and processing the permitting, different permits for, permits particularly for luxury homes and hotels, in some ways, the County is subsidizing the industry. We're spending a lot of our, our time at the County, you know, processing these permits. So, I think by, by having an equal share of, of work time dedicated to . . . affordable housing projects this, this further supports that. Thank you, Chair.

CHAIR LEE: Okay. Anybody else?

Member Rawlins-Fernandez, and then Member Sugimura.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So, this amendment wasn't discussed in Committee. I know this is unorthodox, which is probably my middle name. I would, I, I would like to go into executive session with our attorneys so that I can make a decision on this amendment. Previous to, to, you know, on, on the first CC, the resolution to send it to the Commission, it was to receive feedback from the

Commission. If we put it in this, this will become law. And, and I, I have reservations about the amendment. And I would like to go into executive session to hear from our attorney's legal advice.

I MOVE TO GO INTO EXECUTIVE SESSION.

CHAIR LEE: Anybody second?

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Oh, sec, moved by Member, Vice-Chair Rawlins-Fernandez, seconded by Member Sugimura, to go into executive session.

Okay, we heard from Vice-Chair Rawlins-Fernandez.

Member Sugimura.

COUNCILMEMBER SUGIMURA: I, I appreciate this because I would like to actually discuss in executive session the entire bill, not only this amendment. So, and I, and it's not signed by Corp. Counsel, the bill. So, I just want to hear from Corp. Counsel about the bill and if there are any legal liabilities that we need to be aware of. So, thank you. I support going into executive session.

CHAIR LEE: Anybody else on this matter?

Oh, yes, Mr. Molina. And then Ms. King.

COUNCILMEMBER MOLINA: Yea, Madam Chair, what are the parameters with this request from Member Sugimura now to take this beyond the proposal from Member Rawlins-Fernandez if we should go into executive session to discuss the whole bill rather than just the proposed amendment?

CHAIR LEE: Okay.

COUNCILMEMBER SUGIMURA: As I said because the bill is not signed by Corp. Counsel. And so, I want to know if there's anything that we need to be concerned about. So, I appreciate going into executive session so that we can know the parameters of the bill. If there's anything that should be in executive session, I hope Corp. Counsel will tell it to us in case there's any--

COUNCILMEMBER MOLINA: Yea, I'd like to hear from Corp., I'd like to hear, Madam Chair, what is your parameters for Corporation Counsel? I appreciate your reexplaining your rationale, Member Sugimura. But again, if the motion, the request has been made by Member Rawlins-Fernandez to go into executive session based on just her reasons, now if we're going to expand that, does Member Sugimura have to make an amendment to request or what?

CHAIR LEE: No.

COUNCILMEMBER MOLINA: I think it's just more of a procedural question.

CHAIR LEE: I don't think so, I don't think so, Mr. Molina. Because in order, the reason why we go into executive session is to discuss sensitive matters or matters of liability, possible liability to the County. Whether a bill, discussing the pros and cons of a bill is not a reason to go into executive session because those items can be discussed in open session. So, whenever, whenever we go into executive session, it's because of some kind of liability to the County, or it's a personnel issue, or it's a very sensitive issue.

So, Ms. Sugimura, we wouldn't be talking about the merits of requiring 100 percent affordable units. We wouldn't be talking about those kinds of things. We'll be talking about only issues that we would not speak about in open session.

COUNCILMEMBER SUGIMURA: Right. Right.

CHAIR LEE: And that generally whittles down to liability to the County.

COUNCILMEMBER SUGIMURA: Right. Thank you.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. I'm, I don't think we need to go into executive session. I would like to hear from David Raatz on this issue, as far as the, the proposed amendment and then, also, why this is a policy issue. Because we've had extensive conversations about this being a policy issue. This isn't, we're not in litigation. It's not a legal issue at this point. And so, maybe just on the proposal to go into executive session to talk about this amendment, can we ask Mr. Raatz to comment on?

CHAIR LEE: Of course, we can ask him, Mr. Raatz. But I, but I do, for myself.

Mr. Raatz, are you on the call?

SUPERVISING LEGISLATIVE ATTORNEY DAVID RAATZ: Yes, thank you, Chair.

CHAIR LEE: Okay. What I would be, I would like to discuss in executive session is not so much, like I said, the merits of whether this is a good amendment or not. I want to know about the liability to the County, and if there are, for instance, any particular developers, any developers right now in, in the process, in the building permit process.

COUNCILMEMBER KING: Chair, can I have my question answered first since I had the floor? And then we can move onto yours?

CHAIR LEE: Okay. But I just wanted him to include everything. So, that's--

COUNCILMEMBER KING: So, Mr. Raatz, my, my concern is that, you know, we've gone through this bill as a very clean and defensible bill. And so, my only concern about the amendment would be that, that changes that, the bill, the defense, you know, if the, gives us any additional pause in the, the, you know, the clean and defensible bill that we created?

VICE-CHAIR RAWLINS-FERNANDEZ: Point of order.

CHAIR LEE: Yes, Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair, real quick. Discussing the defensibility of the bill is kind of why we go into executive session.

COUNCILMEMBER KING: Well, I don't think so, because yea, I talked to Mr. Raatz about this, and he felt like it was something we could talk about in open session.

CHAIR LEE: Well, not if somebody is about to sue us.

COUNCILMEMBER KING: Nobody's suing.

CHAIR LEE: Mr. Raatz. They might be. Mr. Raatz.

SUPERVISING LEGISLATIVE ATTORNEY: Thank you, Chair. I'll try to be brief. First, Chair Lee, I, I think it was important that you recognize executive session isn't for policy deliberations. The Sunshine Law, which governs your proceedings, states that formation and conduct of policy shall be conducted as openly as possible. So, when you go into executive session, that's in contrast to that value. But it is based on the Sunshine Law if you go in for one of the eight specific exemptions that are listed in the Sunshine Law.

And it sounds like the Vice-Chair's motion in this case would be in reference to the section of the Sunshine Law that's noted as 92-5(a)(4), to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities. So, consulting with an attorney, specifically, is one of the recognized exceptions.

But I don't, you need to be careful according to State Supreme Court precedent, to make sure can you limit the discussion to items, as you alluded to Chair Lee, that need to be discussed in executive session. If you're getting into territory that could be discussed in open session, then you should reserve that for when you return to open session.

And I'll just briefly read a statement from the Supreme Court in that case. From 2019, Civil Beat Law Center versus City and County of Honolulu. The decision to close a meeting is discretionary. So, board members should thoughtfully weigh the interest at stake before voting to go into executive session. If board members misconstrue the Sunshine Law and take action contrary to the Sunshine Law, the, the conduct could undermine the purpose of the law and impair the public's right to know.

So, there, the factors of openness versus the need to consult with legal counsel should be considered by the body, but you ultimately will have that authority by a two-thirds vote if you choose to exercise it. Thank you, Chair.

COUNCILMEMBER KING: Chair.

CHAIR LEE: Ms. King.

COUNCILMEMBER KING: He answered your question, but he didn't answer my question.

CHAIR LEE: Okay. Member, Member King's question, Mr. Raatz.

COUNCILMEMBER KING: So, my question, David, is, as far as the amendment, is this not something we could discuss in open session as far as whether it changes the defensibility of the bill.

SUPERVISING LEGISLATIVE ATTORNEY: Thank you. Chair, if I may? Councilmember King, I think the body does have the ability to choose to have that discussion in open session if you'd like. As I just mentioned from the Supreme Court decision, it's always discretionary on whether you go into executive session. You, you have the right, if you want to consult with your attorney, to do it either in executive session or open session. Thank you, Chair.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Yea, I, I don't think that that discussion should be had in open session. And you know, we've had, we had a lot of opinions being given yesterday in PSLU by Corp. Counsel on the floor, even unsolicited. And so, they're not shy about giving their opinions apparently. But we don't have any litigation or investigation involved in this. And you know, just, in my repeated meetings with OCS on this bill, it was, you know, I was told that legally this is a policy issue, it's not a litigation issue.

And I've had, I've seen, had a lot of people request from me, you know, this, to keep, try to keep it as open as possible because this, this concerns everybody on the island and folks should hear what the conversation is. So, I'm not in favor of going into executive session in a, on this issue. I do want to know, you know, it, I didn't hear from Mr. Raatz that this, that this amendment would change the, the scope or, or reality of the bill as they see it. So, I, I just would encourage us to, to deliberate in open session on this one.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I had a question for Mr. Raatz. Mr. Raatz, my question is, would OCS draft an ASF that was not okay as to form and legality? Is that happened before?

SUPERVISING LEGISLATIVE ATTORNEY: Chair, if I may?

CHAIR LEE: Go ahead.

SUPERVISING LEGISLATIVE ATTORNEY: We, we don't, in OCS, have a process where we formally approve legislation as to form and legality. I think part of our standards in the office is to always do our best to ensure that any legislation we're working on for a Councilmember would be legally defensible, and we'd advise Councilmembers of any flaws that we saw. But I can't say that that we signed off on it just because that's not a formal part of our process. Thank you, Chair.

COUNCILMEMBER PALTIN: Thank you.

CHAIR LEE: David, I have one last question. My reason for going into executive session is the concern that we may be sued by two different applicants who are already in the pipeline. So, would that be justified in your case, in this, in your opinion, to go into executive session?

SUPERVISING LEGISLATIVE ATTORNEY: Thank you, Chair. If it's framed as consulting with your attorney based on HRS Section 92-5(a)(4), and the discussion is limited to that consultation, yes, you'd have the right to enter executive session.

CHAIR LEE: Okay. Alright. Because that's where I am.

Vice-Chair Rawlins-Fernandez, you have any other thoughts?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So, basically, if, if we can't go into executive session to discuss the legal defensibility of the amendment, then I'm just going to have to vote against the amendment.

CHAIR LEE: Okay. Is there another motion to go into executive session by anybody else, having to do with the, with the bill itself, the subject matter and bill it, itself?

COUNCILMEMBER PALTIN: Were we going to vote or, I mean, isn't there a motion already?

CHAIR LEE: Well, it sounded like she was, were you going to withdraw your motion, Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: I can.

CHAIR LEE: Well, it sounds like, to me, that the way David is interpreting you, the request to go into executive session is based on the amendment, yea, the amendment. The legality, legal issues related to the amendment.

My reason is because my understanding is that we are liable with at least two people, and they, who could and will, my understanding, will sue us. So, I, those are the, that's where I was going. So, do you want to, do you want to withdraw your, your motion so that we can go onto something that is actually really, you know, a real liability issue?

VICE-CHAIR RAWLINS-FERNANDEZ: Okay.

I'LL WITHDRAW MY MOTION.

CHAIR LEE: Who's the second?

VICE-CHAIR RAWLINS-FERNANDEZ: You're muted.

CHAIR LEE: Member. Okay.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Member Sugimura, you withdraw.

Okay, Member King.

COUNCILMEMBER KING: Yea, I just wanted to say that, you know, I, I wouldn't have any, I wouldn't have as much reservation going into executive session if you were just discussing the amendment.

But, you know, there were things that were, that were written to us by Corp. Counsel that didn't make sense when I had discussions about, brought up with our other legal advisors in OCS. They didn't felt, feel like those concerns held water, because we're not addressing Chapter 19. And they encouraged me to just keep, you know, just to approach this as a policy issue, which it is. It's a policy issue. We either see ourselves in an emergency or we don't. And we're, they're going to try to take these steps to try to stop the harm that's being done or we're not.

I under, I, I, I would be willing to go into executive session just to discuss the amendment because I don't know how the amendment, you know, that's kind of a new thing. But I don't want to go rehash all the other conversations we've had. And I saw that happen when we go into executive session on the injection well case where we, we were there for four hours. We talked about everything under the sun that should not have been talked about.

So, you, you know, so if, if Member Rawlins-Fernandez wants to make her motion again, just specifically about the amendment, I would support that.

CHAIR LEE: Okay. You want to make your--

Mr. Sinenci.

COUNCILMEMBER SINENCI: I'm sorry, Chair. Just for clarification, it's, it looks like under the purpose of the bill it says that "building permits for new hotels, resorts, timeshares, short-term rental homes, bed and breakfast, transient vacation rentals must be limited for an interim period". So, it does say just for new permits for new hotels and resorts. But I wasn't sure if you said that if, if there were developers that were already in the pipe that this would apply to them.

CHAIR LEE: Yea, they would, I believe it applies to new hotel rooms, not necessarily new hotels.

Member Molina.

COUNCILMEMBER MOLINA: Yea, thank you, Madam Chair. I'm open to going into executive session, provided that we keep the conversation only to that amendment and the legal defensibility. Because if we start going into other areas of where we have legal concerns, we're going to be stuck in executive session. And I want to respect what you told us earlier today. We're going to lose two or three Members and they're not going to be around to vote if we go into executive session and start talking about anything and everything else about what's defensible or not. So, that's why I'm supportive of going into executive session and keeping the conversation or Q & A limited to what Vice-Chair Rawlins-Fernandez wants. So, that's where I'm at. Cause I certainly want everybody to be here to vote on this matter, ultimately. Thank you.

CHAIR LEE: Yes. Thank you.

Vice-Chair Rawlins-Fernandez, you want to make the motion again?

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Chair.

I MOVE TO GO INTO EXECUTIVE SESSION TO DISCUSS
THE, UNDER WAS IT 92-A, 92, ANYWAY, TO GO INTO
EXECUTIVE SESSION TO CONSULT WITH OUR
ATTORNEYS, ANY LIABILITIES ON THE PROPOSED
AMENDMENT.

CHAIR LEE: Second?

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Seconded by Member King. Okay, we all know why.

Member Paltin.

COUNCILMEMBER PALTIN: Would it be okay if we have our, our Council attorney in the executive session with us?

CHAIR LEE: Yes, we can. We can ask. You mean, Mr. Raatz?

COUNCILMEMBER PALTIN: Sure.

CHAIR LEE: Okay. Alright, Members. Any more discussion? All those in favor of going into executive session.

You shaking your head. What, Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: No more questions.

CHAIR LEE: Oh. All those in favor of the motion, say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KAMA, KING,
MOLINA, PALTIN, SINENCI, SUGIMURA,
VICE-CHAIR RAWLINS-FERNANDEZ, AND
CHAIR LEE.

CHAIR LEE: Those opposed say "no".

NOES: NONE.

CHAIR LEE: It's unanimous. Nine "ayes", zero "noes"; motion carries.

Okay, I'm going to recess this meeting to go into executive session.

David, where are you? We need to go into another site? David?

SUPERVISING LEGISLATIVE ATTORNEY: Thank you, Chair. Mr. Forrest will be emailing the executive session link to the Councilmembers and Corp. Counsel.

CHAIR LEE: Okay. Thank you. Meeting in recess.

(THE CHAIR DECLARED THE OPEN SESSION IN RECESS AT 2:41 P.M., AND CONVENED IN EXECUTIVE SESSION. THE OPEN SESSION WAS RECONVENED AT 3:19 P.M., WITH ALL MEMBERS PRESENT, EXCEPT MEMBER KAMA, EXCUSED.)

CHAIR LEE: Will the Maui County Council meeting of June 18 please reconvene. Thank you everybody. Sorry, I had to restart my device. So, we're back in session.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, the body is just reconvening. Now the, what's before the body is the motion, is Councilmember Paltin's ASF, amending the motion to adopt the recommendations of Committee Report 21-39.

CHAIR LEE: Ms. Paltin. I, do you--

COUNCILMEMBER PALTIN: Thank you, Chair. What I've decided to do was to withdraw the ASF and post it on the agenda for second reading so that we have adequate notice for Sunshine Law purposes, not because I don't think it's a good amendment. I think it's a great amendment and I, I did hear many of the testifiers mention they wanted us to focus on affordable housing and so, I think this does that. And, you know, with the focus being on affordable housing, we would also be cutting greenhouse gas emissions because we're lessening the ratio.

SO, TO COMPLY WITH THE SUNSHINE LAW, I'M GOING TO
WITHDRAW THE AMENDMENT FOR TODAY AND POST IT ON
THE NEXT COUNCIL AGENDA SO WE CAN PASS IT WITH
THE SECOND READING OF THE BILL.

CHAIR LEE: Who was the seconder? Take a stab at it. Who was the seconder? Okay, let's say--

DEPUTY COUNTY CLERK: Councilmember Sinenci.

CHAIR LEE: Sinenci withdrawing your second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Okay, Ms., Member Paltin, it's a, it's a good amendment if you do say so yourself. Alright, so we're back to the, the initial motion.

Member King.

COUNCILMEMBER KING: Well, I, I gave my remarks, Chair. Now, I think, I think we've exhausted all to testimony--

CHAIR LEE: No, I didn't mean for you to explain it once again. I just wanted to, like you say, you made the, a motion and so and so seconded it, and we're ready to vote.

COUNCILMEMBER KING: Yes.

COUNCILMEMBER PALTIN: Oh, I'd like to make a comment on the main motion as not amended.

CHAIR LEE: Sure, Member Paltin.

COUNCILMEMBER PALTIN: Thank you. I just wanted to make a couple disclosures. I went before the Board of Ethics on June 9. And I think, I'm not sure if they had the written statement, but they sent me an email that they made a decision that I'm cleared to vote on this matter. And I've got someone to cover my 3:30 commitment, so I'll be able to stay.

But as to the bill, I haven't really spoken to it in Committee because I recused myself. And what I wanted to say is when we pick and choose which parts of the United States Constitution we want to follow, this is the problem that we find ourselves in. I agree with Member Sugimura, that under the U.S. Constitution we're not given the authority to limit the people coming into Hawaii, to limit the air traffic coming into Hawaii. But if we were to follow the entirety of the U.S. Constitution, we could control the tourism industry like Palau, like New Zealand, and other countries where they run the show.

In its current form, a lot of aspects of the hotel industry is just a transformation of the plantation industry, where we don't get to control how many people come in. We don't get to say a carrying capacity of cars, or that we don't have the infrastructure to meet the demand, that we don't get to set the wages to a living wage. And I think that's the problem here. Not, and so, when we have to comply with working or living with one foot in two worlds, we have to come up with these types of solutions, which are kind of, it doesn't address the root of the problem, which is being able to control our own borders.

And so, I don't think this is the right way to go about it, but it's the only two we're given in this capacity. And so, if that's what we're given to deal with, that's what we have to do. And that's, that's my comments on the situation. I'd much rather control our own borders. I'd much rather follow the examples of nations that control their own destiny. But this is the opportunity that we're given and so we have to work within the framework that we're given. Although, we all know the truth. Thank you.

CHAIR LEE: Okay. Anybody else?

Mr. Sinenci.

COUNCILMEMBER SINENCI: Chair, really quickly. We've heard from Mr. Blumer-Buell from, a Hana resident, and he's been dealing with overtourism, for us, in East Maui,

since the early 1980's. And I do give credence to our past Councils and our past commissions. They did put in the Maui Island Plan the ratio of visitor to resident. And you know, past Councils have also put moratoriums on military bases for Maui. It put, at one time, universities just because we didn't have some of the resources at that time. And so, this moratorium is, you know, is in line with past actions of, of the Council.

For us in rural Hana, we are at capacity. We don't have public parking, so we're seeing illegal parking to the point where emergency personnel cannot go through small roads or on one-lane bridges. We don't have police, enough police coverage because of our small rural community numbers. We lack crosswalks and we lack sidewalks. So, a lot of our visitors are in the middle of the streets walking.

And so, I'd just like to say, for Maui, we're not the only one in this, in this situation. Croatia, 539 cruise ships bringing in almost 800,000 passengers. Machu Picchu has jumped from less than 400,000 tourists a year to over 1.4 million visitors. Santorini jumping from 15 million in 2010 to 33 million in 2018, and they're also an island country. Barcelona, Spain, 32 million tourists, with the city's population 1.6 million. So, other municipalities around the globe has, has been forced to do this types of actions to, to address their overtourism. So, thank you for the opportunity, Chair. I speak in support.

CHAIR LEE: Thank you. Anybody else?

Yes, Mr. Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. I just want to take this one chance to talk about something, some of the talking points that I heard this morning during testimony. And I don't like being gaslighted and I don't like people telling me to not believe my lying eyes. Because we all can see that there is a major problem.

I'll point out some statistics because if I take a talking point from the right-wing, facts don't care about your feelings. 80 percent of Hawaii employees struggle to find workers to fill open positions. 70 percent of employers say that this is a burden on its current workers. And 60 percent of employers had to change shifts and pay for overtime when it comes to filling out their human resources needs. There's 27,000 empty positions in the, in the State of Hawaii. And this is from the State Chamber of Commerce. So, I don't, I don't see why people are fading death over us trying to regulate the industry that's crushing our, our locals, folks. So, that's my two cents on it. I stand in strong support. Aloha.

CHAIR LEE: Anybody else? Okay, I just want to say--

Yes, Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. So, I'm going to vote against this measure, as I believe a moratorium and I think we've all talked about and heard the many reasons. But I believe that the basis for the moratorium, about the Maui Island Plan, and I'm going to get stuck on this because of what we just did with Kaanapali 2020 where the Maui Island Plan gave recommendations for urban growth and directed growth. And the Kaanapali 2020, which followed that and had community input for the last 20 years, and yet, we as a Council, changed it or disregarded it, and so I think that we're being, you know, selecting or, or selective about what we're going to do in terms of following the Maui Island Plan. And I'm going to vote against this, because I think what I've been hearing is that a lot of the testimony, or a lot of the rationale was because overtourism, because what was designated in the Maui Island Plan, which was done nine years ago, so not like, you know, many, many years ago. But it is not going to be something that I'm going to rely on for what is going to be the data to, to do this.

And so, I am going to be voting against this particular measure as it is presented and as, as it is written. And the reasons that I believe more needs to be done to justify why we need a moratorium and that by doing this, that we're going to stop the number of visitors coming to Maui. Cause I don't believe that this is going to be the solution. Greater discussion may need to be had by those who are in control of it. And I do not think that we have control over it, but we can have discussion. So, thank you.

CHAIR LEE: Okay. Anybody else?

Vice-Chair Rawlins-Fernandez, and then Member King.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I'll make it quick because I did support your two-minute rule. I just, I just wanted to quickly stand in support of the, the bill, the motion. And mahalo to all the individuals that came out to testify on, on both sides of this issue. But I particularly want to, you know, extend my gratitude to all those who aren't paid to come and be involved, and take time out of their day, you know, to, to share with us their, their manao, the impacts they've experienced, cause it means a lot. And this is why we're, we're doing this. This is the purpose of the moratorium, is because our residents have been crying out. And we are a very responsive Council. And I love that about our Council, that we really listen to our constituents and our residents. And we simultaneously try to work with everyone to try to, you know, address everyone's concerns.

And so, as I said before, that I've already started the process with the TIG. I plan to, you know, carry it out as quickly as possible so that we can get, our hairs on fire, as Member Johnson always says. And so, it's urgent. So, you know, and I, and I think Member King agrees that, you know, we're not, we don't plan to necessarily take up

the two years. That we're going to quickly get this done because our hair is on fire and we need to address these impacts immediately. Mahalo, Chair.

CHAIR LEE: Thank you.

Member King.

COUNCILMEMBER KING: Yea, thank you, Chair. And thanks for speaking for me, Member Rawlins-Fernandez. I'm for whatever gets us to these solutions as quick as possible. I do think we're in an emergency, like Mr. Johnson said. And when you're in an emergency, you figure out a way to stop the harm. You know, it's the first do no harm. This is what we're doing with this moratorium, is trying to stop the harm, as Member Paltin said, where we can, where we have the authority. We don't have the authority in the airports or the airlines, but we do have the authority with building permits.

And I also want to say that I'm a, I'm a little bit, I guess, frazzled by the fact that we're not respecting our, our residents when they say there's overtourism. It doesn't even have to be written in the Maui Island Plan for people to know that we have too many people on this island at any one given time. And more, more people, more tourists and residents means that more people who aren't worried about their quality of life, because they're going to leave in two weeks or a week.

So, you know, but having said that, I think that the, the Maui Island Plan is very important. It's the law. It's ordinance. It's in our Maui County Code. You don't get to pick and choose which laws you want to follow. It's like saying, you know, if there's, if, if there's a law against stealing, it's okay if you steal bread but you can't steal a towel, something like that. I mean, this is, this is part of our County Code. So, we're trying to actually catch up to something we probably should have done a couple years ago.

But I, I frankly thought that the pandemic was putting a stop to everything. And I believed the pundits that said it's going to take two to six years for tourism to come back. It was frightening the way it came back on day one. It was frightening and it's still frightening, because it's growing, because people can't go anywhere else. They can't go to another country, so they're coming here. And are, we have to protect our residents. We have to listen to the people, we, the young people even. I personally don't believe that the brain-drain is just because people can't find housing. I think it's because they don't want to stay here in \$12 an hour jobs. They're looking for careers. They're looking for pathways to their future.

And we're not going to get there if we continue to put all our money and keep tourism open. We have to start putting our efforts into the other parts of the economy if we want to diversify it. So, this is a first step of saying that we're doing that. We're going

to come up with solutions, so we're not overrun by tourism. And in that, and I, and I have spoken to Member Rawlins-Fernandez. You know, part of, part of the TIG should be looking at economic opportunities. Like how are we going to diversify so we give people other chances for real family wage earning jobs? You know, that's, you know, that, I just think there's so many reasons to do this. And the reasons that we're hearing to not to do it have to do with personal interests or, you know, associations who want to grow their associations.

So, let's listen to our residents. Let's respect our people here on the island. Let's help them. Let's help ourselves. Thank you.

CHAIR LEE: Member Paltin, then Member Molina.

COUNCILMEMBER PALTIN: Thank you, Chair, second and final. I had a request to clarify my statement. And it was in reference to Article 6, Clause 2 of the United States Constitution, the, the Supremacy Clause, which is the cornerstone of the whole U.S. political structure. And it established that the Constitution, Federal laws made pursuant to it and treaties made under its authority constitute the Supreme Law of the land. And just a reminder that nobody ever found the treaty. And so, we're, we're operating under an illegal occupation. And so, really, we should have control over our own borders. But since we do not, this is the next way to address it.

CHAIR LEE: Mr. Molina.

COUNCILMEMBER MOLINA: Madam Chair, you know, in all my years on the Council, honestly, I've never been a fan of moratoriums. But, you know, things, your outlook changes. And as you see how this island has evolved, you know, you and I and others who were born and raised here, we've seen how Maui has evolved. And never in our dreams we would have involved as Maui becoming a world destination and being inundated with a lot of visitors. And of course, the skyrocketing cost of living and the inability for our kama'aina, next generations of kama'aina to even afford a home. They're going to be displaced.

And while the visitor has been a blessing, but it's also been a curse. On one hand, yes, it's brought in a lot of revenue, which is good. But at the same time, our quality of life has been affected. I guess I recall that old economics term, opportunity cost. There is a cost to everything and a consequence.

So, and I hear on the street a lot, Madam Chair, people say, you know what, it seems like it's always the needs of the visitors that come first, you know, allowing expansion to build more hotels. Well, what about houses for the, the very people especially that work in the visitor industry that are not being paid, in many cases, a real livable wage.

More of a supplemental wage, so you gotta have two or three other jobs just to survive. And is it enough to get a house, a simple need of having a house? No. And in some cases, not enough to even afford rent.

So, it's been just a combination of things that have just converged all at once that, for me in my mind, that maybe we need to take this pause right now to reassess how we're going to address tourism and how we're going to address these other things which have just contributed to people's frustration and feeling disenfranchised. So, that's where I'm coming from, my support of this moratorium, cause we need to stop.

And this is something that historically has happened before, the 1990 moratorium, and we survived. And of course, there were, and as Mr. Brewbaker told us recently, yea, it was due to other factors. But the point is, were we going to recover from that? Well, we certainly did. And as a matter of fact, we even recovered after the 2008 national economic recession. So, it's not the end all. And again, this is just related to expansion, so people are still going to have their jobs, a majority of them.

And you know, let's, to me, let's redirect our focus. If we're going to build something, let's build housing first, and then let's talk about the hotels later, if anything. But right now, I just don't think it's the right thing on the majority of our citizens minds. And of course, when they see the hotels getting built, you and I know most of that money not going to stay here. It goes up, goes elsewhere. But what stays here is the impacts of the visitor industry, the quality of life. I used to like to go to the beach in my favorite little spots. I don't go anymore because it's not the same, you know. A lot more people. I see suntan lotion in the water. And it just, just has a totally different feel to it. So, that is why I'll support this.

And I'm hoping that both sides, people on both sides of this issue can come together with the TIG. And I appreciate Vice-Chair Rawlins-Fernandez initiating the TIG where we can all come, come together, and find some solutions and redirect our economic priorities and provide opportunities in the future for our younger generations to stay here and hopefully afford the simple need of a home or shelter. Thank you.

CHAIR LEE: Anybody else? Cause I'm going to say a few words and then that's it. Anybody else?

Okay. Mr., Mr. Molina, since you were like tramping down memory lane. You can always tell a local person at the beach, because they're, they kapu all the trees, right? Everybody wants to sit in the shade. Okay. But, and now it's hard to do that.

But I just want to say, yea, we did pass a moratorium 30 years ago. But that was because there was this surge in hotel construction, much more, much more than the

gradual increases over the last 20 years. In the first 10 years, too many came up at one time. And so, that affected our sewer capacity, that affected our water. And we didn't actually have a pandemic which shredded the economy. And so, the circumstances are different.

But what's, what I like about this Council is we all agree on the same thing. We agree that there's a over-reliance on the visitor industry, without question. We disagree on how to approach addressing those issues and impacts. And that's why I have a difficult time supporting this moratorium, because I don't think it's the right tool to fix this situation. But I certainly want to be a major part of finding other solutions, cause there are out there and it's time we go out and find them.

So, again, even though I'm not supporting this moratorium, know that I am supporting all of your efforts to find solutions. You know, to diversify our economy, find different businesses, find different industries, find different opportunities. So, with that, I want to close discussion.

And are we ready to vote on the motion? Ready? All those in favor of the motion to pass this matter on first reading, raise your hand and say "aye".

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA,
PALTIN, SINENCI, AND VICE-CHAIR RAWLINS-
FERNANDEZ.

NOES: COUNCILMEMBER SUGIMURA AND CHAIR LEE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: So, I see one, two, three, four, five, six "ayes" and two "noes". Two "noes". Okay? Six "ayes", two "noes", one "excused" and that is Member Kama.

Next, Mr. Clerk.

COUNCILMEMBER KING: We don't get to go home now?

CHAIR LEE: I wish.

Mr. Clerk.

COUNCILMEMBER KING: Thank you, Members.

DEPUTY COUNTY CLERK: For the record, that is BILL 60 (2021). Going back to county communications.

COUNTY COMMUNICATIONS

NO. 21-279 - ALICE L. LEE, COUNCIL CHAIR,
(dated June 9, 2021)

Transmitting a proposed resolution entitled "AUTHORIZING ACCEPTANCE OF THE DONATION OF 185 PAIRS OF FOOTWEAR TO THE OCEAN SAFETY BUREAU OF THE DEPARTMENT OF FIRE AND PUBLIC SAFETY".

CHAIR LEE: Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE
REFERRAL AND REPORT IN ACCORDANCE WITH RULE 7.G.
OF THE RULES OF THE COUNCIL.

COUNCILMEMBER PALTIN:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member Paltin, to waive the Rules of the Council.

Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Approval of this motion by a two-thirds of the Council will enable us to take action on this proposed resolution today. Thank you.

CHAIR LEE: Anybody else? If not, all those, ready to vote? No?

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Sorry, real quick. Is it the same as CC 21-264?

CHAIR LEE: Oops, oops, oops, oops, oops, oops, oops.

VICE-CHAIR RAWLINS-FERNANDEZ: Or are you gonna, you gonna talk about that later?

COUNCILMEMBER MOLINA: Yea.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay.

CHAIR LEE: Okay. All those in favor of the motion, raise your hand, say "aye".

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA,
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR
RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Aye. Seven "ayes". I mean, eight "ayes", zero "noes", one "excused"; Member Kama.

Member Molina.

COUNCILMEMBER MOLINA: Yes, thank you very much, Madam Chair.

I MOVE TO ADOPT THE PROPOSED RESOLUTION
ATTACHED TO COUNTY COMMUNICATION 21-279 AND TO
FILE COUNTY COMMUNICATION 21-279.

COUNCILMEMBER PALTIN:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member Paltin, to adopt the resolution in County Communication 21-279.

Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. OluKai is donating 185 pairs of protective footwear, or three pairs to each employee in the Ocean Safety Bureau of

Department of Fire and Public Safety. Total value of the donation is approximately \$15,340.

