

# MINUTES

of the

## COUNCIL OF THE COUNTY OF MAUI

December 3, 2021

THE REGULAR MEETING OF THE COUNCIL OF THE COUNTY OF MAUI, STATE OF HAWAII, WAS HELD ONLINE ONLY VIA BLUEJEANS, ON FRIDAY, DECEMBER 3, 2021, BEGINNING AT 9:01 A.M., WITH CHAIR ALICE L. LEE PRESIDING.

COUNCIL CHAIR ALICE L. LEE: Will the Council meeting of December 3, 2021, please come to order.

Madam Clerk, roll call.

COUNTY CLERK KATHY L. KAOHU: Chair, proceeding with roll call. In accordance with the Governor's most recent emergency proclamation related to the COVID-19 response, Members should state who, if anyone, is present with them as part of roll call.

### ROLL CALL

COUNTY CLERK: Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: . . . Chair. Aloha kakahiaka my Maui hikina. Haole la Po'alima. We're broadcasting today from the Hana Cultural Center, with my EA Dawn Lono. Aloha.

CHAIR LEE: And aloha to you.

COUNTY CLERK: Councilmember Mike Molina.

COUNCILMEMBER MOLINA: Aloha and good morning, Madam Chair, my colleagues, and everyone else joining us for our Council meeting today. For the record, I'm transmitting from my residence up here in rainy Makawao. Aloha.

CHAIR LEE: Aloha to you.

COUNTY CLERK: Councilmember Kelly Takaya King.

COUNCILMEMBER KING: Aloha kakahiaka and I just forgot what the morning greeting was.

CHAIR LEE: . . .

COUNCILMEMBER KING: . . . Alright to all of you, all my colleagues, everybody out there in Akaku TV land . . . and I'm out of my house again today, just to hopefully get better connection. But it was raining pretty hard this morning in Kihei, so I don't know if that's going to affect. If I drop off it'll be because of connectivity problems, not because I don't want to be in the meeting. And there's nobody else in my, near my room where I'm meeting from.

CHAIR LEE: Very good. Thank you.

COUNTY CLERK: Councilmember Gabe Johnson.

COUNCILMEMBER JOHNSON: . . . Chair. . . . Councilmembers. That just rolls off the tongue, doesn't it? I'm home alone on, in Lanai and I'm ready for this beautiful meeting and boy if, if the rain makes the chickens louder for some reason, they're really.

COUNTY CLERK: Councilmember Tamara Paltin.

COUNCILMEMBER PALTIN: . . . and aloha kakahiaka, my Malu'ulu o Lele. Broadcasting live and direct from the West Maui District Office with my EA Angela, more than six feet away.

CHAIR LEE: Good morning.

COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: . . . is the greeting I guess and good morning, everybody. I'm in the County Building, 8th floor, I'm the only one here on the floor. Gabe, I wish you were here, at least I would have company. And it's a beautiful day. It rained last night in Kula, and it looks like cloudy skies and will rain in Wailuku too, so this is all for our drought condition, we welcome it. Looking forward to a good meeting, Chair. Thank you.

CHAIR LEE: Thank you.

COUNTY CLERK: Council Pro Tem Tasha Kama.

COUNCILMEMBER KAMA: Aloha kakahiaka, Chair. And . . . to all of my fellow Councilmembers. I am here in my home, at my work space and I am by myself.

COUNTY CLERK: Council Vice-Chair Keani Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair, my Moloka'i nui ahina. I am here at the Moloka'i District Office alone on my side of the office. . . . kakou.

CHAIR LEE: . . . . Members, . . . we're going to have a long meeting today. However, we could make it a little shorter if we keep our questions concise. Okay?

So Madam Clerk, could you give us the totals?

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

EXCUSED NONE.

COUNTY CLERK: Chair, there are nine Members present, no Members absent, and no Members excused. There is a quorum to present, a quorum is present to conduct the business of the Council.

For the record, I am Kathy Kaohu, County Clerk. And also present from the Office of the County Clerk are Deputy County Clerk James Krueger; 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 and First Deputy Corporation Counsel Richelle Thomson.

CHAIR LEE: And opening remarks will be provided by our Councilmember from Lanai, Gabe Johnson.

### OPENING REMARKS

The opening remarks were offered by Councilmember Gabe Johnson.

CHAIR LEE: Very well said, Member Johnson. Now Members, please 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: Madam Clerk. Okay, before we proceed with today's agenda, may I please request that everyone keep their microphones muted, unless it is your turn, time to speak. Decorum shall be maintained at all times.

Now we're ready for the presentation of testimony on ceremonial resolutions. I think you're going to enjoy this.

Madam Clerk.

COUNTY CLERK: Chair, Chair, our first testifier is Lin McEwan.

### PRESENTATION OF ORAL TESTIMONY

MS. LIN MCEWAN:

Good morning. Thank you so much for having me. I am just here to speak on behalf of Pono Akiona. My name is Lin McEwan, I'm the Executive Director at ProArts Playhouse in Kihei. And when we first reopened after 20 very long months of being closed, one of our very first events was Pono's First Annual Hawaii Beatboxing Championship. And it was absolutely incredible. Pono worked not only as a performer, but he also organized the event as a producer. And I can say that even for as, as young as he is, he's probably one of the most professional people I have ever worked with. He was conscientious, he was on top of every possible detail. He did a tremendous job.

Marketing, I think he does an absolutely fantastic job of representing the community all around the world as he travels as a beatboxer. And he really does a fantastic job of representing this artform as well, which I think a lot of folks aren't necessarily familiar with. And he does an absolutely fantastic job of doing this. People were surprised that we were having this unusual event, and we were completely packed with a waiting list,



sold-out. It was wonderful. It was all ages. Families there, and I can honestly say it's one of the most fun shows that we have ever done, and we are so looking forward to hosting it once again, and I fully and wholly support this resolution to honor him because he deserves every bit of it.

CHAIR LEE: Thank you, Ms. McEwan. Any questions?

Yes, Member King.

COUNCILMEMBER KING: Thank you, Chair. Aloha, Lin. Good to see you and you're doing a fantastic job at ProArts too. Just wanted to clarify that even though you had a packed event, that you guys are very conscious about COVID protocol. So having been there.

MS. MCEWAN: We are indeed and when I say packed, I mean packed at the allowed capacity that we were allowed to do. We are actually, we are very, very intense about our protocols.

COUNCILMEMBER KING: Right, no I've been there recently as you know so, yeah, I have experienced that. The other thing I wanted to ask you is, is this young man on your board? Because if not, maybe you should get him on your board of directors?

MS. MCEWAN: I've actually, I have been speaking to him about working with us in more capacities, because I would love to have Pono onboard in more in-depth capacity. And actually I would love to say since you asked the question about the COVID protocols, I would like to say it was a new thing for us, we were working on it, and we were extremely stringent and Pono was so conscientious about making sure that every protocol was followed to the letter. He was really, really incredible in, to work with in every regard, including safety.

COUNCILMEMBER KING: Awesome. Thank you.

MS. MCEWAN: Which is necessary, when you've got microphones with that kind of beatboxing, yes, has a lot to it so.

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

Kathy, Clerk, may we have the next testifier.

COUNTY CLERK: One more, we have one other testifier signed up under Trish and Chino.

MS. TRISH SMITH:

Aloha.

CHAIR LEE: Aloha.

MS. SMITH: My name is Trish Smith. Chino was here, he had to leave for work. We are very close with Pono. We are very proud to be here. I want to say mahalo to Lin, who is a dear friend of ours and was very happy that she was able to do that show for the Hawaii Beatboxing Championship. And I want to give mad love to his parents David and Cheryl. We've been friends with Pono and also booking him to do events since he was 15 years old and to see the extraordinary feats he's taken is just absolutely phenomenal. So we're so proud, I get kind of emotional, you know, to see how far he's come.

He was in Europe recently, and placed 6th, and then also is a two-time American champion. And it's just really beautiful that he's cultivating the scene on Maui. And we're so proud to be a part of it and I just wanted to give him a lot of love. And thank you Council for all the work you do for our community and thank you for honoring the arts and being so supportive, especially such interesting times to do events. I know we're all having fun.

CHAIR LEE: Thank you. Thank you so much.

MS. SMITH: Thank you so much. Mahalo from Chino and I, and we're so proud of Pono and we're so, just respect and love him, and I know his future is so bright. And we're lucky to be on the journey with him. So thank you so much and have a beautiful Aloha Friday.

CHAIR LEE: Thank you. Members, any questions? If not, thank you very much.

Madam Clerk.

COUNTY CLERK: Chair, there is no other person signed up to testify.

CHAIR LEE: Members, are there any objections to closing public testimony on ceremonial resolutions?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: Alright. Madam Clerk.

COUNTY CLERK: Chair, proceeding with the ceremonial resolution.

## CEREMONIAL RESOLUTIONS

RESOLUTION  
NO. 21-196

HONORING PONO AKIONA FOR WINNING 6TH  
PLACE IN THE INTERNATIONAL 2021 GRAND  
BEATBOX BATTLE, TAG TEAM DIVISION

CHAIR LEE: Presiding Officer Pro Tem Kama.

COUNCILMEMBER KAMA: Chair, may I please request that the Clerk read the resolution in its entirety.

CHAIR LEE: Certainly.

Madam Clerk.

*(The resolution was read in its entirety.)*

CHAIR LEE: Pro Tem Kama. I can't hear you, you're muted, you're muted.

COUNCILMEMBER KAMA: Thank you, Chair. And now it is my honor to recognize one of Maui's outstanding young adults Pono Akiona.

CHAIR LEE: Pro Tem, Pro Tem Kama, we need to vote on the resolution.

COUNCILMEMBER KAMA: Oh, okay.

CHAIR LEE: You want to make a motion to adopt the resolution?

COUNCILMEMBER KAMA: Yes, thank you.

CHAIR, I MOVE TO ADOPT THE RESOLUTION BEFORE US  
TODAY HONORING PONO AKIONA.

COUNCILMEMBER PALTIN:

SECOND.

COUNCILMEMBER KING: Second.

COUNCILMEMBER SUGIMURA: Second.

CHAIR LEE: Moved by Pro Tem Kama, seconded by Member Paltin to adopt the resolution.  
Any discussion?

Pro Tem Kama.

COUNCILMEMBER KAMA: Thank you. Now it is definitely my honor, I'm very proud to recognize one of Maui's outstanding young adults, Pono Akiona for his international success in the art of beatboxing. You know, as a mother myself, I know that many kids like to mess around and make funny noises. But Pono has taken what is often known as a hobby to another level as an artform. Thanks to many who have mentored and supported him in his journey to becoming a professional beatboxer. First time I've ever heard of that.

Pono has won awards on the level, on local, national, and international levels for his unique style of vocal mastery, which we'll get to hear in brief, a brief sample of, hopefully, shortly, before we're finished today. Pono just returned from Poland where he won 6th place in what's called the Tag Team Division with his team partner Alex Sanchez.

So it is with great pride that we celebrate Pono's accomplishments and recognize all who have helped and supported him thus far, especially his parents David and Cheryl Akiona, and his mom does works in Parks and Rec. So congratulations Pono and best wishes for your continued success in beatboxing as you pursue your continued education in Business Administration. And now Chair and Members I ask for your full support of this motion. Thank you.

CHAIR LEE: Thank you. Are there any more yes, Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Yeah, I can hardly wait to hear a sampling of his talents. But what an accomplishment. I will tell you that when I read your reso, Member Kama, I said oh, if I was still doing First Friday, which I did it for ten years, the street festivals, I would hire him to perform. I mean it sounds like so interesting, right we did break dancing, we had all this music, and I think this is the next thing that we need to promote. So I support this and thank you very much for bringing it forward.

COUNCILMEMBER KAMA: Thank you.

CHAIR LEE: Anymore discussion. All those in favor of the motion, please 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. Very good.

COUNCILMEMBER KAMA: Thank you, Members.

CHAIR LEE: Madam Clerk, shall we introduce our honoree, Mr. Pono Akiona. Madam Clerk.

COUNTY CLERK: Yes, Chair.

CHAIR LEE: He's on the call; right?

COUNTY CLERK: Yes. Pono, you can unmute yourself on your end.

CHAIR LEE: Pono, are you.

MR. PONO AKIONA: Alright, I think I got it set-up. Yeah, hello.

CHAIR LEE: We can hear you.

MR. AKIONA: Hi. Thank you.

CHAIR LEE: We can't see you though.

MR. AKIONA: Okay, let me. There we go. Okay.

CHAIR LEE: Very good.

MR. AKIONA: Hi, thank you. I'm so honored to be here. So thankful to everybody who helped make this happen. Thank you to, to Auntie Lois for reaching out, and setting this up, putting it all together. I would also like to thank of course my parents and my family for always being here, in full support of me. Since the beginning they have been very helpful, very supportive of this, you know, this part that's really not novel, known, or

anything, it's a really niche thing. So it was very, I'm very grateful to be able to be in a situation that, you know, that I am with their full support.

And I'd also like to thank Lin McEwan, who was just here recently for helping me set-up the first-ever State Championship for Beatboxing. I hope to hold it annually, and continue to do that, continue to work with her. I'm also thankful for, to Trish Smith and Chino LaForge, who came on and did testimonial earlier. They helped me a lot in the beginning when I was starting out, getting my first shows. And like, like she said, I've known them for many years, and it's been a fruitful relationship. Thank you to everybody who made this possible. And should I do a sample now?

CHAIR LEE: Yes, please.

MR. AKIONA: Alright. Okay.

*(Pono Akiona performed a beatboxing solo.)*

Mahalo.

CHAIR LEE: Wow, you must teach us how to do that one day.

MR. AKIONA: Of course.

CHAIR LEE: Thank you very, very much. That was wonderful.

MR. AKIONA: Thank you.

CHAIR LEE: Members, any comments.

COUNCILMEMBER SUGIMURA: Impressive.

COUNCILMEMBER JOHNSON: The judges got it wrong, you should have been 1st place Pono.

CHAIR LEE: That's right. We want a recall. Thank you so much, Pono. Congratulations to you. We thank Councilmember Tasha Kama for bringing you to our, our meeting and to honoring you today. And we wish you great luck in the future. And come back again and provide us more, more entertainment, okay? Thank you.

MR. AKIONA: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Good job.

CHAIR LEE: Madam Clerk.

COUNTY CLERK: Chair that is RESOLUTION NO. 21-196.

CHAIR LEE: Okay.

### SET THE CONSENT CALENDAR

COUNTY CLERK: And our next item on the agenda is to set the Consent Calendar.

CHAIR LEE: Okay, Members, at this time we will set the Consent Calendar. As a reminder, the calendar can still be adjusted even after it is set. Are there any requested changes to the Consent Calendar at this time?

Member King. Member Sugimura.

COUNCILMEMBER KING: Just to remove item 21-536, the grants and contracts. Oh, I'm sorry, that's not, that's not the right one. I guess it's not on here. It looks like they already took it out and put it on as, under county communication. Sorry about that. I read the wrong number.

CHAIR LEE: Okay.

Member Sugimura

COUNCILMEMBER KING: Keani's already ahead of me.

COUNCILMEMBER SUGIMURA: 21-535, please remove.

CHAIR LEE: It would be helpful if you mention what it is too.

COUNCILMEMBER SUGIMURA: Oh, sorry. Director of Water Supply transmitting State of Hawaii Commission on Water Resource Management water use reports for September 2021 for all registered well reporters. 21-535.

CHAIR LEE: Okay, any others, Members? Alright. Are there any objections to setting this Consent Calendar?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: The Consent Calendar is set.

Ms. Clerk, please proceed with testimony.

COUNTY CLERK: Thank you, 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 video conference should keep both their video and microphones off and should turn them on only when it is their time to testify.

Testimony is limited to the items listed on the agenda. And individuals may testify for up to 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 and can view the remainder of the meeting on Akaku Maui Community Media television or on [mauicounty.legistar.com](http://mauicounty.legistar.com). Individuals may also be disconnected from the meeting at any time for breaking decorum.

Chair, our first person to testify is Dr. Genesis Young. To be followed by the testifier calling in on the phone number 3157.

CHAIR LEE: Good morning, Dr. Young.

### PRESENTATION OF ORAL TESTIMONY

DR. GENESIS YOUNG [testifying on County Communication No. 21-550 and Bill Nos. 141 (2021) & 148 (2021)]:

Good morning, aloha, can you hear me?

CHAIR LEE: Yes.

DR. YOUNG: Aloha, Council and thank you. And I wanted to testify on Bill 148, moratorium on new transient accommodation as I strongly support that. Because we have too



many visitors, and there's very few ways we have of actually getting a handle on that problem of having too many visitors, which are stressing and damaging our environment, stressing and damaging the resident quality of life, and Hawaiian culture. And so we must do something, and one way to do that, and seemingly one of the few ways to do that is to control accommodations.

And so we have a moratorium to do that, and while that's happening, we have a Temporary Investigative Group that's going to look into how to manage that better, which is necessary. And I, I support this bill strongly, and we, and we definitely need to do more, and that's what the TIG will do, hopefully. And I expect it will do it well.

And I believe that we should consider the County actually buying up short-term rentals as they come on the market as a way to manage tourism. Because then the County would own them and they could keep half of them in short-term rental and take the income, which would balance the tax loss for turning the other half into long-term rentals. And I think that that would be a really win-win solution buying them up, and keeping half for income, and half as long-term rentals to decrease our tourist and you can actually titrate the number that you have based on housing requirements and the, and the tourism numbers. So I think that that would be a really elegant solution potentially, that I put to the TIG.

And I also wanted to testify on CC 21-550, Youth Council. I really think that this is a great idea, long overdue. I, our organization Teran James Young Foundation knows all about youth engagement. And having youth engagement in the political sphere, I think is important, because that's how we will build and grow our next leaders. So I'm really in favor of that and will support that any way I can.

And then Bill 141, exempting Hawaiian Home Lands from water availability. There should be nothing in the way of, of Hawaiians getting their own land, using their own land. And so I support this, I believe that's what this, this bill is, it's, as far as I can tell to allow more Hawaiian land to be used by Hawaiians. That would be my desire as well. Enough already. Okay. Thank you very much. I'm complete.

CHAIR LEE: Thank you. Questions, Members? If not, thank you, Dr. Young.

Madam Clerk.

COUNTY CLERK: Our next testifier is calling on the last four digits of telephone number 3157. And 3157 will be followed by Lance Collins.

MS. MICHELE LINCOLN (testifying on County Communication No. 21-542 and the West Maui Community Plan):

Aloha, this is Michele Lincoln. I'm number 3157, I'm representing Protect and Preserve Kahoma Ahupua'a Association. Can you guys hear me okay?

CHAIR LEE: Yes, we can.

MS. LINCOLN: Awesome. I just love the ladies who did talk story before the meeting started, they were talking about oppressive regimes around the world, and a lot of those oppressive regimes call themselves democracies or republic and I think what sets ours apart from that is that we try to do what is right, and that actually ties in with my testimony. So thank you for this opportunity to testify on agenda item 21-542, regarding the West Maui Community Plan.

The main reason for my testimony is for the County Council to seek guidance from the Corp. Counsel so that the wording in the revised community plan upholds the ruling of the Supreme Court regarding Kahoma Village. The ultimate goal is to hold the developer accountable for following proper protocols regarding community plan amendments. Not only will this ensure that justice is served, but it will help with the enforcement of new community plans in the future. Think about it, if developers can circumvent laws and disregard rulings of the highest court and avoid any consequences for violations, then it sets a dangerous precedent.

The County Council's decisions on this particular matter are critical to how community plans will be adhered to in future. If this issue isn't addressed properly, all the time and effort put toward community plans and the cultural, historical, environmental, and projected growth desires of the community are put at-risk. The life of the land is perpetuated in righteousness, isn't just our State motto, it's a law.

And it's been six months since the Hawaii Supreme Court ruled in favor on all counts with Protect and Preserve Kahoma Ahupua'a Association against the Maui Planning Commission and Stanford Carr Development. Ignoring the high court ruling, nothing has been done to make right the wrongs committed. How is that perpetuating righteousness? Instead, it seems like they're trying to circumvent the law by means of this revised community plan. Is that a precedent you want to encourage?

All I'm asking is if you'd take the time and effort to word the community plan in such a way that requires the Maui Planning Commission and Stanford Carr to follow the law and right the wrongs committed in amicable way that will benefit the public for generations to come.

I attended the majority of the community plan meetings when we could meet in person, and developing parks and preserving historical sites was a priority expressed through this entire process of updating the community plan. And Lahaina was especially singled out as needing a gathering place for the community. And as it stands, the violation of the community plan by the developer has taken away a designated park on a very historical piece of property. So please, I'm begging you, do whatever it takes to do what is right. Thank you.

CHAIR LEE: Thank you, Ms. Lincoln. Any questions, Members.

We have one from Member Paltin and Member King.

COUNCILMEMBER PALTIN: Thank you, Ms. Lincoln. I just wanted to clarify that you're referring to the Supreme Court saying that the County Council through the 201H process does not have authority over the SMA area, is that what you're saying?

MS. LINCOLN: You know what, Lance Collins is my attorney, and he is going to be testifying next . . . on the lineup. So he can answer where, more concisely and understandably than I can on such matters. So I appreciate--

COUNCILMEMBER PALTIN: Thank you.

MS. LINCOLN: --for doing that.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. Aloha, Ms. Lincoln, thank you for your testimony and for I guess we'll hear more from Lance. But I just wanted to find out if you had sent in written testimony yourself with the wording that you are talking about? With your preferred wording?

MS. LINCOLN: You know what, here is the problem is I don't know exactly how to put the wording in the plan and that is why Lance changed his schedule today around to be able to testify and maybe answer those questions. Because I, I'm not even computer challenged, I'm computer challenged, and I couldn't even figure out how to get my computer to do this. I'm on my phone. So I, I'm not an educated person to help exactly on the wording.

I just know that we won, there was a violation and that there's a way that they are trying to get around of actually dealing with us, and, and not even taking our calls or willing to do any kind of mediation on it, just saying oh, the project's done so it's, you know,

too bad, too late, whatever. And, and yes, we're not going to make anybody tear down a house. But it's, I think Lance will be able to help Corp. Counsel come up with wording that will ensure that we can make sure the community and the public welfare is served in the areas that we're concerned about.

COUNCILMEMBER KING: Alright, thank you.

MS. LINCOLN: Thanks.

CHAIR LEE: Any more questions, Members? If not, thank you, Ms. Lincoln.

MS. LINCOLN: Thank you, aloha.

CHAIR LEE: Madam Clerk. Aloha.

COUNTY CLERK: Our next testifier is Lance Collins. To be followed by Kathleen Giambalvo.

CHAIR LEE: Good morning, Lance.

MR. LANCE COLLINS (testifying on County Communication No. 21-542 and the West Maui Community Plan):

Aloha, good morning, can you hear me?

CHAIR LEE: Yes.

MR. COLLINS: Great. Aloha kakahiaka kakou. . . . My name is Lance Collins, I'm actually testifying on my own behalf. I do represent Michele Lincoln in the Protect and Preserve Kahoma Ahupua'a Association, but I represent them in a pro se manner and I am testifying on my own behalf today.

The first item I want to testify on is item M.1. the unnumbered bill related to the West Maui Community Plan. The West Maui Community Plan was a great effort by the West Maui community to update the 1996 West Maui Community Plan. I think by and large what your Committee is presenting is, is excellent. There should be some adjustments, and I would like to speak to the adjustment relating to the land between Kahoma Stream, Honoapiilani Highway, Kenui Street, and Front Street, which is known by some as Kahoma Villages.

Protect and Preserve Kahoma Ahupua'a Association sought to address a number of concerns that were in the 1996 Community Plan, which was that that area was

designated to have six acres of park, to have greenspace buffer, walkways, and to protect historic properties. Those issues were not addressed when Kahoma Villages was brought up.

This Council attempted to exempt the project from community plan amendment. It then went to the Maui Planning Commission for an SMA permit. Protect and Preserve Kahoma Ahupua'a Association and various community members sought to intervene. That was denied by the Maui Planning Commission. They appealed to the Circuit Court and then to the Appellate Courts, and in the end of the Intermediate Court of Appeals ruled against Maui Planning Commission as it has consistently done in denying community members their right to intervene in SMA proceedings and it also ruled that the Council did not exempt the project from community plan consistency in the SMA.

The developer then appealed it to the Hawaii Supreme Court, who agreed with the Intermediate Court of Appeals and further said that the Council lacks the authority, even if it wanted to, to exempt a project under 201H from the community plan consistency. And so the problem with respect to this area in the West Maui Community Plan as its proposed is that it lacks all of the language from the 1996 Community Plan that this area was subject to. And there was no discussion about it during any stage of the proceedings from the citizen advisory process up through the Committee process.

This was done by the Administration and Corporation Counsel to basically try to undo all of, all of what occurred at the Supreme Court. So that's my testimony for item M.1. unnumbered bill.

If I can go on to County Communication 21-542?

CHAIR LEE: Yes.

MR. COLLINS: Thank you. So County Communication 21-542 does in a limited way address the concerns that Michele Lincoln and the Protect and Preserve Kahoma Ahupua'a Association listed in her letter of October 8, which is attached to a, my letter that I sent you folks yesterday evening. I apologize for the delay, where she lists in that letter every single piece of language in the 1996 Community Plan that applies to that area between Front Street and Honoapiilani Highway, between Kahoma Stream and Kenui Street. That language would be excellent if it were retained in the new community plan.

Obviously, it's not possible to have the six-acre park in that area any more, but that's actually not the point. The point is, is that the developer needs to do a community plan amendment as is the, is the consequence of the Supreme Court's decision. It needs to do a community plan amendment, so that the community has a sufficient opportunity

in a transparent and meaningful way to work with the developer to basically come to a resolution of this problem. The answer is not to simply erase all of this and allow the developer to get a get out of free jail card because the Administration and Corporation Counsel gave wrong advice about the limits of the County Council's authority with respect to this issue.

In the first instance, it is not a regulatory talking to retain the 1996 language, because it's already the law. Michele Lincoln and Protect and Preserve Kahoma Ahupua'a Association is simply asking you folks to retain that language and have the developer or the Administration go through the community, community plan amendment process to allow the community to fully vet the changes and the trade-offs with respect to this.

Second of all there are no vested rights. The developer built the project without the necessary approvals. They don't have an SMA permit for example, and they don't have a community plan amendment. And by, by erasing all of that language in the current draft, that would create a vested right and it basically would exclude the community from the conversation.

And finally, the fact that the Council attempted to exempt this area from the community plan language in 2014 does not bind this Council in any way. And even if they, even if you folks did have some limited authority to do that, it, a previous Council never has the authority to bind a future Council. Otherwise, there would be no point in having majority rule.

So I ask that you at the minimum, adopt the language that's being proposed in the county communication or alternatively all of the language that is identified by Michele Lincoln and her letter of October 8. And basically include all of that language in the plan, either on the page that she suggested or as an appendix, specific to that and tell the Administration and the developer that they need to work with the community to resolve this in a fair and open and transparent manner. Thank you very much.

CHAIR LEE: Alright, questions, Members?

Member King.

COUNCILMEMBER KING: Thank you, Chair. Aloha, Lance. Thanks for all your information and background. So, because we heard from Michele that they're not asking for any houses to be torn down. So you feel like there is a, a mitigation, a, you know, a solution to the problem that would be satisfactory to the community, and to the, the Kahoma Village folks and the people who are, who are fighting to save Kahoma Ahupua'a? Do you feel like there is a solution there that they come up with?

MR. COLLINS: Absolutely, there's, there's many solutions. So you can't build a six-acre park because there's homes there now. But the developer, you know, could assist in finding park space somewhere else, in terms of historic property mitigation. Yeah, well, if you built houses on top of the 'Alamihī Fishpond or, or the . . . or the other issues that are there, you know, there are ways to mitigate that. So, yeah, unfortunately the range of options that, that can occur are limited because there's houses there now.

But you know the developer took the risk of building this without having final unappealed, non-appealed approval, and one of the risks was that what he was doing was illegal. And well, he built it and it turned out to be illegal. And so there needs to be some remedy, and this thing where the Administration and Corp. Counsel just get the Council to basically pass something to erase all of that and leave the local folks high and dry like what happened in Palama Drive is not a solution. I mean we're still dealing with the Palama Drive thing fifteen years later. So, you know, the, it's kicking it down or trying to sweep it under the rug isn't going to solve anything and the, the, the most structured way of resolving it would be to go through the community plan amendment process on this parcel separately from, from.

COUNCILMEMBER KING: And, and you're asking we go through that before we pass the, the revised community plan?

MR. COLLINS: No. We are asking simply that you include, you retain the language from the 1996 Plan in the current plan, with respect to this area. Because then that would require the developer, the Administration to propose a community plan amendment.

COUNCILMEMBER KING: Okay. Alright, thank you.

CHAIR LEE: Any other questions, Members? If not, thank you. Oh, we have one more.

Member Sugimura.

COUNCILMEMBER SUGIMURA: So this a point of information. So I'm just curious, this sounds very serious. So I'm wondering if at the appropriate time we can hear from Corp. Counsel. And I know that Lance Collins--

CHAIR LEE: When the matters comes up. When the matter comes up.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR LEE: Okay. Alright. Thank you, Mr. Collins.

MR. COLLINS: Thank you very much. Have a good day and good weekend. Thank you.

CHAIR LEE: You too.

Madam Clerk.

COUNTY CLERK: Chair, our next testifier is Kathleen Giambalvo. To be followed by Brett Gobar.

CHAIR LEE: Good morning.