And as you know, Members, at the previous Council meeting on this matter, there were concerns with regards to the first letter that was submitted to us by Mr. Kalepa from OluKai with regards to language about the potential, I guess, partnership and conditions upon accepting this donation. The resolution before us now specifically provides for the Department to allow photos of ocean safety officers wearing the donated footwear on a voluntary basis and on non-work time. And we did receive a revised letter from Mr. Kalepa, which removed the language, the conditional language that was in the first letter. So, I believe this will satisfy the concern regarding OluKai's request to use photos and videos of ocean safety officers who use the OluKai products while in their official capacity.

And in response to Vice-Chair Rawlins-Fernandez' question, when we do get to that point, 21-264, my intent is, I guess depending on what happens with this, is to file 21-264. Thank you.

CHAIR LEE: Okay. Any more discussion?

Yes, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I'D LIKE TO AMEND. I MOVE TO AMEND THE MAIN MOTION
TO INCLUDE THE FILING OF COUNTY COMMUNICATION
21-264.

NO. 21-264 - DAVID C. THYNE, FIRE CHIEF,
(dated May 17, 2021)

Transmitting a proposed resolution entitled, "AUTHORIZING ACCEPTANCE OF THE DONATION OF 185 PAIRS OF FOOTWEAR TO THE OCEAN SAFETY BUREAU OF THE DEPARTMENT OF FIRE AND PUBLIC SAFETY, PURSUANT TO CHAPTER 3.56, MAUI COUNTY CODE".

CHAIR LEE: Is that okay, Mr. Molina?

COUNCILMEMBER MOLINA: No problem.

SECOND.

CHAIR LEE: Okay. I think that's self-explanatory. Okay. All, ready to vote? All those in favor of the motion, say "aye", raise your hand.

VICE-CHAIR RAWLINS-FERNANDEZ: Motion to amend.

CHAIR LEE: I thought it was just included in the motion?

VICE-CHAIR RAWLINS-FERNANDEZ: Oh. It was an amendment.

CHAIR LEE: Okay. So, I, I thought it was to adopt CC 21-279 and file that other communication?

COUNCILMEMBER MOLINA: Chair, I think it was a separate. I guess, Vice-Chair Rawlins-Fernandez--

CHAIR LEE: Okay, you want to, do you want to handle it as an amendment? Okay. Fine.

All those in favor of the amendment, say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA,
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR
RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Okay. Motion passes. Eight "ayes", zero "noes", one "excused"; Member Kama.

The motion as amended. Anybody else want to talk? No. Okay, all those in favor, say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA,
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR
RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Okay. All "ayes". So, that would be eight "ayes", zero "noes", and one "excused"; Member Kama.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, for the record, that is RESOLUTION 21-99.

Chair, proceeding with communications for referral. The following county communications are recommended for referral to the following Committees as noted:

NO. 21-281 - KEANI RAWLINS-FERNANDEZ, COUNCILMEMBER,
(dated June 7, 2021)

Relating to the Department of Fire and Public Safety helicopter contract.

The recommended action is that County Communication No. 21-281 be referred to the Budget, Finance, and Economic Development Committee.

NO. 21-282 - KEANI RAWLINS-FERNANDEZ, COUNCIL VICE-CHAIR,
(dated June 9, 2021)

Relating to economic development and tourism management.

The recommended action is that County Communication No. 21-281 be referred to the Budget, Finance, and Economic Development Committee.

NO. 21-283 - LANCE T. TAGUCHI, COUNTY AUDITOR,
(dated June 8, 2021)

Transmitting the County of Maui Single Audit Report for the Fiscal Year Ended June 30, 2020, submitted by N&K CPAs, Inc.

The recommended action is that County Communication No. 21-283 be referred to the Budget, Finance, and Economic Development Committee.

NO. 21-284 - MICHELE M. YOSHIMURA, BUDGET DIRECTOR,
(dated June 10, 2021)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 5101, BILL NO. 66 (2020), RELATING TO THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI ISSUANCE, SALE AND DELIVERY OF SAID BONDS (DEPARTMENT OF FINANCE – ACQUISITION OF 100 MAHALANI STREET BUILDING AND PROPERTY)".

The recommended action is that County Communication No. 21-284 be referred to the Budget, Finance, and Economic Development Committee.

(THE PROPOSED BILL ATTACHED TO COUNTY COMMUNICATION NO. 21-284 WAS PASSED ON FIRST READING LATER IN THE MEETING AND ASSIGNED BILL NO. 61 (2021). COUNTY COMMUNICATION NO. 21-284 WAS THEN FILED. See pages 130 and 131 for discussion and action.)

NO. 21-285 - SHANE M. SINENCI, COUNCILMEMBER,
(dated June 9, 2021)

Relating to an audit for Maui County roadways, including surfacing schedule.

The recommended action is that County Communication No. 21-285 be referred to the Infrastructure and Transportation Committee.

CHAIR LEE: What happened? We can't hear you. I think you're frozen, James.

COUNCILMEMBER KING: Froze.

COUNCILMEMBER SINENCI: Building.

CHAIR LEE: Try again, James. What happened?

VICE-CHAIR RAWLINS-FERNANDEZ: The County Building. Not safe.

CHAIR LEE: Oh, why don't you, why don't you, since you're the monitor, why don't you, the moderator, why don't you finish?

VICE-CHAIR RAWLINS-FERNANDEZ: Sure. Okay. I think we're on--

DEPUTY COUNTY CLERK: Chair.

CHAIR LEE: Planning, to your Planning--

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, oh, oh. There's Deputy Clerk.

DEPUTY COUNTY CLERK: Apologies. I'm using the staff computer. I'll sort out my, I'll sort out my connectivity issues shortly. But just to finish.

CHAIR LEE: Yup.

NO. 21-286 - MICHELE MCLEAN, PLANNING DIRECTOR,
(dated May 27, 2021)

Relating to the Molokai Education Center, Kaunakakai, Molokai, transmitting copies of documents and the following proposed bills entitled:

1. "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL DISTRICT TO URBAN DISTRICT FOR PROPERTY SITUATED AT KAUNAKAKAI, MOLOKAI, HAWAII, TAX MAP KEY NOS. (2) 5-3-003:013 AND (2) 5-3-003:014"; and
2. "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM INTERIM DISTRICT TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT FOR PROPERTY SITUATED AT KAUNAKAKAI, MOLOKAI, HAWAII, TAX MAP KEYS (2) 5-3-003:013 AND (2) 5-3-003:014".

The recommended action is that County Communication No. 21-286 be referred to the Planning and Sustainable Land Use Committee.

CHAIR LEE: Are there any objections to the referrals as read by the Clerk?

Vice-Chair Rawlins-Fernandez.

DISCUSSION RELATING TO
COUNTY COMMUNICATION NO. 21-284

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Oh, Mr. Krueger, you got to mute. Okay.

I MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE
REFERRAL AND REPORT IN ACCORDANCE WITH RULE 7.G.
OF THE RULES OF THE COUNCIL ON COUNTY
COMMUNICATION 21-284.

CHAIR LEE: Only one? Okay. Second?

COUNCILMEMBER PALTIN:

SECOND.

CHAIR LEE: Okay. Moved by Member, Vice-Chair Rawlins-Fernandez, seconded by Member Paltin, to waive the Rule, Rules of the Council for County Communication 21-284.

Any more discussion? Okay. All those in favor of the motion, say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA,
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR
RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Okay. Eight "ayes", zero "noes"; motion carries. One "excused"; Kama.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO PASS THE PROPOSED BILL ON FIRST READING
AND TO FILE COUNTY COMMUNICATION 21-284.

CHAIR LEE: Second?

COUNCILMEMBER PALTIN:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Paltin, to move the bill in County Communication 21-284 on first reading.

And, Vice-Chair Rawlins-Fernandez, discussion?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Members, the, the proposed bill corrects an inadvertent error in Ordinance 5209, Bill 38 (2021) by incorporating the amendment approved by Ordinance 5203, Bill 20 (2021). The FY 2021 Operating Budget amounts were correct and do not need to be updated. But the Bond Bill amounts do need to be amended.

And Budget Director Michele Yoshimura is on the line if any of the Members have questions.

And my apologies. I, I forgot to explain the urgency of this when I, when I moved to waive. And so, the urgency is, is to correct the Bond Bill.

CHAIR LEE: Okay. Any questions for the Director, the Budget Director?

Apparently not, Vice-Chair Rawlins-Fernandez. Anything else?

Okay, all those in favor of the motion, say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA,
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR
RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; motion carries. Excused, Member Kama.

Okay. Anything else? Otherwise, if there are no objections to the referrals as read by the Clerk, any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: No objections.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, apologies for my connectivity issues. Proceeding--

CHAIR LEE: That's okay.

DEPUTY COUNTY CLERK: Proceeding with committee reports.

COMMITTEE REPORTS

COMMITTEE REPORT

NO. 21-38 - CLIMATE ACTION, RESILIENCE, AND ENVIRONMENT
COMMITTEE:

Recommending the following:

1. That a PUBLIC HEARING ON LĀNA'I be HELD on the proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B, MAUI COUNTY CODE, TO ADD 'MITIGATE CLIMATE CHANGE AND WORK TOWARD RESILIENCE' AS A GOAL OF THE COUNTYWIDE POLICY PLAN";
2. That a PUBLIC HEARING ON MAUI be HELD on the proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B, MAUI COUNTY CODE, TO ADD 'MITIGATE CLIMATE CHANGE AND WORK TOWARD RESILIENCE' AS A GOAL OF THE COUNTYWIDE POLICY PLAN";
3. That a PUBLIC HEARING ON MOLOKA'I be HELD on the proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B, MAUI COUNTY CODE, TO ADD 'MITIGATE CLIMATE CHANGE AND WORK TOWARD RESILIENCE' AS A GOAL OF THE COUNTYWIDE POLICY PLAN";
4. That the proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B, MAUI COUNTY CODE, TO ADD 'MITIGATE CLIMATE CHANGE AND WORK TOWARD RESILIENCE' AS A GOAL OF THE COUNTYWIDE POLICY PLAN," be SCHEDULED FOR FIRST READING, following the public hearings; and
5. That County Communication 21-190, from the Planning Director, be FILED.

CHAIR LEE: Okay, Mr. Clerk, we are going to take up 1, 2, 3, but not 4, right? Mr. Clerk?

DEPUTY COUNTY CLERK: So, Chair, if, if the body is going to adopt the recommendations, if the body chooses to adopt all of the recommendations in the committee report, number 4 just means that it wouldn't be first reading today. If the body adopts that recommendation, that just means once the public hearings are complete, then the bill will be rescheduled on the agenda--

CHAIR LEE: Okay.

DEPUTY COUNTY CLERK: --and then they can do first reading then.

CHAIR LEE: Okay. Very good. Thank you.

Okay. Member King.

COUNCILMEMBER KING: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 21-38.

CHAIR LEE: Second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Okay, I see a second. Moved by Member Sinenci. I mean, moved by Member King, seconded by Member Sinenci, to approve the Committee Report 21-38.

Discussion, Member King?

COUNCILMEMBER KING: Thank you, Chair. The purpose of the proposed bill is to incorporate the amended Section IV, attached as Exhibit "1", by adding "Mitigate Climate Change and Work Toward Resilience" as a theme and goal of the Countywide Policy Plan.

In its deliberations, your Committee noted the Lāna'i, Maui, and Moloka'i Planning Commissions unanimously recommended approval of the proposed bill. The Planning Department also recommended approval and sent the bill, the original bill back for approval.

Your Committee also discussed the need to recognize climate change more prominently in the Countywide Policy Plan. The Countywide Policy Plan hasn't been amended in this way, and this is a step forward in the process and opening the door for future Councils to possibly update this living document.

Your Committee voted 6-0 that public hearings be held on Lāna'i, Maui, and Moloka'i on the proposed bill, scheduling of it passing on first reading the proposed bill after the public hearings, and filing of the communication. I ask for Members for your full support of these recommendations. Thank you.

CHAIR LEE: Okay. Any que--

Member Paltin.

COUNCILMEMBER PALTIN: Thank you. I just had a clarifying question. Are we going to Moloka'i and Lāna'i in person, or is--

CHAIR LEE: No.

COUNCILMEMBER PALTIN: Oh.

CHAIR LEE: No.

COUNCILMEMBER PALTIN: We're not?

CHAIR LEE: After we voted on, after we vote on this, I was going to ask Lāna'i, Moloka'i, and I guess Maui, which would be good days and times for you? And we'll work it around then. It'll be virtual.

COUNCILMEMBER PALTIN: Oh, virtual? Okay. I guess same thing for the West Maui Community Plan then. Okay, cool.

CHAIR LEE: So, all those in favor, did we just vote or not?

COUNCILMEMBER KING: No, not yet.

CHAIR LEE: Say "aye".

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA,
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR
RAWLINS-FERNANDEZ, AND CHAIR LEE.

CHAIR LEE: Everybody "aye"?

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Okay. Eight "ayes", zero "noes", one "excused"; Member Kama. Motion carries.

COUNCILMEMBER KING: Thank you, Members.

CHAIR LEE: So, Member Johnson and Member, Vice-Chair Rawlins-Fernandez, can you let the Clerk know when's, when's a good day for the, the folks on your islands? And then, from that, you can figure out Maui, Mr. Clerk. Okay? The days and the times now, you know? Okay.

Alright, shall we go, go ahead? Mr. Clerk.

COMMITTEE REPORT

NO. 21-40 - GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE:

Recommending that Resolution 21-100, entitled "RELATING TO THE APPOINTMENT OF KAULANA MOSSMAN TO THE LIQUOR CONTROL ADJUDICATION BOARD FOR THE COUNTY OF MAUI," be ADOPTED.

CHAIR LEE: Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO ADOPT THE RECOMMENDATION OF COMMITTEE
REPORT 21-40.

CHAIR LEE: Only one? Okay.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR LEE: Any, seconded by Vice-Chair Rawlins-Fernandez.

Discussion, Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Your GREAT Committee met on June 1, 2021, to consider the Mayor's nomination of Kaulana Mossman to the Liquor Control Adjudication Board for a term expiring on March 31, 2023, to fill a vacancy due to the resignation of Herman Nascimento. Your Committee voted 9-0 to recommend his nomination for approval. Thank you.

CHAIR LEE: Further discussion? If not, all those in favor of the motion, say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA,
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR
RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; Member Kama. Motion carries.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, for the record, that is RESOLUTION 21-99 *[sic]*. And just to backtrack, oh, 21-100, apologies.

And just to backtrack, the bill that was attached to County Communication 21-284, that is BILL 61 (2021).

COMMITTEE REPORT
NO. 21-41

- GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY
COMMITTEE:

Recommending that Resolution 21-101, entitled "RELATING TO THE APPOINTMENT OF EDWARD ROMSON TO THE COUNCIL ON AGING," be ADOPTED.

CHAIR LEE: Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO ADOPT THE RECOMMENDATIONS OF
COMMITTEE REPORT 21-41.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member Sugimura, to adopt the recommend, approve Committee Report 21-41.

Mr. Molina?

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Your GREAT Committee met on June 1, 2021, to consider the Mayor's nomination of Edward Romson to the Council on Aging, for a term expiring on March 31, 2023, to fill a vacancy due to the resignation of Susan Lussier. Your Committee voted 9-0 to recommend Mr. Romson's approval to this Commission. Thank you.

CHAIR LEE: Further discussion? If not, all those in favor of the motion, please say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA,
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR
RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; Motion carries.

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, that is RESOLUTION 21-101.

COMMITTEE REPORT

NO. 21-42 - GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY
COMMITTEE:

Recommending that Resolution 21-102, entitled "RELATING TO THE APPOINTMENT OF ERIC CUOMO TO THE COST OF GOVERNMENT COMMISSION," be ADOPTED.

CHAIR LEE: Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO ADOPT THE RECOMMENDATIONS OF
COMMITTEE REPORT 21-42.

CHAIR LEE: Second?

COUNCILMEMBER JOHNSON:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member Johnson, to approve the Committee Report 21-42.

Discussion?

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Your GREAT Committee met on June 1, 2021, to consider the Mayor's nomination of Eric Cuomo to the Cost of Government Commission, for a term expiring on March 31, 2023, to fill a vacancy due to the resignation of Hannah Werth. Your Committee voted 9-0 to recommend his nomination be approved. Thank you.

CHAIR LEE: Further discussion? If not, all those in favor of the motion, say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA,
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR
RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes"; motion carries. One "excused"; Member Kama.

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, that is RESOLUTION 21-102.

COMMITTEE REPORT
NO. 21-43 - GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY
COMMITTEE:

Recommending that County Communication 21-225, from Council Chair Alice L. Lee, relating to a downloadable application for reporting illegal fireworks, be FILED.

CHAIR LEE: Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair.

MOVE TO ADOPT THE RECOMMENDATION OF COMMITTEE
REPORT 21-43.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Member Molina, seconded by Member Sugimura, to approve Committee Report 21-43.

Discussion, Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Your GREAT Committee met on June 1, 2021, to discuss taking a proactive and multi-pronged approach to curb the use of illegal fireworks. Your Committee voted 9-0 to recommend filing of County Communication 21-225, relating to a downloadable application for reporting illegal fireworks. And we, we look forward to future legislation on this.

And Madam Chair, I want to thank you for bringing illegal fireworks to the Committee, or shall I say the subject of illegal fireworks to the Committee. I ask for the Members full support of this. Thank you.

CHAIR LEE: Thank you. Any more discussion? No? Okay. Did we vote on this? You really distracted me. Did we vote on this?

All those in favor of the motion, say "aye" and raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA,
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR
RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes"; motion carries.

Mr. Clerk.

COMMITTEE REPORT

NO. 21-44 - PLANNING AND SUSTAINABLE LAND USE COMMITTEE:

Recommending the following:

1. That Bill _____ (2021), entitled "A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE RELATING TO ZIPLINE, CANOPY, AND BUNGEE JUMPING TOUR OPERATIONS," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 20-618, from the Planning Director, be FILED.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN COMMITTEE REPORT 21-44 AND UPDATE THE REVISED BILL TITLE SIGNED TO FORM AND LEGALITY BY THE DEPARTMENT OF CORPORATION COUNSEL ADDING THE WORD "RAPPELLING", TO READ "A BILL FOR ZONING ORDINANCE", OH, SORRY, I SKIPPED A LINE. "A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE RELATING TO ZIPLINE, CANOPY, RAPPELLING, AND BUNGEE JUMPING COMMERCIAL OPERATIONS IN THE AGRICULTURAL DISTRICT".

CHAIR LEE: Okay.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Member Paltin, seconded by Member Sugimura, to approve Committee Report 21-44. Discussion?

Yes, Ms. Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. The Planning and Sustainable Land Use Committee discussed the impacts of bungee jumping, canopy tours, rappelling, and zipline operations throughout the County. Supporters of the bill stated that the negative impacts of the recreational activities cause a significant burden to surrounding properties permitted uses including livestock raising and farm dwellings.

The Committee also discussed the environmental and safety concerns of rappelling in and around waterfalls, which is now buffered by a 500-foot radius for special use permits.

Input from the existing recreational activity operators pertaining to ziplines was also taken into consideration to create reasonable legacy provisions and a pathway to compliance for existing businesses. Therefore, the Planning and Sustainable Land Use Committee recommended first reading of the proposed bill.

And just to clarify, this was one of the bill's where we heard, before sending it to the Planning Commission to clarify exactly what we wanted in the bill. And then it was sent to the Planning Commission, and then they added their input. Then it came back to us and we added our input, and this is the result. I respectfully ask the Members support for my motion. Thank you.

CHAIR LEE: Very good.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I, I support the motion on the floor. Mahalo, Member Paltin and Member Sugimura, for your work on this, and Member Molina. Mahalo all of you for your work on this.

I have a process question. So, I don't know, I guess Mr. Raatz or Deputy Clerk? When we made the, when Member Paltin made the main motion, she amended something. But don't, don't we make the main motion with the recommendations of the committee report, and then amend it?

DEPUTY COUNTY CLERK: Chair?

CHAIR LEE: Sure.

DEPUTY COUNTY CLERK: So, right. I admittedly, I am a bit unfamiliar with, with the motion. Like, I understand that it was to adopt the recommendations as well as to update the bill title. I think that may stem from that the bill that, that is before the body actually has that word inside the title already. Councilmember Paltin, if you can correct me if I'm wrong. And so, I think that might just be to recognize that the bill title was updated. But if the body would prefer to do it as a main motion and then an amendment to the main motion.

CHAIR LEE: Okay. Let's hear from Member Paltin first.

COUNCILMEMBER PALTIN: Okay. Mr. Krueger, I can't correct you because I'm just reading the words on the paper.

CHAIR LEE: So, what, can you read the words on the paper again?

COUNCILMEMBER PALTIN: Sure. I can do that. I move to adopt the recommendations in Committee Report 21-44 and update the revised bill title signed to form and legality by the Department of the Corporation Counsel adding the word "rappelling", to read: "A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE RELATING TO ZIPLINE, CANOPY, RAPPELLING, AND BUNGEE JUMPING COMMERCIAL OPERATIONS IN THE AGRICULTURAL DISTRICT".

CHAIR LEE: So, she made it into one motion.

So, David, are you on the call? David Raatz?

SUPERVISING LEGISLATIVE ATTORNEY: Thank, thank you, Chair. Sorry for the confusion. My understanding is the, the reference in the motion to the revised bill title is to note an error in the committee report that has an outdated bill title. The word "rappelling" as Councilmember Paltin mentioned, is actually in the bill that's attached to the committee report. But the recommendation clause of the committee report doesn't include that word in its reference to the bill title.

CHAIR LEE: So, procedurally, was Member Paltin correct with her motion which included that updated word?

SUPERVISING LEGISLATIVE ATTORNEY: I believe so, unless the County Clerk has any problems with that. We, we think it's fine.

CHAIR LEE: Well, he doesn't know.

SUPERVISING LEGISLATIVE ATTORNEY: Okay.

CHAIR LEE: We asking you. Okay?

Yes, Mr. Clerk?

DEPUTY COUNTY CLERK: No, we, we're fine with that interpretation as long as the body is too; that it's just to note that difference, but that the bill before the body now that the body is considering has that new word "rappelling" in it. Thank you.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I, I don't have any problems with that, I guess. But I do have a question. Can we correct the committee report? We, we've done it in past. Should we also do that?

CHAIR LEE: Mr. Raatz.

VICE-CHAIR RAWLINS-FERNANDEZ: I'd like--

CHAIR LEE: Mr. Raatz.

SUPERVISING LEGISLATIVE ATTORNEY: Thank you, Chair. I, I believe errors of this nature can be corrected administratively in accordance with the Council Rules. So, we, we can work with the County Clerk on that if the body would like.

CHAIR LEE: Yea. The body would like.

SUPERVISING LEGISLATIVE ATTORNEY: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo, Mr. Raatz.

SUPERVISING LEGISLATIVE ATTORNEY: Thank you.

CHAIR LEE: Okay, we got that set. Moving on.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, I believe the body has not yet voted on the motion.

CHAIR LEE: Oh, we have. All those in favor of the motion, say "aye" and raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA,
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR
RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Okay. All "ayes". Eight "ayes", zero "noes", one "excused"; Member Kama.
Motion carries.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, for the record, that is BILL 62 (2021).

COMMITTEE REPORT
NO. 21-45 - PLANNING AND SUSTAINABLE LAND USE COMMITTEE:

Recommending the following:

1. That Bill 63 (2021), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTERS 19.64 AND 19.69, MAUI COUNTY CODE, RELATING TO THE URBAN RESERVE DISTRICT," be PASSED ON FIRST READING and be ORDERED TO PRINT;
2. That County Communication 20-422, from the Planning Director, be FILED; and
3. That County Communication 21-157, from the Planning Director, be FILED.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATION IN COMMITTEE
REPORT 21-45.

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Okay. It's been moved and seconded by, moved by Member Paltin, seconded by Member Sinenci, to approve Committee Report 21-45.

Discussion, Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. The Planning and Sustainable Use, Sustainable Land Use Committee discussed this proposed bill for the Urban Reserve District and agreed that although the district is purposefully restricted, it unnecessarily prohibits benign uses, such as recycling facilities and other government structures, and accessory dwellings on small lots.

Your Committee further amended the bill to limit the government structures to County and not State and Federal. And I would like to give kudos to the Committee for staying longer than intended so that Haiku could have its recycling continue, cause they love it. Your Committee and recommend first reading. I respectfully ask the Members support for my motion. Thank you.

CHAIR LEE: Wow. Okay. Any more discussion? If not, all those in favor of the motion, say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA,
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR
RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes"; motion carries. One "excused"; Member Kama.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chair, for the record, that is BILL 63 (2021).

Chair, proceeding with or--

CHAIR LEE: You're muted.

DEPUTY COUNTY CLERK: Apologies, Chair. For the record, that is BILL 63 (2021).

Proceeding with ordinances for second and final reading.

ORDINANCES

ORDINANCE NO. _____
BILL NO. 56 (2021)

A BILL FOR AN ORDINANCE AMENDING
THE FISCAL YEAR 2021 BUDGET FOR THE COUNTY OF MAUI
AS IT PERTAINS TO APPENDIX C – CAPITAL IMPROVEMENT PROJECTS,
DEPARTMENT OF FINANCE,
WAI'ALE LAND ACQUISITION

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO PASS BILL 56 ON SECOND AND FINAL READING.

CHAIR LEE: Second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Member Rawlins-Fernandez, seconded by Member Sinenci, to pass Bill 56 on second and final reading.

Any discussion?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Oh.

CHAIR LEE: Yes. Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Bill 56 amends Fiscal Year 2021 Budget, Appendix C – Capital Improvement Project, from Finance to remove language stating that this land is to be used for affordable housing.

It also requires the formation of an advisory committee, including Mālama Kakanilua, to advise on the use of this property. The purchase of the property will not move forward until your Budget, Finance, and Economic Development Committee authorizes

the use of Bond Funds for this purchase, which will be discussed at a future meeting.
Mahalo, Chair.

CHAIR LEE: Anymore discussion?

Yes, Ms. Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. And I, I think this is a very timely and important subject, given the discussion we had yesterday morning in PSLU, and in ways that we choose to not desecrate. So, I'm very thankful to the Administration for bringing this forward. I'm very thankful to Member Sinenci in his first year, in his first term for creating the County Archaeologist position. Because it makes such the difference that we're not just talking about, while I'm not trying to discount oral history, but we're backing up that oral history with data and, and known issues and, and relied upon science in the field of archaeology. So, thank you very much to Member Sinenci for his foresight in creating that. And thank you very much to the Administration for taking that ball and running it to, running with it to its fullest extent. And thank you to Member Rawlins-Fernandez for pushing this forward in a timely manner so that we make it.

CHAIR LEE: Oh you didn't thank the rest of us.

COUNCILMEMBER PALTIN: Thank the rest of you for voting in support as well.

CHAIR LEE: Okay.

COUNCILMEMBER PALTIN: We're all along for the ride.

CHAIR LEE: All those in favor, say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA,
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR
RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes", one "excused"; motion carries. Excused is Member Kama.

Clerk.

ORDINANCE NO. _____
BILL NO. 57 (2021)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR
OF THE COUNTY OF MAUI TO ENTER INTO AN
INTERGOVERNMENTAL AGREEMENT WITH THE
U.S. DEPARTMENT OF AGRICULTURE NATURAL RESOURCES
CONSERVATION SERVICE
RELATED TO THE LAHAINA WATERSHED FLOOD PROTECTION PROJECT

CHAIR LEE: Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you.

I MOVE TO PASS BILL 57 (2021) ON SECOND AND FINAL
READING.

COUNCILMEMBER PALTIN:

SECOND.

CHAIR LEE: Moved by Member Sugimura, seconded by Member Paltin, to pass Bill 57 on second and final reading.

Discussion, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Thank you, Chair. Bill 57 (2021) authorizes the Mayor to enter into an intergovernmental agreement with the Natural Resource Conservation Service, which will provide \$1,229,230 in grant funding to the County of Maui for the development of supplemental watershed plan-environmental document ("Supplemental Plan-ED") for Lahaina water, Watershed Flood Protection Project. The County will provide in-kind assistance equivalent to \$149,980, bringing the total cost of the agreement to \$1,379,210. The end date is September 30, 2024. I ask for the Members full support.

CHAIR LEE: Anymore discussion? If not, all those in favor of the motion, please say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA,
PALTIN, SINENCI, SUGIMURA, VICE-CHAIR
RAWLINS-FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBER KAMA.

CHAIR LEE: Eight "ayes", zero "noes"; motion carries. One "excused"; Member Kama.

COUNCILMEMBER SUGIMURA: Thank you, Members.

CHAIR LEE: Mr. Clerk.

ORDINANCE NO. _____
BILL NO. 58 (2021)

A BILL FOR AN ORDINANCE AMENDING SECTION 20.08.031, MAUI COUNTY
CODE, REGARDING LIMITED EXCLUSIONS FOR GRADING AND GRUBBING
PERMITS AND AMENDING THE CATEGORICAL EXCLUSION FOR TRENCHING
FOR UNDERGROUND UTILITIES

CHAIR LEE: Mr. Sinenci.

COUNCILMEMBER SINENCI: Mahalo, Chair.

I MOVE TO PASS BILL 58 ON SECOND AND FINAL READING.

CHAIR LEE: Second?

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Moved by Member Sinenci, seconded by Member King, to pass Bill 58 on
second and final reading.

Mr. Sinenci, discussion?

COUNCILMEMBER SINENCI: Chair, this matter was deeply discussed at our May 18 Agricultural and Public Trust Committee meeting. After receiving input from the public, from the Administration, and from our resources, the proposed bill had the support of all seven of the Committee members.

(Councilmember Sugimura was excused from the meeting at 4:18 p.m.)

COUNCILMEMBER SINENCI: At first reading, this Council unanimously voted to substitute the bill with one that clarified what we consider sensitive areas, but still keeping the same intent, and signed as to form and legality. All week, Members, we've talked about adding protections for known burials and cemeteries, and in anticipation of the creation of a cultural overlay. And this ordinance is one of those measures to further protect our historic sites and ensure that our past is I ask for the Members continued support for this bill. Thank you, Chair.

CHAIR LEE: More discussion? If not, all those in favor of the motion, say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA,
PALTIN, SINENCI, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS KAMA AND SUGIMURA.

CHAIR LEE: Eight "ayes", zero "noes"; motion carries. One "excused"; Member Kama.

Mr. Clerk, did you say something?

DEPUTY COUNTY CLERK: Chair, apologies. I only saw seven Members during that vote.

CHAIR LEE: Oh.

DEPUTY COUNTY CLERK: Councilmember Sugimura wasn't, I don't see her.

CHAIR LEE: Yuki, are you there? Okay, if not, we'll revise that number to seven "ayes" and two "excused". Motion carries. Excused would be Kama and Sugimura.

ORDINANCE NO. _____
BILL NO. 59 (2021)

A BILL FOR AN ORDINANCE RELATING TO THE COMMISSION ON HEALING
SOLUTIONS FOR HOMELESSNESS.

CHAIR LEE: Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair.

MOVE TO PASS BILL 59 ON SECOND AND FINAL READING.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR LEE: Moved by Mr. Molina, seconded by Vice-Chair Rawlins-Fernandez, to pass Bill 59 on second and final reading.

Discussion, Member Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. Bill 59 amends Chapter 2.31.020 of the Maui County Code, by requiring each of the Council's nine appointees to demonstrate experience relevant to the Commission in one of the Councilmember residency areas. Based on the passage of this bill, your Chair intends to discuss the nominees to fill the West Maui seat to the Commission on Healing Solutions for Homelessness at an upcoming GREAT Committee meeting. And I want to thank Vice-Chair, Council Vice-Chair and Committee Vice-Chair Rawlins-Fernandez for all of her work on this legislation. Thank you very much, Madam Chair.

CHAIR LEE: Thank you. Any further discussion? Anybody? If not, all those in favor of the motion say "aye", raise your hand.

AYES: COUNCILMEMBERS JOHNSON, KING, MOLINA,
PALTIN, SINENCI, VICE-CHAIR RAWLINS-
FERNANDEZ, AND CHAIR LEE.

NOES: NONE.

EXCUSED: COUNCILMEMBERS KAMA AND SUGIMURA.

CHAIR LEE: Seven "ayes", two "excused"; motion carries. The two excused are Members Kama and Sugimura.

Mr. Clerk, it looks like we're done.

DEPUTY COUNTY CLERK: Chair, there is no further business before the Council.

CHAIR LEE: Okay, Members, any parting remarks? Happy Father's Day to all of you. And Happy Mother's Day for taking care of the fathers. I want to thank you.

Yes, Member King.

COUNCILMEMBER KING: Chair, I just wanted to mention that I am holding a town hall on Monday evening on sustainable tourism. So, we're going to have a panel, and speaking about some of the solution So, if any Councilmembers choose to, choose to join our town hall, let me know, so I can introduce you. Okay. That's all.

CHAIR LEE: Okay. Mr. Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. Yea, I just wanted to announce that the APT Committee had canceled our special meeting on next Tuesday. We lost a couple of our, our resources and we wanted to make sure that Committee members had Q & A time. So, we'll look at rescheduling at a later date. Thank you. Enjoy the day off.

CHAIR LEE: Thank you. We need it. We need it. Anybody else? I'm in the process of putting together a survey that I hope you will share at some point. And it's to solicit ideas on new businesses and industries. I, we understand that UHERO has information, stats on this. And I'm particularly interested in hearing back from the public on green businesses and green industries. So, please help me share those surveys if it gets to your Facebook pages.

Thank you so much everyone. I really appreciate how we handled today. It could've, could've been ugly but it wasn't.

COUNCILMEMBER KING: Chair.

CHAIR LEE: Yes, Ms. King.

COUNCILMEMBER KING: Yea, I would just ask you, I think that's great what you're doing on the diversified economy. I would ask you to really touch base with the Climate Change Office in the Mayor's Office, because they're going to be working on the

circular economy this, starting this summer. So, it would be great to get them involved.
Thank you.

CHAIR LEE: Okay. I, I'll, I'll give you a hint. Believe it or not, men, dad's, one of the trends right now is grooming for men. Like men spend a tremendous amount of money on haircuts, hairstyling. Now they're into facial products and all kinds of things. So, that's a heck of a great business for somebody. Just letting you know.

Okay, everybody, all set? This meeting of June 18 of the Maui County Council is now adjourned.

ADJOURNMENT

The regular meeting of June 18, 2021 was adjourned by the Chair at 4:23 p.m.

A handwritten signature in black ink, reading "Kathy L. Kaohu".

KATHY KAOHU, COUNTY CLERK
COUNTY OF MAUI, STATE OF HAWAII



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2021 JUN 17 AM 10:26

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COUNTY CLERK

County Council Meeting, 9AM June 18, 2021

Testimony provided by Nick Drance; www.TheMauiMiracle.org

Online Only via BlueJeans link <https://maui.bluejeans.com/295235670>

Meeting will be televised on Akaku: Maui Community Media, Channel 53

Email testimony to: county.clerk@mauicounty.us

e-comment by the public remains unavailable approx

TESTIMONY

Aloha Chair Lee and Council,

Here is my Testimony on 7 key topics of discussion today. My testimony is well under 9 minutes.

As usual, each of you has worked so hard for us. This meeting agenda, like so many others, has a great number of items for you to consider. 32 in all. It's too many. I don't know how you and your staff do this week and day, in and out. I am grateful for your stamina.

CR 21-39

Hotel building moratorium

Recommending FIRST READING of bill to temporarily maintain the status quo in the development of hotels and other visitor accommodations in South Maui and West Maui until the respective community plans for the areas are updated or two years have passed, whichever is sooner, because of environmental and other impacts.

TESTIMONY

Let me preface my additional comments with this. Council Members, before you vote on this, you should visit South Maui and spend time there, during different times of day. See the massive number of surfers in the Cove trying to catch the right wave. God Bless them but they are already crowded on top of one another. That is not what surfing is about and it's not fair to crowd them even more. They are nice people looking to break loose and explore. Let them be. Come, spend some time with in little Kihei and see the mile long lines on S. Kihei Rd. See the unbelievably long lines of tourists outside the restaurants in the Triangle. We and they are absolutely overwhelmed. The Maui Coast expansion will likely push us over the edge there and on Kam I Beach. How many more people can we cram onto that beach? Spend a day there and see for yourself.

Beyond that, I do not agree with the two-year expiration date. If this initiative is to have meaning, there should be no time expiration. The welfare of residents in their own communities, Community Plans as they see it, comes first. Some people forget. The wishes of residents must be held sacred, above all else. No government official has the right to rule over us.

Overall

I wish that the Council was able to schedule this agenda item by itself. Given its historic significance, the fact that it sets a precedent of average Americans having an equal voice with giant corporations in determining their own future is quite significant. Americans desire the ability to maintain a quality of life not subjugated to an insatiable thirst for the shareholder return enjoyed by others. In broad terms, isn't that what building more hotels is really about? Isn't that why Honolulu looks like Miami Beach.

Our children deserve to grow up in a world at least as good as ours. Maui isn't Miami Beach yet. We have a responsibility to make that world better for them than the one we came into. We are a land of immigrants. Our nation was built on the desire to improve the lives of individuals and perhaps even more, improve the future for our children. Will more hotels improve the quality of life for us or our children?

Hawaiians have a unique opportunity to make a tiny step forward in slowing down this onslaught of the white man. This is not our land. We took it. At least we should care for it. My Sista Tasha, this is your moment to take a stand for your land. Please.

For all of us, this legislation speaks to that most sacred tenant of what it means to be an American; the very thing that sets us apart from any nation in the history of our planet. Freedom. In this case, it is literally, our right, as Americans, to give our children the ability to enjoy a better life than our own. Can we call ourselves free if we must first be made to accept the cost of financial gain for others? Particularly people that don't even live here. Is that freedom? This legislation is so important, it deserves not to be one of 32 number of agenda items. It deserves its own special meeting.

Chair Lee, I ask you to take that into account. I ask the Council to go into Executive Session and candidly, privately discuss this among yourselves. Chair, please ask for a vote on this. No one has anything to lose.

I think this initiative will pass. However, I'd like to see it pass unanimously, just as the three islands of Maui County have done with CR 21-38. Support for the spirit of this Bill is unanimous among them. Let it also be so, with you. Council members, take advantage of the relationships you've nurtured among you. Build on that honestly and in good faith and go into Executive Session on this or any other topic you think you should and really talk this over before you cast your final votes.

CR 21-280

Relating to the expeditious submission of the proposed hotel moratorium to the Planning Commission

REFERRING TO THE MAUI PLANNING COMMISSION A BILL FOR AN ORDINANCE ESTABLISHING CHAPTERS 19.98 AND 20.41, MAUI COUNTY CODE, DECLARING A MORATORIUM ON NEW TRANSIENT ACCOMMODATIONS ON MAUI".

TESTIMONY

Some of us see a sense of urgency about the welfare of our island more than some others. As one of them, I urge the Council to approve CR 21-280 without delay.

CR 21-38

Unanimous vote by the islands of Maui County to include wording related to Climate Change in the lawful Countywide Plan

Recommending the required public hearings for enactment of the various Planning Commission resolutions on the subject.

The Climate Action, Resilience and Environmental Committee has recommended support for public hearings for residents of Lana'i, Maui and Moloka'i to comment on a bill to amend the Countywide Policy Plan to incorporate the amended Section IV by adding "Mitigate Climate Change and Work Toward Resilience" as a goal of the Countywide Policy Plan.

TESTIMONY

After embracing the original request by this Committee that the Countywide Plan be revised, the Maui, Molokai and Lanai Planning Commissions, built on that by suggesting additional wording, that strengthened the original request. Let us support their wishes with the same sense of urgency, that their unanimity demonstrates.

Obviously, there is widespread support for addressing the conditions we see before us, right now today and into the future. Along with the entire western third of the mainland, we are in drought conditions once again. <https://www.mauinews.com/news/local-news/2021/06/after-relief-drought-returns-to-maui/>

Let this proceed swiftly and without delay.

CC 21-278

Relating to the establishment of Agricultural land use designation

"A" and "B" propose to CHANGE ZONING FROM OPEN SPACE ZONE, R-3 RESIDENTIAL AND ROAD/STREET RESERVE ZONE TO AGRICULTURE.

TESTIMONY

So much of our island has been rezoned to urban from agricultural, without the approval of residents. This sounds refreshing. Some of you may be tired of hearing me talk about the Maui Island Plan which demands that we maintain the small town, rural nature that our island. That plan was approved at every level of government and not following it is essentially against the law. It seems desirable to change land designated as urban back to ag especially if the change occurred after the plan was approved.

CR 21-44

Relating to the establishment that conditional permits for zip line and bungee jumping operations in the County Agricultural District be required.

FIRST READING of bill to require a conditional permit for zipline, canopy, and bungee jumping tour operations in the County Agricultural District.

TESTIMONY

Time and again, residents who reside in properties adjacent to these businesses, have asked that their right to live in peace on their own properties be respected. Effective permitting requirements will protect those rights and ensure we don't have traffic jams in pastures and the like.

In closing, let me say, mahalo nui team! Thank you for working to respect, preserve and care for our island.

On our little, our tiny little rock in the middle of the Pacific Ocean, Council Members, you rock. The bold and innovative work you do rocks, seemingly, around the clock! You amaze me.

Mahalo team

Nick Drance
TheMauiMiracle.org

Testimony of
Pacific Resource Partnership

City Council
Council of the County of Maui
Councilmember Alice Lee, Chair
Councilmember Keani N.W. Rawlins-Fernandez, Vice Chair

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2021 JUN 17 PM 1:52

OFFICE OF THE
COUNTY CLERK

Communication No. 21-280 Transmitting a proposed resolution entitled "REFERRING TO THE MAUI PLANNING COMMISSION A BILL FOR AN ORDINANCE ESTABLISHING CHAPTERS 19.98 AND 20.41, MAUI COUNTY CODE, DECLARING A MORATORIUM ON NEW TRANSIENT ACCOMODATIONS ON MAUI"

Friday, June 18, 2021
9:00 A.M.

Aloha Chair Lee, Vice Chair Rawlins-Fernandez, and Members of the Council.

Pacific Resource Partnership (PRP) is a non-profit market recovery trust fund which represents approximately 7,000 men and women union carpenters and 240 large and small contractors. With our expertise in research, compliance, marketing, and project advocacy, we are committed to building a stronger, more sustainable Hawaii in a way that promotes a vibrant economy, creates jobs, and enhances the quality of life for all residents of Hawaii.

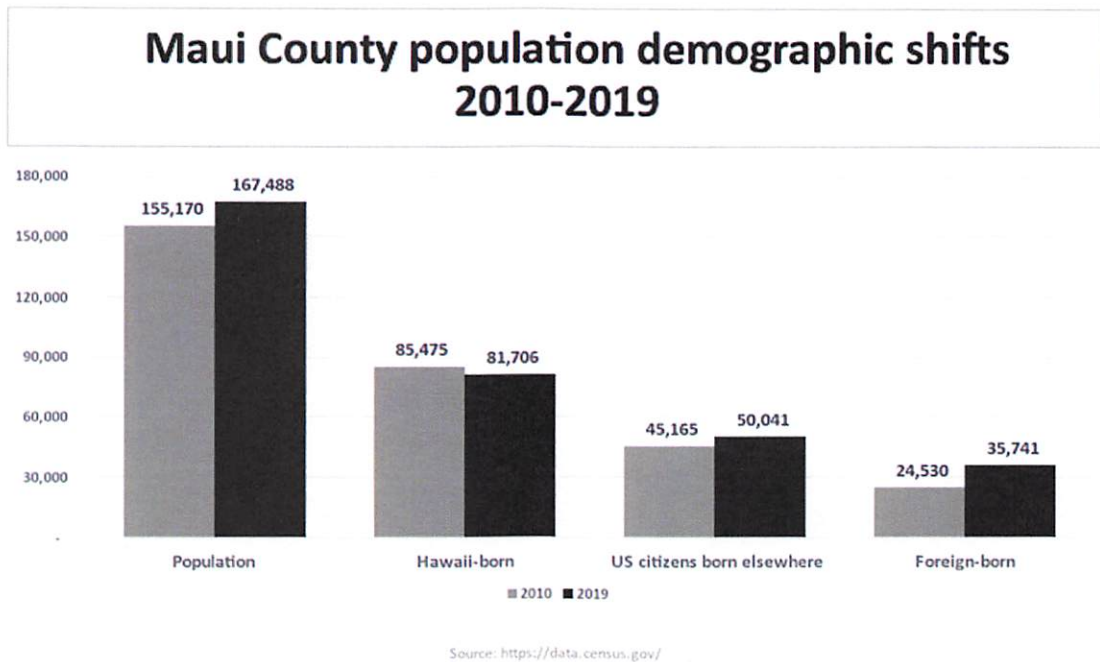
Our state has the highest cost of living in the nation and COVID-19 only exasperated the challenges for many of our residents at a time when unemployment has skyrocketed. Maui has taken a larger hit with higher unemployment rates than the state and a slower economic recovery.

Imposing a moratorium on the construction of visitor accommodations will only further hurt Maui's economic recovery. Maui's economy benefits tremendously from the visitor industry. Between 2020 and 2021, 77% of Maui's property tax contribution came from visitor-use property. Prior to the pandemic, accommodations were the largest employer for the county employing 12,900 residents, which dropped 60 percent and has yet to rebound. Limiting visitor accommodations through a moratorium will also limit the growth of other industries like construction, retail, restaurants, and many of our small businesses. These industries provide important employment opportunities for local residents who depend on these jobs to survive and raise a family on Maui.

From 2010 – 2019, there has been a decline in Hawaii-born residents and an increase in US citizen born and foreign-born residents on Maui. A moratorium will likely accelerate this trend causing Hawaii-born residents and their families to leave Maui for more job opportunities and a better life elsewhere.



(Continued From Page 1)



Moreover, the proposed bill lacks data showing that a moratorium on visitor accommodations will limit the amount of tourist visiting Maui and does not provide data showing the impacts that tourism is having on the County's environment and residents' quality of life. Instead, the bill states **"The moratorium will remain in effect and maintain the number of current transient accommodation units until the Council enacts legislation addressing the findings and recommendations presented by a Budget, Finance, and Economic Development Committee-established Tourism Management Temporary Investigative Group..."** Shouldn't you have the findings and recommendations first before passing any legislation, especially a moratorium?

Let's create policies that will help revive the economy, get our community back to work, and keep local residents Maui. As such, we respectfully request that this Council to defer this measure.



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

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2021 JUN 18 AM 8:21

OFFICE OF THE
COUNTY CLERK

CR 21-39

**Moratorium on New Visitor Accommodations in South and West Maui
Friday, June 18, 2021**

Dear Chair Lee, Vice-Chair Rawlins-Fernandez and
Members of the Maui County Council,

We would like to share our concerns on Committee Report 21-39 on the moratorium on new visitor accommodations in South and West Maui.

We support green initiatives to help preserve our environment, visitor education and responsible tourism. Visitor accommodations are some of the top leaders in addressing green initiatives, including educating visitors about various sunscreens and their impact on our ocean life, reducing waste, switching to compostable food ware, phasing out water bottles and so much more. Before a moratorium is put in place, significant data should be released on the purpose of this moratorium and the environmental outcomes expected so that they can be further considered along with the impacts of stopping new visitor accommodations construction in the planned resort areas of South and West Maui.

We have heard from many businesses and individuals who are not familiar with this moratorium and question why the process is being rushed without broad community involvement. They and we feel now is not the right time for a moratorium and we need as much flexibility as possible during this period of economic recovery.

Further, we are concerned that if passed, this bill may face legal challenges. Legal challenges are a burden to the County and take time and resources away from other departments. The time and cost to fight or settle the case also impacts residents and businesses through increased taxes and fees. If the Council knows there are potential legal challenges, why take the chance and pass the bill with that uncertainty?

Therefore, in addition to the Chamber's opposition to moratoriums, we oppose this measure and ask that it be deferred.

Mahalo for the opportunity to provide testimony.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

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2021 JUN 18 AM 8:21

OFFICE OF THE
COUNTY CLERK



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

CR 21-280
Moratorium on New Visitor Accommodations
Friday, June 18, 2021

Dear Chair Lee, Vice-Chair Rawlins-Fernandez and
Members of the Maui County Council,

We are alarmed by the potential negative impacts of CC 21-280 on the moratorium on new visitor accommodations on Maui and the creation of a TIG. We understand the resolution today is to send this bill to the Maui Planning Commission and wanted to share our thoughts.

We all agree that issues like affordable housing and rentals, infrastructure, traffic and ways to improve resident quality of life are all things must be urgently addressed, but we disagree with the method of simultaneously placing a moratorium on new visitor accommodations and creating a TIG. We strongly believe that a TIG should be created now with broad participation, including leaders from every impacted industry, and that the TIG should address these issues, through legislation if needed, without the need for a moratorium.

We consistently share that the Maui Chamber of Commerce opposes all moratoriums and this is because they are inflexible. We've heard Councilmembers say that this moratorium will *only* last for two years, but two years is significant when looking at growth. According to leading state economic Paul Brewbaker, Maui would forego about \$200 million dollars per year in associated jobs and incomes because of this moratorium. This will directly impact Maui's residents.

Lastly, data shows that the majority of new visitor accommodations in the last 20-25 years has been from vacation rentals, not conventional lodging. Conventional lodging like hotels, condo-tells, and timeshares are built in the appropriately zoned areas, typically where other lodging and visitor attractions are. As many have said, we cannot stop visitors from traveling to Maui and if they cannot find a place to stay or if the legal accommodations are too expensive due to demand, they may knowingly or unknowingly stay in an illegal vacation rental. Instead of a moratorium, let's start with a TIG and truly address resident concerns and tackle the illegal vacation rental problem. We appreciate the opportunity to share our concerns on this moratorium today and ask that you defer this measure.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

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2021 JUN 18 AM 9:19

OFFICE OF THE
COUNTY CLERK

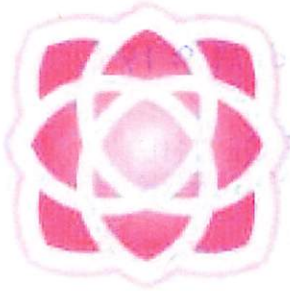
June 18, 2021

To the Honorable Chair Lee, Vice-Chair Rawlins-Fernandez and
Maui County Council Members,

We are writing to you today and signing this letter because we are concerned about the two visitor accommodations moratoriums currently being discussed. We all believe in embracing the Aloha Spirit, responsible tourism, education for our visitors, and respect for our environment and culture. We also all want to see issues like affordable housing and rentals, illegal short-term rentals, infrastructure, traffic, protection of sacred places, and education and protection of our ocean life addressed to better improve the quality of life of Maui's residents. We believe these things can be achieved by bringing the right groups together (such as government officials, industry leaders, organizations, and residents) to find winning solutions for all. We do not feel that the two moratoriums will help solve these issues and in fact, believe they will have significant negative impacts to our economy and residents.

Please consider the following:

- The visitor industry is our economic driver and supports many other industries such as activities, retail, restaurants, transportation, agriculture, manufacturing, and nonprofit organizations. With this support, other industries can grow and help to further diversify our economy. We are the most dependent county in the state on our visitor industry.
- Continuing to support this industry, which generated \$73 million in real property tax revenue from hotels and timeshares in FY21, provides the county with resources to invest in economic diversification while also raising revenue for all other programs like affordable housing and rentals, social services, infrastructure, etc. Real property tax is the biggest revenue source for the County and according to DBEDT, hotels/resort properties account for 20% of expected real property tax revenue in 2021. Additionally, 9 of the 10 largest real property taxpayers in the County are hotels and timeshare properties.
- Visitor accommodations provide employment for thousands of Maui residents, helping to provide for them and their families. In fact, the tourism industry accounts for around 75% of all private sector jobs on Maui.
- The bills will shut down opportunities for investment in our economy at a time when we are trying to recover from the effects of the global pandemic. It is important to remember the industry is recovering and had huge losses so now is not the time to do this. According to leading state economist Paul Brewbaker the opportunity cost of shutting down lodging construction for two years would be about \$200 million per year.



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

- We are concerned these moratoriums will create negative impacts by spurring further illegal short term rental operations, which are often in our local neighborhoods, potentially taking more homes away from residents.
- Hotels and visitor accommodations do their part to address the environmental impacts of visitors through sunscreen education, reducing waste, switching to compostable food ware, phasing out water bottles and more. There is also no factual evidence that tourism is a major factor in environmental issues on Maui.
- We would have preferred to see the Council bring all concerned parties together into a working group to hear all points of view and work towards a sustainability plan to address both current concerns and create a map for our future.
- There are potential legal challenges to these bills and any legal challenges that the County faces impacts residents and business as time and service costs to address these are recouped through taxes and fees.

We all support sustainable tourism, but we do not believe that a shutdown on the construction of new visitor accommodations in appropriately zoned and planned hotel and resort areas is the answer. These bills will have the wrong effect at precisely the wrong time. In creating legislation, in particular a moratorium, both the positive and negative impacts must be weighed. We urge you to defer these measures to seriously consider the unintended consequences and devastating economic impact that measures like these will have on Maui's people and fragile economy.

Sincerely,

Pamela Tumpap, President
Maui Chamber of Commerce

Joshua Berlien, Chair
Construction Industry of Maui

Lahela Aiwohi
Aiwohi Contracting

Joshua Berlien
Berlien Consulting LLC

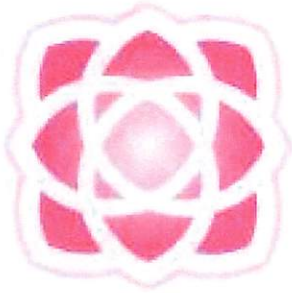
Jerry Agbanang
Individual

MaryAnn Blanchard
Catering Manager
Fairmont Kea Lani, Maui

Merlita Agbanang
Individual

Francis Keoni Cabanting
Pool Supervisor
Fairmont Kea Lani, Maui

Mary Albitz, Owner
Island Art Party



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

Chris Cashabeck
Areas Group Sales Manager
Fairmont Kea Lani, Maui

Gazel Correia
Individual

Kat Cruz
Hospitality Employee
Fairmont Kea Lani, Maui

Michael Cuthbertson
Area Vice President
Destination By Hyatt Residences

Donnie Dadiz
Beach Supervisor
Fairmont Kea Lani, Maui

David Englert
Rentals Maui Inc.

David Eseke
My Perfect Stays

Thomas Fairbanks, Owner
Old Waiuku Inn at Ulupono

Fred Findlen
General Manager
Hyatt Regency Maui Resort and Spa

Matthew Gray
Revenue Analyst
Hyatt Regency Maui Resort and Spa

Ruth Guiza
Director of Revenue
Hyatt Regency Maui Resort and Spa

Astrid Heckert
Director of Finance & Business Support
Fairmont Kea Lani, Maui

Wayne Hedani
Individual

Sylvia Ho, Treasurer
Maui Chamber of Commerce

Jeff Hoylman
Hospitality Employee
Fairmont Kea Lani, Maui

Jody Joaquin
Assistant Director, Talent & Culture
Fairmont Kea Lani, Maui

William Kamai
Hawaii Regional Council of Carpenters

John Kevan
Maui Paradise Properties

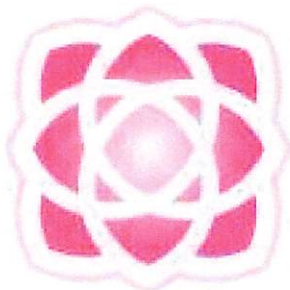
Ivan Lay
Hawaii Regional Council of Carpenters

Angela Leone, President
Professional Rental
Management Association

Angela Leone, Owner
Coconut Condos

David Maleski
StandartPark Hawaii

Perlita Manlansing
Individual



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

Rafael Manlansing
Individual

Terri Marinas
Individual

Art Marinas
Individual

Garrett Marrero
Maui Brewing Co.

JS Masson
Director of Revenue Management
Fairmont Kea Lani, Maui

Dave & Cathy Medina, Owners
A Perfect Vacation Rental

Shannah Milstead
Director of Sales & Marketing
Fairmont Kea Lani, Maui

Jurg Munch, Proprietor
Lahaina Grill & Lahaina Ice Cream Parlour

Monica Natividad
Individual

Jorge Natividad
Individual

Adelia Natividad
Individual

Joe Natividad
Individual

Rick Nava, Chair
Maui Chamber of Commerce

Gregg Nelson
General Manager
Napili Kai Beach Resort

Sutee Nitakorn
Director of Sales
Kaanapali Golf Courses

Roger Nitta
Hospitality Employee
Fairmont Kea Lani, Maui

David Olney
Director of Finance
Hyatt Regency Maui Resort and Spa

Anna Pader
Individual

Elpidio Pader
Individual

Janette Paguyo
Individual

Tylun Pang
Fairmont Kea Lani, Maui

Frank "Bud" Pikrone
General Manager
Wailea Resort Association,
Wailea Community Association

Michael Pye, Chair
Maui Hotel & Lodging Association

Michael Pye
Area Vice-President & General Manager
Fairmont Kea Lani, Maui



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

Richard Ramirez
Executive Sous Chef
Fairmont Kea Lani, Maui

Gina Rausch
Conference Service Manager
Fairmont Kea Lani, Maui

Carol Reimann, Director
Maui Chamber of Commerce

Dena Roady
Area Vice President
Andaz Maui at Wailea Resort

Leanna Robert
iTrip Vacations Maui

Yolanda Saribay
Individual

Jose Saribay
Individual

Adrianna Schillace
Food & Beverage Coordinator
Fairmont Kea Lani, Maui

Ray Shimabuku
International Brotherhood of
Electrical Workers Local Union 1186

Patrick Sullivan
Sullivan Properties Inc.

Rie Takahashi
Leisure Sales
Fairmont Kea Lani, Maui

Melanie Takushi
Individual

Glenda Tejano
Individual

Roland Tejano
Individual

Chuck Thorne
Hana Lava Tube

Lynn Uchima
Individual

Luly Unemori
Individual

Angela Vento
General Manager
Wailea Beach Resort

Rick Volner, Director
Maui Chamber of Commerce

Tetsuji Yamazaki
General Manager
Sheraton Maui Resort & Spa

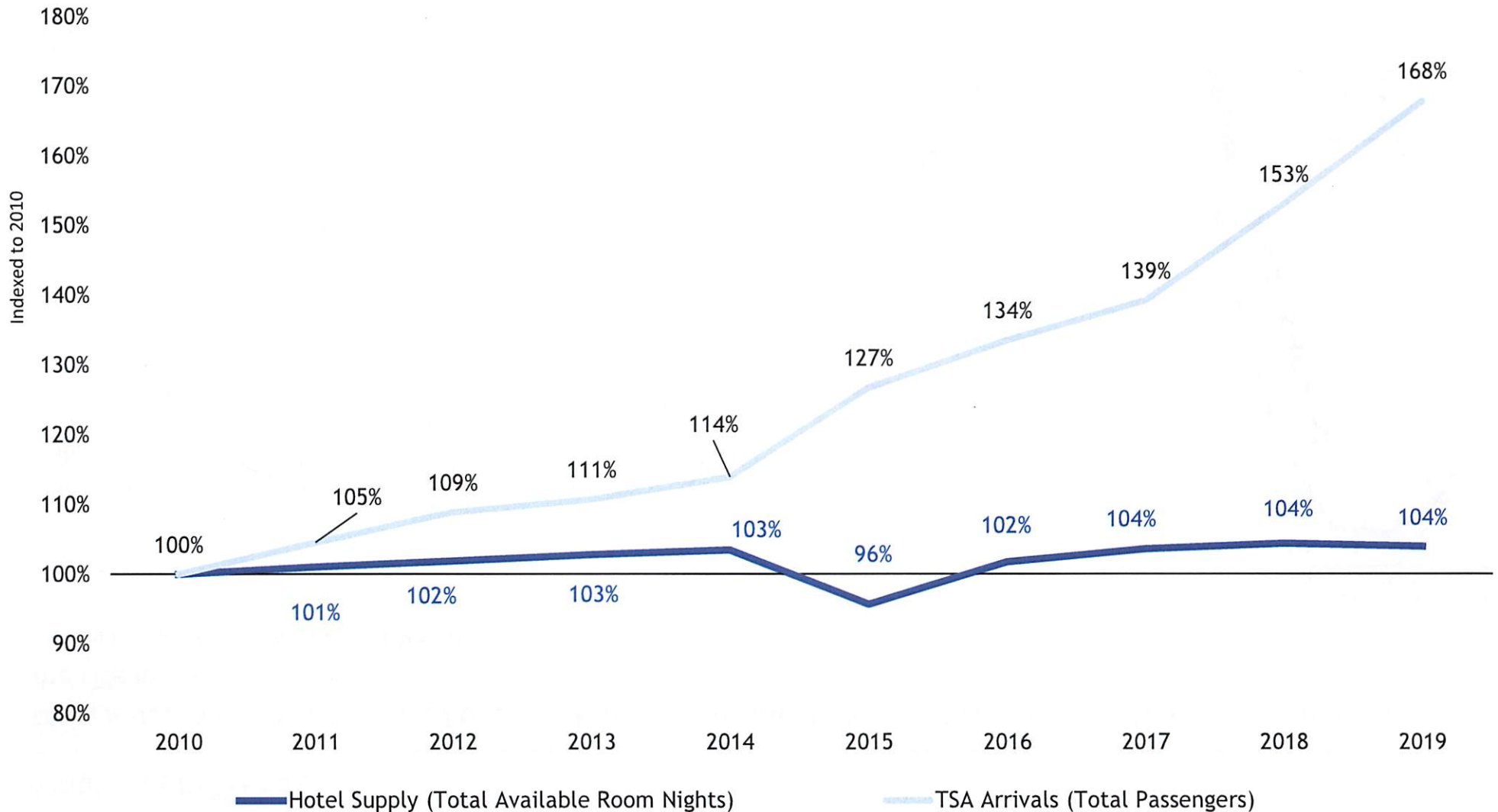
Brian Yano
Vice President, Retail
Jones Lang & Lasalle

Jasper Yun
Area Group Sales Manager
Fairmont Kea Lani, Maui

Maui Travel Trends

Total available hotel rooms have remained stable, despite TSA arrivals to Maui ~70% above 2010 levels

Hotel Supply⁽¹⁾ vs. Passenger Arrivals⁽²⁾

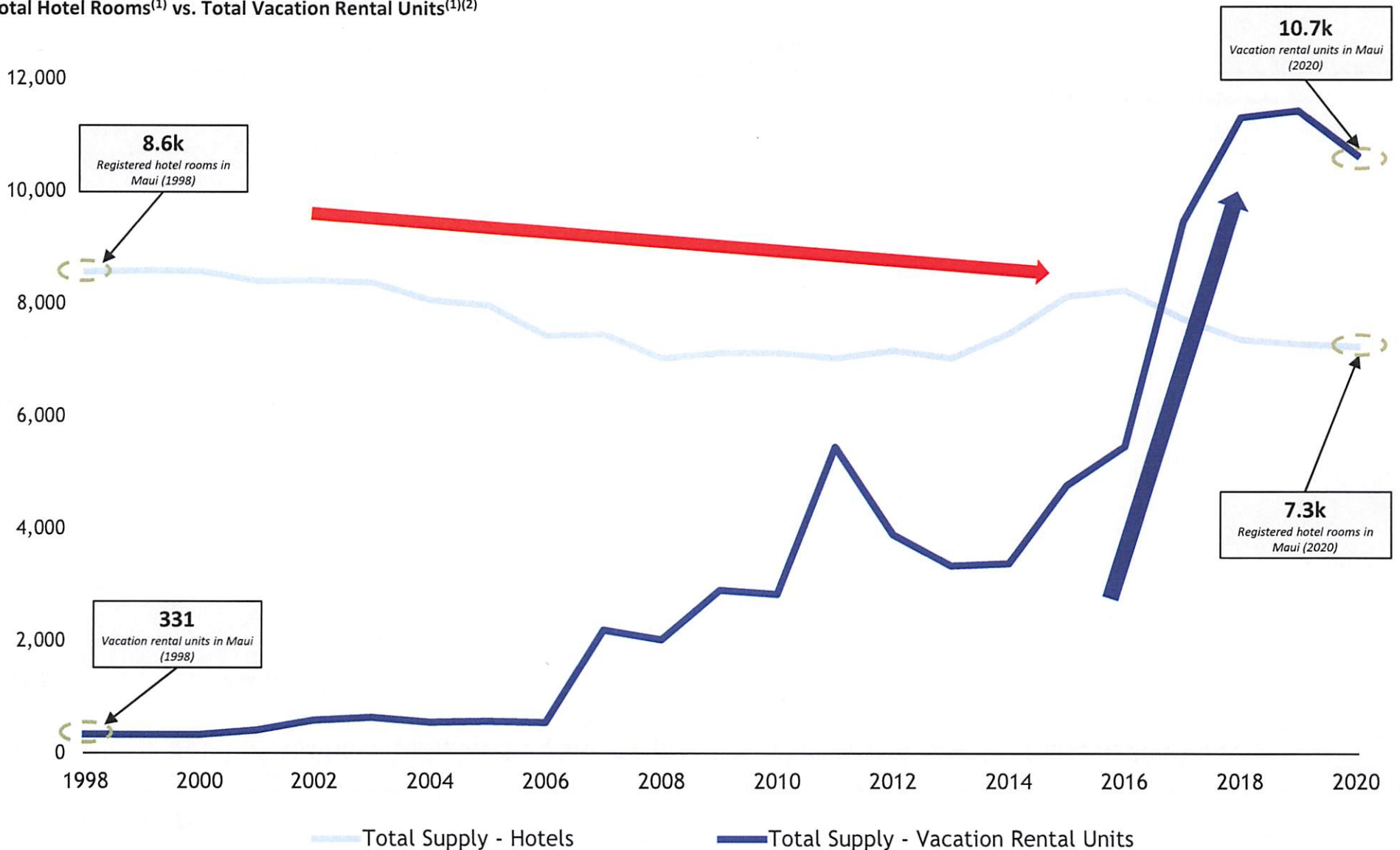


(1) Source: STR
(2) Source: Department of Business, Economic Development and Tourism; represents US arrivals only