MS. KATHLEEN GIAMBALVO (testifying on the West Maui Community Plan):

Aloha. My name is Kathleen Giambalvo and I'm providing testimony today in support of the Kā'anapali 2020 West Maui Plan. I've been a resident in Kaanapali since 1999 and beginning in 2002 I started attending the community meetings of the Kā'anapali 2020 group. I found them to be composed of a cross-section of interested local residents who were committed to providing thoughtful development of this portion of the Kaanapali lands, and their meetings continued for over 18 years.

The Kā'anapali 2020 community plan provides for use areas of small-town centers, parks and open space, along with residential noted as low and medium housing. The adopted Maui Island Plan incorporated the Kā'anapali 2020 Plan and the Maui Island Plan. Many individuals spent long hours creating it for the benefit of planning Maui's growth in a smart way.

I have seen the proposed CPAC community plan, and I'd like to ask the Council when considering that plan, how the County of Maui could maintain a 100-acre park, especially in that terrain? The section would be susceptible to fire, run-off, homeless encampments, if left to lie fallow. Would not residential and a small park be a better use for this parcel? And I do support the Kā'anapali 2020 proposed plan and thanks for listening to me today.

CHAIR LEE: Thank you. Questions?

Member Paltin, then Member King.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Ms. Giambalvo for your testify. I just wanted to clarify; do you still work for Kā'anapali 2020?



MS. GIAMBALVO: No, I work for Kaanapali Land Management, and I manage the homeowner's association for the coffee farms.

COUNCILMEMBER PALTIN: Okay, thank you.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. Aloha, Ms. Giambalvo. I, you know, I met with the folks who are advising on the Kā'anapali 2020, and I looked at the maps and they didn't, there wasn't any designation on what kind of housing that would be. So that was my, my concern. You're saying it was low to medium. Is that written in stone somewhere? Is that in the records? Or I didn't see it on the map.

MS. GIAMBALVO: I saw it in the yellow legend in the map presented in the testimony previously. And I think it's still in the planning stages. So I don't think it's been drilled down to that extent, but the intent is for local residents, not for high-income visitors, call it as you will. But that's the intent.

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

CHAIR LEE: Any more questions, Members?

MS. GIAMBALVO: Make the traffic better.

CHAIR LEE: If not, thank you. Thank you very much, Kathleen.

Madam Clerk.

COUNTY CLERK: Our next testifier is Brett Gobar. To be followed by Christopher Delaunay.

MR. BRETT GOBAR [testifying on Bill No. 148 (2021)]:

Aloha Friday, can you hear me?

CHAIR LEE: Yes. Good morning.

MR. GOBAR: This is Brett Gobar, I have a BS degree in water resource management, very concerned about our development in Maui. I'm here to talk about 148. I testified earlier in the process, I support all efforts to limit swarms of tourists that are degrading our quality of life and our environmental quality. All tourist-related facilities including

accommodations must be suspended immediately until things drastically improve. I ask the Council to find more methods of reducing the current number of visitors, perhaps just like the national parks have done, like Yosemite. They've realized there's a limit how many cars and people can be jammed into a finite space or a small island at one time.

Beaches, roads, and other services cannot handle unlimited numbers of cars and people without a systematic collapse. We may be approaching a collapse. It may not come gradually, it might be sudden, like the COVID virus. Perhaps we can even look at removing hotel beach chairs off of beaches where they block locals from sitting, and our kids from playing beach games? I really appreciate the Council for all the complex issues that you must learn about and grapple with. Thank you and Happy Holidays.

CHAIR LEE: Thank you. Any questions, Members? If not, thank you, Mr. Gobar.

MR. GOBAR: Thank you.

CHAIR LEE: Madam Clerk.

COUNTY CLERK: Our next testifier is Christopher Delaunay, followed by Kimo Falconer.

MR. CHRISTOPHER DELAUNAY, PACIFIC RESOURCE PARTNERSHIP [testifying on the West Maui Community Plan and Bill No. 148 (2021)]:

Aloha, Councilmembers. Chris Delaunay with Pacific Resource Partnership. I am a lobbyist, a registered lobbyist. So I'm here to testify in opposition of Bill 148, the visitor accommodations moratorium; and comments related to the West Maui Community Plan.

So we're opposed to Bill 148, imposing a moratorium on the construction of visitor accommodations will only hurt Maui's economic recovery. Maui's economy both relies on and benefits tremendously from the visitor industry. Historically Maui has benefited from the property tax revenue generated by the visitor used properties including hotels. Undercutting it poses a long-term threat to the County's revenue and tax bases.

Prior to the pandemic, accommodations related employment was the largest provider of jobs on Maui County employing about 12,900 residents. Industry employment has subsequently declined by 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.

Maui is also confronting a major shift in the composition of its population. The period between 2010 and 2019 saw a decline in Hawaii born residents and an increase in mainland U.S. and foreign-born residents. During the same period, many Native Hawaiian residents have left Maui, and Pacific Islanders, to live in a different state. I have attached graphs in my testimony, my written testimony, showing this exodus. Not only Maui residents that were born in Maui, or born in Hawaii, Hawaii-born residents, but also with Native Hawaiians and Pacific Islanders exiting Maui to other states, as well as counties.

So by reducing the potential for employment growth, a moratorium will likely accelerate this trend, causing local residents and their families to leave Maui for more job opportunities and a better life elsewhere. Maui's popularity as a travel destination is unlikely to change. Pausing visitor accommodations development will not stop tourists from flying to Maui. It will only limit places where they can stay. Tourists will continue to visit Maui, particularly once the pandemic passes, and pent-up demand for travel is unleashed.

Limiting construction of facilities where they can stay will shift their presence to residential neighborhoods that were never intended for visitors. So we're in opposition of Bill 148.

And we have comments related to the West Maui Community Plan. One of them being the Policy 2.2.8, this requires new development, redevelopment, and Chapter 201H HRS, and Chapters 2.96 and .97 Maui County Code, housing projects to include facilities and programs that support connectivity, biking, walking, and public transit. So we're concerned that this policy may add cost to the development of affordable housing units which are passed down to the buyer. The County should be responsible for building infrastructure or working with private entities to build infrastructure that would support connectivity and biking, walking and public transit in order for developers to keep the cost of housing at affordable levels.

Another one had to do with the one for one, I guess, for the, its Policy 2.4.2, no additional visitor units, except Bed & Breakfast homes. I understand there was an amendment, so the amendment sounds better, so it's not a one for one, I guess it's a one for three. It sounds better, but again, I would have to leave it up to the people in that industry to decide if that would work or not?

Another one we had concerns about is Action Item No. 5.12, and this identify and propose amendments to remove existing barriers in laws, rules, and processes that

prohibit the construction of safe, sanitary, and affordable on-farm employee housing for farmworkers. We're okay with that language, that language is perfect. The part where we're not okay is this part, it goes on to say with special consideration, special consideration given to non-permanent, modular housing solutions.

Now we support the construction of more affordable housing and believe that government can make it more feasible for all home builders to accomplish this by removing existing barriers, and laws, and rules, and processes that frustrate the County of Maui's efforts to build more housing for its workforce. However, we do not support policies that give special, special preference to modular housing over other types of home.

As a matter of principle, it is inequitable for the County of Maui to create a special pathway for modular housing, allowing modular housing to bypass regulatory requirements while other types of home builders must comply with these requirements when they construct any building or structure. The laws, rules, and processes should not be changed to provide special policies for companies seeking to gain an advantage over their competitors. All home builders should be treated equally under the law.

Lastly, we request that the sites of two concrete batching plants in West Maui being leased by HC&D and Hawaiian Cement from Kaanapali Land Management Corp. be designated as industrial. These are two concrete batching plants that to our understanding have been there for over 50 years. And having these batching plants at the current locations ensures timely delivery of concrete. Yeah, so we need these to build affordable housing so let's keep it as industrial.

CHAIR LEE: Alright, thank you.

MR. DELAUNAY: Thank you.

CHAIR LEE: Thank you for your testimony. Do we have any questions, Members? If not, thank you very much, Mr. Delaunay.

MR. DELAUNAY: Thank you.

CHAIR LEE: Madam Clerk.

COUNTY CLERK: Chair, our next testifier is Kimo Falconer. To be followed by Stephen West.

MR. KIMO FALCONER , KĀ'ANAPALI 2020 (testifying on County Communication No. 21-542 and the West Maui Community Plan):

Good morning, Chair Lee, Members of the County Council. Can you hear me okay?

CHAIR LEE: Yes. Good morning.

MR. FALCONER: Good morning. I'm going to be testifying today regarding item County Communication 21-542, amending County Code to adopt the Updated West Maui Community Plan. My name is Kimo Falconer, I'm a West Maui resident and speaking on behalf of the community-based planning group Kā'anapali 2020. This is a group consisting of multiple West Maui stakeholder groups that began deliberating on the land use plan for the Kaanapali area back in the late 90s. I participated as one of the original members in that effort.

Several items I wish for you to consider before sending this to final reading. Two are general, one is specific in nature. None of which I feel will jeopardize or delay action in this measure. I wish to say that I do support the draft with comments and commend the work that went into it.

Beginning with the specific item first in the draft on page 94, it points out to change in designation for a park area at Hanakao'o Mauka, it mentions the change of 97 acres mauka of the park and Honoapiilani Highway to a park designation. And please note Kā'anapali 2020 spent a great deal of time discussing this area, and we arrived at an area of ten acres versus the 97 to be designated for park here, for the park area. We feel that that beach area, and the Wahikuli Wayside could only, could not support adding more than this amount of acreage, especially the crossing dangers, the potential traffic concerns of the transition area entering the Kaanapali Resort.

In addition, I just can't think of a single park in Maui County that has 97 acres, except for maybe baseball complexes. That's big, and with the new County law prohibiting non-organic based fertilizers and herbicides, I'm just not sure how the County Parks and Rec. will be able to manage this size. And I just ask you to reconsider the size of that particular park area.

As to the general items, I just want to call attention in the draft, where you speak to fire control and agriculture. It is pretty vague. Anyone residing in West Maui knows the issues we have with our wildfires. Not everyone knows that we have no means of supplying our helicopter support with freshwater to control those fires. Much of the time seawater is taken from the ocean and flown as far as the upper watershed to douse those fires. This is . . . efficient, it's too time-consuming and it destroys the soil it's dumped on, not to mention disallowing any plant life to regrow and revive the area.

In 2019, I helped draft the bill at the State Leg. to help restore key strategic plantation reservoirs to hold water for this purpose. It died due to session being canceled due to COVID. And this does not, you should note that this does not redirect water out of the stream, nor does it stop continuous streamflow. Please consider adding language to help keep important reservoirs functional and help protect our community before the State decommissions those. Once these important assets are lost, they are lost forever. And I'm going to be resubmitting in the upcoming session and just ask for your support on that. This is too simple to not do and it's extremely important.

And lastly in terms of agriculture. I'll quick, I'll quickly finish up here in 30 seconds. I am one of the last farmers on the west side. There is little hope for new ag here without assistance and understanding our water resource for this to happen. We can use R-3 water, we have much of the infrastructure to move this forward. It needs leadership, it needs cooperation across community groups, and I fully understand the system as it is. The next 20-year community plan period . . . see the end of this, of our possible ag or its permanent demise. Please find a way to point clear pass for the planning to accomplish this. Thank you for the opportunity to testify. And mahalo for your time. Aloha.

CHAIR LEE: Thank you, Mr. Falconer. Questions, Members?

Member Sugimura.

COUNCILMEMBER SUGIMURA: Yes. Mr. Falconer, thank you for testifying. So can you explain what you just said about R-3 water, R-1 water.

MR. FALCONER: Well R-3 is the, it's a level of, you know, cleaning effluent water from the Lahaina treat water, in particular the Lahaina Wastewater Treatment plant. There is infrastructure that was, as you know, that was installed back in the '80s actually to bring water up to the Honokohau Ditch. And recently, I think the County spent quite a bit of money restoring the Mahinahina Reservoir to pump some of that effluent water up to that reservoir.

Unfortunately that reservoir is a little bit too low in elevation to use for a lot of ag, ag, you know, area. So if you bring that land, that water up to the next level, we can dilute it and use it quite a bit. It will go a long ways in helping. And we have reservoirs that will hold it. And that's the interesting part. If we can just, you know, put our heads together, like I said, I'm going to be resubmitting this bill, hopefully it goes through. Super important for ag. And it's a resource for us and it should, everybody should know that.

COUNCILMEMBER SUGIMURA: Oh, thank you. I will contact you. Thank you very much. That's important. That's my Committee.

CHAIR LEE: Any other questions?

Yes, Member King.

COUNCILMEMBER KING: Thank you, Chair. Just a real quick one. Aloha, Kimo, good to see you.

MR. FALCONER: Aloha.

COUNCILMEMBER KING: So the, the R-3 can be used on coffee? You know, I know.

MR. FALCONER: Well you know, the problem with, I'm sorry, so the problem, one of the problems we had back at Pioneer Mill days we used to use this effluent water, but it was, it was R-1 water at the time. And there's a significant change between R-1 and the quality of the water to R-3.

The problem at the time was that the water coming, the system in Lahaina comes all the way from Puamana, Puamana on the south of Lahaina and moves all the way to Kaanapali to the treatment plant, as well as coming all the way from Napili. And the underground infrastructure was getting a lot of saltwater that came in and infused into the water. So you have all the chlorides, so there's so much salt in the water and it's impossible to remove those.

And I think they've done enough changes and improvements to that to actually be able to use that water. So long answer, if the water can be diluted with mountain water, certainly it can be used on coffee.

COUNCILMEMBER KING: R-3, with, with diluted with mountain.

MR. FALCONER: It can, if you have certain amounts of dilution and we can talk, certainly education more on that.

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

MR. FALCONER: You're welcome.

CHAIR LEE: Any other questions, Members? If not, thank you, Mr. Falconer.

Madam Clerk.

MR. FALCONER: Aloha.

CHAIR LEE: Aloha.

COUNTY CLERK: Our next, our next testifier is Stephen West. And Mr. West will be followed by Chad Fukunaga.

MR. STEPHEN WEST [testifying on Bill No. 148 (2021)]:

Aloha, Members. Stephen West, I'm testifying on Bill 148. You know, I'm opposed to the bill, but if the bill needs to move forward, I would support Yuki Lei's amendment that she's proposing. You know, for many years we've seen the illegal transient vacation rentals popup. And in 2006 I ran for State House, I've walked the Kihei district many times and seen the number of illegal transient vacation rentals popup. And that is part of the problem that we're facing right now there's that illegal transient vacation rentals are rampant through the island. This needs to be addressed hopefully in your budget. You'll need to give the Administration more tools to enforce the law and go after these, these illegal transient vacation rentals. They're all over the island.

We need to support hotels, because they provide living wages, not living wages, but good, decent wages for our community. They provide retirement, not all of them, but the union properties do a good job. They can do most certainly better. But you know, that's my testimony, and I would appreciate if you're going to move this bill forward, please support the amendment. Thank you. Aloha.