Maui Travel Trends

Maui hotel supply has decreased over the last 20 years; rapid growth of vacation rental units is accommodating the rise in visitors

Total Hotel Rooms⁽¹⁾ vs. Total Vacation Rental Units⁽¹⁾⁽²⁾



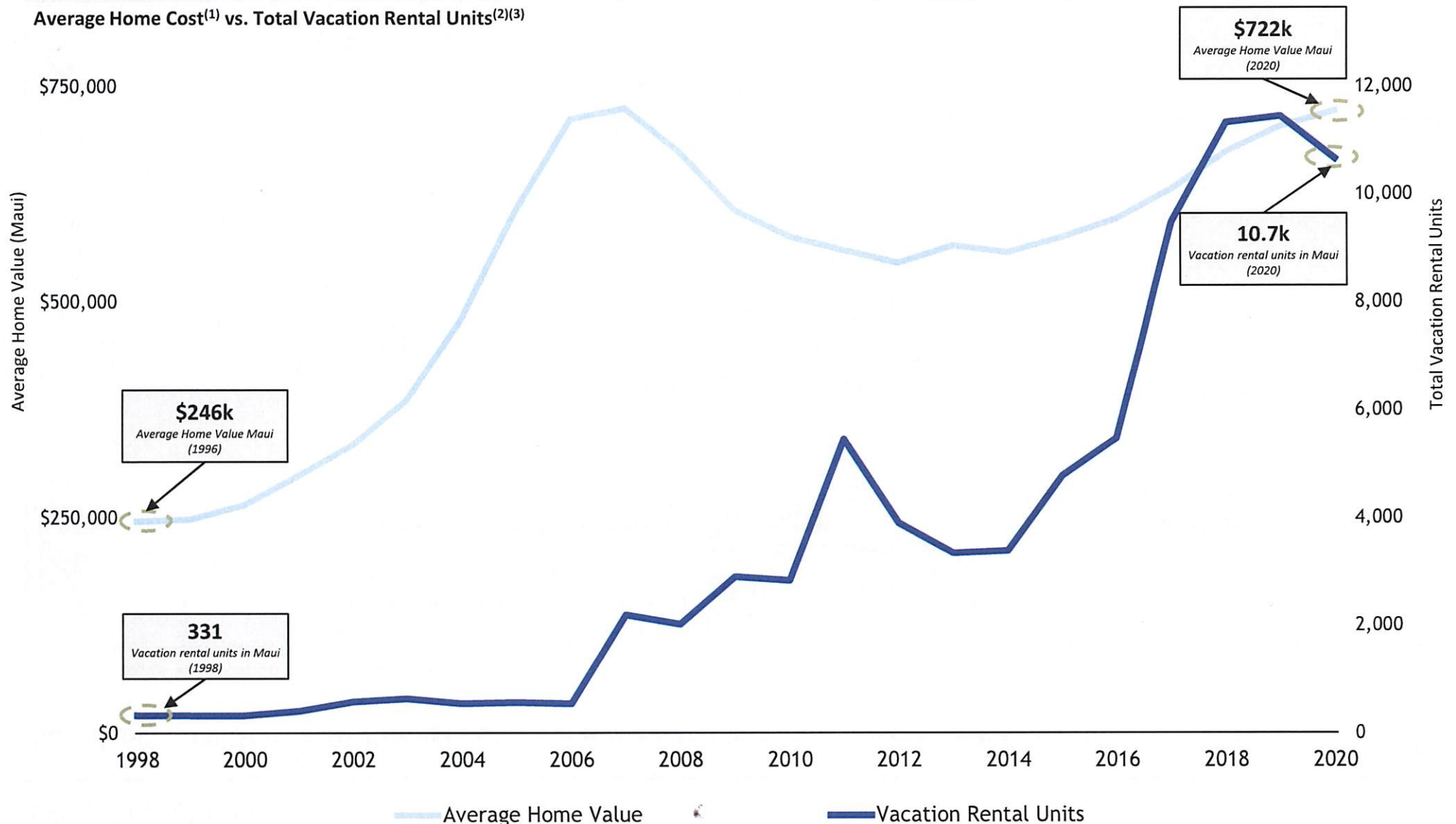
(1) 1998 – 2016: Source - Hawaii Tourism Authority – Visitor Plant Inventory. Note 2006 – 2016 data is subject to retroactive revisions by Hawaii Tourism Authority. 2017 – 2020: Source - AirDNA

(2) Vacation Rental units were referred to as Individual Vacation Units (IVU) prior to the 2014 VPI

Maui Travel Trends

The average price to buy a home has increased nearly 3x, driven in part by the potential income from short term rental properties

Average Home Cost⁽¹⁾ vs. Total Vacation Rental Units⁽²⁾⁽³⁾



(1) Source: Zillow Research Data

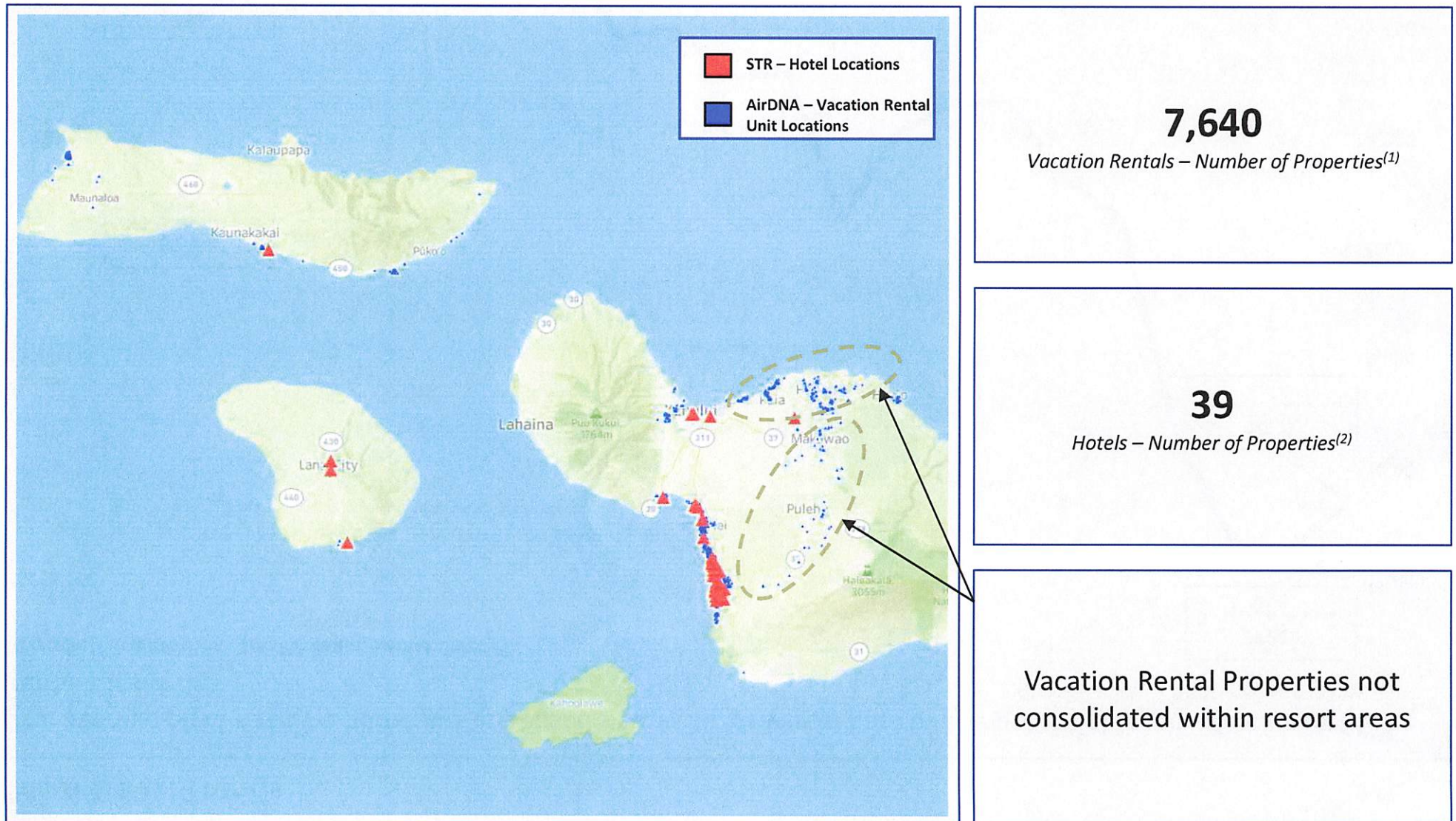
(2) 1998 – 2016: Source - Hawaii Tourism Authority – Visitor Plant Inventory. Note 2006 – 2016 data is subject to retroactive revisions by Hawaii Tourism Authority. 2017 – 2020: Source – AirDNA

(3) Vacation Rental units were referred to as Individual Vacation Units (IVU) prior to the 2014 VPI

Maui Travel Trends

Vacation Rental Units exist throughout Maui while hotel locations are concentrated around resort areas

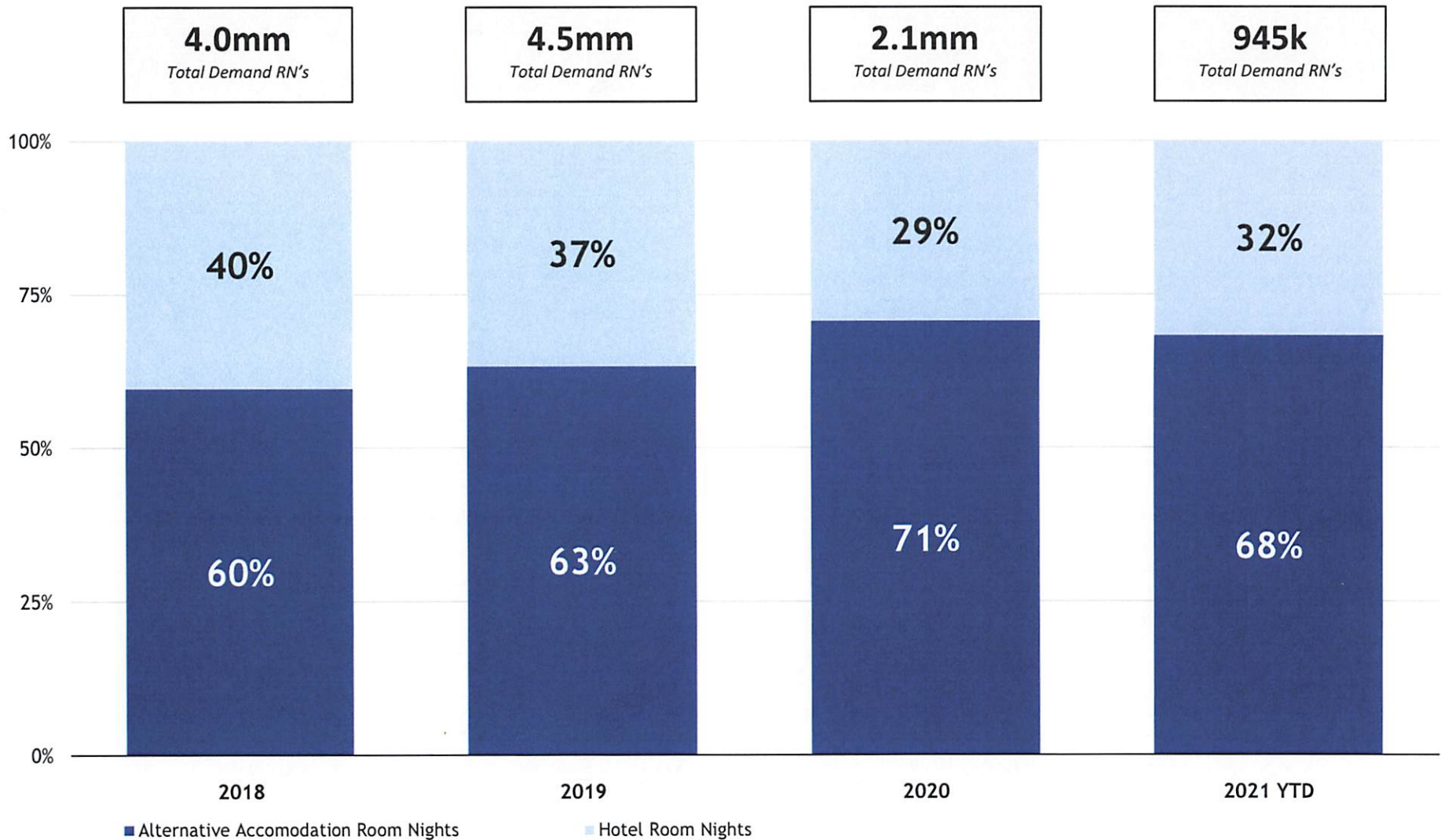
Hotel Locations vs. Vacation Rental Unit Locations



Maui Travel Trends

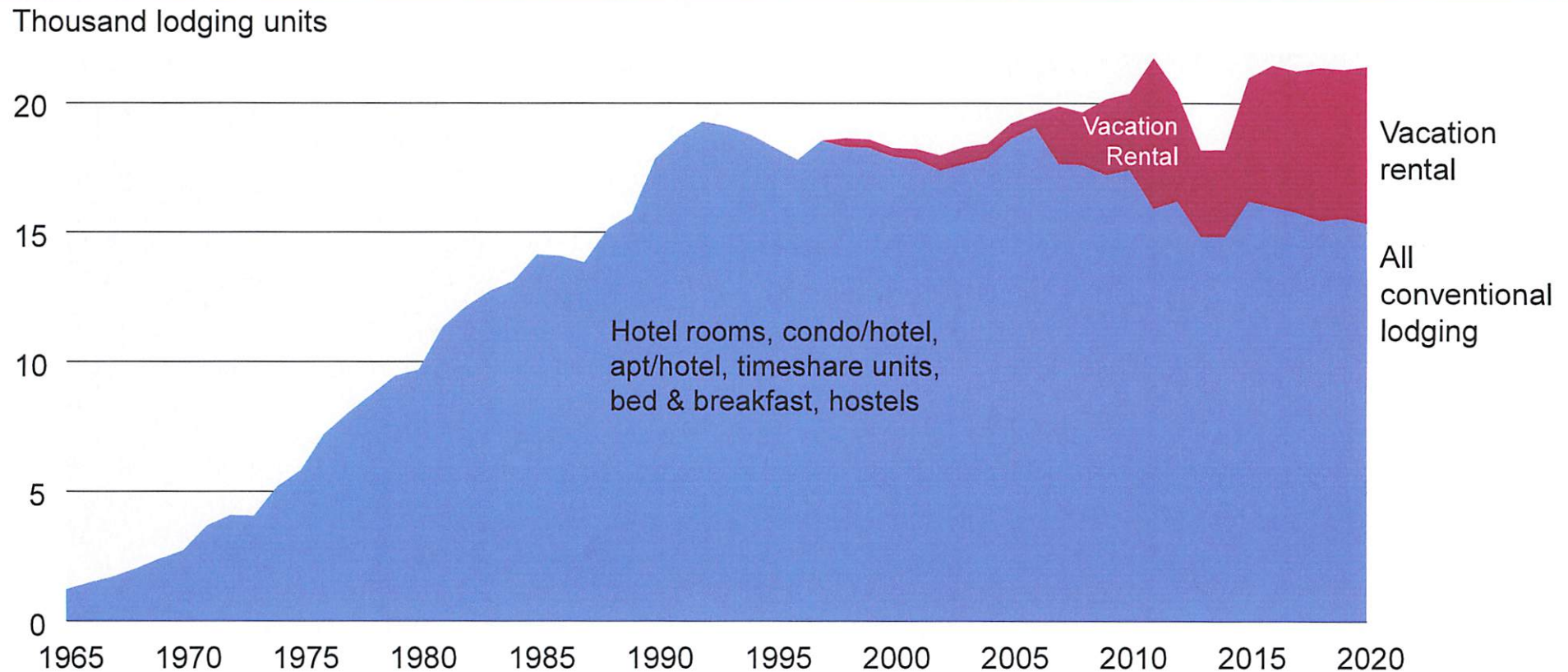
Demand for alternative accommodations continues to grow, capturing the majority of Maui room nights

Hotel Demand⁽¹⁾ vs. Vacation Rental Demand⁽²⁾



(1) Source: STR
(2) Source: AirDNA

Less is More: official Visitor Plant Inventory data show that *all* of Maui Island lodging increase since 1992 comprised vacation rentals



Slide copyright 2021 TZ Economics

Sources: Hawaii Tourism Authority, 2020 Visitor Plant Inventory (<https://www.hawaii tourism authority.org/media/6299/2020-visitor-plant-inventory-report-1-11-report.pdf>)

County Clerk

From: Ashlie McGuire <amcsuperstar@yahoo.com>
Sent: Friday, June 18, 2021 8:45 AM
To: County Clerk
Subject: Moratorium on visitor accommodations

RECEIVED

2021 JUN 18 AM 8:46

OFFICE OF THE
COUNTY CLERK

Aloha,

My name is Ashlie McGuire and I am a lifetime resident of Maui County. I grew up in Kihei, and now live in Keokea. I am in support of a moratorium on visitor accommodations in south and west Maui because I grew up watching it first hand. We went from a small community to an insane hodgepodge of transients, visitors, and transplants. Regardless of your feelings towards all of that, it is well known that the people in South Maui, the people who have been there for many generations, have been saying "nuff already" for decades. This is simply a continuation of that fight. The fight to preserve a sacred area, and blessed area, and a culturally and ecologically significant area. Native sea birds nest in these areas, native plants deserve to thrive in these areas, and native Hawaiian people need access and allowance to both spiritually and culturally significant areas. Areas like fishponds, burial grounds, and surfing spots-all of which are present in both South and West Maui. Not to mention, NO local wants this island to end up like Oahu. I don't care what the rich fat cats on top want, this is about protecting the rights of the PEOPLE, not properties or corporations. Please hear us, NUFF ALREADY.

Mahalo.

Sent from my iPhone

County Clerk

From: Ashlie McGuire <amcsuperstar@yahoo.com>
Sent: Friday, June 18, 2021 8:46 AM
To: County Clerk
Subject: Additionally

I forgot to mention, this visitor moratorium needs to encompass ALL of Maui county, not JUST west side and south side.
Don't try to pull that loophole, we see you.

Sent from my iPhone

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2021 JUN 18 AM 8:47
OFFICE OF THE
COUNTY CLERK

County Clerk

From: Spencer Hyde <spencer_hyde3@hotmail.com>
Sent: Thursday, June 17, 2021 7:49 PM
To: County Clerk
Subject: Testimony in SUPPORT of Visitor Accommodations Moratorium

Aloha Maui County Council Members,

Thank you for representing the values of the citizens of Maui County and considering our concerns as you deliberate over whether or not to impose a moratorium on further hotel development. I am writing to you tonight to please ask that you support the moratorium because we are entering a once in a lifetime opportunity to diversify our economy to meet the 21st century, and a moratorium on visitor accommodations is not only a first step toward diversification (to continue building and expanding hotels is the opposite of diversification), but it would also send a clear message to the community that our leaders are ready to courageously tackle the issue of overdependence on tourism. A moratorium is just the first step. And I know it's scary for some of our leaders to take that first step. It's much safer to keep doing the same thing. But the situation of our economy is dire. Young people here in Maui, like myself, need better opportunities to afford the cost of living here. Many of us will never be able to afford a home in our own home and that is unacceptable. We don't need more of the same opportunities. We need better opportunities. That starts by taking economic diversification seriously. There's never been a better time in history.

Also, I would like to add that I strongly believe that this moratorium should extend to all parts of the county, not just the West Side and the South Side, because otherwise development may just shift to other areas and do nothing to help wean our overdependence on the tourism industry.

Thanks for listening,

Spencer Hyde
4320 E. Waiola Lp.
Kihei, HI 96753
(808) 344-8299

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2021 JUN 18 AM 8:21
OFFICE OF THE
COUNTY CLERK

County Clerk

From: Jen Bal <kailanamalie@gmail.com>
Sent: Wednesday, June 16, 2021 7:02 AM
To: County Clerk
Subject: Moratorium Banning New Hotels

Please stop it's to much building to many tourists

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2021 JUN 16 AM 9:33
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COUNTY CLERK

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2021 JUN 17 AM 7:59

OFFICE OF THE
COUNTY CLERK



June 17 2021

TO: Maui County Council Chair Alice Lee
Vice Chair Keani Rawlins Fernandez
Council Members

SUBJECT: Support FOR CR 21-39

"Recommending FIRST READING to temporarily maintain the status quo in the development of hotels and other visitor accommodations in South Maui and West Maui until the respective community plans for the areas are updated or two years have passed, whichever is sooner, because of environmental and other impacts.

Aloha Chair Lee, Vice Chair Rawlins-Fernandez, and members of the Council,

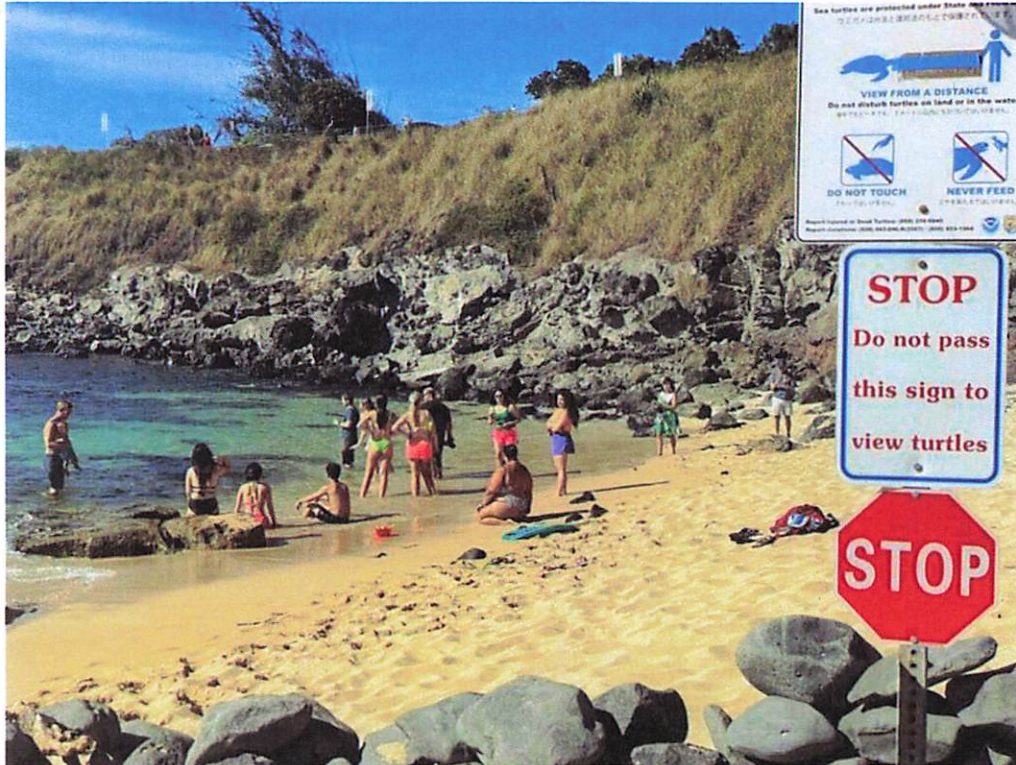
My name is Hannah Bernard and I am Executive Director and Co-Founder of Hawai'i Wildlife Fund.

Mahalo nui loa, thank you for the opportunity to submit my support for CR 21-39 "...to temporarily maintain the status quo in the development of hotels and other visitor accommodations in South Maui and West Maui until the respective community plans for the areas are updated or two years have passed, whichever is sooner, because of environmental and other impacts.

This proposed moratorium on new development is a very important first step in redefining our relationship with tourism here in Hawai'i nei. The reduction in visitors in 2020 caused by COVID-19 gave us an extraordinary opportunity to experience our home in a way that was both poignant and breathtaking. Our nearshore marine resources thrived in the absence of so many people in the water; and also cast a light on our own local usage patterns that we might want to address.

Hawai'i Wildlife Fund is deeply committed to the management of our tourism-based economy, since the impacts of so many visitors to Hawai'i (~10 million in 2019, and expected to match or exceed that in 2021) has negative effects on nearshore marine life. These effects include sea turtle disturbance and outright harassment as well as displacement of our own community from favorite sites. See for example

this recent article: on KITV <https://www.kitv.com/story/44090398/maui-sea-turtle-photo-causes-uproar-on-social-media>



A picture posted on social media is making its rounds and turning some heads. A large group of people at Ho'okipa Beach is seen in the water near two turtles—bypassing a sign reading 'Stop do not pass this sign to view the turtles'. Jennie Montijo

We have engaged the tourism industry since our inception in 1996 in order to help manage the impacts on our environment, but we desperately need the County's help in managing the carrying capacity of Maui. Please allow this bill to move forward to begin to formulate a better way of life for residents and to better support the environment upon which we all depend, especially the tourism industry.

Mahalo for your consideration and continued progress in protecting our environment,

Hannah Bernard
Executive Director
Hawai'i Wildlife Fund

County Clerk

From: Sandra brissette <sandra_brissette@yahoo.com>
Sent: Wednesday, June 16, 2021 11:53 AM
To: County Clerk
Subject: Moratorium on Vacation Buildings

Aloha, CARE Committee members. I am writing to express my strong support for both of the visitor accommodations moratoriums proposed. We need to stop the building of vacation type buildings until there is a plan by the planning department in place that protect the environment and the residents who live here and their children. As this meeting is taking place already our island is advised of drought conditions last miring the usage of water and it is only mid June. What will happened when more hotels build pools and waterfalls, not to mention the waste water that our system can't handle already. The planning department needs to come up with a plan that will protect our water, develop better waste water & sewage systems that protect our reefs. They need to make sure we have affordable housing for us and our children. Our children are suffering living in poor conditions just to stay close to family, what is in the future for them here? Please consider the history of how these islands were given to the US government to protect them, not rob them. We should have in place a bus system that works for our workers and the tourists before having more people flood our highways.. Let's not succumb to the pressure for tourism growth, when what we need is tourism planning. Over crowded roadways, building that block the scenic roadways and beaches taken over by hotel lounge chairs does not make for a pleasurable experience to tourist or residents. It has been reported that Mayor Victorino is threatening to veto these bills.. Please don't let that discourage you from passing them. Both of these bills reflect the overwhelming sentiment of your constituents that Maui residents deserve to be treated as MORE important than visitors, not less. We, not the visitors or the tourism industry, are the ones who will be voting in the next election. If the Mayor vetoes these bills, you can and SHOULD override him.

Sandra Brissette
Kihei Resident

RECEIVED
2021 JUN 16 PM 12:39
OFFICE OF THE
COUNTY CLERK

County Clerk

From: kat reynolds <kcuddihy@dnkzone.com>
Sent: Tuesday, June 15, 2021 9:59 AM
To: County Clerk
Subject: Friday's Maui County Council Meeting

RECEIVED

2021 JUN 15 AM 10:42

OFFICE OF THE
COUNTY CLERK

Aloha

I understand this Friday the Maui County Council will review a moratorium on new tourist accommodations. I am writing in support of this proposal and would like my comments considered in this meeting.

Maui has a problem with excessive tourism. I fully support a ban or moratorium on any new visitor accommodations for Maui. This is an island where our resources are limited and we are already seeing ill effects of so many tourists on our islands. Please vote for a moratorium on new accommodations.

Mahalo

Kathy Cuddihy

June 16, 2021

RECEIVED

2021 JUN 16 PM 4:13

Aloha Maui County Council Members:

I am writing this letter in support of the proposed moratorium on visitor accommodations in West and South Maui. This moratorium is a crucial step toward remediating the current unregulated over-tourism we are seeing on Maui.

OFFICE OF THE
COUNTY CLERK

The Maui Island Plan suggests limiting the number of visitors to approximately 1/3 the number of residents in order to preserve our environment, infrastructure, and quality of life for residents--all of which would improve the visitor experience as well.

The year 2019 was already a year of uncontrolled growth, fueled by the tourism industry. Promises were made by leaders during the early part of the pandemic to improve on the tourism experience for both visitors and residents. Residents were promised that the goal would be to decrease the number of tourists while protecting the islands. Since October of 2020, those promises have been completely forgotten by our leaders, who proudly announce that the goal of reaching 2019 numbers has been met and now exceeded.

The current volume of tourists we were seeing pre-pandemic and now, in 2021, during the pandemic, is a threat to the health, safety and quality of life of the residents of Maui, our environment and wildlife. Our island resources are very limited. Our inadequate sewage treatment, water, and landfills are not meant for this level of use. We are told that we will have yet another water shortage this summer. While my family's yard dries up and dies due to not watering it, the hotels are literally sucking up water as if there is no restriction. While sewage is discharged into our oceans, tourists are overcrowding our beaches and cruelly abusing our wildlife (I am thinking about honu and dolphins right now). Our fishing industry is endangered by the abuse the ocean environment is enduring.

On Maui, tourists do not stay in the tourist areas, but drive all over the island, causing huge traffic congestion—and this is despite the rental car shortage. Tourists don't even think twice about using up resources meant for residents, such as UHauls! I have seen horrific pictures of the road to Hana being blocked by tourists who choose to park on the road, blocking traffic, because of lack of parking.

Residents are literally being told that we do not count and that the tourism industry is all-powerful. Our mayor has already said that he will veto this moratorium, similar to the way he vetoed the affordable housing bill. He has constantly communicated in a very condescending way to residents, very publicly blaming residents for COVID spread rather than acknowledging that it had to have come in by travel; he has called residents "little children who refuse to listen" when we were concerned about the delay in vaccinations here; and he goes out of his way to please the big money brought in by the tourism industry and mainland investors. He has made it clear that residents are second class citizens to tourists.

Residents here sacrifice a great deal financially to live here and deserve to be able to enjoy the beaches, hikes and parks. Instead, there is no room for residents on any of these. The majority of residents here do not depend at all on the tourist industry—yet all of us are made to sacrifice for it. For me, it is about more than a financial sacrifice, as this is not only my birthplace but also that of my ancestors. I am trying my best not to be chased out by greedy leaders who put short-term profit first.

Our economy needs to be diversified. Our children need to be taught skills that will help them to succeed in society, rather than just to serve tourists. We need a moratorium on future visitor accommodations while solutions can be implemented, including leadership that supports resident lives over the tourism industry.

I appreciate the members of the Maui County Council greatly. With few exceptions, you are the leaders who put residents and the 'aina first.

Mahalo Piha,

Kai Duponte

Kai Duponte, MSW

RECEIVED

June 18, 2021

2021 JUN 18 AM 8:21



Council of the County of Maui

Councilmember Alice L. Lee, Council Chair

Councilmember Keani Rawlins-Fernandez, Council Vice-Chair

OFFICE OF THE
COUNTY CLERK

RE: CC 21-280 – "REFERRING TO THE MAUI PLANNING COMMISSION A
BILL FOR AN ORDINANCE ESTABLISHING CHAPTERS 19.98 AND 20.41,
MAUI COUNTY CODE, DECLARING A MORATORIUM ON NEW TRANSIENT
ACCOMMODATIONS ON MAUI"

Hearing date and time: Friday, June 18, 2021 at 9:00 a.m.