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

Yes, Ms. Paltin.

COUNCILMEMBER PALTIN: I just wanted to clarify, is it your understanding that the amendment would allow houses built with credits that are already in the pipe?

MR. WEST: I'm not sure of all of the particulars. I haven't had to read all of the--

COUNCILMEMBER PALTIN: Okay, thank you. Mahalo. . . .

CHAIR LEE: Member King.



COUNCILMEMBER KING: Thank you, Chair. Aloha, Steve. So I, you were talking about 2006, you know, the issues with the, since then, the Council has funded more inspectors and consultants to work on illegals. And the Planning Department claims that the, they've gotten the numbers down to under 200. So are you following any of the actions at the Council level in the last ten years?

MR. WEST: Yeah I have, and you know, I'm on the Board of Variances and Appeals, we have those people that come in front of us and are seeking a variance. And, you know, I, I've been, you know, I'm no longer working for the ILWU. I have worked with them in the past and I've walked the communities from Waihee, Upcountry to Kihei and I can tell you with most certainty, especially Upcountry, there are much more then what you believe there is. There is incredible amounts of illegal transient vac--

COUNCILMEMBER KING: How recent was that that you've been walking these areas?

MR. WEST: I walked it, was two years ago.

COUNCILMEMBER KING: Okay, you know, I think there's been a lot of activity since then, but I just wanted to find out if you were following what the Council's already been doing because that's what you've asked on your testimony. . . .

MR. WEST: . . . do more.

COUNCILMEMBER KING: Okay, thank you.

CHAIR LEE: Member, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Mr. West. Mahalo for your testimony.

MR. WEST: Good morning.

VICE-CHAIR RAWLINS-FERNANDEZ: My question for you to clarify, how do you know that these are illegal vacation rentals?

MR. WEST: They're in--

VICE-CHAIR RAWLINS-FERNANDEZ: What about, what about like going to the home if you're going door-to-door for campaigning, like what about it tells you that it's an illegal vacation rental?

MR. WEST: Well, you can, through, you know, if you look at a neighborhood, and you see, you see these homes that you go to, and you know who lived there in the past, and, you know, have a new owner that came in. Suddenly you see rent-a-cars parked on the street, overflowing onto the road and, you know, it just doesn't happen overnight. You can't just turn your house into a, you know, TVR. It doesn't happen overnight. There's a process that has to go through. And, you know, in our communities there's, there's a vast amount. There's a vast amount. And I'll just leave it at that.

And I, you know, I think if you brought some of the Planning people in front of you, they would, they would probably tell you the very same. And the hard part is, is that, you know, you have to file a complaint, and there's a process that goes through. It, it's lengthy. I wish what would happen would be that these fines that get levied against these illegal TVR's get tied to their property tax. And then if they don't pay the fine, then the house is taken by the County. That would be ideal, because, you know, we have people that come from.

CHAIR LEE: Steve, I think, I think you've answered Vice-Chair's question.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. You did answer.

CHAIR LEE: We have tons of testifiers in line. Yes, Vice-Chair?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Yeah, Mr. West, you did answer my question. And, you know, we hear this talking point frequently, but it's just not substantiated by the Planning Department when they come before us. So that's why I asked, and I hope that when you do see unpermitted vacation rentals, you are filing RFS, request for services to submit it, because its complaint driven. Mahalo, Mr. West. Mahalo, Chair.

CHAIR LEE: Any other questions, Members? If not, thank you. Thank you.

MR. WEST: Mahalo. Aloha.

CHAIR LEE: Aloha.

Madam Clerk.

COUNTY CLERK: Our next testifier is Chad Fukunaga. To be followed by Lucienne de Naie.

MR. CHAD FUKUNAGA, KAA NAPALI LAND MANAGEMENT (testifying on the West Maui Community Plan):

Good morning, Council Chair Alice Lee and County Councilmembers. My name is Chad Fukunaga and I'm testifying on the West Maui Community Plan Update on behalf of Kaanapali Land Management and the Kā'anapali 2020 community planning group.

West Maui faces many challenges, including a lack of housing and limited infrastructure. We all want better, but how can we come together as a community to effect positive change?

The basis of the Kā'anapali 2020 community planning effort was to bring together community members to share concerns and ideas, to educate, and to collectively create a vision for Kaanapali to meet the needs of future generations.

This effort started over 20 years ago, and was revolutionary at its time, and remains so. I'm not aware of any equal community-based planning effort.

I grew up visiting my grandparents in Honokowai in the '70s and know well the changes to West Maui over the years. Change is inevitable, it's impossible to stop, but with proper planning can be implemented in a manner that best serves the community. However, without proper planning, change is likely to produce inadequate results. Proper planning would not place three schools in an area accessed by a single road. Proper planning would allow for redundant roadways to mitigate blockage from accidents or roadway work. Proper planning would facilitate much needed infrastructure, encourage the creation of housing.

Whereas the proposed West Maui Community Plan is being created now with the intent of providing guidance over the next 20 years, the Kā'anapali 2020 Master Plan can evolve with consideration of regional factors and community input. Current proposed West Maui Community Plan faces a serious, places in serious jeopardy the Kā'anapali 2020 Master Plan and viability of community planning. Please reconsider the proposed plan, most significantly the 97 acres of parks and open space designation in Kaanapali Town South.

West Maui is challenged with a lack of housing and limited infrastructure. Creating a well thought out master plan is a valuable step towards positive change.

Also, I'd like to mention that I received a, a text from Elle Cochran and she was hoping to testify today but was unable to because of work. But she asked, she said she submitted written testimony, and asked that you review it. Thank you.

CHAIR LEE: Thank you. Members, any questions?

Member King.

COUNCILMEMBER KING: Thank you, Chair. Thanks for being here, Mr. Fukunaga. So we heard from Ms. Giambalvo earlier that the commitment for the housing in 20, in Kā'anapali 2020 was for middle to, low to middle income housing. Would you be able to commit to that in writing as part of that plan, if that plan were initiated?

MR. FUKUNAGA: The Kā'anapali 2020 planning effort includes, you know, it's really a master planning effort at this time. You know, we're, don't have entitlements and we, we still need to seek entitlements. And I believe it's at that point where we would, you know, be nailing down the affordable requirements. There will definitely be an affordable component to it. We would, we would comply with all such requirements.

COUNCILMEMBER KING: We already . . . It's easy to, to say that, but without seeing something in writing, it's a little difficult. We were also supposed to get an elementary school when the Wailea community was planned, and that has never happened. So I think that's one of the concerns is not seeing, you know, hearing that they, the desires for affordable housing, but then not seeing it, the commitment to it. . . . concerns.

MR. FUKUNAGA: Well right now, we have entitlements for Pu'ukoli'i Mauka with a, with a commitment to provide 51 percent affordable housing there, and that's for over 940 units. We, we are looking to provide affordable housing, you know, most recent, most currently, I guess at Pu'ukoli'i Mauka. When we do go in for any entitlements in the lower Kā'anapali 2020 area, we'll have to go through State Land Use and County rezoning, at that time, we will commit to affordable requirements.

COUNCILMEMBER KING: Okay, I was just trying to follow-up on what I was told earlier was a commitment. But thank you. Thank you for your statements.

MR. FUKUNAGA: Thank you.

COUNCILMEMBER KING: Thank you, Chair.

CHAIR LEE: Question from Member Sugimura, then Member Kama.

COUNCILMEMBER SUGIMURA: Thank you, Chad, for being here. So you're saying this 97 acres, what, what did you say about it? That its--

MR. FUKUNAGA: It really puts in jeopardy the, the entirety of the Kā'anapali 2020 Master Plan. It's really a key area that, that connects the community and the infrastructure to the highway, which is, which is a, you know, a major connection for travel purposes and utilities. So everything, you know, mauka of it will have to come through that area. So, you know, it's a, it's a strategically it's an important area. So if that holds, if that continues, if it's parks and open space, it would be very difficult to, to continue the, you know, build-out the roadways and, and extend the utilities as needed to support the Kā'anapali 2020 planning.

COUNCILMEMBER SUGIMURA: Cause it's a strategic location for Kā'anapali 2020 Master Plan.

MR. FUKUNAGA: Very much so, yes.

COUNCILMEMBER SUGIMURA: And so you're, you're saying that the designation of 97 acres in open space is a problem, and parks?

MR. FUKUNAGA: It, yes, it's, it takes out a large effort of the Kā'anapali 2020 Plan and kind of puts in jeopardy the entirety, really of the entire south half of Kā'anapali 2020. And which, you know, could put the entire plan into jeopardy. And so that would be, be very sad if, if all these years of community planning, you know, is, can no longer continue.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Member Kama.

COUNCILMEMBER KAMA: Thank you, Chair. So my question is similar to Member Sugimura's. So what would it take to un-jeopardize the Kā'anapali 2020 plan?

MR. FUKUNAGA: Well, if, so, if that area is, is put into really anything other than parks and open space. Small town center would be, would be, you know, suitable, residential. Even if it's left in ag, that would allow the planning to continue.

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

CHAIR LEE: Anyone else?

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Fukunaga. I was just wondering if you can clarify what highway that you were talking about in your response to Member Sugimura? Is it Highway 30, or would it be the bypass highway that they are going to build?

MR. FUKUNAGA: Honoapiilani Highway, however to, to add to that, the bypass EIS identified certain connector roads that would connect the bypass to Honoapiilani Highway. And one such connector roadway travels right down through that corridor, through the area design, currently designated for 97 acres of parks and open space.

COUNCILMEMBER PALTIN: I just wanted to clarify, so you said Honoapiilani Highway, but Honoapiilani Highway, you don't have access to that 97 acres from Honoapiilani Highway currently.

MR. FUKUNAGA: They are, currently, there's no existing connection right now. But again, it's identified in the, the bypass EIS to, to build a connector road coming down through that corridor. It's also plan, part of the Kā'anapali 2020 Master Plan to build a series of connector roads that would connect back to Honoapiilani Highway and also extend south to Villages of Leialii to provide connectivity north and south.

COUNCILMEMBER PALTIN: So I just, I just wanted to clarify that you're saying the only way to access Pu'ukoli'i Mauka is through unbuilt roads. But all of the roads are not built yet and so I guess, I don't, I mean, you are, you are going to access it through a road that hasn't been built yet, and I guess that's, you clarified my question. Thank you. Thank you, Chair.

CHAIR LEE: Okay. Anyone else, Members?

If not, yes, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Real quick. Aloha, Mr. Fukunaga, mahalo for your testimony. I was researching the master plan, and I went into the website to, to find it, and it, it, I went into the website and when I click on master plan, it doesn't open. So I'm not sure if that's a problem with the website. I was curious, what I was looking for to, was to see if there's an update? You know, for the past 22, almost 22 years, since the plan was established in '99, 1999, you know, is there an update on all of the action items, and promises made to the community that's been, you know, ticked off to, to show what's been accomplished, completed, ongoing, not started? You know, like that? Is that included?

MR. FUKUNAGA: No, I, I, you know, we don't have a specific list. I can provide to your office the, some plans that have, I guess, morphed over the years and I can also provide you with minutes from our meetings if, if that would be helpful.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Fukunaga. Mahalo, Chair.

CHAIR LEE: Any more questions, Members? If not, thank you, Mr. Fukunaga.

Madam Clerk.

MR. FUKUNAGA: Thank you.

COUNTY CLERK: Chair, our next testifier is Lucienne de Naie. To be followed by Mandy Saito.

MS. LUCIENNE DE NAIE [testifying on County Communication Nos. 21-541, 21-542, 21-543, 21-551 & 21-554; and Bill Nos. 141 (2021), 142 (2021), 143 (2021), 144 (2021), & 148 (2021)]:

Aloha. Good morning.

CHAIR LEE: Good morning.

MS. DE NAIE: My name is Lucienne de Naie, I'm testifying on the, most of these items, just as an individual. You know, I didn't add 21-542 to my list, but I would like to speak to this. I sat in meetings of the Kā'anapali 2020 for shoots, a number of years, three, four years at the beginning because of the cultural protection element. And everybody was real gung-ho about Pu'ukoli'i being built and so forth, and people testified. You know, that was fully approved in 2005. So I don't know, 15 years, you can't build a road? You can't decide how you are going to get there?

It's, it's kind of, you know, and I have to speak to the parks part of this as well. There are 100-acre, ninety some acre areas that the County has as parks. Baldwin Beach Park that we're acquiring bit by bit is about 93 acres and very beloved by our community and very useful. I would think that you would want to keep your options open. If the citizens who reviewed this plan who live in West Maui and who's families, you know, use West Maui think that a park belong there, I would think twice about overturning that.

I also want to speak to what Lance Collins spoke to the area around Mala Wharf, the 'Alamihī Fishpond. That area you definitely should do exactly what he said and keep the old language in the plan. It is a travesty that people just forge ahead, because they have the money to do so, run all over the public process. Our agencies feel their hands are tied and just rubber-stamp everything. And then the courts say no, you didn't do it right and now it's built. The citizens should have some recourse to get that six-acre park someplace. And having language in the community plan that says that's a requirement means that they should get a community plan amendment that allows a process for justice to be served. So please take that under consideration.

And also, really support the idea of having more fire flow, and using R-1 water. This was proposed by the citizens, you know, as Sierra Club rep. for that lawsuit. This was one of the uses that we proposed long ago. It seemed that West Maui was always short of water for fire flow and yet we're dumping five million gallons in the ocean every day. All we need is a place to store it, so we have it when we need it. So Mr. Falconer made a really good point there and we do need to hook those, you know, something that's seen as a waste product into someplace where it can be useful.

I'm going move on, cause I signed up to testify on a number of different things. Item 21-451, just want to thank the Council for proposing an extension of the Water Use and Development Plan so we can actually get a summary for the citizens to review and finish it off with the intention where it started that the plan has more updated information, more specific information that would be useful, and is a little bit more understandable to the general public. Although, frankly, probably to do that you really should have brought in a consultant to do it, which had to be last time. The County did a plan in 1990, it was rejected by the Water Commission, they hired a consultant, a new plan was done by '92 and that's, you know, what we have now. But it's pretty old. But our County staff is wonderful. I think everyone wants to save money, but they already have plenty to do, and it's a big process to come up with a plan like this.

I'll move on to item 21-543, the proposed amendment to Bill 148. I think this is really like a slippery slope, starting to say which waivers go where. The, the fact is the waiver system while useful and helpful to many nonprofit builders is also abused, and we have many, many high-end developments that simply buy waivers, buy their way out of any new affordable housing, and then proudly tell the Planning Commission that oh, our affordable housing is already built. Well, it's already built, but the idea is we need more. And you're not contributing to more, you're just getting the credit for something that's already built. So please don't pass that amendment, just leave the bill as it is.

Moving onto items 21-551 and 554. I'm just really happy to see that this managed retreat concept for our infrastructure is being introduced by Councilmember Paltin and look forward to testifying on it when it gets to the Committee level. It's a tough



conversation that we need to have. We're going to have some Federal infrastructure funding coming along in the next couple of years anyway, we should see if any of it can help us solve some of these long-range problems.

And then Bill 141. Very important, I testified last time around on this. This is the exemption for Hawaiian Home Lands for water availability bill. These are affordable homes, and it's a segment of our community that really deserves to have a step-up in order to have a home, because there's been such injustice done on land issues with so many Hawaiian families. So it just seems like this is the time to do what we can to set things on a path of a more equitable support for housing for the host culture, for the people that, that lived on this land before many others came.

Last, but not least, Bills 142, 143 and 144, I assume these are to purchase a building so our poor overworked Department of Water Supply actually has a place where they are not crammed in their little cubicles in the County Building, and whatever can be done to give this department some room to breathe, and store their files, and have adequate staff, really should be done.

And then please pass Bill 148 as is. It's had a lot of back and forth. A moratorium will give us a chance to take a breather and look at solutions that might help manage tourism better. We're always going to have tourist, but our current facilities are probably quite sufficient for the tourists that are going to be coming in the next couple of years. We all know that they go through ups and downs, but in general, anyone who wants to come to Maui can find a place that meets their needs.

So thank you for your consideration of all these matters and thank you for all your hard work this whole year where we're winding down. And just appreciate you guys always being here with your thoughtful considerations.

CHAIR LEE: Thank you. Questions, Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Thank you, Lucienne and thank you for all your hard work. You almost are like the 10th Councilmember, we, we see you very regularly. So thank you for your hard work.

MS. DE NAIE: I think that's Mike Moran.

COUNCILMEMBER SUGIMURA: He is a regular also. There's a bunch of you. But thank you very much and Happy Holidays to you and, and Daniel. I just wanted to mention that County Communication 21-543 regarding the moratorium, I think it speaks to, that was my, I'm going to be making that amendment. I think that's what you looked at and I'm saying exactly what you're saying, is that credits are not to be used in place of

actual constructed homes. So the amendment is housing units must be physically constructed for the purposes of this section and you cannot use credits in replacement. And your, what you said and explained it is exactly why. Thank you.

MS. DE NAIE: I didn't get quite that reading from this amendment, but I'm sure you guys will, will clarify it and thank you for explaining. But I kind of got that if it was in the pipeline already, that, that resorts could use these kinds of credits. And if they can, they will.

COUNCILMEMBER SUGIMURA: Yes.

MS. DE NAIE: Cause there are some things in the pipeline, you know, Maui Lu, all these things are in the pipeline. So yeah.

COUNCILMEMBER SUGIMURA: Yeah, we'll discuss it, but I think you explained why this amendment is important. So, thank you.

CHAIR LEE: Okay.

MS. DE NAIE: Mahalo.

CHAIR LEE: Any more questions? If not, thank you, Lucienne.

MS. DE NAIE: Thank you.

CHAIR LEE: Madam Clerk let's take one more before we head to a break.

COUNTY CLERK: Our next testifier is Mandy Saito. And after the break she'll be followed by Mike Moran.

CHAIR LEE: And how many altogether, Madam Clerk.

COUNTY CLERK: Eighteen more signed up to testify.

CHAIR LEE: Okay. Ms. Saito.

MS. MANDY SAITO, KAA NAPALI LAND MANAGEMENT (testifying on the West Maui Community Plan):

Thank you, Chair. Good morning, Councilmembers. Thank you for being here today and for the opportunity to provide testimony for the West Maui Community Plan. My

name is Mandy Saito and I work for Kaanapali Land Management and I'm here to testify in support of the Kā'anapali 2020 Master Plan. I am not a paid lobbyist.

So for today I'm asking for reconsideration of the land use designation for the Kaanapali Town South noted in the current draft West Maui Community Plan. An amendment should be considered to align the land use designations with the Kā'anapali 2020 Master Plan. The current draft designates 200 acres of Kaanapali Town South noted in the draft plan as agricultural land, 97 acres of that land was designated as park/open space and the remaining in agriculture, which is not consistent with the Maui Island Plan. This can be seen on subarea map 2 on page 89 and language regarding the designation of the 97 acres to parks and open space for Hanakao'o Mauka is on page 94.

The Maui Island Plan identifies the entire Kaanapali Town area as within the urban growth boundaries indicating the area as an appropriate location for development. It specifically recognizes the Kā'anapali 2020 Master Plan area and identifies it as part of Maui's direct growth strategy. The K 2020 Master Plan is a well-planned community that is suitable, that is a suitable area to accommodate for also sea-level rise and the support, manage retreat strategies that have been brought up numerous times which involve moving various land use inland.

The Maui Island Plan serves as a foundation for the community plans. The Maui County Code 2.80B.070 states that the community plan shall implement the General Plan's vision, principles, goals, and policies. This designation is not consistent with the characteristics of urban growth boundaries and not compliant with the Maui Island Plan and Maui County Code. Eliminating the opportunity to provide, you know, planned communities, and expand communities in areas closest to infrastructure, you know, creates a real problem for Maui's future.

Please reconsider the land use designations for the Kaanapali Town South and select more appropriate land use designations that align with the Kā'anapali 2020 Master Plan and the intended characteristics of the urban growth boundaries defined by the Maui Island Plan. If you are not able to change the land use designations for productive use, please at the very least keep the designation of agriculture for future consideration. Thank you again for your time.

CHAIR LEE: Thank you. Members, are there any questions? If not, thank you very much. It's time for our break. Members, so let's say 10:50 we'll return. Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: Meeting in recess till 10:50.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:36 A.M., AND WAS RECONVENED AT 10:52 A.M., WITH ALL MEMBERS PRESENT.)

CHAIR LEE: Will the Council meeting of December 3, 2021, please reconvene. Madam Clerk, let's continue with testimony.

COUNTY CLERK: Our next testifier is Mr. Mike Moran. To be followed by Cheryl Hendrickson.

MR. MIKE MORAN, KIHEI COMMUNITY ASSOCIATION [testifying on County Communication Nos. 21-546 & 21-547, and Bill No. 148 (2021)]:

Aloha, Chair Lee and Councilmembers. Mike Moran for the Kihei Community Association. The first of 20 before lunch, I don't know . . . I will try and do my part and be brief. We just on three items this morning and the first two are just referrals and those are 21-546, relating to seabird and biodiversity protection and 547, relating to environmental grants, both from our South Maui Councilmember King and we're certainly appreciative for that.

And when we heard freshman Member Johnson this morning start giving a list of how much you have accomplished this year, and much of those accomplishments were along these lines of environmental issues. So you have made outstanding progress, and now we see that there's always more in this venue of helping our environment. So we look forward to seeing where those go as they go to committee.

And then the final one, and hopefully the final action today is on Bill 148. We continue to support this. We look forward to have it, take progresses on it and we commend the Council to your patience and reasonableness with some of the comments from our community that are so far off base. We're still hearing, you think this is going to stop the tourists from coming tomorrow. It seems like they haven't even paid attention. But nobody is rude to them and they kind of explain it or just move on. So we hope you guys can move on today, and, and get this finalized, and done, and then move on to many others.

So I said I would be brief, so I will stop chattering here. But thank you for your, your good service, and we hope you have a quicker day and a nice weekend. Aloha.

CHAIR LEE: Thank you so much, Mike. Mike, is it cold in Kihei? You have a jacket on, no?

MR. MORAN: It's cold for us, us Kihei guys. This is, we've had rain all week, Chair. Rain all week in Kihei. I think we got up to a quarter of an inch total now, but hey, it's raining in Kihei.

CHAIR LEE: Yeah, and you needed it, too. So great. Are there any questions for Mike? If not, thank you so much, and you have a nice weekend, too.

MR. MORAN: Thank you, Chair. A hui hou.

CHAIR LEE: Madam Clerk.

COUNTY CLERK: Chair, our next testifier is Cheryl Hendrickson. To be followed by Lanny Tihada.

MS. CHERYL HENDRICKSON [testifying on Bill No. 148 (2021)]:

Good morning.

CHAIR LEE: Good morning.

MS. HENDRICKSON: I'm here to testify for Bill 148. Basically, I just want to give you my history here. I moved here in mid-1980's, it was a quality destination then. I worked as a waitress in Kaanapali, I made great money. I was able to rent a one-bedroom apartment. I saved money for vacations. I was able to save for a home. And then, and when it was crowded, you know, during Christmas, summers, and winter, it was tolerable, I mean you expected it, you wanted tourist here. But you could still go to our sites with the tourists and, you know, enjoy them and, you know, as part of doing business here and living here. We realize tourism is needed.

But then the HTA was created, and we had unrestrained development and it, you could just see it just growing by leaps and bounds. Still living in West Maui at this point, I noticed all the new development. There was no infrastructure that was being developed to go along with it. So for me, it made West Maui unbearable. So and also, the daily traffic at that time was getting unreasonable. The subprime thing brought all of these new residents who didn't know how to mind their own business, and just the whole thing became intolerable.

So I moved over to Haiku, just so grateful there was a place that was local, you know, that had the same sort of vibe as West Maui did back then. And then all of a sudden here we got a growth, while the internet brings on Airbnb's, the bike companies start migrating into our backroads. The Maui Visitor Bureau promotions started bringing

tourists to our neighborhoods here. Ho'okipa was like the last local beach, I enjoyed going there to end my day. I mean it, granted there's not much sand, but you were just grateful to have a place to go to.

In the last six and seven years that has gotten intolerable. The tourists are, I don't know if they read it, anyway, they're coming, they're just too many coming there. And it's impossible to relax and ignore, because, you know, they turn their back on the ocean. There's nowhere to park. The littering has gotten bad. So we retreat to our homes now, you know? At least grateful for that.

Then the airplanes start flying over us. And I understand we need to accommodate more traffic, but it's just, it's, I can't believe the progression, it's become a Disneyland and it's not sustainable. Needs, Maui needs to be respected. It shouldn't be exploited, or it will not provide. The Hawaii Tourism Authority or the Maui Visitors Bureau isn't going to help us.

So basically, we need this bill, it's a start. It'll help start to bring the tourism under control. I mean, we had this good chance after the stopping of the pandemic and, to really refocus and it's looking like it's going back to normal, just bringing, having tourism as our main income and it's unsustainable and we need to diversify. So please support this Bill 148, it's a start. Thank you.

CHAIR LEE: Thank you. Members, any questions? If not, thank you very much.

Madam Clerk.

COUNTY CLERK: Next testifier is Lanny Tihada. To be followed by Marjorie Bonar.

MR. LANNY TIHADA (testifying on the West Maui Community Plan):

Madam Chair Alice Lee and Councilmembers. Lanny Tihada, I work for Kaanapali Land Management and I'm here to testify on Kā'anapali 2020. The reason I liked Kā'anapali 2020 Plan is because community members put it together. And I, throughout the years I've been here, I've watched them come to the meetings, I sat in couple meetings, I'm very impressed, a lot of arguments, but they come together as one and we came up with this plan. The reason I like this, because it puts up a lot of homes in the area.

And give you an example, you know, I went to Lahainaluna High School. I've been involved with the school since, when I came back to Maui, when I was 21, and I'm still involved in the school with the school through athletics. And I watch teachers come

and go. And I think back about when I went to high school there back in the '60s, we had old time teachers, the . . . , Ms. . . . the science teacher, and you know they stayed there. I understand Ms. . . . came, came there as, after she graduated from college and taught science, and she stayed there until she retired.

And the feeling of having teachers like that, that were concerned about, about the students. And you know, I see a, I see where teachers come now, they want to stay, but they can't find, you know, there's not enough homes on the west side. And then they leave, and some good teachers have come and gone. And I feel for, for the students, you know. There's, the continuity is not there, and we talk about pride in the school, and it's hard to watch teachers come and go, good teachers.

And I think this, this development is not, they not, I say we, but not me, but I see this development helping out our, our local community. I'm in support of this, I like, I like what I see, and I wouldn't be here speaking to you if I didn't believe in it, even if I do work for this company. I ask that you take a good look at this and approve it. Thank you.

COUNCILMEMBER KING: Chair, you're muted.

CHAIR LEE: Thank you. Thank you, Lanny. Good to hear from you. Any questions, Members?

Member King.

COUNCILMEMBER KING: Thank you, Chair. Just real quickly, Lanny, thank you for being here, appreciate your testimony and being part of that Kā'anapali 2020. Can you speak to the commitment that the, the community members made to affordable housing in this area as part of the Kā'anapali 2020 plan?

MR. TIHADA: I can't, you know, I can't speak for them because I don't sit in meetings, you know, often enough. But I know there's, I know it's in compliance for the affordable housing, what is that 51 percent.

COUNCILMEMBER KING: Okay, well, no just I thought you were in the meeting. So if you can't speak to it, that's fine. Thank you. Thank you, Chair.

CHAIR LEE: Okay, thank you, Lanny. We have one more question.

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Tihada for your testimony. I just wanted to clarify when this plan came before the Community Plan Advisory Committee, this particular area was slated for resorts and hotels. Can you clarify that?

MR. TIHADA: I don't know what it was classified as, but I don't see any hotels or development of that sort in this 2020 plan.

COUNCILMEMBER PALTIN: This new version that's coming before us today?

MR. TIHADA: What was that?

COUNCILMEMBER PALTIN: Okay, never mind. Thank you.

CHAIR LEE: Okay, thank you, Lanny.

Madam Clerk, may we have the next testifier.

COUNTY CLERK: Our next testifier is Marjorie Bonar. To be followed by Jonathan Likeke Scheuer.

MS. MARJORIE BONAR, JEWISH CONGREGATION OF MAUI (testifying on County Communication No. 21-553):

Interesting, I don't know whether I'm on or not?

CHAIR LEE: You're on.

MS. BONAR: I am, okay. Thank you, Council. Boy, there's so many things I wish I were testifying on. But this is of primary importance to me right now, which is the rezone for the property that the Jewish Congregation of Maui has been sitting on for a very long time. And I was not aware of the non-conforming problem in the years that I was on the board before, as we turned to the board and found that things lapsed in between, that the CUP was not reinstituted and also, we have a change in perceived ownership of the, the remnant road, of Kenolio Road, that we've been using for parking for years.

There are three of us that have called in to testify, but the real gist on all of this is to thank the Planning Department for getting this through, and getting this communication to you, and hoping that it can be acted on expeditiously. Because we can't make upgrades to the building without knowing what we're dealing with. And we do have some just aging infrastructural problems and we need that parking strip, which means



the County coming to a resolution of what can be done with the remnant of Kenolio Road?

So I'm just thanking you for and County in general for paying attention to a problem that the current board have no idea even existed until it was brought to our attention. So we thank you for that, and hope that this can be handled as quickly as possible before we have roof leaks and such. Aloha.

CHAIR LEE: Thank you. Yes, Member King, and then Member Sugimura.

COUNCILMEMBER KING: Thank you, Chair. Aloha Marge, good to see you. Those, are those, I'm not sure what's in your background but it's interesting.