Aloha Chair Lee, Vice-Chair Rawlins-Fernandez and Honorable Councilmembers,

Mahalo for the opportunity to provide comments on behalf of Hawai'i Hotel Alliance ("HHA") regarding the County's consideration of a moratorium on building permits for visitor accommodations.

Like so many industries, the pandemic was a game-changer for tourism. The COVID-19 economic recession left Hawai'i's hotels the hardest hit market in the country. For a year, most hotels throughout the county were shut down and/or at occupancy levels that have left many properties operating at a significant loss. Despite the devastating impact that COVID-19 has had on Maui's hotels, the industry doubled down on our commitment to our island home and to the most valuable assets we have: the men and women of Hawai'i who work in and around our hotels.

Throughout the pandemic, our hotels extended the health and welfare benefits for our furloughed employees and developed life-saving 'Safe Stay' protocols to protect our workers, our guests, and the communities we serve. Our hotels invested directly in community food drives, supported kūpuna care, and engaged in countless acts of support for churches, schools, and relief programs. The legitimate visitor industry has worked tirelessly to keep kama'āina safe and healthy while working towards the safe reopening of our hotels. Simply put: our hotel industry will continue its generational commitment to being an integral part of the health of thriving communities across Maui County and across our State because the legitimate visitor industry believes that tourism is additive to support the well-being of those of us who call Hawai'i home. The same cannot be said of illegal short-term rentals.

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, Hawai'i 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 short-term rentals have exploded, adding unhosted B&B 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 the operation of illegal hotels in our neighborhoods, our hardworking partners at the county have admitted that we still need additional resources and tools to aid in effective enforcement.

Our hotels consist of entire ecosystems that consider the needs of our guests and our guests' impact on the communities in which our hotels are situated. Hotels are self-contained environments that, with tremendous input from our community members, permitting authorities, employees, and cultural advisors, are designed to minimize the cost and footprint of our visitors while maximizing visitor spend and contribution to our economy. From maintenance of the beaches our visitors use to the promotion of volun-tourism and ecotourism opportunities for our guests, hotels are actively engineering positive visitor impact for the benefit of Hawai'i.

If it is the intent of the Council to align the interests of kama'āina 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 our ire on the explosion of vacation rentals and enforcement against the 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 and throughout Hawai'i.

Yes, it is time to revisit our relationship with our visitors. And on behalf of HHA and our membership, we welcome every opportunity to continue our work with the Council and our communities in developing projects that put locals to work, invest in environmental stewardship, and promote local business, schools, and non-profits while honoring our host culture. Thank you for your time and consideration of these comments.

With Aloha,

Jerry Gibson, President
Hawai'i Hotel Alliance
Jerry@hawaiihotelalliance.com

County Clerk

RECEIVED

From: Valerie Guarini <52maui@gmail.com>
Sent: Tuesday, June 15, 2021 12:27 PM
To: County Clerk
Subject: Moratorium on new hotels/visitor accommodations

2021 JUN 15 PM 12:31

OFFICE OF THE
COUNTY CLERK

Aloha,

As a Kihei resident, taxpayer and voter, I support the moratorium on building new visitor accommodations. Not only do I support the moratorium I believe it should be much longer than 2 years. Our current infrastructure and environment barely supports the magnitude of tourists arriving daily on our island. Traffic on S. Kihei Road is too often at a standstill. The Piilani is packed with cars. Our beaches, parks & sidewalks are overcrowded.

I have lived in Kihei for over 20 years and have seen tourism increase to the point where it's more than just an annoyance. During that time I have met & interacted with many tourists who were regular visitors to Maui. Over & over again returning visitors have expressed to me their disappointment with the unbridled growth on our island. Many have said this is not the Maui they loved and will not be coming back.

I honestly don't understand the government's need to keep increasing tourist accommodations. We are already at or above a peak where tourism has become a detriment to those of us who live here. During the height of the Covid pandemic when our island home was so wonderfully empty, there was so much talk about limiting tourism. I felt hopeful we wouldn't become another Oahu. My hope now is the Council will concentrate on ways to cap tourism and remember the residents of Maui who certainly deserve to enjoy island we love so much.

Mahalo,

Valerie Guarini
279 Ohina Place
Kihei, HI 96753
808-385-6980.

Sent from my iPad

RECEIVED
2021 JUN 17 PM 1: 51



OFFICE OF THE
COUNTY CLERK

June 17, 2021

Ms. Alice Lee, Chair Maui County Council
And members of the Maui County Council
200 South High Street
Wailuku Maui, HI 96793

Subject: Hotel Building Permit Moratorium

Aloha Chair Lee and Members of the County Council:

It is an honor to provide testimony to you on this important matter. My name is Wayne N. Hedani and I come before you as President of Kaanapali Operations Association, Inc. or KOA for short. KOA represents 5000 units of hotels, condominiums, commercial and recreational facilities at the Kaanapali Beach Resort which generates in excess of \$3Billion in annual economic contribution to the County of Maui employing 5000 employees and paying over \$150Million dollars in taxes annually to government coffers each year. We oppose the bill in its current configuration. Let me explain why:

The bill in its current form attacks the wrong targets at the wrong time in the worst possible conditions. Its stated purpose is to reduce our effect on climate change. It will do nothing of the kind. Co2 emissions will continue unabated. Global temperatures will continue to rise. Sea level rise will continue to accelerate. Nothing the Maui County Council does will affect those outcomes. If you want to address climate change, you should start by building infrastructure toward a hydrogen based economy away from fossil fuels.

The only result of the current bill will be an added layer of government bureaucracy on the permit system which is already overburdened with restrictions causing expensive delays and increasing the price of everything constructed here on Maui. Several of our properties are in the midst of financing redevelopment of their properties to maintain their competitiveness in the global travel marketplace. This comes after years of pursuing approvals from the County of Maui. To withhold permits for these projects would produce the opposite of what you desire.

When a hotel undergoes reconstruction, it involves taking units out of inventory for up to 2 years during construction. This would make less units available during the time period of the proposed moratorium. You should be encouraging redevelopment to address climate change and rising sea levels, not discouraging its progress. The County is an advocate of strategic retreat to address sea level rise, this moves against that initiative. The County would essentially be saying this is what we want you to do but you cannot do it because we haven't figured out how to control tourism.

Here is how you can control tourism:

Limit tourism to master planned destination resort areas that are zoned for hotel uses. All hotel zoned lands have already been developed. The only additional new hotels can be built when an old one is taken down. You want this to happen to maintain our competitiveness in the world tourism marketplace. Success in tourism is not a given. Currently there is not one hotel who is earning a profit in the market. They are only starting to recover from a sustained year of losses. Not all of their employees have returned to work. They need help, not hurt.

Stop issuing new "hotel" permits for short term rental homes in residential neighborhoods. This is the only approved source of new hotels in Maui County. We are currently at about 400 approved out of 800 authorized by the Maui County Council. 400 more short term rental home "Hotels" are waiting in the wings for approvals. Eliminate that excess 50%. Better yet rescind the ordinance that allows TVRs altogether. This is 100% within the control of the Maui County Council. It will absolutely result in a reduction of "over tourism".

The Maui Planning Commission sent a letter to the Maui County Council which was passed by the commission unanimously asking for a moratorium on TVRs over 10 years ago. The concern was tourism impacts to residential neighborhoods. Today those impacts have spread though out our entire island. Now is the time to act on that letter. Cap TVRs where they stand or rescind the ordinance altogether. B&Bs can do what TVRs do now, and better with more control. This is the most effective way to address over tourism and it is absolutely within your control. Do not look elsewhere for the solution. You are the solution. Fail to act and you are the problem. The Council has failed to act on this measure within the last ten years.

400 new TVR hotels translates to over 875,000 more visitors per year. This is the source of over tourism in uncontrolled numbers. Double that number if you consider illegal TVRs which outnumber legal TVRs by two to one. This is the source of the problem which was created when the Council approved the TVR ordinance. If all TVRs were eliminated, over tourism would disappear overnight.

Cap B&Bs. where they stand. Insure that they are owner occupied.

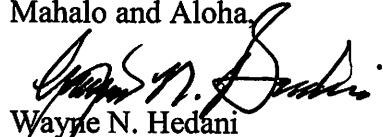
In the recent protest on the beach at Wailea there was a photograph of an elderly kupuna sitting in a beach chair in the bright sunshine, on a golden sand beach with gentle winds blowing and a crystal clear ocean in front of her. It was an idyllic scene for most people. The only thing that was out of place was her sign that said "where is the quality of life?". It was surrounding her at that exact moment in time. She just did not realize it. She was unhappy in the midst of tranquility.

Like most people we take things for granted until it is gone. Paychecks, food on the table, the ability to pay for a roof over our heads and funding for our children's education was what was missing for the last year. Food lines 300 cars long waiting for free food were everywhere. How quickly we forget.

Do not harm the visitor industry by banning hotel building permits. Control out of control TVRs which are within your kuleana instead.

Thank you for this opportunity to provide testimony. I am available for questions at your convenience. You may reach me anytime at 281-3686.

Mahalo and Aloha.

A handwritten signature in black ink, appearing to read "Wayne N. Hedani". The signature is stylized with a large, looping initial 'W'.

Wayne N. Hedani

President

Kaanapali Operations Association, Inc.

cc: Maui Planning Commission



RECEIVED

2021 JUN 18 AM 8:21

Date: Thursday, June 17, 2021

OFFICE OF THE
COUNTY CLERK

To: The Honorable Keani N.W. Rawlins-Fernandez, Council Vice-Chair

From: Jason Higa, CEO, FCH Enterprises dba Zippy's Restaurants

FCH Enterprises dba Zippy's Restaurants strongly opposes CC 21-280 and CR 21-39, in regards to visitor accommodations. These moratoriums impact a multitude of industries, far beyond the visitor industry, including restaurants, activities, retail, agriculture, and more.

As we recover from a devastating economic downturn, this is not the right time to enact such legislation. During the pandemic-related shutdowns [as well as the CDC restrictions even when businesses reopened], our State saw the deep impacts at every level in every community. The visitor industry continues to be our key economic driver, and a vast number of residents depend on this industry. The State and counties must continue to support other industries and provide resources to diversify our economy.

Should CC 21-280 and/or CR 21-39 go into effect, visitors will have limited options for hotel rooms due to increased prices. This would result in visitors seeking out less expensive, most likely illegal rentals within rural communities, which in turn will directly impact the already limited and extortionate housing market. Our local residents struggle to find affordable housing, which will be exacerbated by such legislation.

The State's efforts to diversify the economy, finding other means to provide for productive and stable employment, and providing tangible assistance to the people and businesses of our communities will ensure economic recovery. Included in a well considered strategic planning effort could be discussions involving regulations with regard to the visitor industry. In the meantime, the Council should focus its efforts on pressing issues such as traffic, infrastructure, and housing. These are problems and issues that directly impact local residents' quality of life.

Thank you for your time and consideration of our testimony in strong opposition of CC 21-280 and CR 21-39.

County Clerk

From: Kanani Higbee <khigbee1037@gmail.com>
Sent: Thursday, June 17, 2021 11:03 AM
To: County Clerk
Subject: Moratorium on visitor accommodation for west and south maui IN SUPPORT

Aloha Maui County Council Members,

I, Kanani Higbee, am a Maui oiwi and I live in Lahaina. I would like to give testimony in support of the moratorium on visitor accommodation for West and South Maui.

I feel that the visitor industry needs to be limited in West and South Maui. We need other industries like agriculture. The agriculture lots will be developed soon for Honokowai and we will have lots of Hawaiian farmers, finally.

Also, we don't have enough water for more tourist development. We are already being asked to conserve water. Maui police go into the valley of Honokohau to tell Hawaiians to stop using water for their crops. And so Hawaiians are unable to connect to their identity in order to rehabilitate from Americans taking their water, livelihood, etc. That's why we have too many Hawaiians in prison and jail because their adverse childhood experience score is so high. Hawaiians are over represented in prison more than twofold. That's unacceptable of our elected leaders to continue this oppressive practice.

Please if we could expand on agriculture so Hawaiians can have their livelihood back. They are a people suffering. They need rehabilitation once and for all. Tourism is not good on a large scale. It has amounted to bankruptcy, business and housing mortgage folding, people's hopes and dreams blown away because of tourism struggling during recession and pandemic. It's not good to have our state economy dependent on tourism for 70% of the economy. Besides, many Hawaiians would prefer working in jobs that help the community, not exploit it. Tourism brings over tourists that buy up our homes.

Mahalo,
Kanani Higbee

--
Kanani Higbee

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2021 JUN 17 AM 11:04
OFFICE OF THE
COUNTY CLERK

Aloha, Council members.

My name is Sarah Hofstadter. I am a full-time, permanent resident of Kihei and a leader of the HALE Hawai'i community group. I am writing to express my strong support for both of the visitor accommodations moratoriums proposed by Kelly King and Keani Rawlins-Fernandez.

It is no secret that Maui County residents, especially on the island of Maui, are increasingly voicing strenuous objections to the uncontrolled growth of tourism. One down side of our excessive economic reliance on tourism was evident during the height of the pandemic, when so many residents were financially devastated. As long as our economy is so tightly tied to tourism, any major disruption to the global economy in the future will have the same effect.

And now that visitors are back, the contrast between current conditions and the relative peace and quiet we enjoyed when we were "closed" has thrown into sharp relief the other down sides of overtourism: traffic, overcrowding, food shortages, overuse of our natural resources, abuse of wildlife, and an excessive number of expensive rescue operations attributable to poor judgment and disregard of warnings by visitors.

Enough is enough. Maui residents are getting fed up with the double standard that allows crowds of visitors to degrade our quality of life, while resident-oriented recreational facilities and gatherings are still subject to closures and limitations. We are facing severe drought conditions; farmers are fighting over water rights and Upcountry residents are letting their gardens die to conserve water, yet our resort areas are green and lush. We have a looming problem with adequate sewage processing facilities, and other aspects of our island infrastructure are seriously in need of repair; visitors add to these problems, but do nothing to help solve them. We are in desperate need of affordable housing, yet we continue to commit an excess share of our construction resources to visitor accommodations and luxury second homes for rich mainlanders.

The Maui Island Plan, which was adopted in 2012 and is supposed to have the force and effect of law, specifies in section 4.2.3.a that we are to "Promote a desirable island population by striving to not exceed an island-wide visitor population of roughly 33 percent of the resident population." That provision has NEVER been enforced. Now is the time to start. Let's not wait until a cherished kupuna in East Maui dies unnecessarily because visitor traffic on the road to Hana made it impossible for an ambulance to get through in time.

Of course, Maui has no legal authority to directly control the number of visitors who come here. **Thus, the ONLY legal tool we have to regulate tourist numbers is our ability to limit the accommodations available to them.** If visitors cannot book lodgings, they will not come, and reducing visitor demand is the only way we have to influence the number of incoming flights. **We already have MORE than enough hotel rooms and vacation condos to house the number of visitors Maui's infrastructure can properly handle, and MORE than enough to house a number of visitors equal to 33% of our resident population.** Building yet more capacity would only add to our existing problems.

The opposition to this bill is groundless and deceptive. Why do the hotels need to expand, when they are not operating at full capacity now? If they really need more revenue, they can raise rates instead. As for construction workers, if they need jobs, they can get them from building affordable housing for residents, including their own ohanas and friends, instead of additional/expanded visitor accommodations. Construction union opposition to the moratorium bills is very short-sighted and narrow-minded, and does not reflect a commitment to the long-term well-being of the workers and their community.

The tourism pause necessitated by the pandemic gave us the perspective to see that we MUST diversify our economy, both to insulate it against future emergencies and to preserve residents' quality of life, as well as Maui's infrastructure and ecosystems. Let's not waste the present opportunity to build on that insight with actual policy changes. Let's not succumb to the pressure for tourism growth, when what we need is better tourism management. Let's not build any more of what we have too much of already. Instead, let's focus Maui's workforce and investment resources on the things we really NEED and DON'T have: affordable housing, updated infrastructure, more local food production, and a better future for our keiki, with good-paying jobs that enable them to stay on island.

It has been reported that Mayor Victorino is threatening to veto these bills. Please don't let that discourage you from passing Council Member King's moratorium now, and referring Council Member Rawlins-Fernandez's bill to the Planning Commission promptly with an expression of support from the Council. Both of these bills reflect the overwhelming sentiment of your constituents that Maui residents deserve to be treated as MORE important than visitors, not less. **We, not the visitors or the tourism industry, are the ones who will be voting in the next election.** If the Mayor vetoes these bills, you can and SHOULD override him.

Thank you for your attention. - Sarah Hofstadter, Kihei resident and HALE Hawai'i Steering Team member

RECEIVED
2021 JUN 17 AM 11:37
OFFICE OF THE
COUNTY CLERK



RECEIVED

2021 JUN 17 AM 10:04

OFFICE OF THE
COUNTY CLERK

June 17, 2021

TO: Councilmember Alice L. Lee, Chair
Councilmember Keani Rawlins- Fernandez, Vice- Chair
Members for the Maui County Council

FR: AMERICAN RESORT DEVELOPMENT ASSOCIATION - HAWAII (ARDA-Hawaii)
Mitchell Imanaka, Chair

RE: CC 21-280 (REFERRING TO THE MAUI PLANNING COMMISSION A BILL FOR
AN ORDINANCE ESTABLISHING CHAPTERS 19.98 AND 20.41, MAUI COUNTY
CODE, DECLARING A MORATORIUM ON NEW TRANSIENT
ACCOMMODATIONS ON MAUI)

(Sent via e-mail to care.committee@mauicounty.us)

Aloha Chair Lee, Vice-Chair Rawlins-Fernandez and members of the Maui County Council:

Attached please find a memo regarding the legality of certain aspects of the proposed measure on a moratorium on the issuance of building permits in certain districts on Maui. Your kind consideration of the points raised would be greatly appreciated.

Yours Very Truly,

Mitchell Imanaka
Chair
ARDA Hawaii

**Confidential Discussion Draft
Attorney-Client Privilege**

DATE: June 16, 2021

TO: ARDA Hawai'i c/o Mitchell A. Imanaka, Esq.

FROM: Cades Schutte LLP

RE: Review of Resolution ___ / CRC 21-280 (Establishing Chapters 19.98 and 20.41, Maui County Code, Declaring a Moratorium on New Transient Accommodations on Maui)

We were asked to review Maui County Resolution ___ / CRC 21-280 (the “**Resolution**”) to assist our client in its evaluation of the Resolution. This memorandum presents our assessment.

I. INTRODUCTION

The Resolution would impose a moratorium for the Island of Maui on the issuance of any permit for a “transient accommodation,” including hotel and timeshare units, that is not already in operation as a transient accommodation on the effective date of the Resolution and for the “expansion” of any existing transient accommodation. The Resolution claims a moratorium is necessary because “Maui now dramatically exceeds the codified [one-third] visitor-resident ratio” set forth in the Maui Island Plan and the “continued development of transient accommodations directly relate to an increase” in visitors. Based on those assertions, the Resolution assumes prohibiting the development of new transient accommodations and the expansion of existing transient accommodations will prevent additional visitors from traveling to Maui.

Although the Resolution improves upon the prior forms of moratoria on transient accommodations that have been proposed for Maui, the Resolution is ultimately too ambitious and too blunt to survive legal scrutiny. In particular, the Resolution is invalid as a matter of law for the following reasons:

- The Resolution fails to substantially advance a legitimate government interest, because it rests on demonstrably flawed and unsupported factual premises, including using the daily visitor count for Maui County (rather than Maui Island) for the year 2019 (rather than 2021), concluding an

increase in transient accommodations has caused an increase in the daily visitor population, asserting transient accommodations are “under-regulated” and asserting a prohibition on the development and expansion of transient accommodations will ameliorate negative impacts on the environment and infrastructure.

- The Resolution is unconstitutionally vague, because it proscribes activity in in overly broad terms that fail to provide a reasonable opportunity to developers and operators of transient accommodations to know what conduct is and is not prohibited and invites discriminatory enforcement.
- The Resolution violates the equal protection clause, because it singles out transient accommodations and treats transient accommodations differently from the rest of the visitor industry, including businesses that service visitors and directly impact carbon-emission levels and the use of infrastructure, such as roadways, waste-water facilities and water.
- The Resolution is overbroad, because it extends to all “transient accommodations,” rather than tailor its reach to be consistent with its stated purpose and purported connection between an increase in transient accommodations and the daily visitor population.
- The Resolution violates vested rights, because it fails to protect projects that have a valid discretionary permit but may require an extension of time to complete development.
- The Resolution impermissible delegates authority to a future Council because it authorizes an extension of the moratorium without providing a procedure for the extension.

II. THE RESOLUTION

The Resolution proposes to add two chapters to the Maui County Code—Chapter 19.98 (Moratorium on Transient Accommodation Permits on Maui) to Title 19 of the Maui County Code (Zoning) and Chapter 20.41 (Moratorium on Transient Accommodations on Maui) to Title 20 of the Maui County Code (Environmental Protection). The proposed chapters are identical. Under the Resolution, Chapter 19.98 and Chapter 20.41 would provide in material part as follows:

19.98.030 New transient accommodation permits prohibited. New transient accommodations are prohibited in all zoning districts on the island of Maui. No permit applications or permits required by this title may be accepted or granted by any board, commission, or agency for new transient accommodations.

20.41.030 New transient accommodation prohibited. New transient accommodations are prohibited in all zoning districts on the island of Maui. No permit applications may be accepted or permits granted by any board, commission, or agency for new transient accommodations.

Sections 19.98.030 and 20.41.030 (emphasis added).

The term “new transient accommodations” is defined as “any **structure** intended to be used for **transient accommodation**, including hotels, timeshares, short-term rental homes, and transient vacation rental units, **that is not in operation as [a] transient accommodation** as of the effective date of the ordinance, but excluding bed and breakfast homes.” Sections 19.98.020 and 20.41.030. Although the term “structure” is not defined in the Resolution, Maui County Code defines “structure” to mean “a combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above or below the surface of land or water.” MCC 19.04.040. Under this definition, a “structure” includes a building, rooms or units within a building and additions to or expansions of an existing building.

Although the term “transient accommodations” is not defined in the Resolution or Maui County Code, the term “transient” means “any visitor or person who owns, rents or uses a lodging or dwelling unit, or portion thereof, for less than one hundred eighty days and whose permanent address for legal purposes is not the lodging or dwelling unit occupied by the visitor.” MCC 19.04.040. Thus, a transient accommodation is an “accommodation” or “unit” for transients.

Applying these definitions, the Resolution would prohibit the acceptance or approval of any permit for new buildings, rooms or units within buildings and additions to or expansions of existing buildings that are intended to service transients. The restriction would extend to “hotels, timeshares, short-term rental homes, and transient vacation rental units.” Sections 19.98.020 and 20.41.030.

Maui County Code defines “hotels” as “a transient vacation rental, excluding bed and breakfast homes and short-term rental homes” and “short-term rental homes” as “a residential use in which overnight accommodations are provided to guests for compensation, for periods of less than one hundred eighty days . . . excluding bed and breakfast homes.” MCC 19.04.040. Although “timeshares” and “transient vacation rental units” are not defined in the Resolution or Maui County Code, the Code defines the term “time share unit” to mean “any plan or program in which the use, occupancy, or possession of one or more time share units circulates among various persons for less than a sixty-day period in any year, for any occupant” and “transient vacation rentals or use” to mean “occupancy of a dwelling or lodging unit by transients for any period of less than one hundred eighty days, excluding bed and breakfast homes and short-term rental homes.” *Id.*

The moratorium on the approval of permits for “new transient accommodations” that are “not in operation as transient accommodation as of the effective date of the ordinance, but excluding bed and breakfast homes” in “all zoning districts on the island of Maui” would lift at the earlier of two years from the effective date of the law or “upon the enactment of legislation in accordance with chapter 19.98 or chapter 20.41.” Sections 19.98.050 and 20.41.050. The referenced “legislation” is “legislation implementing appropriate recommendations presented by a Budget, Finance, and Economic Development Committee-established tourism management temporary investigative group” Sections 19.98.010 (Purpose) and 20.41.010 (Purpose) (the only sections in chapters 19.98 and 20.41 that reference legislation). While the Resolution allows the Council to “extend the moratorium for an additional six months,” Sections 19.98.050 and 20.41.050, it does not provide a procedure for the extension, such as by resolution or further ordinance.

Chapters 19.98 and 20.41 would not apply to the following:

- Bed and breakfast homes,¹ Sections 19.98.020 and 20.41.030;
- “Any new transient accommodation that has received its last discretionary approval prior to the effective date of the ordinance establishing this chapter,” Sections 19.98.040(A) and 20.41.040(A);
- “Any new transient accommodation that does not require any additional discretionary approvals prior to operation as of the effective date of the ordinance,” Sections 19.98.040(B) and 20.41.040(B);
- “Renovations or repairs of transient accommodations that do not increase lodging capacity or expand the structures beyond the boundaries of the existing structural footprint,” Sections 19.98.040(C) and 20.41.040(C);
- “A time extension for permits or approvals granted prior to the effective date of this ordinance,” Sections 19.98.040(D) and 20.41.040(D); and
- “[T]he processing, approval, or granting of any application for the approval of a new transient accommodation that is properly filed with the County and complete prior to the effective date of” the Resolution, Resolution Section 6.

¹ The term “bed and breakfast homes” is not defined in the Resolution. Maui County Code defines “bed and breakfast homes” as “a use in which overnight accommodations are provided to guests for compensation, for periods of less than one hundred eighty days, in no more than two detached single-family dwelling units, one of which is occupied by the owner-proprietor. Each bed and breakfast home shall include bedrooms, one kitchen, and living areas and shall include no more than six bedrooms for bed and breakfast home use, as specified within the zoning district provisions of this title.” MCC 19.04.040.

There is no mechanism to obtain an exception from the prohibition, such as by resolution of the Council or approval of the Planning and Public Works Directors.

The Resolution rests on three findings. First, the Resolution finds that transient accommodations are under-regulated and that the “continued development of transient accommodations directly relate[s] to an increase” in the ratio of visitors to residents. Citing to counts by Hawai‘i’s Department of Business, Economic Development and Tourism, the Resolution finds that “Maui’s daily visitor count grew from just over 46,000 in 2010 to nearly 70,000 in 2019, while the resident population remained constant at approximately 150,000 over the same time period” and that “Maui now dramatically exceeds the codified visitor-resident ratio” set forth in the Maui Island Plan. Sections 19.98.010 and 20.41.010.

Second, the Resolution finds that the continued development of transient accommodations and the related increase in tourism cause “negative impacts on the environment, overwhelms County infrastructure, and negatively impacts residents’ quality of life.” Sections 19.98.010 and 20.41.010. According to the Resolution, to “preserve the County’s environment, and to work toward resilience, new development or expansion of hotels, resorts, timeshares, short-term rental home permits, and transient vacation rental unit permits must be **limited** on Maui island for an interim period.” Sections 19.98.010 and 20.41.010 (emphasis added). Thus, the stated purpose of the Resolution is “to comply with Maui Island Plan,” which seeks to “[p]romote a desirable island population by striving to not exceed an island-wide visitor population of roughly 33 percent of the resident population,” Island Plan § 4.2.3.a, “by pausing increasing transient accommodations **and tourism**.” Sections 19.98.010 and 20.41.010 (emphasis added).

Finally, the Resolution finds that the “pause will maintain the number of current transient accommodation units” so that the “tourism management temporary investigative group” established by the Budget, Finance, and Economic Development Committee “may **investigate** and recommend actions including carrying capacity for the island in the Maui Island Plan and for heavily visited and traversed locations, addressing infrastructure loads of roadways, wastewater facilities, water use, other County facilities, and environmental impacts.” Sections 19.98.010 and 20.41.010 (emphasis added). The Resolution anticipate the Council will adopt “legislation implementing appropriate recommendations presented by the” temporary investigative group. *Id.*

The Resolution has been placed on the agenda for the June 18, 2021, meeting of the Council. The Resolution acknowledges that Sections 8-8.4 and 8-8.6 of the Maui County Charter “require that the appropriate planning commission review proposed land use ordinances and provide findings and recommendations to the Council,” Resolution at 1, and, thus, “respectfully requests that the Maui Planning Commission transmit its findings and recommendations [on the Resolution] to the Council as expeditiously as possible.” *Id.* Following the receipt of the Planning

Commission's findings and recommendations on the Resolution, the measure may be adopted on one reading (as opposed to two readings on separate days). Maui County Charter Section 4-2 (1)-(2).

III. ANALYSIS

The Council previously introduced two bills proposing moratoria on the development of transient accommodations within specific areas. First, Bill 191 proposed to add Chapter 40 to the Maui County Building Code, which would have prohibited the "development" of "transient accommodations," including hotel units, in West Maui and South Maui for two years from the law's effective date. Under Bill 191, the prohibition would have ended earlier than two years **if** the ordinances approving the West Maui Community Plan update **and** the South Maui Community Plan had been adopted. If the ordinances became effective before the two-year prohibition ended, the prohibition would have lifted on the effective date of the ordinance approving the South Maui Community Plan update. Bill 191 has been withdrawn.

Second, Bill 232 proposes to add Chapter 40 to the Maui County Building Code, which would prohibit the "development" of "visitor accommodations," including "hotels, resorts, timeshares, short-term rental homes, bed and breakfast homes, and transient vacation rentals," Bill 232, Section 4000.4, in West Maui and South Maui for two years from the law's effective date. The prohibition would automatically end in West Maui on the effective date of the West Maui Community Plan update **if** the West Maui Community Plan update becomes effective in less than two years. Similarly, the prohibition would automatically end in South Maui on the effective date of the South Maui Community Plan update **if** the South Maui Community Plan update becomes effective in less than two years. Bill 232 has been placed on the agenda for the June 18, 2021, meeting of Council.

In prior memoranda, we discussed the problems with Bills 191 and 232. While the Resolution addresses several of the concerns that we raised regarding the legality of those bills, the Resolution remains fundamentally flawed.

A. The Resolution Fails to Substantially Advance a Legitimate Government Interest. The Due Process Clause of the Fourteenth Amendment provides that no State shall "deprive any person of life, liberty, or property, without due process of law." U.S. CONST. amend. XIV; *accord* HAW. CONST. art I, § 5. "The Due Process clause confers both procedural and substantive rights." *Richardson v. City & Cnty. of Honolulu*, 124 F.3d 1150, 1162 (9th Cir. 1997). Substantive due process protects individuals from arbitrary acts of government and ensures that "the government does not exercise power without any reasonable justification in the service of a legitimate government objective." *County of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). A "regulation that fails to serve any legitimate governmental objective may be so arbitrary or irrational that it runs afoul of the Due Process Clause." *Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528, 542 (2005); *see also id.* at 549 (Kennedy, J. concurring) (noting that the *Lingle* decision "does not foreclose the

possibility that a regulation might be so arbitrary and irrational as to violate due process”).

The Resolution fails to advance a legitimate governmental interest in five ways. First, the Resolution’s findings assert that, “according to Hawai‘i’s Department of Business, Economic Development and Tourism, Maui’s daily visitor count grew from just over 46,000 in 2010 to nearly 70,000 in 2019.” The cited figures appear to be the average daily visitor count for Maui County, however, and not Maui Island. According, the findings do not support the Resolution’s stated purpose, which is to “comply” with the Maui Island Plan, or the adoption of a moratorium for the Island of Maui.

Second, the Resolution incongruently relies on the average daily visitor count in 2019, rather than 2021, to arrive at the conclusion that “Maui **now** dramatically exceeds the codified visitor-resident ratio.”² (Emphasis added.) If the moratorium is presently necessary to comply with the purely planning policy estimate of the desired ratio between visitors and residence expressed in the Maui Island Plan, the moratorium must rely on the current residence and daily visitor counts.

Third, an increase in hotel rooms and other transient accommodations has demonstrably not caused an increase in the daily visitor population. On the contrary, hotel rooms on Maui have declined from 8,577 units in 2000 to 7,251 units in 2020. Only a handful of hotels have been built during the last 25 years. Yet the daily visitor count has continued to increase. Thus, there is no factual basis to conclude that the moratorium will cause the daily visitor count to stabilize or decrease. No data or study has been presented in support of this conclusion. No known facts support this conclusion. Visitors will continue to come, as they have. And, as they have, visitors, will stay in alternative accommodations, including illegal accommodations, when hotels are at capacity or too expensive.

Fourth, contrary to the finding that “transient accommodations” are “under-regulated,” hotels and certain other transient accommodations, such as timeshares, are heavily regulated. *See, e.g.*, HRS Chapter 486K; HRS Chapter 514E; HAR Chapter 106. For example, hotels and timeshares may only be developed in areas that are designated for hotel use (not in residential neighborhoods) consistent with existing zoning laws. In this way, the development of hotel and timeshare units avoids the potentially adverse effects on neighborhood character, area infrastructure and the availability of on-street parking. *See Willdel Realty, Inc. v. New Castle County*, 270 A.2d 174 (Del. Ch. 1970), *aff’d* 281 A.2d 612 (invalidating a moratorium on building permits and noting that although some of the land subject to the moratorium was undeveloped, the undeveloped property was “situated within a highly developed area for which patters of construction and development were

² According to Hawai‘i Tourism Authority, the average daily visitor count on Maui Island in 2021 is approximately 40,000.

already established” and thus the need for a moratorium during a period of plan reformation was doubtful).

Finally, the assertion that the prohibition on the development of transient accommodations is intended to address negative impacts on the environment and purportedly overwhelmed infrastructure does not withstand scrutiny. No rational review leads to the conclusion that developing transient accommodations over a period that would not exceed two years has any effect on carbon-emission levels, climate change or global warming. Nor has any data or study been presented to support such a conclusion or the conclusion that the County’s infrastructure is overwhelmed due to the continued development of transient accommodations.

Revealing that no existing data supports the assertions in the Resolution, the Resolution calls for **an investigation** and recommendations regarding the “carrying capacity for the island in the Maui Island Plan and for heavily visited and traversed locations, addressing infrastructure loads of roadways, wastewater facilities, water use, other County facilities, and environmental impacts.” Sections 19.98.010 and 20.41.010 (emphasis added); *see, e.g., Monmouth Lumber Co. v. Ocean Township*, 87 A.2d 9 (N.J. 1952) (holding moratorium valid because it is “consistent with the theory of planning to provide, **after** study of the conditions of the community, a means of preventing changes in the character thereof which might be opposed to the theory of planning and zoning pending the formulation of a detailed and complete ‘comprehensive plan’ for the municipality, either new or in substitution for an outmoded plan”) (emphasis added); *see also Willdel Realty*, 270 A.2d 174 (holding that action of county council in rezoning land was not arbitrary and capricious where there was a full exploration of facts by the department of planning, a spirited public hearing by council and an abundance of technical data before council when it acted).

Resting the Resolution on demonstrably flawed and unsupported factual premises severs the connection between the purported purposes of the Resolution and the actual effects of the Resolution. With the failure of the purposes of the Resolution, the prohibition is arbitrary and the Resolution is invalid. *See, e.g., New Jersey Shore Builders Ass’n v. Township Committee of Dover Tp.*, 468 A.2d 742 (N.J. 1983) (holding that a moratorium on issuance of building permits for construction of multi-family housing and for conversion of motels into condominiums was **invalid due to lack of factual justification** for moratorium in regard to problems of water supply and water pressure and explaining that “[t]he situation must be exigent, the causes must be adequately explored, and it must be demonstrated that other less extreme solutions have been investigated and found to be not feasible. None of these requisite proofs is before the court. Stripped to its essentials, the ordinance is nothing more than an expedient legislative reaction”) (emphasis added); *Cellular Telephone Co. v. Village of Tarrytown*, 209 A.D.2d 57 (N.Y.S.2d 1995) (a moratorium on cell tower construction was invalidated because there was **no evidence** that cell towers produced any public health or safety problems; rather, the moratorium was based

on bare perceptions of the village residents regarding health); *Q.C. Construction Co., Inc. v. Gallo*, 649 F. Supp. 1331, 1336 (D.R.I. 1986) (“Analyzing the necessity of the Resolution and **considering less drastic alternatives** lead inescapably to the conclusion that the Resolution is unconstitutional” because “[a] moratorium on issuance of building and sewer connection permits is not reasonably necessary to protect the welfare of town residents” and “**only preserves the already bad situation** that [purportedly] existed.”).

B. The Resolution Is Unconstitutionally Vague. The Fourteenth Amendment is violated by laws so vague that persons “of common intelligence must necessarily guess at their meaning and differ as to their application.” *Planned Parenthood v. Arizona*, 718 F.2d 938, 947 (9th Cir.1983); *Scurfield Coal, Inc. v. Commonwealth*, 582 A.2d 694 (Pa. 1990) (a vague ordinance is one that proscribes activity in terms so ambiguous that reasonable persons may differ as to what is actually prohibited). A law is unconstitutionally vague if it fails to provide a reasonable opportunity to know what conduct is prohibited, *Giaccio v. Pennsylvania*, 382 U.S. 399, 402–03 (1966), or is so indefinite as to allow arbitrary and discriminatory enforcement, *City of Chicago v. Morales*, 527 U.S. 41, 52 (1999); see *Exton Quarries, Inc. v. Zoning Board of Adjustment*, 228 A.2d 169 (Pa. 1967) (a local government unit has no authority to adopt an ordinance that is arbitrary, vague or unreasonable or inviting of discriminatory enforcement).

The Resolution is unconstitutionally vague for two reasons. First, Chapters 19.98 and 20.41 would prohibit the issuance of a permit for “any structure intended to be used for [a] transient accommodation, including hotels, timeshares, short-term rental homes, and transient vacation rental units, **that is not in operation as transient accommodation** as of the effective date of the ordinance, but excluding bed and breakfast homes.” Sections 19.98.020 and 20.41.030 (emphasis added). Under this provision, it is unclear whether, for example, transient accommodations that have an active operating license but may be in the midst of a renovation or recovering from COVID-19-related impacts and out of operation would be subject to or exempted from the Resolution’s prohibition.

Second, Chapters 19.98 and 20.41 would not apply to “renovations or repairs of transient accommodations that do not increase lodging capacity **or expand the structures beyond the boundaries of the existing structural footprint.**” Sections 19.98.020 and 20.41.030 (emphasis added). The exception makes no sense. For example, the Resolution would seemingly prohibit an owner from simply making a room or unit larger without increasing capacity and from enlarging existing accessory uses, such as by expanding a restaurant located within a hotel, beyond the structure’s current footprint. Neither of these forms of development would increase the lodging capacity or run contrary to the Resolution’s stated purpose—to maintain Maui’s daily visitor count. Yet both forms of development appear to be prohibited.

Because the Resolution proscribes activity in terms so broad and ambiguous that reasonable persons may differ as to what is actually prohibited or exempted, it fails to provide a reasonable opportunity for developers and operators of transient accommodations to know what conduct is and is not prohibited and invites discriminatory enforcement. *See, e.g., Scurfield Coal*, 582 A.2d 694 (a vague ordinance is one that proscribes activity in terms so ambiguous that reasonable persons may differ as to what is actually prohibited); *Exton Quarries*, 228 A.2d 169 (a local government unit has no authority to adopt an ordinance that is arbitrary, vague or unreasonable or inviting of discriminatory enforcement). The Resolution must be clarified to avoid invalidity.

C. The Resolution Violates the Equal Protection Clause. The Equal Protection Clause “keeps governmental decision-makers from treating differently persons who are in all relevant respects alike.” *Nordlinger v. Hahn*, 505 U.S. 1, 10 (1992). Where the challenged government action does not implicate a suspect class or burden a fundamental right, the action is unconstitutional if it does not “rationally further a legitimate state interest.” *Id.* at 10.

Here, the Resolution singles out “transient accommodations,” excludes “bed and breakfast homes” from other transient accommodations and treats all other transient accommodations differently from the rest of the tourist industry. There is no rational basis for treating “transient accommodations” differently from other businesses that service visitors and directly increase carbon-emission levels and use of roadways, wastewater facilities and water use, such as rental car companies, tour companies and restaurants. Because there is no rational basis for the regulation, the classifications drawn in the Resolution violates the Equal Protection Clause. *See, e.g., New Jersey Shore Builders Association v. Township Committee of Dover*, 468 A.2d 742 (N.J. 1983) (moratorium on building permits for multifamily dwelling units or conversion of motels into condominium units, but not for laundromats, car washes, or restaurants, while commission studied and reported to township committee on adequacy of public water supply held invalid because the latter groups were also consumers of large quantities of water).

D. The Resolution Is Unconstitutionally Overbroad. The stated purpose of the Resolution is to “[p]romote a desirable island population by striving to not exceed an island-wide visitor population of roughly 33 percent of the resident population,” Island Plan § 4.2.3.a, “by pausing increasing transient accommodations **and tourism**,” Sections 19.98.010 and 20.41.010 (emphasis added). As noted above, however, hotel rooms on Maui have **declined** from 8,577 units in 2000 to 7,251 units in 2020, and only a handful of hotels have been built during the last 25 years. Accordingly, the Resolution proscribes a use that has demonstrably not contributed to an increase in visitors on Maui.

What has substantially increased, particularly on Maui, are short-term rental homes. *See Hawai'i Vacation Rentals: Impact on Housing & Hawai'i's Economy* (March 2018), Hawai'i Appleseed Center for Law and Economic Justice,

<https://hiappleseed.org/wp-content/uploads/2018/03/Appleseed-Vacation-Rental-Report-rev.-3.29.18.pdf>. As of March 2018, there were an estimated 9,000 short-term rental homes on Maui. *Id.* at 9. Shockingly, one in seven housing units on Maui was identified as a short-term rental home. *Id.* More than 50 percent of sales of units on Maui were found to be to nonresident buyers, and 66 percent of those nonresident buyers rented out their units on a short-term basis. *Id.* On these facts, “it is not a surprise that Maui has the highest percentage of residential units being used as [short-term rental homes] in the state.” *Id.* (citing Individually Advertised Units in Hawai‘i, SMS Research & Marketing Services for Hawai‘i Tourism Authority (Dec. 2014), [http://www.hawaiiitourismauthority.org/default/assets/File/research/accommodations%20studies/Individually%20Advertised%20Unitsits%20in%20Hawaii%20\(Vacation%20Rentals\).pdf](http://www.hawaiiitourismauthority.org/default/assets/File/research/accommodations%20studies/Individually%20Advertised%20Unitsits%20in%20Hawaii%20(Vacation%20Rentals).pdf)).

Despite the obvious connection between the proliferation of short-term rentals, particularly illegal short-term rentals, and the increase in the daily visitor count, the Resolution inexplicably does not limit its reach to short-term rentals. Without question, illegal short-term rentals will continue to increase despite the proposed moratorium. Only developers of legal transient accommodations will be impacted by a moratorium on transient accommodations. Compounding the failure to address illegal short-term rentals, as the use that actually impacts the island, the Resolution extends to uses, such as hotels, that have not contributed to the increase in the number of visitors. Overly broad limitations on the constitutional right to make productive use of land are illegal. *See, e.g., Commonwealth v. Asamoah*, 809 A.2d 943, 946 (Pa.2002) (a municipal ordinance is overbroad if, by its reach, it punishes constitutionally protected conduct as well as illegal conduct); *Nunez v. City of San Diego*, 114 F.3d 935, 946 (9th Cir. 1997) (in order for an ordinance to be narrowly tailored, “**there must be a sufficient nexus between the stated government interest and the classification created by the ordinance**”) (emphasis added). To pass constitutional muster, the Resolution must address the use that has contributed to the identified harm—an increase in the number of visitors to Maui. By extending its reach to uses that have not contributed to an increase in the number of visitors to Maui, such as hotel units, the Resolution is unconstitutional.

E. The Resolution Violates Vested Rights. The right to proceed with a project despite a change in the law vests upon reliance on the last discretionary approval for a project. *Kauai Cnty. v. Pacific Standard Life Ins. Co.*, 65 Haw. 318, 328, 653 P.2d 766, 774 (1982) (a “final discretionary action constitutes official assurance”). While the Bill exempts “a time extension for permits or approvals granted prior to the effective date” of the law,” it does not appear to allow an extension of a Special Management Area permit or any other permit with a deadline. The failure to protect projects that have a valid discretionary permit but that may require an extension of time to complete development violates vested rights. To conform to the law of vested rights, the Resolution should provide for such an exemption.

F. The Resolution Improperly Authorizes an Extension of the Moratorium with No Mechanism for the Extension. The Resolution allows the Council to “extend the moratorium for an additional six months,” Sections 19.98.050 and 20.41.050, but fails to provide a procedure for the extension.

The Maui County Charter, which “is a constitutional document . . . [that] defines the responsibilities of [Maui’s] local government,” Maui County Charter (Foreword); see Maui County Charter Article 2, requires “every legislative act of the council” be accomplished by one of two forms: an ordinance or a resolution, *id.* Section 4-1 (“Actions of the Council. Every legislative act of the council shall be by ordinance Other acts of the council may be by resolution.”).

As the Resolution will ultimately require any moratorium to be enacted through an ordinance, any extension of the moratorium would require the adoption of an ordinance. As the Resolution acknowledges, the Maui County Charter requires that the appropriate planning commissions review proposed land use ordinances and provide findings and recommendations to the Council. As the Resolution requires review and comment by the Maui Planning Commission, any extension of the moratorium would require review and comment by the Maui Planning Commission.

By purporting to give the Council the power to extend the moratorium for a six-month period (the Resolution is unclear as to whether power to extend the moratorium is for a single six-month period or unlimited six month periods) without requiring the Council to follow the process set out in the Charter, the Resolution runs contrary to the Charter. See Maui County Charter (no provisions allowing Council to simply extend an ordinance or resolution and bypass required agency review). The result is an impermissible delegation of authority, which renders the contemplated extension invalid. *Cf. Akaku: Maui Cmty. Television, v. Lopez*, No. 30281, 2013 WL 1829764, at *8 (Haw. App. Apr. 30, 2013) (finding that a rule which specifies the process and procedures that agencies must follow in exercising their authority is not an impermissible delegation of authority).

IV. CONCLUSION

The Council has appropriately worked to correct the errors in the prior bills for moratoria. We ask the Council to consider the points raised in this memorandum and craft a moratorium that will meet constitutional muster.

County Clerk

From: Molly Jacobson <molly@mollyjacobson.com>
Sent: Thursday, June 17, 2021 11:23 AM
To: County Clerk
Subject: In support of the Moratorium

RECEIVED
JUN 17 2021 11:28
OFFICE OF THE
COUNTY CLERK

Aloha Maui County Council Members,

I am writing this letter in support of the proposed moratorium on visitor accommodations in West and South Maui. This is a great first step toward fixing the problem this council has already identified: unregulated over-tourism.

I hope that future steps will expand the moratorium to the entire island because what happens in South and West Maui does NOT stay in South and West Maui. Tourists put waste in our sewers (and oceans), drink from our water table, and fill up our extremely limited landfill. They travel all over the island, and are constantly hoping for "new" and more "secret" "locals-only" places to visit.

When the Maui Island Plan suggests limiting the number of visitors to 1/3 the number of residents, that is commonsense. More tourists does NOT equal more money. As any business owner will tell you, getting more customers when you cannot meet demand is not a good thing.

It's a recipe for disaster. If you cannot provide the product or service people are paying for, they rightfully complain and take their business elsewhere.

We all know that this island is not providing a quality experience for tourists when there are so many jamming the roads, clogging up the reefs, endangering wildlife, and threatening our health and safety.

We all know that the current state of over-tourism is just a continuation of what has been true for at least a decade.

And we all know that the quality of life of residents is suffering because of it.

I know that many folks will speak about this to you. There are many specific issues that will be brought up, so I will not rehash them here.

I wrote an article a few weeks ago on the national platform Medium.com. The link is below, as is the text of the article.

As the editor of a best-selling book about cancer, I write about and think about and report upon it every day. My article outlines the way that over-tourism acts on Maui ... and how it is EXACTLY like how cancer acts in the body.

I encourage you to read it and consider the analogy.

If we had cancer, we would get treatment. Quickly.

This moratorium is a good place to start. It makes many other treatments possible.

I know that the mayor has threatened to veto this and many other pro-tourism-management measures.

So what!

Even if he does veto it, you are our voice. The elected representatives of the County Council speak for us.

I look forward to supporting you as you consider and hopefully pass this moratorium. Even if it is vetoed later, our voices MUST be heard.

I have deep appreciation for the work you do, and for the time, effort, and energy it takes. I wish you well in your deliberations during this critical time on Maui.

May we all be guided and blessed, and may you be protected and honored.

Thank you for your time and attention.

Molly Jacobson
Kihei

<https://mollyjacobson.medium.com/over-tourism-on-maui-behaves-exactly-like-cancer-in-the-body-242ca2ed30d4>



Over-Tourism on Maui Behaves Exactly Like Cancer in the Body.

We Must Take It Seriously and Get Into Treatment Immediately.

mollyjacobson.medium.com

The article looks best and reads most clearly on the website. However, I have included the text below as well:

Over-Tourism on Maui Behaves Exactly Like Cancer in the Body.

Molly Jacobson
Jun 2, 15 min read

We Must Take It Seriously and Get Into Treatment Immediately.

I think about and write about cancer every day in my business and personal life. I also think about and write about Maui every day in my business and personal life.

I don't claim to speak for anyone else, and I am not born and raised on Maui. There are many people who speak more eloquently and with more wisdom than I about the historical and political situation here.

I do not speak for anyone but myself: a white lady born in Connecticut who moved here when she was 33, sixteen years ago. A business owner who has struggled with anti-business (pro-tourism) regulations.

A writer who knows she communicates better in paper than in person.

I am humble about my role in my adopted home. But I must speak because I think Maui has a serious problem.

Here's what I want to tell you:

Cancer cells grow fast, don't stop, refuse to die, replicate endlessly, steal resources, and spread to new areas. They are assisted by tiny genetic problems and chronic inflammation.

Tourism also grows fast, doesn't stop itself, refuses to die a natural death, replicates endlessly, steals resources, and spreads to new areas. It is helped by tiny loopholes in the laws and the chronic irritation residents experience.

Maui has metastatic cancer. It's called over-tourism. And unless we do something, now, there will be no normal cells left to save us.

The Six Hallmarks of Cancer and Over-Tourism

Biologists and oncologists and cancer researchers generally agree that there are six things cancer cells do that normal cells do not.

[Hallmarks of Cancer: The Next Generation](http://www.cell.com)The hallmarks of cancer comprise six biological capabilities acquired during the multistep development of human tumors...www.cell.com
The hallmarks of cancer comprise six biological capabilities acquired during the multistep development of human tumors...
www.cell.com

All six of these characteristics are in operation on Maui.

Cancer cells and over-tourism both exhibit the following deranged and damaging behaviors.

ONE: Self-sufficiency in growth signals ... Pedal to the Metal

Cancer cells grow and never stop growing.

A good way to describe this is that their **accelerator pedal is jammed to the floor and stuck there.**

Cancer cells use fuel at unbelievable rates. They don't even attempt to stop themselves, let alone go the speed limit.

Their goal is exponential growth.

They aren't satisfied with a little tumor. They want a GINORMOUS tumor.

This is true in tourism as well.

Cancer and tourism both want extreme, neverending, exponential growth.

We are currently experiencing "[extreme growth.](#)"

We have known for decades that the checks on tourism don't exist ... or aren't enforced.
([Even travel writers get it.](#))

- The tourism authorities keep getting more and more funding.
- The developers keep building and building.
- The commissions and planners keep approving hotels, condos, and short-term rentals.
- The airlines keep adding flights.
- And local businesses scramble to keep up.

One location? Those were the old days. Now you need your restaurant, surf shop, gift store, clothing boutique, or art gallery in three locations at least.

Paia, Kihei, and Lahaina.

That's where the tourists are. Right?

For now.

Folks upcountry think they're safe from tourism cancer.

But we're getting squeezed tight, and Maui is a small island.

It's just a matter of time before that speeding cancer of tourism decides it can climb the hill.

Or follow the road to Hana.

Why not? Pedal to the medal!

Two: Insensitivity to anti-growth signals ... Brakes Don't Work

Cancer cells grow fast. They also disable their own brakes.

Even if they wanted to stop growing, they couldn't.

(And they don't want to stop.)

Imagine flying down the highway, pedal to the metal.

Uh oh — you see Taguma up ahead, standing in the middle of the Pi'ilani, laser gun pointed right.
At. Your. Bumper.

Better slow down.

Yeah, right.

If you're cancer, you don't do that.

You can pump the brakes all you want ... but you are not stopping.

Cancer doesn't care about tickets. And if it **hits Taguma as it flies by**, cancer doesn't care about him, either.

Cancer doesn't worry about being caught or getting a ticket.

This is true in tourism, too.

Cancer and tourism both want to never stop growing.

Developers know that Taguma has nothing but that little laser gun.

He can't actually stop them.

The laws are built to help them build more, not regulate them.

They fly by the regulators and barely even get a ticket.

They get [permits for one kind of project and then build under another set of codes](#).

They "sell" their affordable housing requirements to another developer so the units are far from their pretty property.

The homeowner who sees the influx of Silicon Valley tech workers sells their home for well over the asking price.

Even though they know that person is probably only going to live in their home part-time, or maybe for a year or two.

Meanwhile, regular people try to pump the brakes.

Residents write letters and show up to commission meetings and committee meetings and council meetings.

They [go to the beach](#) and airport and wave signs.



But is anyone listening?

The regulators nod through testimony and smile tight little smiles. Then they do exactly what they planned to do all along.

The brakes don't work.

THREE: Evading apoptosis ... Not Committing Suicide to Prevent Harm

Cancer cells grow fast and don't stop. They also refuse to die.

Normal cells are born, live a certain length of time ... and then kill themselves naturally and quietly at the end of their natural lifespan.

They don't live forever.

They know that if they did live forever, the body would die.

We can't have too many cells.

Our cells die by the billions.

If you are an adult human, about fifty billion of your own cells are committing suicide TODAY.

Normal cells monitor their own health.

If they notice damage, they repair it.

If they can't repair the damage, they kill themselves.

If they notice they've been deranged ... their DNA has changed ... they kill themselves.

But not cancer cells. Cancer cells tell the genes that kick in to commit suicide to look the other way.

Don't see the pedal to the metal exponential growth.

Don't see the way the brakes flap around, useless.

Just stay quiet and don't kill me.

This is true in tourism, too.

Cancer and tourism both disable the natural instinct to kill yourself before harming others.

People who own businesses based in tourism worry that limiting tourism will limit their future.

So they keep quiet when tourists try to drown turtles.



Karen Moore shared a link.

May 8 at 1:20 PM · 🐾

****edit - NOAA hotline at the top for visibility: +1 (800) 853-1964.**

I'm sure there are many PSA's on this subject, but I want to add another in case it helps even one person. Please give wildlife their space!

We have been totally enchanted by the wildlife here and are very diligent about keeping our distance. This is our third day spent on the beach near "Turtle Town" and I was really disappointed to come across a few adult men grabbing and chasing turtles, flipping them over forcefully and even standing on top of them in the water (pushing them down into the sand) while they struggled to come up for air.

I was polite at first but will admit that I am a fallible human with a love for animals, so I did lose my temper a bit at their obstinate and rude response 😞 Undoubtedly a few will find it Karen-ish, but I did spend a few minutes on the phone with NOAA and they were very kind. Their enforcement hotline can be reached at +1 (800) 853-1964.

Hoping everyone's weekend is beautiful! We are grateful for the opportunity to spend time in this beautiful place.



Posted in the Maui Bound group on Facebook

Or [cut fishing lines at Kamaole Beach II](#).

When tourists make fun of local culture or the Hawaiian language, they say nothing.

I get it. We don't want to be rude in return.

But it's not just in tourism businesses.

The construction industry says "[tourism is good, development is good](#)."

They want 18 months of work from that hotel or the new condos. They want jobs, jobs, jobs.

If we're not building forever, how will they make money to feed their families?

It's not like the county or the state is paying them to build and repair infrastructure.

In other places, developers would never get to build a shopping center or a hotel or a condo without massive investment in the infrastructure.

You want to build a hotel? OK, build this overpass. Or create a park.

Elevate this road. Install high-speed internet for this entire area.

But requiring major commitments in infrastructure would kill off development.

Or at least, that's the fear.

So we say "ok, restripe the road here, or install a stop sign there."

We say "do a study and see if the pollution is too much."

No matter what the results are, we look the other way and let it all just keep going.

We hope something will change someday, but for now ... who can stop it?

We don't kill off the cancer of over-tourism the natural, quiet, effective way .. by refusing permits.

And so cancer keeps growing. Because that's what cancer does.

FOUR: Limitless replicative potential ... Multiply an Infinite Number of Times

Cancer cells grow fast, don't stop themselves, and never die. They also make new cancer cells.

They give birth over and over and over to new cancer cells. Exact replicas of themselves.

And those new cancer cells do the same thing their elders do.

They grow fast, don't stop, refuse to die a natural death ... and replicate.

So now there isn't just one cancer cell. There are infinite cancer cells.

And those infinite cancer cells create another infinity of cancer cells.

Same in tourism.

Cancer and tourism both replicate to infinity.

If one condo is good, two is better.

If I have a hotel, I need another one, right next door.

Sea levels rising within 20 years?

Oh, well. I'll think about that when the time comes.

Nonsensical growth in development is a hallmark of cancer and tourism.

Does this person want a short-term vacation rental permit? OK.

Now their neighbor does? OK.

In this other neighborhood, too? Sure.

Oh, you want to move to the mainland and get a permit to rent your home out to tourists?

You'll come back when you retire, after you've made your money?



Author

Kaniela Ing ✓

~~Steven Yamamoto~~ I said prices should be function of area wages. I believe we are aligned there

Like · Reply · 5d · Edited



~~Steven Yamamoto~~

Kaniela Ing But leaving the tab for local businesses to pick up is not the answer and they're not the problem. You can increase housing supply by deincenavising out-of-state ownership with increased property taxes.

Like · Reply · 5d



~~Steven Yamamoto~~

Kaniela Ing I should know, I'm born and raised in Hawaii, own property in Hawaii, own a business in Hawaii, and I'm in the highest tax bracket in Hawaii. Know what I'm planning on doing? Moving away because income tax is too high, keeping my property because I can rent it out for double my mortgage because the people I grew up with can't afford to buy, and I'll be back when I retire and I don't have to pay any taxes. I'm not doing any of this because I want to, but because that's how the Hawaii system is designed.

Like · Reply · 5d



~~Steven Yamamoto~~

Kaniela Ing Locals that can't afford homes aren't the only people being run out of the state. And if you build more homes, I'll just buy more homes and rent them from the mainland. I'm part of the problem with housing in Hawaii and I'm pretty much telling you how to beat me to even the playing field. But you're not gonna get there if you go after businesses.

Like · Reply · 5d



You raise the rent by 50% after your tenant's lease is up?



Malina Martin

April 22 · 🌐

...

More and more I'm hearing stories about hard working Maui people and their families getting booted out of their rented home because someone is buying it (and it sure seems like out of state buyers). Desperation is thick and spreading wider as folks look for new homes to rent and none are available or rentals are now charging much more than ever before because of the ramped up demand. Every now and then Ben and I get solicited by realtors wanting to buy our home and the pitch is that they have buyers waiting with some able to pay lots of cash right away, so I can see how it's enticing to sell.

I really believe that our working class folks need to be able to stay stable to help our island's future be promising. That is what our own parents and grandparents did for us so that each generation has hope and can help themselves and help the greater community do better too with each passing generation.

In other states, in small towns across the mainland, members of generational families relocate and long time residents move elsewhere when they no longer can bear the burden of unreasonable growth and the cost to live there. We call an island our home. There is nowhere to go. No highway to jump on to another town. And quite frankly, folks don't want to move to a continent. Nor should droves of our people be forced to.

What's going on now puts aside all that we, our parents, our grandparents and those before them have worked for here on Maui.

It cannot be that way.

Just saying it out loud.

I don't know the answer, but for now, if you are a landlord, please consider offering reasonable rent amounts to local residents in need.

I get it. It's tempting. There is money to be made.

Tourism has replicated itself, and it's showing up in every area of our life on Maui.

FIVE: Sustained angiogenesis ... Demanding Food from Neighbors

Cancer cells grow fast, don't stop, refuse to die, and replicate endlessly. They also steal food from neighboring cells.

They are so disgusting!

They make blood vessels that reach out like vacuum hoses to neighboring cells.

They attach to the cell, evading its defenses, and start siphoning off its blood supply!

So the normal cell is living its life, handing over all its food.

Meanwhile, it can't feed itself.

It's dying so the cancer cell can live.

Same is true in tourism.

Cancer and tourism both steal ALL the food from neighbors.

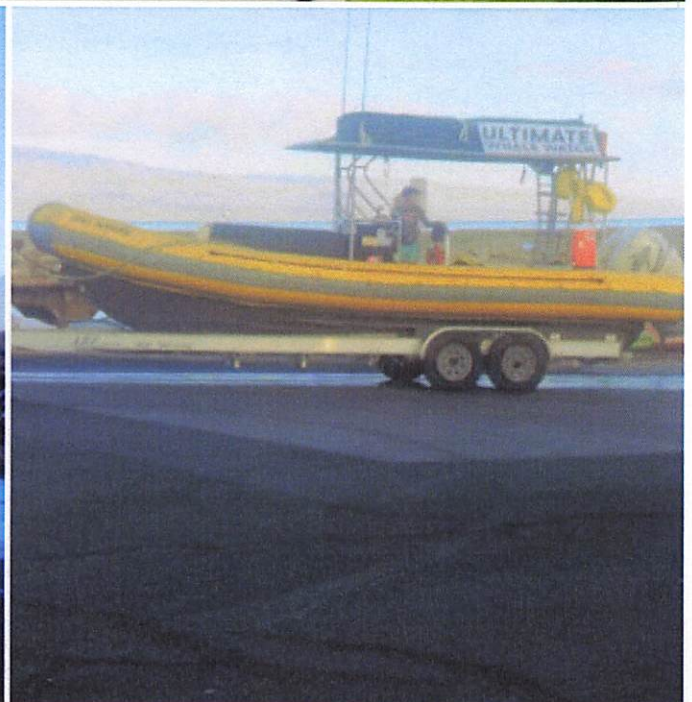
Short-term vacation rentals and encroaching hotel developments bring vacationers into residential neighborhoods.

Surf schools and boating outfits jam up beaches, cross private property, and load without permits.

They're taking up space that fisherman and residents need to go about their business and feed their families.



Access Denied! Surf?Fish?Dive?