MS. BONAR: Oh, those are menorahs, actually it's Hanukkah right now.

COUNCILMEMBER KING: Oh, okay, looks like--

MS. BONAR: And those are some of my ceramic menorahs.

COUNCILMEMBER KING: Oh, nice. So I think you're talking about number, item, County Communication 21-553.

MS. BONAR: 52.

COUNCILMEMBER KING: Okay, 552 is a, a bill for an ordinance.

MS. BONAR: Oh, that was the naming, 553, correct.

COUNCILMEMBER KING: Okay, okay, cause it was on the, on the list of testifiers it says 552, so I just wanted to clarify what you were talking about this morning . . . This issue has been, you know, this is one of the things that I urged them to do a couple of years ago is to push for this rezoning. So I'm glad to see it's finally coming forward. Thank you. Thank you, I just wanted to clarify what issue you were talking about.

MS. BONAR: Yeah, that, that was 553. My old arthritic fingers are having too many problems.

COUNCILMEMBER KING: No problem.

CHAIR LEE: Member Sugimura. Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, that was my question. Happy Hanukkah.

MS. BONAR: Happy Hanukkah to you all. And light a candle for hope.

CHAIR LEE: Alright. Thank you very much, Ms. Bonar.

And Madam Clerk, may we have the next testifier.

COUNTY CLERK: Our next testifier is Jonathan Likeke Scheuer. To be followed by William Aila.

MR. JONATHAN LIKEKE SCHEUER, DEPARTMENT OF HAWAIIAN HOME LANDS  
[testifying on Bill No. 141 (2021)]:

Aloha mai kakou, Chair Lee, Vice-Chair Rawlins-Fernandez, and Members. I'm Jonathan Likeke Scheuer for the Department of Hawaiian Home Lands and I am testifying in behalf of Chair Aila so he will not separately be testifying. We are testifying on strong support of Bill 141 which adds to the, the Department of Hawaiian Home Lands to the exemptions from the water availability ordinance, and I'll be very brief.

I just want to convey that for the Department of Hawaiian Home Lands and its continuing efforts to issue as many homestead leases as possible around the islands, the availability of water is one of the very largest barriers that we have. One of the reasons why on Oahu, where we have the greatest demand and actually the smallest amount of land available, we have issued more homestead leases than all the other islands is that we've never had to develop water sources that the Honolulu Board of Water Supply has stepped up and provided the water that we need.

This amendment is a really critical amendment in stepping forward really in partnership with the County to make these housing units available, and to help us fulfill what is really a shared kuleana. When Hawaii became a state, all of the voters of Hawaii accepted a compact with the United States to fulfill the Hawaiian Homes Commission Act, and this is a really meaningful and positive way that the County is working with DHHL. So we're in strong support and very happy to answer any questions on behalf the Department. Mahalo nui.

CHAIR LEE: Members, questions? If not, thank you very much, Mr. Scheuer.

Madam Clerk.

COUNTY CLERK: Chair, your next testifier is Sheri Levin McNerthney. To be followed by Howard Kihune Jr.

CHAIR LEE: Ms. McNerthney.

MS. BONAR: If I could speak, Sheri was having a power problem up in Olinda, evidently she may not have power.

CHAIR LEE: Alright.

MS. SHERI LEVIN MCNERTHNEY, JEWISH CONGREGATION OF MAUI (testifying on County Communication No. 21-553):

No, I'm here, I'm here. I just didn't know how to unmute. Sorry. Am I unmuted now?

CHAIR LEE: Yes, you're on.

MS. MCNERTHNEY: Okay. Thank you. So thank you, apologize for the delay. I'm Sheri Levin McNerthney, I'm President of the Jewish Congregation of Maui. Happy Hanukkah. I'm calling, I just want to urge the Council to support resolving 21-553. I put 21-552, it's 21-553. We're anxious as an organization to be in compliance with Maui rules and so we urge you to promptly resolve this rezoning issue and to resolve the remnant road issue so we can have off-street parking in compliance with the recommendation of the Planning Commission. So that's all I have to say. Thanks and thanks for helping us be in compliance. Happy Hanukkah and aloha.

CHAIR LEE: Same to you. Members, any questions? If not, thank you very much.

Madam Clerk, may we have the next testifier, please.

COUNTY CLERK: Our next testifier is Howard Kihune Jr. To be followed by the caller calling on 5281.

MR. HOWARD KIHUNE JR. (testifying on County Communication No. 21-542 and the West Maui Community Plan):

Good morning and aloha Council, Council Chair Lee and fellow Councilmembers. Can you hear me?

CHAIR LEE: Yes. Good morning, Howie.

MR. KIHUNE: Happy Holidays to all of you.

CHAIR LEE: You too.

MR. KIHUNE: I'm here today to request that this body amend the proposed West Maui Community Plan that is before you, before this body, to include the Kā'anapali 2020 plan designations. I think there is much more planning that needs to be done. Without those designations some of the workforce housing efforts that we've been working towards with KLM will probably go by the wayside. We're working with them specifically on that workforce housing portion of Kā'anapali 2020, and if we lose those designations, we're going to probably lose housing in the future for that area to some degree.

And, you know, I think what we need to do is think about the future of our housing issues. It's constantly being, being talked about, constantly being pushed forward, if you, if I may say? But we need to look and plan right now for the future of our West Maui residents, our local residents. I also feel that if we change these designations mentioned, we'll lose the opportunity, and I think our West Maui, our West Maui families will lose that opportunity for future housing for themselves and for their, for their, for their, the next generation.

It's really important that we, that we continue to work in that direction. We can take the bite of the apple later on as we go through an entitlement process, but to take that away now is really kind of putting us, putting, setting us back a couple of steps, maybe three or four. The need for housing right now is crazy, you all know that. I don't need to tell that to you. The demand is overwhelming and it's about building more homes. It's about getting more homes on the market for our local residents in the workforce area to help bring that demand down and help bring pricing down.

We take away areas that we're looking at building workforce housing, you're just creating, you're creating a bigger demand and that's not what we're here for. We're here, this body is here to help this community. Our biggest issue is workforce affordable housing, we all know that. The west side for rentals right now is through the roof. Trying to find a home to buy on that side is over a million dollars. It's crazy.

So, you know, I, I beg you to really take to heart that if we, if we don't amend and include 2020 as it's been designated on that particular plan, we're going to lose the opportunity. Let us go back and take, and plan more. Let's get, let's get more people involved, if that need be. And let's create more housing that way. I don't want to lose this opportunity now cause if we slam the door on it now, we will probably have to move and step aside, because there's no opportunity for us to go and build, develop more workforce housing. So I appreciate the time. Happy Holidays. And again, thank you.

CHAIR LEE: Thank you, Howie. Any questions, Members?

Yes, Member King.

COUNCILMEMBER KING: Thank you, Chair. Are you still there, Howie?

MR. KIHUNE: I am, sorry. Yeah, I'm trying not to reverb. Go ahead.

COUNCILMEMBER KING: Okay, well we can't, I don't know if you know, we can't see you, the screen is just black.

MR. KIHUNE: Oh.

COUNCILMEMBER KING: So if you have your little camera thing covered, it will make that black.

MR. KIHUNE: Oh.

COUNCILMEMBER KING: So you might want to . . . There you go.

MR. KIHUNE: It's a new camera in my office, sorry.

COUNCILMEMBER KING: So, yeah, I just wanted to ask about, so I've been asking everybody that's connected with the Kā'anapali 2020 if, you know, there were commitments made. It sounds like everybody wants hundred, all the housing in that area to be workforce and affordable housing is that correct?

MR. KIHUNE: No, I think there was going to be, there's got to be a combination of market and workforce. You got to remember now; the market side pays for the workforce. That's the only way this, this formula work. You got to have some market to offset the costs.

COUNCILMEMBER KING: So what percentage were you committing to when you, when you made that plan, when . . . that made the plan. Was it 51 percent?

MR. KIHUNE: I believe right now, currently at, with regards to the Pu'ukoli'i Project it's at 50 percent, correct. That's an entitled project on the upper side.

COUNCILMEMBER KING: Well, I, yeah--

MR. KIHUNE: Right now addition.

COUNCILMEMBER KING: --you're advocating for the whole Kā'anapali 2020 plan, so of that whole plan, how much of that was intended to be for affordable housing.

MR. KIHUNE: That I don't know, because we haven't been able to plan it out correctly. We need way more time. The cost of construction is through the roof. Material costs have gone up almost 80 percent with piping, plumbing, and other materials that are out there. Lumber has come down, thank goodness, so that helps. But everything else is going up. And again, I don't, I cannot give you a number right now, Ms. King, but love to sit down with everybody and try to plan this out. But you got to give the opportunity to plan this out.

COUNCILMEMBER KING: Yeah, I know, I understand that, but there's, there's also, you know, these agreements that get made sometimes don't get fulfilled, and so I think that's the hesitancy, you know, and I've seen that happen in Wailea big time. So, that's kind of why I keep asking everybody, you know, are you willing to put these commitments in writing to working towards a certain percentage of affordable housing, if we, if we agree to do this? So, but everybody keeps saying well we don't know, and not knowing is the scary part for the community, I think.

MR. KIHUNE: Well I can tell you that I believe KLM's mission is to develop workforce housing. I can tell you firsthand. How much of that? Nobody knows yet because the infrastructure costs for these areas is enormous. The, the rock that you encounter in that area is absolutely the most costly part of developing and putting in infrastructure. It's crazy. And that cost has to be paid by somebody. So if you have market homes, whether it's 25 percent workforce, 75 percent market, 50/50, whatever that number is has to pay for that infrastructure for our local families. You know, civil work can cost you 200,000 a lot in that area. It's so expensive. It's crazy. Crazy.

I mean, we're, we're working it every day. We do this for a living, and we know what it takes to develop in that area. It's not cheap. It is not cheap. We were very lucky with our project in Kaanapali. If we had to develop that today, Ms. King, we wouldn't be able to do 100 percent.

COUNCILMEMBER PALTIN: --dialog here.

MR. KIHUNE: And that was all rock, just to let you know. So.

CHAIR LEE: Okay. We may have some questions.

Member King, are you finished with your questions?

COUNCILMEMBER KING: I am, thank you, Chair.

CHAIR LEE: Okay, anybody else with questions?

Member Paltin.

COUNCILMEMBER PALTIN: I just need to say it's not clear what the plans are because the first iteration shown to the CPAC was for resorts in that area. And they rejected it and put open space instead. So now because they didn't like that, they are trying to sell the story that there's going to be affordable housing there. The connection to Pu'ukoli'i Village Mauka is that road that hasn't been existing. Just point of clarification. Thank you.

MR. KIHUNE: I'm sorry, Ms. Paltin, can you repeat the last sentence? I, I lost you for a second, sorry.

COUNCILMEMBER PALTIN: There is no road to Pu'ukoli'i Village Mauka currently.

MR. KIHUNE: Correct.

COUNCILMEMBER PALTIN: Thank you.

MR. KIHUNE: Yeah, and that's all part of the bypass improvement and all the infrastructure that has to be put in.

COUNCILMEMBER PALTIN: Yeah, thank you, you answered my question.

CHAIR LEE: Any further questions, Members? If not, thank you, Howie.

MR. KIHUNE: Thank you. Happy Holidays.

CHAIR LEE: Happy Holidays. Let's see, Madam Clerk.

COUNTY CLERK: Chair, your next testifier is calling in on the last four digits of 5281. 5281 will be followed by Stephen Castro

MS. VALERIE DETTLOFF [testifying on Bill No. 148 (2021)]:

Hi. Hello. Am I muted?

CHAIR LEE: We can hear you. We can't see you.

MS. DETTLOFF: I am calling on the phone in support of Bill 148. My name is Valerie Dettloff. Our infrastructure cannot handle the amount of people currently on the island. Our dump is growing at an exponential rate and the hotels are one of the biggest contributors. Our water sources are being stretched to the point that East Maui kalo farmers and native wildlife are being left without. Especially during that times of drought season where the hotels are watering their grass, and residents are being threatened to be cut off if water exceeds a certain amount. Our roadways are being overcrowded and accidents are increasing because of tourists uneducated driving, including parking in dangerous areas on the side of Hana Highway, causing hazardous situations.

The water, the water pollution from the hotel injection wells affect our vital reef, which is contributing to our food insecurity and climate change. The destruction of coastlines, including historical and cultural sites, and native habitat, endangering plant and wild, native wildlife, including the 'ua'u which is also affected from the hotel light pollution, which confuses them and is the second most damaging effect to their population.

Visitors does not equal more money; tourist are spending less per person than ever. Noise pollution from the airplanes alone is already currently overwhelming. All those arguments that was, sorry, was . . . of wells being an empty promise being merely a shortcut to the access, access of the same limited natural aquifers. That's the end of my . . .

CHAIR LEE: Alright, Members, questions? If not, thank you very much.

Madam Clerk.

COUNTY CLERK: Chair, our next testifier is Stephen Castro. To be followed by Pamela Tumpap.

MR. STEPHEN CASTRO [testifying on Bill No. 148 (2021)]:

Ready.

CHAIR LEE: Ready.

MR. CASTRO: Can you, can you hear me?

CHAIR LEE: Yes, and we can see you.



MR. CASTRO: Good. Alrighty. Okay, aloha, Madam Chair and Members of the Maui County Council. My name is Stephen Castro, and I am a resident of Maui, here in Wailuku. I'm here this morning to provide testimony on Bill 148 relating to the Maui island moratorium. As a background, I was a member of the Maui Planning Commission from 2016 to March of 2021.

During my time on the Commission, I participated in the SMA public hearing for the proposed Grand Wailea improvements project. Among the improvements proposed by the project are those related to the resort's pools, spa, and related amenities, as well as an addition of 137 new guest rooms. Actually this is a reduction from what it first started, I believe it was two hundred and maybe twenty-four, around there. And they have since made reductions. The public hearing for the Grand Wailea application was held on May 28, 2019, after the Planning Department determined their application was complete and ready for scheduling before the Maui Planning Commission. Although the public hearing was completed, there was a petition to intervene filed on the application, and I understand that it's, it's still going through the contested case process.

Although I was not on the Commission when the moratorium bill came before them, I understand that Section 2 of the proposed bill for an ordinance was amended by the Commission to exempt any application for the approval of new transient accommodation that is properly filed with the County prior to the effective date of the ordinance. As a former commissioner, I respect the recommendation of the Commission, given their extensive experience on SMA and related planning and permitting matters. I was therefore pleased to see that the Planning and Sustainable Land Use Committee agreed with this amendment.

At the Council's first reading meeting however, Section 2 was further amended to only exempt new visitor accommodations that has, that has received its final discretionary approval prior to the effective date of the ordinance. While the exemption provision of the Section 2 has shifted over the course of the legislative process, I also understand that the Grand Wailea is asking that Section 2 be amended to also exempt applications which have been deemed complete by the Maui Planning Department.