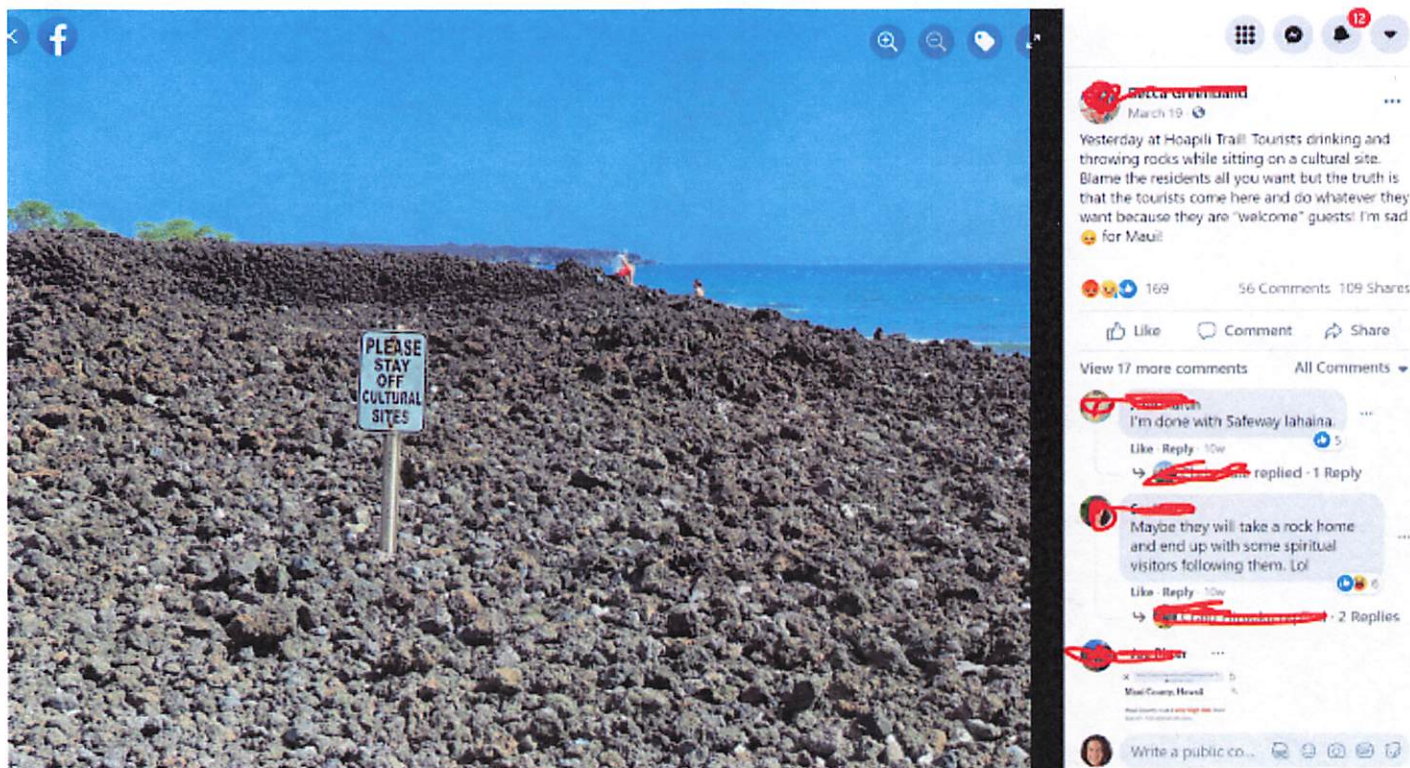


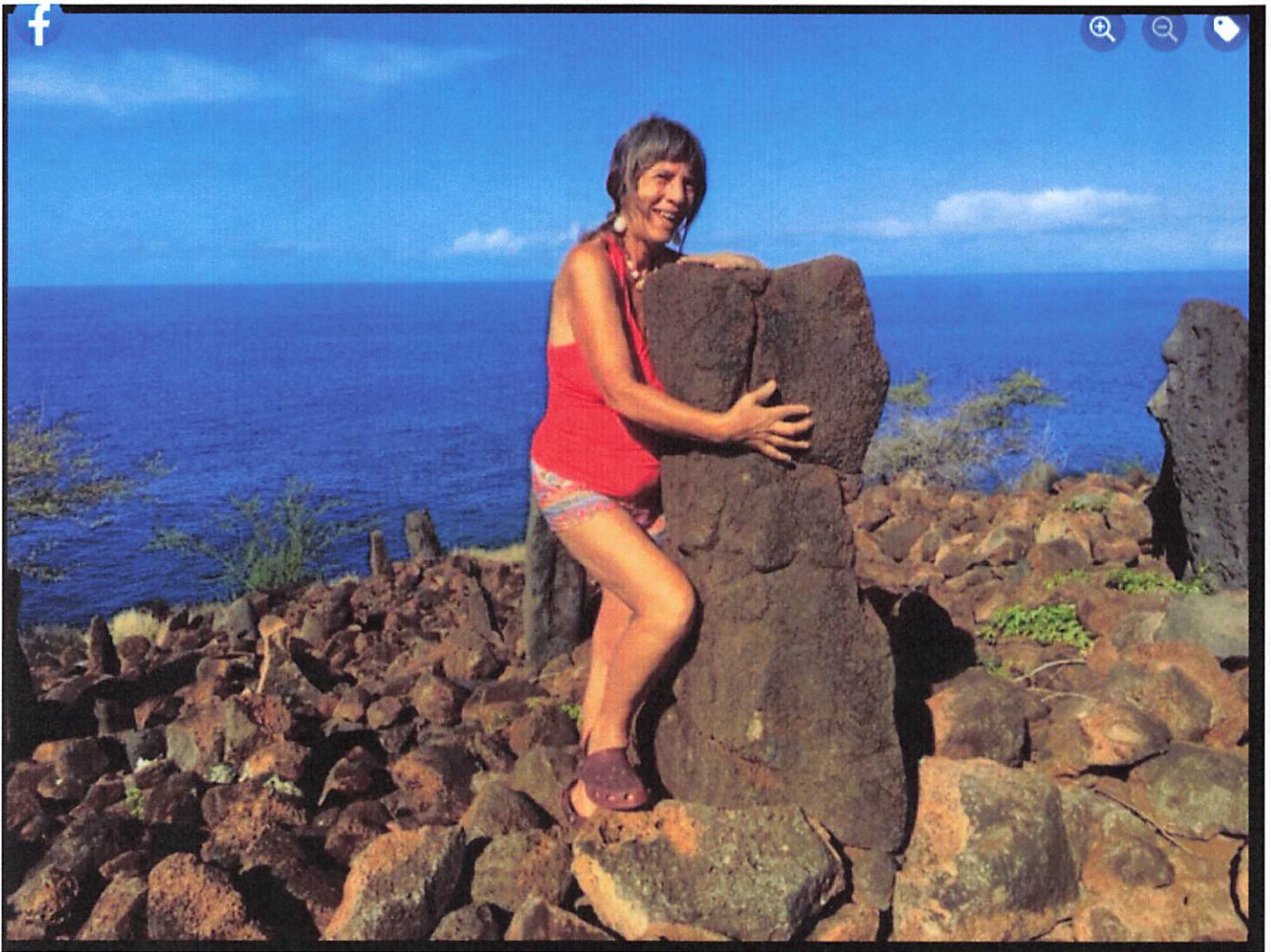
~~Figure 1.1~~

May 19 at 11:20 AM · 🌐

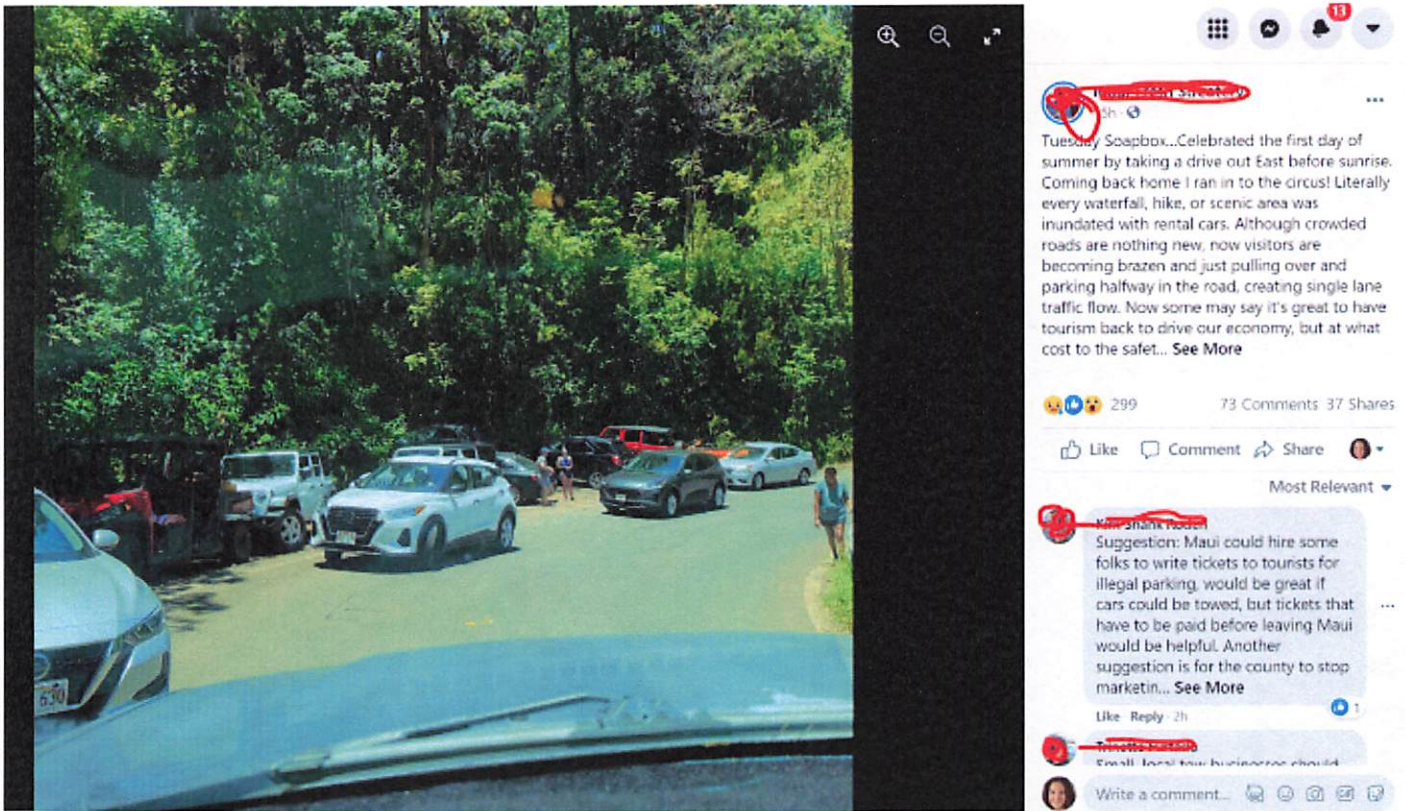
The tourism related commercial activity at Mala Boat Ramp is out of control. Local fisherman unable to get a stall for trailer because of the commercial activity. There are only 16 commercial permits allowed out of the harbor. Today the parking lot was inundated with trailers for zodiacs used to take crew to Kā'anapali. On top of that you have scuba operators launching next to the pier damaging the reef as they walk out. Their guests take up all of the

They stay up late and party. They walk through areas that are off-limits.





[They block the road so people can't get to work, school, the hospital.](#)



They park outside of designated parking areas. Their cars clog our streets. Including in our most important places:



10h · 🌐

lao Valley today. Traffic jam trying to get in and out of parking lot, choke cars parked on the road



Who cares?

They're on vacation. They need an Instagram photo!

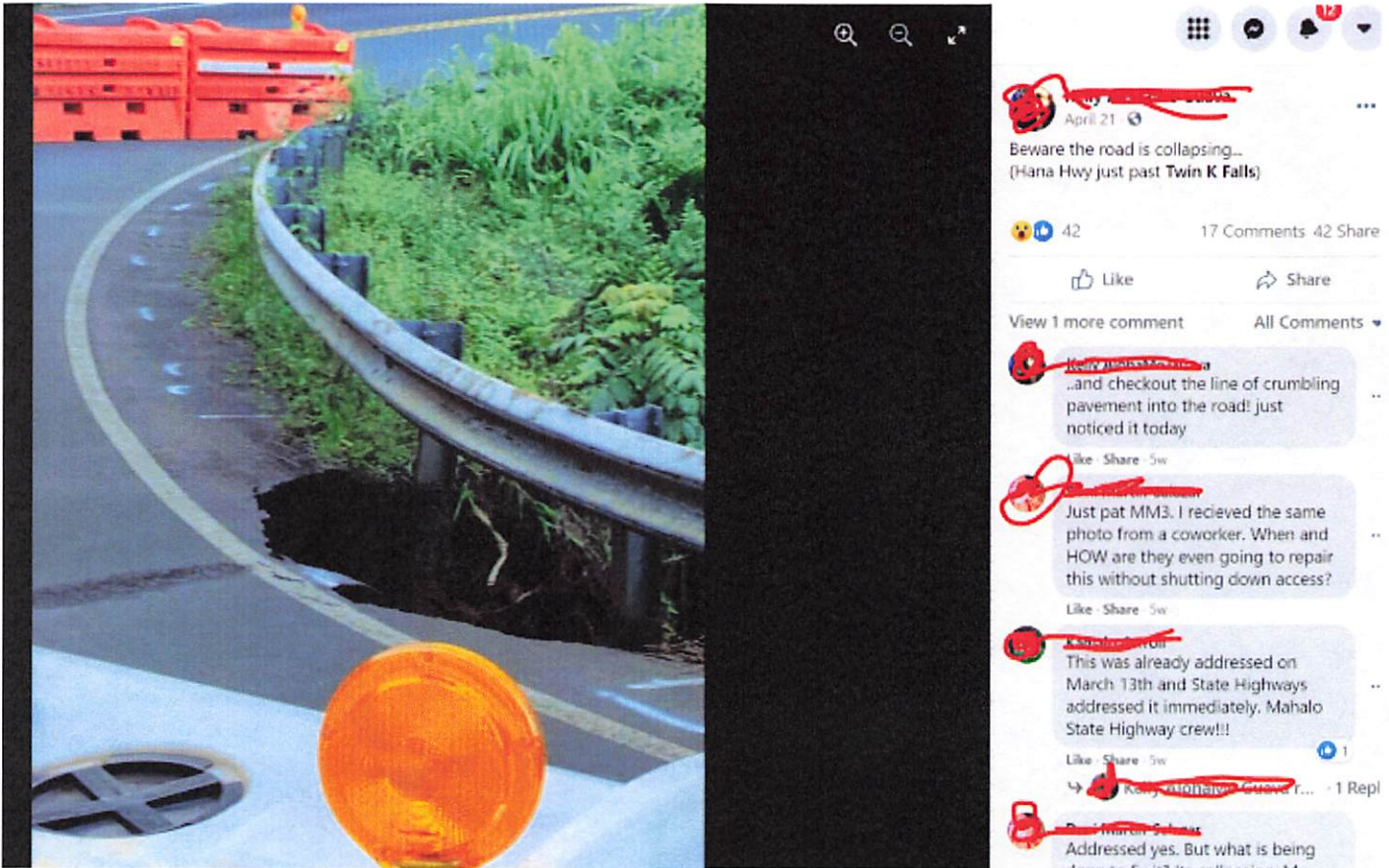
Sometimes they have to stop. But no one should have to leave work to do this:



This photo was taken in Ha'ena, Kauai in 2019. Over-tourism has been building for decades, long before Covid hit.

Meanwhile, our infrastructure is buckling.

We're losing our roads, and we can't keep repairing them with bandaid solutions.



Our bridges are crumbling with every extra car.

Our water table is disappearing.

Our outdated sewer system is spewing waste into the ocean.

Our landfill will be completely full in just a few years.

We have about two days worth of food on the shelves at any given time. And the extra tourists are buying it all.

And the beaches are so loud that the fish don't come in close. So even those who fish for food can't feed their families.

And hey — again — tourists cut the fishing lines!!!!

Do we have to draw out the analogy more?

Well, we can. It's sad, but true. Tourism is cancerous in a sixth way, too.

SIX: Tissue invasion and metastasis ... Spread to Other Organs and Tissues

Cancer cells grow fast, don't stop, refuse to die, replicate endlessly and steal from neighbors. They also spread to other organs and tissues.

Cancer cells aren't happy just where they are.

They want to be EVERYWHERE.

Once they've started stealing from neighboring cells, they have the extra jet fuel they need.

They fly to other areas and set up new homes.

A breast cancer cell goes to the brain or the lungs.

It's breast cancer ... but it's in a brand new place.

A new place with plenty room and new food to steal.

The same is true with tourism.

Cancer and tourism both want to spread into new areas.

Tourism doesn't want to stay on the beach in Kihei or Ka'anapali.

It wants the entire island.

Those who live in Kula or Haiku may feel like they're in a bubble.

But as we run out of space down here, tourism is going to come to you.

It's already there, in little pockets.

In cancer, we call that micrometastasis. In tourism, it's called short-term vacation rentals.

If they were allowed to build in Haleakala crater, condos would be there by 2022.

And tourists would book them.

ASSISTANCE: How We Enable Cancer

Cancer cells grow fast, don't stop, refuse to die, replicate endlessly, steal from neighbors, and spread to other organs and tissues.

And they do it with assistance from the environment in the body.

There are two things that, if present, help cancer to wreak havoc.

Genome instability ... When Small Changes Mean Big Changes

Cancer cells are dividing all the time. To do that, they have to use certain "machines" built into cells and governed by DNA.

If those machines have little flaws in them, and they get used over and over, they can help cancer out.

If you are building a house it's critical to get your lines level.

If you lay a concrete slab that is just a little off, everything built on it is off, too.

The house might look straight at first.

But ten, twenty, thirty years later, it's listing.

Cracks in the foundation, drywall, roof.

It all comes from one little piece of concrete not being correctly laid.

When there is just one little problem in one little gene that helps cells divide, cancer is super happy.

That one little problem — gene instability — will allow cancer to hijack the entire system.

This is true in tourism too.

Cancer and tourism both want little tiny loopholes to exploit.

We have dozens and dozens of little loopholes tourism can use to grow, evade death, and steal resources.

A tax incentive that rewards commercial landlords for sitting empty — driving up the overhead for small business owners who could create non-tourism jobs.

A planning commission entirely appointed by the Mayor — allowing a pro-tourism executive to stack the commission with pro-development members.

A local newspaper that rents its office space from the County — which perhaps may make it less likely to publish tough stories about the negative effects of tourism.

A desire to enjoy island life and not worry too much on the part of recently retired residents — who don't show up to testify.

High cost of living that just keeps climbing — keeping people working three jobs from having time to do anything other than work.

There are so many more.

These "little" things all assist cancer, and tourism.

Here's another environmental assist for cancer and tourism.

Chronic Inflammation ... Irritation Makes Everything Worse

Chronic, low-level inflammation helps cancer grow.

When tissues are irritated, warm, swollen and bloated, that's our immune system trying to help.

It's sending fluid to immobilize the injured area and bring food.

It's causing heat to kill off bacteria and viruses.

But here's what's weird.

The cancer tumors see that inflammation and think “hey, that’s a lot of interesting activity.”

So they try even harder in that area of the body.

The process is complicated, but ultimately, inflammation rebounds. It encourages tumor blood vessel formation and metastasis.

In other words, **chronic inflammation ends up helping tumors steal resources and spread to new areas.**

This is why people who have chronic inflammation of one sort or another are more prone to cancer. (Diabetes, heart disease, etc.)

The same is true in tourism.

Cancer and tourism both use inflammation to metastasize.

When people get irritated because their road is blocked, they eventually start to snap.

They might flip someone off as they pass. Or worse.

Any existing irritations on the island will get worse when over-tourism arrives.

If you used to have a beautiful area all to yourself, and now folks are moving in next door, maybe you hold your tongue.

After all, they are your new neighbors.

But then when tourists come and traipse through your property to go to a waterfall ... no.

No more. Your irritation gets inflamed, and you get angry.

It’s understandable, but it’s also helpful to tourism.

The pro-development, pro-tourism forces can dismiss you and say “oh, this is just locals yelling.”

Or “these are just Not In My Backyard types.”

Or “hey, haoles, funny that you came here and ruined everything, and now you are the one wanting haoles to leave.”

(Yes, I’ve heard that. I know some people reading this are thinking this about me!)

And so we shut up. Because it seems like we will never be heard.

Those who say something get dismissed. And tourism grows because it’s using anger and irritation as fuel for its own efforts.

It’s impossible to win this fight with angry words, or even angry signs.

Getting angry at cancer doesn’t do a damn thing.

It doesn’t hurt over-tourism, either.

In fact, getting angry causes irritation and inflammation. So it's helping cancer.

What Happens When You Get a Cancer Diagnosis

You know what happens when your doctor tells you that you have cells that are growing fast, refusing to stop or die, replicating endlessly, stealing food from normal cells, and spreading to new tissues?

Normal life STOPS.

You call into work and say "I can't come in for the rest of this week."

You get someone to care for your children, your dog, your goldfish.

You go for second opinions.

You get test after test after test.

You find out what can be done.

You don't sit back and say "oh well, it's cancer."

Your oncologist won't let you. It's urgent, it's NOW that you have to deal with it.

Business as usual stops. And it never, ever comes back.

Because the way you were living before you had cancer didn't work out.

And you need massive changes.

Everything stops while you wrap your head around your situation.

Even if you choose not to treat with conventional treatments, you still do everything you can to address the emergency.

I once heard a commissioner say "you don't quit your job until you have a new one."

She was trying to justify her voting to approve a permit for a hotel that had not planned well and did not meet the criteria for the Special Management Area (in my opinion and the opinion of others who are professionals in relevant fields).

Her words triggered my thinking. **She made the connection for me between over-tourism and cancer.**

Because she's wrong. When you have cancer, yes, you quit your job.

If it's killing you, you quit. Even if you don't have another job lined up.

On Maui, we need to act like we have cancer.

Because guess what?

The tourists are noticing that our place isn't so special anymore.

We're killing the golden goose.

This was posted yesterday:



Maui Bound

Group post by [redacted] · 17h · 🌐

Just got home from a week on Maui. Absolute paradise, and now I know so much. I figured I'd post my opinions and tips on what we did if anyone when someone brandished a gun at us.

We stayed in Napili on the west side and are very happy with that. We and spent time in Lahaina but we were not comfortable there once the everywhere once it was dark. One large man was throwing trash out of Side note: it must be sad to see your home overrun with tourists, some We parked 3 blocks back from Front St and after the sunset we walked looking men sitting on a ledge asked if we wanted to trade "left overs I bothered me at all except he was BRANDISHING A GUN at us. I'm 95% because I saw that the rack looked clear. As soon as he held the gun up saying "No, no, no." to his gun-wielding friend. I think it was either my noticed, or my husband's excessively large biceps. Regardless, we just considered calling the police but it was 8 pm on our last night and they Very odd and unexpected to say the least.

We snorkeled every day on our own and enjoyed the constant adventure places to explore. Ahihi Nature Preserve is spectacular and I appreciate explaining before hand the rules of the park.

We did a snorkel excursion but felt like it was very "touristy" and not so depends on your comfort level in the water. We saw one turtle in turtle everyone that crowded it and got way too close 😞 I didn't go see him, turtles elsewhere during our trip. Please for the love of God, do not crowd

For food we bought local fish and cooked ourselves which was AMAZING Also had such a great experience at Down The Hatch that we had to go Restaurant with great food and fair prices. The wait wasn't long.

Ululani's Hawaiian shave ice is truly the best we had except I wouldn't in the Hyatt... they really didn't make it the same as the brand. Leoda's banana cream pie is ASTOUNDING. Their apple crisp is nothing to write

Maui will not be Maui much longer if we don't do something.

Maui needs to get a second opinion. We need to have specialists come in and advise us.

We have to do our research.

How do other amazingly special areas handle tourism? What works, and what doesn't?

We need to STOP the environmental assistance we give tourism.

We have to CLOSE all the loopholes.

We have to stop the irritation. Give residents what they need.

Enforce the existing laws. Don't let tour companies jam up Mala.

Don't let tourists get away with breaking the law. If you are trying to drown a turtle, you should PAY.

If residents can't have more than two people attend high school graduation, but tourists gather in large crowds, it's unfair.

If you can't fish on the beach, it's unconstitutional.

Stop the daily grind of irritation. Reserve parking spaces for residents. Reduce travel to Hana. DO the things you can do, NOW.

We don't have the luxury of letting chronic inflammation continue.

And those residents who are speaking and being shamed? Painted as anti-business?

Breathe deeply and keep yourself calm. Channel that irritation into the kind of resolve that gets things done.

Because if enough of us have enough resolve, we can beat cancer.

It's the only thing that ever has.

County Clerk

RECEIVED

From: Paul Janes-Brown <curtaincallmaui@gmail.com>
Sent: Wednesday, June 16, 2021 11:40 PM
To: County Clerk
Subject: Testimony CC 21-280

2021 JUN 17 AM 7: 59

OFFICE OF THE
COUNTY CLERK

My name is Paul Janes-Brown, I live in Pukalani, I am testifying in support of Item CC 21-280 A BILL FOR AN ORDINANCE ESTABLISHING CHAPTERS 19.98 AND 20.41, MAUI COUNTY CODE, DECLARING A MORATORIUM ON NEW TRANSIENT ACCOMMODATIONS ON MAUI.

When the visitors left, the planes stopped landing and the field around the airport turned into a gigantic parking lot, we got a taste of the impact on our quality of life the visitor industry represents. We had a chance to dial back our dependence and reinvent ourselves. However, we wasted that chance and now we are inundated with visitors.

Thankfully, the rental car situation has not caught up with the demand, however some of our residents have seized on this money making opportunity, which is unfortunate and selfish.

I applaud Council Member King for her vision in bringing forth this much needed moratorium. I would go even further by banning vacation rentals until our houseless population is adequately taken care of. It is unconscionable to have the number of houseless here and excellent accommodations sitting vacant for most of the year. I would put a minimum lease of 12 months on all rentals.

This moratorium would put a hold on the growth of our visitor population, which is sorely needed. We need to focus on the quality of our visitors not the quantity. Our plans are out of date and until we get new plans, which will address these issues, we need to act now to let us breathe, focus and plan for the best future for all our people.

I hope the council will act to adopt this much needed ordinance. Mahalo nui loa.

A hui hou,
Paul Janes-Brown

County Clerk

From: Buck Joiner <mauibuck@gmail.com>
Sent: Thursday, June 17, 2021 4:56 PM
To: County Clerk
Subject: Testimony, Council mtg June 18: **visitor accommodation moratorium bill**

1. I request that the hearing/discussion be open to the public. There is nothing secret, confidential, or personal involved. This is a highly public impactful topic.

2 I am in full support of the visitor accommodations moratorium bill. As a 40 year resident, I have seen the visitor industry grow from a pubescent teenager into a full-grown voracious monster bully that controls virtually every aspect of Maui life. Visitors are now like an invasion of little fire ants that debilitate the environment and the residents.

We absolutely need to get a handle on dealing with our own popularity and how we can offer a quality experience to the visitors without destroying the lifestyle and amenities for those of us who live here.

Most sincerely

Buck Joiner



Virus-free. www.avast.com

RECEIVED
2021 JUN 18 AM 8:21
OFFICE OF THE
COUNTY CLERK

County Clerk

RECEIVED

From: Kaaz <rbjyz@gmail.com>
Sent: Monday, June 14, 2021 1:06 PM
To: County Clerk
Subject: Moratorium on visitor accommodations

2021 JUN 14 PM 1:41

OFFICE OF THE
COUNTY CLERK

Dear County Council Members:

I am writing this letter in support of the proposed moratorium on visitor accommodations in West and South Maui. I am supporting this moratorium as an initial step toward remediating the current unregulated over-tourism we are seeing on Maui.

The goal for visitors to Maui has been to limit the number of visitors to approximately 1/3 the number of residents in order to preserve our environment, infrastructure, quality of life and all that makes Maui such a beautiful and popular tourist destination.

The current volume of tourists we were seeing pre-pandemic and now, in 2021, during the pandemic, is a threat to the health, safety and quality of life of the residents of Maui, our environment and wildlife.

These huge numbers of tourists are consuming and using scarce resources with few restrictions and controls. Maui's sewage treatment injection wells are inadequate to properly treat the sewage produced by our residents, let alone thousands of tourists. This results in inadequately treated sewage discharging into our oceans, killing coral, infecting people and ocean life, alike.

Due to climate change and global warming, Maui is experiencing a major drought that is predicted to get worse, not better. Tourists not only consume water, but the resorts and hotels and golf courses consume massive amounts of water in a wasteful manner to maintain the illusion of a green and lush Maui in areas that have traditionally been dry and sunny, not lush and green.

Traffic on our highways is terrible, particularly on the road to Hana, and East Maui is being overwhelmed by tourist traffic. All of Maui is being overwhelmed by traffic. The exhaust from the thousands of cars is ruining the clarity of air, threatening our health and consuming fossil fuels that contribute to the acidification and destruction of our oceans. Toxic sunscreen further pollutes the ocean, killing and bleaching the coral on which we depend to create reefs that help control our sea levels, provide a haven for fish, and support a sustainable fishing industry.

Tourists crowd our beaches, and tour boats crowd our oceans disturbing the quality of life for both residents and existing wildlife. Noise from tour boat engines affects the already struggling whale, honu and dolphin populations. Tourists on our beaches have been seen disturbing spinner dolphin pods which are trying to sleep during the day causing illness and death. They also disturb the honu, preventing them from nesting and basking on the beaches. Molokini is a great example of how tourism disturbs the overall marine environment. During the pandemic, the fish and oceanic predator population returned to its normal ecological balance. Now it is once again disturbed, as shown in a recent study.

These are but a few of the consequences of the unregulated rampant over-tourism we are once again experiencing. I thank you in advance for your support of this moratorium on tourist accommodations. Maui is literally being "loved to death" by excess tourism, and we are in danger of sacrificing our island, its rich cultural heritage, environmental beauty and diversity on the altar of tourism. Once the island is destroyed, tourism will decrease and we will literally have destroyed that which is currently supporting us. Now is our chance to limit tourism and begin to diversify our economy.

Sincerely,

Joy Kaaz

Kihei resident

Member of HALEHawai'i



RECEIVED

2021 JUN 18 AM 9:24

June 18th, 2021

Dear Mayor Victorino and Maui Council Members,

OFFICE OF THE
COUNTY CLERK

We are writing this letter on behalf of Maui PRMA, the Vacation Rental Trade Council under the Maui Chamber of Commerce, to urge you to oppose CC 21-280 & CR 21-39. We strongly believe that these moratoriums will cause significant negative impacts on Maui's community and economy during a critical recovery period. Signing these moratoriums into law would put Maui's visitor industry at a competitive disadvantage, stifle employment opportunities for Maui residents, and seriously hinder our economic recovery.

Maui PRMA strongly opposes the moratoriums (CC 21-280 & CR 21-39) for the following reasons:

- By limiting rooms in the face of increased demand, the moratorium will increase prices in the visitors industry, driving away visitor spending and investment that would otherwise flow into Maui's economy, local businesses, and government budget.
- It does not address specific quality of life issues (traffic, infrastructure, housing) that are currently impacting residents.
- As Maui has been most impacted by the COVID-19 recession in terms of our dependence on the visitor industry and rate of unemployment, local businesses and jobs in Maui, including those in construction, activities, restaurants, retail, agriculture, will be hit even harder by the negative economic impact of these moratoriums.
- It does not grandfather in accommodations with planned expansions already underway, and CR 21-39 violates vested rights by not exempting projects that do not require discretionary approval to proceed.
- Although the moratorium's stated purpose is to, "to preserve the County's environment and to work toward economic, cultural and environmental resilience," the moratorium likely will result in the opposite outcome: a noncompetitive visitors industry and economic stagnation in Maui.

We recommend that the Tourism Management Temporary Investigative Group (TIG) present findings and recommendations before we enact moratoriums that do not address quality of life concerns and will detrimentally impact our local jobs, businesses, and economy. To truly preserve the County's environment and to work toward economic, cultural and environmental resilience, we should not needlessly cripple our economic recovery through instating these moratoriums if there is no clear justification to do so.

We welcome any discussion with you or a member of your administration and can be contacted at Mauiprma@gmail.com.

Mahalo,

John Kevan
Angela Leone

Co-Founders of [Maui Professional Rental Management Association \(Maui PRMA\)](#)

PS-R MA 01 MAR 1981

UNIT TO 2041
PROPERTY CLERK

County Clerk

From: Wendy McCracken <wendykat4@yahoo.com>
Sent: Wednesday, June 16, 2021 8:46 PM
To: County Clerk
Subject: Fwd: Support for moratorium banning new hotels - Agenda item CR 21-39

Correction to Agenda item #. Mahalo

Sent from my iPad

Begin forwarded message:

From: Wendy McCracken <wendykat4@yahoo.com>
Date: June 16, 2021 at 8:39:28 PM HST
To: county.clerk@mauicounty.us
Subject: Support for moratorium banning new hotels - Agenda item CR 29-39

To the Council Members of the County of Maui.

I hereby support the moratorium banning the building of new hotels and other visitor accommodations for many of the same reasons you have already received and will receive from other concerned citizens and individuals. With the past events of the year I would think that eyes would have been opened to the results of human greed and gratification when we keep pushing the natural environmental elements out of the way to satisfy a select few with usually deep pockets. Oahu is one populated small island in the middle of the Pacific Ocean that has and is demonstrating the affects of this. Not only the impacts on nature but environment for all and it doesn't take rocket science to see how the negative energy in the aftermath produces societal issues as well as an increase in crime and invasion of a peaceful lifestyle. Even a 2 year period to develop a plan will not be enough to prevent taking the wrong turn and putting unnecessary and harmful burdens on the land and the community. The need to work smarter and find ways to utilize and improve what is already in place is a better plan.

I worked in a Natural Resources and Environmental department for a law firm that represented major mining companies and saw firsthand the attempt to strip the land from the people and the environment by business commerce and the devastating results when it did. I am also mystified by how people who take an oath in an official position seem to have forgotten about common sense when it comes to profit over reality such as the need for infrastructure to support all the hotel and vacation rental building when we can't even provide sufficient infrastructure and housing for those who live and reside here and will supply the services needed to allow those utilizing those facilities and domains for short term pleasure trips to enjoy them.