I am here today to ask that you favorably consider Grand Wailea's request, which would also exempt them from the ordinance, given that their SMA application was filed more than three years ago, and that the Maui Planning Commission held its public hearing on the application. I believe this would be an appropriate way of managing this unique circumstance. Mahalo for your time and consideration and wishing you all Happy Holidays.

CHAIR LEE: Thank you. And back to you.

We have a question. Member Paltin.

MR. CASTRO: Yes.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Castro for your service on the Planning Commission. My question was to clarify, you had mentioned the, the Grand Wailea project is currently in court on an appeal right now.

MR. CASTRO: It's a contested case. I don't know exactly where they, where they're at. It should be hopefully concluding soon, but at this point in time, I don't know where they're at.

COUNCILMEMBER PALTIN: Okay, thank you. I just wanted to clarify that.

CHAIR LEE: Members?

Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. Mahalo, Mr. Castro. Just clarification, your, you're currently sitting on the Planning Commission.

MR. CASTRO: No, I, my term was up in March.

COUNCILMEMBER SINENCI: Oh, okay. Thank you.

MR. CASTRO: Of this year.

CHAIR LEE: Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Nice to see you, Mr. Castro. Hope you're enjoying your retirement.

MR. CASTRO: Yeah, I broke.

COUNCILMEMBER SUGIMURA: So I just wanted to confirm basically you're saying that applications, you're, you're supporting applications that have gone through the process and, before this bill passes should be recognized.

MR. CASTRO: Correct.

COUNCILMEMBER SUGIMURA: Okay. And that over three years ago, this process had, was approved, I guess, is what you're saying. Right?

MR. CASTRO: Yes. A lot of time and effort, and monies, you know, has over the three years has amounted to quite a bit of time and monies.

COUNCILMEMBER SUGIMURA: Thank you. I think we heard from other companies or testifiers about this, too. So, thank you.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. Aloha, Mr. Castro. Thank you for being here and for.

MR. CASTRO: Aloha.

COUNCILMEMBER KING: And for, I guess you were on the Planning Commission when this passed. And I just wanted to ask you about the amount of, I know there was opposition from Kihei community on this particular issue. And there have been on other hotel development projects, but they always seem to pass anyway. So part of, you know, what we're doing is trying to address community concerns that weren't heard at the Planning Commission. So I just wanted to ask you about that. What is the attitude of the Planning Commission, when the community comes out on these issues, on these, you know, these projects? You know, it was about 90 percent opposed, I think when they did the Maui Coast Hotel and it that passed anyway.

MR. CASTRO: You know, when they come before us, while I was on the Commission, there's a lot of pros and cons, whether it's in, via written testimony or oral testimony. And we have to weigh everything. And community input is really important, and we have to see both sides. We look at the projects, whatever the subject is, and we have to put a lot of thought into it, you know? For instance, with the hotel, it will create more jobs, and more contributions will be made taxwise to Maui County. We, we look at it, if someone has, I'll give an example of let's say a--

COUNCILMEMBER KING: Well, I don't want to create a whole dialogue about this. Can I just ask you how many people were on the Planning Commission, who actually lived in South Maui at the time that you passed this particular item?

MR. CASTRO: Maybe, maybe one or two. Maybe one or two.

COUNCILMEMBER KING: Okay and then the other question I have is on the issue of completion of discretionary permits. If it's still in court, this issue is still in court, and the intervenors win, then won't we have done a disservice to the community if we allow this to go forward, you know, through an exemption? And then, you know, there's a court decision against it?

MR. CASTRO: Well, you know, Ms. King, I guess we don't know until we, we try and, you know, explore all the options that are out there. And whatever the outcome is, is, is what we're going to have to accept.

COUNCILMEMBER KING: Alright.

CHAIR LEE: Any more comments or questions? If not, thank you, thank you, Mr. Castro. Member, I mean no.

MR. CASTRO: And aloha to all of you. Safe holidays.

CHAIR LEE: Aloha.

Madam Clerk.

MR. CASTRO: Aloha.

CHAIR LEE: Madam Clerk. Okay, Kathy, are you there? If not, can James take over. If you're having trouble with your computer?

VICE-CHAIR RAWLINS-FERNANDEZ: The next testifier is Pamela Tumpap.

CHAIR LEE: Okay.

MS. PAMELA TUMPAP, MAUI CHAMBER OF COMMERCE [testifying on the West Maui Community Plan and Bill No. 148 (2021)]:

Aloha. I'm, I'm here. I can't seem to lately have my video unblocked, but I'm still here and trying. So I guess I'll be blocked. Aloha Chair Lee, Vice-Chair Rawlins-Fernandez, and Members of the County Council. Happy Aloha Friday and Happy Holidays. I'm Pamela Tumpap, President of the Maui Chamber of Commerce here to testify on the West Maui Community Plan first and then Bill 148 on the proposed moratorium.

Regarding the West Maui Community Plan, first of all we want to say that we appreciated that a public meeting was held, and see that many proposed amendments came, you know, out of that plan, from, came out of that hearing and are now being proposed. However, since the bill is already up for first reading today and many amendments have been made, we want to give community members more of a chance to ring in and testify on this before this bill actually passes, given the amendments today, and the issues that occurred in the early part of the process, we feel it's valuable to send it back to Committee for further vetting.

The updated plan is extremely important to the West Maui community. This is a major center that we're looking at for our economy, as well as housing, and we believe it would be better to have further discussion on the amendments where the community and resource people can be included in the discussion, versus three minutes of testimony where we don't get to have the same level of dialogue and understanding. And we think it's important that people get to really see what the final proposal looks like before it moves forward to first reading.

And I think given the issues that Howie brought up, it's a good example. And there is more understanding that needs to be done. And it's hard to ask developers right now to make commitments on things when so much is changing within the industry on pricing, and to say hey can you give us a number today without having that vetting is really challenging. So we appreciate the opportunity to provide testimony on this and just don't feel that it's ready to go forward for second and final reading without more community discussion on the amendments.

With respect to Bill 148, on the moratorium. You know, we've always said that we feel there are better ways to manage challenges without moratoriums. And that's why the Chamber does not support them in general. And we're particularly concerned about rushed moratoriums, because they can lead to unintended consequences, which is why we're very concerned today about the two amendments made during first reading of this bill. Again, feeling like we didn't have that chance for thorough vetting.

While we have been supportive of the TIG throughout the process, we were extremely disappointed to see the change where recommendations from the TIG are not tied to the moratorium ending, which is inconsistent with the intent previously stated.

Additionally, creating legislation to count transient accommodation units by type and community plan area is problematic and redundant. We feel the community has many opportunities to ring in for or against new transient accommodation units being built through the Planning Commission meetings and public hearings where people can share if they feel a project is right for their community or not?

Further zoning and community plans also ensure accommodations are built in appropriate areas. So given this legislation to cap transient accommodation units, we feel it's unnecessary, inflexible, and should not be tied to the moratorium.

Additionally we were very surprised by the new change to Section 2, on exemptions for projects that have not received final discretionary approval. We were dismayed that the Planning Commission's incredibly important recommendation to protect properties who were already in the process is now being thrown out. For a project to get to the point where it has properly filed with the County requires significant time, effort, and money. To then put a two-year hold preventing that project from moving forward is inappropriate, unfair, and devastating to the project. Other projects have had months to get to this point with the understanding that a moratorium was moving through the process. So we don't believe there's going to be a rush of new applicants and urge you to ask the Planning Department before passing this measure if they believe that's true?

One specific project that would be cut out is the Grand Wailea, and we understand that that project alone would result in 215 construction jobs created each year for four years; 245 permanent tourism jobs added on Maui; an additional 650,000 per year in property taxes paid to the County; and an increase in their annual TAT contributions to more than 20 million. At a time when our community has so many priority issues to address, and we will need considerable funding to address them, it doesn't appear that the economic impacts of this moratorium have been adequately reviewed and weighed in connection with, excuse me, our overall County needs, priorities, and budget.

Therefore, we completely oppose the moratorium for these, these and other reasons previously stated and strongly urge the Council to amend Section 2, if you are inclined to pass the moratorium at this reading to allow those who are in the process to remain in the process. Mahalo for the opportunity to provide testimony today.

CHAIR LEE: Thank you, Pam. Any questions, Members? If not, the next testifier is Ellyn Mortimer. Ellyn Mortimer

MS. ELLYN MORTIMER, JEWISH CONGREGATION OF MAUI (testifying on County Communication No. 21-553):

Good morning. I'm Ellyn Mortimer, Executive Director of the Jewish Congregation of Maui. Thank you for taking the time to help us have a permanent zoning. We appreciate you starting this process for us that we have been trying to be in compliance with, and it's important to our organization that we are operating in correctly, in a

correctly zoned building, on correctly zoned land, and I ask that you take swift action to approve this rezoning.

The issue of off-street parking that came up, I respectfully ask that you consider simply adding the remnant road to our property so that we have a place to build adequate parking. We have, the congregation has been maintaining and cleaning that road, we've been removing dead animals, mattresses, any other rubbish that people have left there. And the synagogue would like to use this remnant road for our parking. Our synagogue is the only synagogue on the island. We always expect to be good neighbors and good members of our community. We never want to be a burden or create hardship for our neighbors.

During the pandemic we closed for in-person events, never using the house of worship exemption, demonstrating our concern for not only our Jewish community, but for our community at-large. Thank you for taking the time to help us get compliant with the zoning. Thank you.

CHAIR LEE: Member King, has a question.

COUNCILMEMBER KING: Thank you, Chair. Let's see, oh there you are. Ms. Mortimer, just to clarify the remnant road you are talking about is County, is it County property right now?

MS. MORTIMER: We believe that it's, it's County. Over the past few years we've been hearing back and forth that it was State and County, but I believe that it was determined that it was County-owned. I think when we were at the Planning Council meeting, they mentioned that it was County.

COUNCILMEMBER KING: Okay, cause that was one, one of the things I had talked to whoever was the head of your church a few years ago about, you know, first ascertaining the ownership of that remnant road. So if you have paperwork, that would be helpful, you know, whatever you have that shows what that, what the response was that you were given as far as ownership of that road.

MS. MORTIMER: Okay, who do I, where would I send that to?

COUNCILMEMBER KING: Well, when it gets scheduled at Committee, you would send it to the appropriate committee, which is probably land use, since it's a zoning issue.

MS. MORTIMER: Okay.

COUNCILMEMBER KING: I see my colleague has a question for you, who's the Chair of that Committee. Thank you, Chair.

CHAIR LEE: Any more questions? If not, thank you very, oh, Member Paltin. Can't hear you.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Ms. Mortimer for your testimony. Happy Hanukkah.

MS. MORTIMER: Thank you.

COUNCILMEMBER PALTIN: I, I just wanted to clarify you weren't expecting this to pass today. That's not what you meant by expedited, right.

MS. MORTIMER: No, and I didn't, I don't think I used expedited, I just said swift action.

COUNCILMEMBER PALTIN: Oh, that wasn't what you meant by swift, like pass it today; right?

MS. MORTIMER: No. I mean, you can. I mean, that would be fantastic. But no, that was certainly not an expectation of, or even, yeah.

COUNCILMEMBER PALTIN: Okay, okay, I'll--

MS. MORTIMER: But we've been, like we just already been waiting for so long, you know, like our commission meeting was right in the beginning of COVID, I think like in the beginning of April even. So we just have been, you know, feeling like we're on hold and we're, you know, we know that there may be things we have to do to the building in order to be compliant. And with the remnant and parking and we can't start any of that until we actually have zoning, so.

COUNCILMEMBER PALTIN: Okay, I believe I'm supposed to have a 120-day deadline from when we get it. So I'll, I'll try to be swift.

MS. MORTIMER: Okay. Appreciate it. Thank you.

CHAIR LEE: Okay, thank you very much.

Madam Clerk, next testifier.

COUNTY CLERK: Next testifier is Ke'eaumoku Kapu. To be followed by Dick Mayer



MR. KE'EAUMOKU KAPU [testifying on the West Maui Community Plan and Bill Nos. 141 (2021) and 148 (2021)]:

Aloha ka kou. Can everybody hearing me.

CHAIR LEE: Yes. Good morning.

MR. KAPU: Thank you for the opportunity to testify. My name is Ke'eaumoku Kapu, I'm from Lahaina and I want to testify on two items, Bill 148 and Bill 141. I want to start with Bill 148 first. I'm the CEO for our Island Council, which makes up twelve moku representatives throughout Maui of the aha moku system that passed in Hawaii State Legislature 2007 signed by Linda Lingle, Act 212, the creation of the People's Advisory Council.

The reason why I bring this up is because the aha moku needs to weigh in on all affairs, water, shoreline, land, ocean, air, and bones. We have representatives in each moku that are waiting to be consulted. This body should seek kupuna with generational knowledge or people that live in the community for advice if this is a good idea or not? That is why aha moku passed in the legislation in 2007 and again in 2012, during Abercrombie's time.

And there are high levels of concentration of historic properties, sites, and possible burials. That's the reason why I bring up these two issues. And the first one is we are really in support of the hotel moratorium.

I think the highest benefit we've experienced during COVID was when tourist, tourism stopped coming. Gave us an opportunity to see our environment, our land resources reflourish . . . now that it's an open game again, we see a different type of tourism. Tourism that is adamant, that have no respect for anything that has to do with our resources. We don't even have the safety capacity if anything was to happen on these islands with the influx and the amount of tourism coming, providing safety precautions.

And I give you a perfect example, I'm going home into the mountains where I live and I see tourists coming through my gate, saying that they don't have any place to go. That the safest place that they are required to go is Lahaina High School, even above the bypass. So having tourism, seeing them on my road is, is unbelievable. That's the reason why I support this moratorium. I think enough is enough.

And at the same time, the moku of Lahaina stops at Sheraton Hotel, which means from Sheraton all the way north that's all hotels that are built in the Lahaina moku and they

call it Kaanapali Resorts. So a lot of things basically need to be corrected. I support the bill on the moratorium.

Simple, Bill 141 it's a condition created by the Constitution, Section 121, to make sure there are provisions set in there for the Department of Hawaiian Home Lands. I really encourage and make sure that the exemption really does apply for the Department of Hawaiian Home Lands.

I mahalo this opportunity to testify. I wanted to also testify on the other one, the 542. But I think that time is going to come when they go around and they start coming to the Lahaina District, that's when I'm going to start to weigh in heavily. So mahalo for this opportunity, Councilmembers, you guys are doing a wonderful job. Thank you.

CHAIR LEE: Thank you so much, Ke'eaumoku. Anybody have a question? If not, thank you. Mahalo. Oh, sorry. I see Member Paltin has a question.

COUNCILMEMBER PALTIN: Oh, I just wanted to clarify on what you said for 542. Today is first reading of the West Maui Community Plan. So if you wanted to testify on that, it would be now. That was just an amendment that I was going to file, 542.