Restaurants, stadiums, ballparks, casinos and other entertainment event structures have capacity limitations for obvious reasons. It makes more sense to stop the madness and take care of what we have already created. Let's continue the Aloha spirit that draws visitors here from all over the world and continue providing the quality first over quantity. This is not what developers, politicians and those with a monetary agenda seem to take into account. Singer songwriter Jack Johnson says it well in his song "My Mind Is For Sale" with the lyrics "I don't care for your careless, me first, gimme, gimme, appetite at all".

Please take care of those who care about more than quantity and take care of Maui, the other islands of Hawaii, the 'Aina and Kama'āina. Mahalo.

RECEIVED
2021 JUN 17 AM 7:59
OFFICE OF THE
COUNTY CLERK

County Clerk

From: Richard <richardmoss26@gmail.com>
Sent: Monday, June 14, 2021 1:47 PM
To: County Clerk
Subject: proposed visitor industry construction moratorium

RECEIVED

2021 JUN 14 PM 3:08

OFFICE OF THE
COUNTY CLERK

My name is Richard Moss. I live in Kihei. I am writing to express my support for the proposed visitor industry construction moratorium. Excess tourism will destroy the aloha of Maui for Maui residents, and for tourists. For residents there are significant negative environmental, traffic, overcrowding and quality of life impacts. For visitors, those same impacts reduce the quality of their vacation experience. For some, increasing tourism is about visitor industry and construction jobs. The visitor industry can't seem to fill the jobs they have available now. How will they fill the new jobs needed with growth? As for construction jobs, we don't need growth in that sector. The construction industry can be devoted to maintenance, renovation and upgrades of existing facilities. For the State and County Governments, they look at increased tourism and visitor industry construction as increased tax revenue; GET, TAT and income taxes for the State, and property taxes for the County. Those governments need to more efficiently use the tax revenues they have now instead of reducing our quality of life to obtain more tax revenues.

I strongly support the proposed visitor industry construction moratorium, and beyond that, better managing the visitor numbers we have now. We need to look for ways to diversify our economy, perhaps in the agriculture and technology sectors.

Richard Moss
137A Pauloa Place
Kihei, HI 96753

Sent from Mail for Windows 10

From: Bonnie Newman <bonnienewman10@gmail.com>
Sent: Thursday, June 17, 2021 12:07 PM
To: County Clerk
Subject: Hotel Moratorium on Tomorrow's Meeting.....

RECEIVED
2021 JUN 17 PM 12: 56
OFFICE OF THE
COUNTY CLERK

Aloha - I now realize that this is submitted perhaps too late to be presented to the Council AND if it can be included, MAHALO:

I am a 35-year full time resident of Maui; the last 17 years in Maui Meadows. I sincerely believe we need No more Hotels or vacation-rentable condos in South Maui. The traffic is already horrible and tourists are ruling all the restaurants and beaches; there's hardly room for us local folks to go anywhere. PLEASE help Stop this massacre of our Sacred Island.

This is intentionally brief. Others have written substantiating testimony already.....

MAHALO for All you do for All of us.....RESPECTFULLY - Bonnie Newman
745A Kupulau Drive, Kihei



Bonnie Newman Rs
The Singing Realtor!
Coldwell Banker Island Properties
The Shops at Wailea Office
808 / 283-0645



Timeshare with Aloha

OFFICE OF THE
COUNTY CLERK

2021 JUN 17 AM 10:04

RECEIVED

June 17, 2021

TO: Councilmember Alice L. Lee, Chair
Councilmember Keani Rawlins- Fernandez, Vice- Chair
Members for the Maui County Council

FR: AMERICAN RESORT DEVELOPMENT ASSOCIATION – HAWAII (ARDA-Hawaii)

RE: Opposition to CR 21-39 (Recommending FIRST READING on bill to temporarily maintain the status quo in the development of hotels and other visitor accommodations in South Maui and West Maui)

(Sent via e-mail to county.clerk@mauicounty.us)

Aloha Chair Lee, Vice Chair Rawlins-Fernandez and members of the Maui County Council,

I am writing in **STRONG OPPOSITION** to Councilmember Kelly King's proposed bill to amend the building code to "declare a moratorium on new transient accommodations on Maui."

There is no data to suggest that stopping the development of transient accommodations will decrease the number of visitors to Maui, mitigate environmental impacts or improve residents' quality of life, all of which are stated goals. A moratorium is also not needed to adequately study the impacts of tourism as the county works toward resiliency – this can be done while the industry continues to operate.

How will stopping the development of transient accommodations keep visitors from coming to Maui? It won't. Today the fastest-growing segment within the visitor accommodations industry is the transient vacation unit. If the purpose of the bill is to ultimately decrease the visitor count, perhaps further regulation is needed on the number of legal short term rental units that are allowed.

As (a member of/chair) of ARDA-Hawaii, which represents the vacation ownership and resort development industries in Hawaii, I'm surprised that the County would want to stop timeshare visitors from coming to Maui. The timeshare visitor has the exact profile of the type of visitor that we should welcome with higher income levels, more spending off property in restaurants and local stores, and are more likely to take care of their property, which for most is a home away from home, as they are owners, not transients. We should be mindful that the timeshare industry could be part of the solution.-

Furthermore, the timing of the moratorium is illogical from an economic perspective. It is concerning that the County would deter capital investment in a time where it is still recovering

from the impacts of pandemic. The County would risk forgoing substantial amounts of investment from being injected into the economy creating jobs and vital tax revenue. The industry is a strong contributor to Maui's economy, providing more than \$73 million per year in state and local taxes in addition to employment of and income to Maui residents. Additionally, ARDA-Hawaii and the hotel industry supports the community through charitable donations to on-island organizations, such as Maui Food Bank, Maui Memorial Medical Center Foundation and Boys and Girls Club of Maui, among others.

Due consideration should be given to the broader impacts of the proposed measure. We as a community should consider some sort of resolution that provides our local residents with the ability to continue to work to provide for their families while at the same time addressing the impacts of the influx of visitors until Maui can transition to a more diversified economic base. The proposed moratorium does not offer a form of management, rather

I respectfully ask that you defer this measure and instead convene a task force to address these concerns in a more meaningful way.

Thank you for your consideration of my comments.

Respectfully submitted,



Ryan Nobriga
Maui Task Force Chair
ARDA Hawaii



OFFICE OF THE
COUNTY CLERK

2021 JUN 17 AM 10:04

RECEIVED

June 17, 2021

TO: Councilmember Alice L. Lee, Chair
Councilmember Keani Rawlins- Fernandez, Vice- Chair
Members for the Maui County Council

FR: AMERICAN RESORT DEVELOPMENT ASSOCIATION – HAWAII (ARDA-Hawaii)

RE: Opposition to CC 21-280 ("REFERRING TO THE MAUI PLANNING COMMISSION
A BILL FOR AN ORDINANCE ESTABLISHING CHAPTERS 19.98 AND 20.41,
MAUI COUNTY CODE, DECLARING A MORATORIUM ON NEW TRANSIENT
ACCOMMODATIONS ON MAUI)

(Sent via e-mail to county.clerk@mauicounty.us)

Aloha Chair Lee, Vice-Chair Rawlins-Fernandez and members of the Maui County Council,

I am writing in **STRONG OPPOSITION** to CC 21-280 referring to the Maui Planning Commission a bill for an ordinance establishing Chapters 19.98 and 20.41, Maui County Code, declaring a moratorium on new transient accommodations on Maui. CC 21-280 seeks to create an island wide moratorium through temporarily prohibiting the issuance of any permit under Title 19. The proposed measure creates multiple concerns that could have broad impacts on Maui's economy.

The purpose of the proposed bill is to establish a moratorium to comply with visitor to resident ratio specified in chapter 2.80B, Maui Island Plan by pausing the increase of transient accommodations. However, there is no data to suggest that stopping the development of transient accommodations will decrease the number of visitors to Maui. It is simple, it won't. Visitors will still come to Maui and seek other accommodations even if the supply of lodging units is limited. The volume of visitors will permeate into the residential neighborhoods of Maui through an increase in short-term vacation rentals, which are the fastest-growing segment within the visitor accommodations industry. If the purpose of the bill is to ultimately decrease the visitor count, perhaps further regulation is needed on the number of legal short-term vacation rental units that are allowed.

Moreover, the proposed ordinance is intended to mitigate negative impacts on the environment and residents' quality of life. Again, there is a lack of data suggesting that a moratorium will substantially reduce the negative impacts on the environment or residents. It is concerning that

such a broad and inflexible policy would be implemented without first establishing transient accommodations as the primary cause of these negative impacts.

Furthermore, the timing of the moratorium is illogical from an economic perspective. It is concerning that the County would deter capital investment in a time where it is still recovering from the pandemic. The County would risk forgoing substantial amounts of investment from being injected into the economy creating jobs and vital tax revenue. For example, the timeshare industry is currently a strong contributor to Maui's economy, providing more than \$73 million per year in state and local taxes in addition to employment of and income to Maui residents.

The proposed ordinance would enact a moratorium to "maintain the status quo" while the County establishes a Tourism Management Temporary Investigative Group ("TIG") to study and enact legislation to better manage tourism industry's impact on the environment and residents' quality of life. However, given the potential negative economic impacts, there is no reason why the TIG cannot be conducted while the industry continues to operate and invest in Maui. It would be unnecessary to implement a policy prohibiting economic growth, posing significant risk to Maui's economy, without first obtaining information to better manage the industry. Instead, the TIG, in collaboration with the tourism industry, should address the Council's concerns prior to the moratorium in order to prevent causing unnecessary harm to Maui's fragile economy recovering from the pandemic.

Further, as (a member of/chair) of ARDA-Hawaii, which represents the vacation ownership and resort development industries in Hawaii, I'm surprised that the County would want to stop timeshare visitors from coming to Maui. The timeshare visitor has the exact profile of the type of visitor that we should welcome with higher income levels, more spending off property in restaurants and local stores, and are more likely to take care of their property, which for most is a home away from home, as they are owners, not transients. We should be mindful that the timeshare industry could be part of the solution.

Due consideration should be given to the broader impacts of the proposed measure. We as a community should consider a resolution that provides our local residents with the ability to continue to work to provide for their families while at the same time addressing the impacts of the influx of visitors until Maui can transition to a more diversified economic base.

I respectfully ask that you defer this measure and instead convene a task force to address these concerns in a more meaningful way.

Thank you for your consideration of my comments.

Respectfully submitted,

A blue ink handwritten signature, appearing to read "Ryan Nobriga", with a stylized flourish at the end.

Ryan Nobriga
Maui Task Force Chair
ARDA Hawaii

County Clerk

From: Andrea Perkins <reiserperkins@gmail.com>
Sent: Wednesday, June 16, 2021 10:19 PM
To: County Clerk
Subject: In support of the moratorium on building more resorts

Aloha Committee Chair King and Councilmembers,

I'm writing to express my solid support for placing a 2-year moratorium on the issuing of new resort building permits.

My husband and I have lived in Maui for 12 years. He is a physician with Maui Memorial. I work for a local nonprofit. We love living here, own our home, and are part of a wonderful community, but the recent dramatic increase in tourism has made us wonder how sustainable it is to continue living here. Tourism on this scale affects our daily quality of life significantly. We've already given up on being able to enjoy our favorite beaches, hikes, and eateries without fighting throngs of tourists, nor do we feel like we can even drive to work safely what with the ever increasing bike tours (my husband has seen many victims of these tours end up in the emergency room). It's also worth pointing out that my husband's already stressful job is made doubly so by the strain visitors put on our small health care system. I honestly can't imagine more tourists than what we're already dealing with. Please reconsider favoring industrial tourism over the needs of the people who call Maui home.

Thank you for your time and all the work many of you are doing to protect this special place.

Andrea Reiser Perkins
808-283-5201

RECEIVED
2021 JUN 17 AM 7:59
OFFICE OF THE
COUNTY CLERK

County Clerk

From: Judya <kuulei7@comcast.net>
Sent: Monday, June 14, 2021 11:42 PM
To: County Clerk
Subject: Over excessive tourism

RECEIVED

2021 JUN 15 AM 10:42

OFFICE OF THE
COUNTY CLERK

I am just buying to stop off a building Kihei and Wailea. When is enough already? There are too many hotels already. Every time I drive by the old Maui Prince I want to cry. Stop building and concentrate on making other options of industry on Maui. There are very few residents on Maui that want more hotels if any. Why does the council keep allowing it?

Please focus on other industries other than tourism and overdevelopment options.
Judy Pokipala

Sent from my iPhone



RECEIVED

2021 JUN 18 AM 8:21

OFFICE OF THE
COUNTY CLERK

June 18, 2021

Council of the County of Maui

RE: MORATORIUM ON BUILDING PERMITS FOR VISITOR ACCOMMODATIONS (CR 21-39)

Hearing date and time: Friday, June 18, 2021 at 9:00 a.m.

Aloha Chair and Council Members,

I am Co-Founder of the Hawaii chapter of 350.org, the largest international organization dedicated to fighting climate change. 350Hawaii.org **supports** the proposed moratorium on building permits for visitor accommodations. This proposed bill would amend the building code to place a moratorium on visitor accommodations development in West and South Maui, an action which would help ensure the County stays on track to implement critical plan action items relating to the visitor-industry impact on the County's environment. By doing so, this bill would help preserve the County's environment and efforts towards climate change mitigation and resilience-building.

Earlier this year the State Legislature followed Maui County's lead and officially declared a Climate Emergency for Hawaii. But it is not enough to acknowledge the crisis we face, meaningful actions to address the climate crisis must be taken. This moratorium would do just that by providing the County with clear policy direction to mitigate climate change and work toward resilience.

This proposed bill addresses an issue that is very important to the community. We strongly encourage the Council continue to keep this policy conversation open to the public and not discuss the bill in closed session.

Mahalo for the opportunity to testify in support of the proposed moratorium on building permits for visitor accommodations.

Sherry Pollack, Co-Founder, 350Hawaii.org

County Clerk

From: Carole Sarra <csarra47@gmail.com>
Sent: Thursday, June 17, 2021 6:29 AM
To: County Clerk
Subject: Support for moratorium of tourist accomodation

We support a moratorium on tourism infrastructure of all kinds.

We own a home and live full time in Kihei. We pay taxes and support the local businesses on a year round basis.

The town is overwhelmed with tourist! Kihei Road is always congested and the beaches are so crowded we rarely go any more. I feel like I am living in an amusement park! The Pilani Highway is so crowded with cars that I often have to sit through more than one change of the street light to get to the shopping center. Also tourist don't respect our speed limits.

We can have a healthy economy without the invasion of tourist who mostly support the food trucks lining the roads and Costco.

Tourism does not support the overall economy. They don't hire the plumber to fix a leak or a contractor to remodel the kitchen. They don't buy furniture or carpeting to up grade their home. They don't buy plants at Kihana Nursery or supplies at Ace Hardware. They don't support the non-profits that need contributions to exist. I can guarantee you that we full time residents contribute much more to the economy than the part time tourist do. The "hospitality industry" mostly supports the minimum wage service workers, which becomes a trap that is difficult to rise above. These workers can't even afford housing without out taking in room mates. It is a sad situation when you put your own residents at the bottom of your priorities.

We must protect our oceans and sea life from pollution which is aggravated by the thousands of people covering themselves in sun screen harmful to the environment. We must protect our wildlife and native plants from robbing them of their habitat. We must protect the culture of our native people. We must protect our air from the pollution of exhaust from too many cars and our evenings from the light pollution of hotels and businesses trying to attract attention.

Please do the right thing and address these problems by putting a moratorium in place!

Respectfully yours,

Carole Sarra
82 Kuli Puu St.
Kihei

RECEIVED
2021 JUN 17 AM 7:59
OFFICE OF THE
COUNTY CLERK

County Clerk

From: Bart Smith <northshoreroadxxx@gmail.com>
Sent: Monday, June 14, 2021 8:13 PM
To: County Clerk
Subject: Moratorium on New Hotels

RECEIVED

2021 JUN 15 AM 10:42

OFFICE OF THE
COUNTY CLERK

Dear Council Members

I support a moratorium on building more hotels. If you build them they will come. There is a breaking point where there is too much of a good thing and I believe we are at that point.

I support a quality of experience for tourists and residences and when there is too much traffic, no parking, and hot spots over crowded the whole experience is degraded.

For those reasons I believe we should permanently stop permitting new tourist hotels.

Sincerely,
Robert B. Smith
Maui Meadows, Kihei

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2021 JUN 17 PM 12: 56

OFFICE OF THE
COUNTY CLERK

June 17, 2021

VIA EMAIL AND ONLINE SUBMISSION

Chair Alice Lee and Members of the Maui County Council
County of Maui
One Main Plaza
2200 Main Street
Wailuku, Hawaii 96793

Re: *Testimony Concerning MORATORIUM ON VISITOR
ACCOMMODATIONS DEVELOPMENT: Separate Bills introduced by
(i) Councilmember Kelly King (CR 21-239) and (ii) Councilmember and
Council Vice-Chair Keani Rawlins-Fernandez (CC 21-280) (collectively,
the "Moratorium Bills")*

Dear Chair Lee and Council Members:

Thank you for the opportunity to provide testimony concerning the above-referenced Moratorium Bills. My name is Matthew Sparks, and I am Chief Development Officer of Hilton Grand Vacations ("*HGV*"). As members of the Council may know, HGV is the owner of the Maui Bay Villas resort presently underway in Kihei, located on the site of the original "Maui Lu" resort. We write to express our opposition to the Moratorium Bills.

We acknowledge that the two Moratorium Bills before the Council are not identical. Nevertheless, subject to certain exceptions, the Moratorium Bills both seek to stop development of visitor accommodations for a period of two years, or, in the case of CR 21-239, until the West Maui and South Maui community plans have been updated, whichever occurs first.

The Moratorium Bills claim that their purpose is to stop the increase of carbon-emissions levels, mitigate climate-change impacts, and limit the rate of global warming by pausing visitor accommodation development and the related increase in tourism. While we applaud the desire to preserve our environment, we do not believe that the Moratorium Bills are an appropriate means to obtain the desired protection. The Moratorium Bills provide no documentation, scientific studies or other evidence that would suggest a moratorium on visitor accommodations will actually lower carbon emissions, mitigate climate change impacts, or improve quality of life for residents. We also believe there are a number of legal problems with the Moratorium Bills. Finally, the Moratorium Bills would be harmful to the visitor and construction industries, which are just now beginning to recover from the impacts of the COVID-19 pandemic.

Accordingly, we respectfully request that the Moratorium Bills be deferred to allow time to better research the issue, consider the broader negative impacts the Moratorium Bills could have, and explore more collaborative ways to address environmental concerns in a meaningful way.

Thank you for your consideration and the opportunity to provide this testimony.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Matthew Sparks', with a long horizontal flourish extending to the right.

Matthew Sparks

County Clerk

From: Larry Stevens <lfstevens@earthlink.net>
Sent: Friday, June 18, 2021 8:25 AM
To: County Clerk
Subject: Accommodations moratorium

RECEIVED

2021 JUN 18 AM 8:27

OFFICE OF THE
COUNTY CLERK

Councilmembers:

Please allow the public to observe the discussions on the accommodations moratorium bill. This is an important subject of broad public interest.

Maui is once again overwhelmed by visitors, while we lack the necessary infrastructure to protect our islands and our residents from the inevitable wear and tear that they bring with them. This also compromises the visitor experience. We must look for ways to restore the balance, so that visitors and residents alike can properly experience the wonders of Maui.

Larry

County Clerk

From: sara tekula <spectekula@gmail.com>
Sent: Thursday, June 17, 2021 11:09 AM
To: County Clerk; Alice L. Lee; Gabe Johnson; Keani N. Rawlins; Kelly King; Mike J. Molina; Shane M. Sinenci; Tamara A. Paltin; Tasha A. Kama; Yukilei Sugimura
Subject: TESTIMONY IN SUPPORT OF VISITOR ACCOMMODATIONS MORATORIUM

Aloha ma kākou,

I'm a 17 year Maui resident and I reside in Makawao. I am testifying as a private citizen in strong support of the moratorium on new building permits for visitor accommodations.

I'd like to start with just a quick observation, in case it's not obvious. It's interesting to me that I have barely seen any person testify as a private citizen who is in opposition to this moratorium. The only folks who have showed up in opposition so far are tourism industry accommodation lobbyists and hotel general managers testifying on behalf of their corporations. Regardless of what the corporate tourism sector says, which is entirely predictable from their biases, we can clearly see that there is overwhelming support for the moratorium from our broader Maui community. The people of Maui are fed up. Including me. While I used to enjoy regular time at the beach with my family on a weekend, now I become distraught as I realize that I won't be able to find a bit of sandy shoreline that isn't crowded with tourists and with overflowing parking. I end up staying at home, and that makes me sad.

I keep asking myself lately, "what do we have left that is just for us, the citizens of Maui who are paying taxes and working harder and harder, two and three jobs, to afford the higher and higher costs of living?" We need to have space outdoors to breathe during our time off and rest for our mental health—especially after the year we've had—and those spaces for us are becoming few and far between. It seems the priority is to ensure that the VACATIONERS have this access to time and space on Maui. For us, we are getting squeezed out from every single direction. Together, we must find a way to ensure that we as a community can breathe, and you as decision makers can make room to work with the community to make wise, responsive decisions. A moratorium could grant us this opportunity. The testimony I saw from the carpenter's union at a recent committee meeting gave me pause: the gentleman that was testifying on the union's behalf admitted that they need continual, non-stop growth in the hotel sector so they can continue getting their "luxury high end jobs" to install marble tile and such. We cannot have growth without limits.

If we have continual growth like that, going unchecked and with no plan but to keep allowing more, I don't have to be a mathematician to add it up: more visitor accommodations equals more jet fuel, more shipping, more rental cars burning fossil fuels, more emissions and pollution, fewer fish in the reefs, more water leaving our streams and wells to support fake waterfalls and flushing toilets in resorts, and less space for our families to enjoy the place that we love and support with our hard work and taxes. Not to mention the impacts on our fragile island ecosystems, both on land and in the water.

It's nearly impossible to drive the Hana Highway now with the numbers we have now, with tourists cars blatantly blocking the road making it impassible. How will we handle hundreds, if not thousands more tourists? Is the County not committed to sustainability? Don't we need to figure out a plan before we open the floodgates?

Have we thought about visitors' impacts on waste streams, air quality, water quality? Do we need to study them more closely? The moratorium would create that opportunity for us to work together to get a clear picture, and put a pause on the potential for harm until we know more. It seems like a no-brainer, honestly. The moratorium is temporary. The harm of unchecked tourism growth is permanent.

A moratorium on visitor accommodations would give the Council and other leaders in our community an opportunity to further clarify how to alleviate the pressures and vulnerabilities created by over tourism, without allowing unchecked growth to continue. We need to pass this now, so we can address the issues immediately before everyone and their mother submits a building permit. Please do not delay, because it is already too late.

Furthermore, the moratorium on visitor accommodations must apply to the entire island, not just West and South Maui. Otherwise, visitor accommodations will be proposed in other communities outside of West and South Maui, which we do not want.

Please, when you deliberate about this as council members, do not go into executive session. Please allow the community to hear your thoughts and understand your decision making process.

Mahalo for hearing our voices today, mahalo for thinking of what our community of hard working families truly needs, not just what the lobbyists and their industries want.

Sara Tekula Makawao, HI

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2021 JUN 17 AM 11:12

OFFICE OF THE
COUNTY CLERK

--
He ali'i ka 'āina, he kauwā ke kanaka
The land is the chief, man is its servant

2021 JUN 17 AM 11:12

County Clerk

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From: Pamela Beagle <pbeaglelandscapes@icloud.com>
Sent: Tuesday, June 15, 2021 2:16 PM
To: County Clerk
Subject: Moratorium on hotels

2021 JUN 15 PM 4:28

OFFICE OF THE
COUNTY CLERK

I fully agree that we already have enough hotels. The temporary break from too much traffic as well as locals wanting restaurant reservations and now unable to get them due to large numbers of tourists. The reason Maui is popular is because it is NOT overbuilt.

Mahalo

Paul and pamela van horn-beagle

Kula, Hawaii

808.866.8602

County Clerk

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From: Madolin Wells <madolin@fivesenseshealing.com>
Sent: Wednesday, June 16, 2021 5:53 PM
To: County Clerk
Subject: Please Support CARES-50 Moratorium

2021 JUN 17 AM 7:59

OFFICE OF THE
COUNTY CLERK

Aloha Committee Chair King and Councilmembers,

I'm writing to express my gratitude to Kelly King and Keani Rawlins-Fernandez for their much-needed related proposals placing a 2-year pause on permitting new resort building. I urge Council Members to send Vice Chair Rawlins-Fernandez's proposal on to the Planning Commission without delay.

Our island is overwhelmed by tourism. Residents are saddened, frustrated, angry, upset. They feel betrayed by the policy-makers whose job it is to protect the health and safety of Maui and are failing to do so.

Though our decision-makers may feel that the economic health of Maui justifies enabling what is essentially an addiction to over-tourism, the very opposite is true. Maui's economy is desperately in need of diversified income rather than "mono-economy." The revenue generated by tourism increases the widening wealth gap. While some hotel workers are paid a living wage, many are not.

Over-tourism provides profits to corporate interests without requiring their fair contribution to infrastructure. Instead, the tourist economy here wears down roads, costs emergency services of fire and police and medical workers that are paid out of the county budget. It causes destruction of reefs and interferes with wildlife, including dolphins, sharks, and whales. Visitors are not appropriately schooled on what is permissible, let alone what is pono. Visitors crowd out locals from enjoying their favorite eateries because they literally cannot get a seat at the table (or in the take-out line). Over-tourism usurps resident access to public beaches that belong to the county and state.

Over-tourism focuses on building out development for the super-rich and luxury resorts rather than critically needed affordable housing, without which life-long Maui residents are being forced off their island home, or into homelessness. Loss of each younger generation to the mainland for better job opportunities was one of the key factors that prompted Hawai'i to develop tourism as a major industry back in the 1960's. Now over-tourism is causing the loss of young people once again - and older people too, because it's too expensive to live here.

Our leaders are failing in their responsibility to protect Maui's health and safety.

Most cases of the Brazil P.1 variant of Covid-19 - which is more contagious and more resistant to antibodies - have been coming in to Maui - 22 vs 13 into O'ahu as of 5/27/21. (<https://www.mauinews.com/news/local-news/2021/05/most-hawaii-cases-of-brazil-variant-found-in-maui-county/>). The Delta variant from India is more contagious than previous strains and may cause more severe illness. By the time it had reached America, it was already causing an uptick in case counts after 6 months of cases falling rates, even though it comprised only 6% of all US cases. But in no time at all, the Delta variant is already in Hawai'i. (<https://www.staradvertiser.com/2021/06/14/breaking-news/delta-coronavirus-variant-which-may-cause-more-severe-illness-detected-in-hawaii/>). See also <https://governor.hawaii.gov/newsroom/doh-news-release-hawaii-department-of-health-laboratory-detects-delta-variant-in-hawaii/>

Recently eliminating post-tests that provide a truer picture than pre-tests, and now lifting all restrictions without utilizing the possibility of vaccine passports, continues to endanger Maui's people.

Back in April of 2020, the Governor inaugurated a "Hawai'i Economic and Community Recovery & Resiliency Plan" led by Alan Oshima as "Economic and Community Navigator." A group appointed by The Commission on the Status of Women was designated to devise "A Feminist Economic Recovery Plan for COVID-19." It seemed that well-considered, innovative plans were forthcoming from both committees. What happened to those plans? Did they submit their hard work and ideas and simply get ignored? Meanwhile the heavy toll of over-tourism continues to grind down Maui and all inhabitants, human and otherwise.

It's high time to take that step back that we were all promised.

Respectfully yours,

Madolin Wells, Kihei



HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

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2021 JUN 17 PM 4:31

OFFICE OF THE
COUNTY CLERK

June 17, 2021

Council Chair Alice L. Lee
Council Vice-Chair Keani Rawlins-Fernandez
Presiding Officer Pro Tempore Tasha Kama
Councilmember Gabe Johnson

Councilmember Kelly Takaya King
Councilmember Mike Molina
Councilmember Tamara Paltin
Councilmember Shane Sinenci
Councilmember Yuki Lei Sugimura

Re: Supporting CR 21-39 BILL FOR AN ORDINANCE AMENDING THE BUILDING CODE TO ADD CHAPTER 40 RELATING TO A MORATORIUM ON BUILDING PERMITS FOR VISITOR ACCOMMODATIONS

Aloha Chair Lee, Vice Chair Rawlins-Fernandez, & Honorable Council Members

Please accept this correspondence as testimony in support of Councilmember King's bill, CR 21-39, a bill for an ordinance amending the building code to add chapter 40 relating to a moratorium on building permits for visitor accommodations.

I recently sent a survey to South Maui constituents, asking "Do you support a moratorium on luxury development in South Maui?" An overwhelming majority 81.4% responded YES. While my question was narrowed to only luxury development, it is clear from the comments they included (pasted below) that the prevailing sentiment is that we need a moratorium on all visitor accommodation development, and better tourism management:

- "Please help control over tourism. The overall traffic congestion, over building and just about over everything on Maui is truly getting out of control. The road to Hana is also another nightmare and a disaster waiting to happen. "
- "I support a moratorium on vacation rentals, including hotels, to help stop the ever-increasing amount of tourists coming to Maui.
- "Moratorium on any hotel, and condo etc. More affordable homes, we don't need anymore luxury development."
- "moratorium on resort and condo development"
- "Definitely need a moratorium"
- "Limiting the number of tourists visiting our island causing overcrowding on roads, stores, trails and beaches."

Office of Representative Tina Wildberger

Proudly serving the 11th House District

415 S. Beretania St. Honolulu, HI 96813, Room 327

Phone: 808.586.8525 | Fax: 808.586.8529 | email: repwildberger@capitol.hawaii.gov

- "Stop overtourism and all development including housing!"
- "reducing tourism for the subsequent destruction of our ocean environment."
- "Too much tourism"
- "Diversifying away from tourism, hospitality, we need higher 21st century jobs!"
- "Managing/reducing tourism, limiting the expansion of more tourism development and high-end real estate development, creating affordable housing, creating sustainable jobs not dependent on tourism."
- "Permanently prohibit any further hotels or additions to hotels or any short term rentals in S. Maui."
- "eliminate dependence on tourism"
- "UNNECESSARY DEVELOPMENT!! Why do we continuously allow non residents drive out locals???? I am born and raised here and all I can afford is a tiny condo? Doesn't make sense to me. Also we DO NOT NEED ANYMORE HOTELS. NO MORE "AIRBNB" NO MORE BED AND BREAKFASTS."
- "Better management of tourism impacts on beaches and infrastructure. No new or additions to hotels."
- "Over development of south Maui especially just to make developers rich!"
- "Over tourism and limiting rental car availability"
- "capping # of tourist entering Maui, too much hotel building"
- "Overbuilding / The traffic is a problem and they continue to allow more expensive condos."
- "Please, stop any more development in Makena."
- "I think the continued development of the tourism industry and real estate properties are only propagating the cycle of disrespect for native culture and land, and will make it harder and harder for people who live on regular budgets to remain here. I also think without out thoughtful care, Maui could end up looking like Waikiki one day, and this would be a true shame."
- "There has to be a limit in tourism. We talk talk talk about it but never do anything about providing other ways to support the economy. There has to be a balance between fun for tourists and quality of life for kamaaina."

Mahalo,



Representative Tina Wildberger
House District 11 - South Maui
Kīhei · Wailea · Mākena

Office of Representative Tina Wildberger

Proudly serving the 11th House District

415 S. Beretania St. Honolulu, HI 96813, Room 327

Phone: 808.586.8525 | Fax: 808.586.8529 | email: repwildberger@capitol.hawaii.gov

County Clerk

From: Yun, Jasper (KEA) <Jasper.Yun@Fairmont.com>
Sent: Thursday, June 17, 2021 3:06 PM
To: County Clerk
Subject: FW: Visitor Accommodation Moratorium

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2021 JUN 17 PM 3:20

Aloha Maui County Council,

OFFICE OF THE
COUNTY CLERK

I believe that the Visitor Accommodation Moratorium will not resolve the issue that is concerning a local residents. As a long time-Maui resident, I think it important to go after the illegal short-term rentals as they directly impact the community versus creating a moratorium for hotels that help employ our residents & give back to the community. Mahalo

JASPER YUN
AREA GROUP SALES MANAGER



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