MR. KAPU: Okay, I, I do support the West Maui Community Plan with some reservation to certain things and I think that as this thing gets deliberated, I need more clarity pertaining to what's going on with the issue pertaining to what's her name with Lance Collins. So I'm just going to wait on it. But I do support the West Maui Community Plan. Thank you.

COUNCILMEMBER PALTIN: Thank you for that clarification.

MR. KAPU: Thank you.

CHAIR LEE: Okay, thank you. May we have the next testifier, please?

COUNTY CLERK: Our next testifier is Mr. Dick Mayer. To be followed by Blossom Feiteira.

CHAIR LEE: Okay, hello Dick.

MR. DICK MAYER [testifying on County Communication No. 21-543, the West Maui Community Plan, and Bill No. 148 (2021)]:

Good morning. Thank you. And this is regarding the West Maui Community Plan. I'm concerned that the maps in the community plan do not indicate which properties are

within each of the colored polygons. The Maui Island Plan provided a detailed map book, which indicated which properties were within all of the growth boundary areas. Nothing like that is being done here, and in future, landowners, real estate agents, neighbors, the Property Tax Division, and even the County Planning Department itself may have considerable difficulty knowing which side of a line a particular property is within the polygon. It's not clear, it's just broad yellow/green, other colors.

A second problem with this plan regards the land use designations themselves. The Planning Department has indicated that they plan to use these same designations for all of Maui island's community plans. Doing so would override the wishes of other communities on Maui island. And it should be made clear that these land use designations apply only to West Maui. And the other community plans districts may decide to utilize a different set of land use designations. These are not, these land use designations have not been established in law like zoning has been. This is important, because many of the land use designations in the West Maui Community Plan overlap with other designations of zoning and could potentially cause a problem.

Just look at the paragraph on the top of page 173 where Appendix G is. It leaves it wide open as to what can be built on almost all properties, for example a business or a big apartment building could be put in the middle of single-family residential area. And in fact, even elevates what you put there as well.

Let me just read the wording it says there: The following table shows the relationship between the existing community plan designations and the proposed updated designations, and the community, and the compatible zoning district. This does not constitute an exhaustive list of all possible zoning districts for each of the updated community plan designations. And it goes on to say the designations below show example alignments between the existing and updated designations, but not all potential.

It leaves it all very vague so in other words, if a person buys a property thinking well this area that I'm living in is single-family or residential or whatever it might be, he has no, or she has no ability to know what else will go next door to that property. It leaves it very vague and that goes contrary to what I think we would like to see residents have the assurance of what their neighborhood and their community is going to be. That's the end of my comments on the community plan.

With regard to the moratorium Bill 148, there are two issues that I wish to point out with regard to this excellent and much-needed legislation. CC 21-543 which was just introduced at today's meeting creates a problem with regard to affordable housing credits. Please do not accept the change being proposed, and instead include the following wording which combines both the original sentence, and this new sentence

that is now being proposed, contained in the County Communication. And it would read then "Housing credits may not be issued to or used by the developer to satisfy the requirements of this subsection for any type of unit constructed. The new affordable-housing units must be physically constructed for the purposes of this section." By doing this, the housing, the housing credits can still be used for other areas of the island, for example, when housing is put up, market housing, the credits can be used, but not for, it should not be used for transient accommodations.

I also would like to point out that at the very end, Section 2 of the moratorium there's a provision there that you changed at the last meeting. And I would urge you to modify that because it's not quite as clear as it should be. And a suggestion I'm making is, this is the rewording: "This ordinance takes effect upon, on approval and applies to any new transient accommodation that has not received its final discretionary approval prior to the effective date of the ordinance." I think that makes it very clear, there was some other language in there about approvals and processing and granting and all kinds of things that made it very difficult. So please add this sentence at the end and applies to any new transient accommodation that has not received its final discretionary approval prior to the effective date of this ordinance. I've sent many of you the wording of this and I'm hoping that you will make that modification at the very end of Bill 148. Thank you very much.

CHAIR LEE: Members, questions?

COUNCILMEMBER MOLINA: Chair.

CHAIR LEE: Member Molina has a question.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Aloha, Mr. Mayer. With regards to the West Maui Community Plan land use designations, that's quite a revelation. So basically, you're saying if we leave it as is, it could have some unintended consequences later on down the road. That's what I'm interpreting. So what would be your remedy for this? Send back to Committee to fix this or, or what? Any suggestions?

MR. MAYER: Right, I would, I would send it back to the Committee with a recommendation that the, the allowed designations in each of the land use designations be much more narrowly defined and get rid of the sentences which says anything else could happen in that area. The vague language that's, that's inserted in there. You're setting a very dangerous precedent so that when it comes to South Maui or Paia-Haiku or Upcountry, it would, if this is allowed to go through and if the Planning Department has its way, it could greatly affect every single community on the island. So although you're setting this up for the West Maui, let's make sure we get it right from the beginning and don't

allow apartments and businesses and everything else to all be put into what's generally being called residential. That's just one example.

COUNCILMEMBER MOLINA: Okay.

MR. MAYER: I could give you other examples, but that, let's use that as the example.

COUNCILMEMBER MOLINA: Okay, thank for your insight cause I know you've been in the community a long time, you've been with the Maui Island Plan and served on the Planning Commission, so you certainly have some extensive history.

MR. MAYER: Even though the other part where we just heard testimony about the, being on the Planning Commission. I was on the Planning Commission previously, and I feel that this moratorium should apply to anything that has not yet received discretionary approval.

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

CHAIR LEE: Kelly King, Member King, question.

COUNCILMEMBER KING: You can call me Kelly. So yeah, Dick, thank you for your, your testimony. I just, I wanted to ask you about, because we, this, this issue of the land use designations came up when we did the Molokai Community Plan and there was a big push-back from the community against what was being put in, which was similar to the one that went into the Lanai Community Plan. But we couldn't, we didn't have the votes to override it, so it went in. But it was a different format. So we're looking at a new format now that's, that's gone into the West Maui Community Plan. But do you see the, basically the content of it as being similar to what went into the Molokai and Lanai Community Plan land use designation?

MR. MAYER: And even, and even worse. Because it, not only are the designations so vague, please look at page 173 of the plan, the very top there where you'll see all of the uses that can be put into residential, or into apartment, into industrial, etc. It leaves it wide open so that it's not a plan. It's, it's like an open door to anything could almost go in the area. And I, I fault the Planning Department, they I don't think discussed each of these things. These are not legally adopted land use designations, until you adopt it in the West Maui Community Plan and yet they're saying that this is going to be the precedent and the basis for South Maui and Upcountry and Central Maui, etc. It could create a lot of havoc.

COUNCILMEMBER KING: Okay, thank you. And well, you know, they did do a, to give them their due, they did do a public hearing or some public hearing on, on the designations that I think I was at one of them, and I think you were as well. But that was the issue that we were raising as a public that they weren't specific enough because they just said for example and then they left it wide open, they said it could include these, but then it left it open to include other things, too. So that was my . . . as well, but that's, that's what's different, that, that kind of took that whole land use designation a step further than what we were proposing for the community for Molokai.

MR. MAYER: Right.

COUNCILMEMBER KING: Okay, I just wanted to clarify that because we had this--

MR. MAYER: And, and the vagueness. If you look at all the, I was involved with the community plan Upcountry as a Vice-Chair of that advisory committee and we design, every single property Upcountry knew whether it was in single-family or residential, or industrial or whatever it might be. There's no way of knowing if you have a piece of property in West Maui, it's not clear on which side of the polygon, it's just a colored area on a, on a map that has a very low resolution. So it's, it's, there's some real problems to, to clarify all that.

COUNCILMEMBER KING: Okay.

CHAIR LEE: Thank you, Mr. Mayer.

COUNCILMEMBER KING: Thank you.

CHAIR LEE: Any, any more questions, Members?

Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Member Sugimura.

COUNCILMEMBER SUGIMURA: Nice to see you, Mr. Mayer. So you said you sent an email to some of us. So I'm, I'm not sure if I received this so could you send that to me?

MR. MAYER: I will do that. Very good.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Anybody else? If not, thank you very much, Dick.

MR. MAYER: And Happy Holidays.

CHAIR LEE: And thank you, you too.

Madam Clerk.

COUNTY CLERK: Our next testifier is Blossom Feiteira. To be followed by Todd Apo.

MS. BLOSSOM FEITEIRA [testifying on County Communication No. 21-542 and Bill No. 141 (2021)]:

Almost good afternoon, Madam Chair.

CHAIR LEE: Hi.

MS. FEITEIRA: Sorry, can't open my video here. But first of all to you and to our County Councilmembers, Happy Holidays. I want to thank you for the opportunity to testify in support of two items on your agenda. That is Bill 141 and County Communication No. 542.

Bill 141, which will exempt the department from the water availability policy of the County opens the door for beneficiaries for the island of Maui and Maui County in general. And just to give you an idea of what this bill can do for the beneficiaries living in Maui County is that it would provide close to 1200 housing and agricultural units for our beneficiaries over the next five years.

As you heard previous from Dr. Scheuer, the water issue is a very significant barrier to the develop of Hawaiian Home Lands for this County, and to have the County Council adopt this measure would be a great benefit to not only to the County and to State, but particularly to those beneficiaries who have been waiting an average of 22 years to get on that.

Regarding Bill 141 *[sic]*, and that is an amendment to the West Maui plan to include the Honokowai DHHL projects. Thank to Councilmember Paltin for having the foresight to include this in the plan. Oftentimes we will run into a little bit of conflict with the County, when we're looking at doing developments, and having this ability to be

included in the West Maui plan will remove the potential for conflict and help us move forward even faster, which means that we get to serve, the department gets to serve beneficiaries a lot faster. And so I'd conclude by once again thanking the Council and you, Madam Chair, for this opportunity to speak on behalf of these two issues. And to once again wish you guys a happy and blessed holidays.

CHAIR LEE: Thank you, Blossom. Same to you and your family. But we have a question before you go.

Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Blossom. And Happy Holidays to you and your family. Thank you for your good work.

MS. FEITEIRA: Thank you.

COUNCILMEMBER SUGIMURA: So, right now, I, I just want clarity on your testimony, because right now, Hawaiian Home Lands if you were to build houses, you have availability of not having to do the show me water bill; right? So water availability is currently available to you.

MS. FEITEIRA: Correct.

COUNCILMEMBER SUGIMURA: So what, what, you're thinking that this bill will give you more water for the beneficiaries for housing? I might have misunderstood your testimony.

MS. FEITEIRA: Well, okay, so the water availability bill essentially says that if your project is not 100 percent affordable, you would have to be able to show the County where the water source is going to come from, right. Okay, so if your project is 100 percent affordable, you don't have to do that. County will provide for the water. Having the projects under Hawaiian Home Lands included or exempt from this bill means that we can move forward and work directly with the County to ensure that our projects get sufficient water for the, for the developments.

Now the department does do their work with CWRM in ensuring that we have our reservations for the sufficient quantities of water for our developments. But what this bill does for us in terms of residential developments is that of the 1100 units that are coming forward, that can benefit from this water availability bill, 900 of them are proposed residential units. Okay?



The others are agricultural lots, and as you know, for those of you who are not aware, that beneficiaries can build a residential lot on your ag lot, a residential home on their ag lot. So the potential for housing units for Hawaiian Home Lands increases significantly with every new development that happens, whether it's ag, or home, or residential. So this bill plays a very crucial role in helping the Department to move these projects forward much faster, and therefore, it helps to expedite the removal of people on our current waitlist for Maui County.

COUNCILMEMBER SUGIMURA: Thank you. Yeah, I think we always supported residential, so I concur with you. Thank you.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, so to clarify, the DHHL waitlist, aloha, Ms. Feiteira, mahalo for your testimony.

MS. FEITEIRA: Aloha.

VICE-CHAIR RAWLINS-FERNANDEZ: Does it require or have any income requirements to being on that list?

MS. FEITEIRA: No, it does not. And the reason why is State law requires that they follow the waitlist, yeah, so we can't do income qualifications.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, mahalo. Mahalo, Ms. Feiteira. And so in Committee, Managing Director Baz, when I described it as a hiccup, but that's part of the problem that DHHL doesn't current . . .

CHAIR LEE: You're breaking up.

VICE-CHAIR RAWLINS-FERNANDEZ: . . . because residents don't have an . . . Alright.

MS. FEITEIRA: If I may, if I may speak to that issue, Madam Chair? So, I can, what I can share with you, Councilmember Rawlins-Fernandez, is that while the Department is not allowed to award based on income, the Department also does a five-year survey.

VICE-CHAIR RAWLINS-FERNANDEZ: Ms. Feiteira.

MS. FEITEIRA: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, you answered my question.

MS. FEITEIRA: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: I was just, what I was trying to do and I was breaking up, can you still hear me everyone?

MS. FEITEIRA: I can, yes.

CHAIR LEE: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: Alright, so it was explained in Committee already that part of the County's side problem is that in the exemption, while one of the exemptions is for affordable housing, the, to qualify for affordable housing you need the income requirement side. And because the DHHL projects don't have an income requirement, that was part of the problem in providing DHHL the exemption. And that's why this bill is necessary. Mahalo, Ms. Feiteira. Mahalo, Chair.

MS. FEITEIRA: Thank you, Councilmember.

CHAIR LEE: Now we can see you.

MS. FEITEIRA: Yeah, I know I was trying to hit the wrong button that's why.

CHAIR LEE: Okay. I guess we don't have any more questions, but good to see you, Blossom and Happy Holidays.

MS. FEITEIRA: Same to you. Good to see all of you. Mahalo.

CHAIR LEE: Thank you. Members, we'll take one more, one more testifier and then break for lunch until 1:30.

COUNTY CLERK: Chair our next testifier is Todd Apo.

CHAIR LEE: Mr. Apo. Mr. Apo? I don't see his name.

COUNTY CLERK: He might be disconnected.

CHAIR LEE: Okay then, okay then.

COUNTY CLERK: How about the--

CHAIR LEE: That's all, that's all. Okay, then we will return. Member Kama, did you have a question?

COUNCILMEMBER KAMA: I just wanted to know how many more testifiers we have left? That is all. Thank you.

CHAIR LEE: Oh, we have about six, possibly seven.

COUNCILMEMBER KAMA: Okay.

CHAIR LEE: Six or seven. And as you know, as it normally goes, people add on, you know, sign up after, continually sign up so it probably might be ten. I don't know. Alright Members, we'll take a break until, a lunch break until 1:30 and I will see you then. Meanwhile, meeting is in recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 12:15 P.M., AND WAS RECONVENED AT 1:32 P.M., WITH ALL MEMBERS PRESENT.)

CHAIR LEE: Will the Council meeting of December 3, 2021, please reconvene. Welcome back Members.

Madam Clerk, please call the next testifier.

COUNTY CLERK: Chair, our next testifier is Todd Apo. To be followed by the testifier calling in on the last four digits 7950.

CHAIR LEE: Okay, Mr. Apo. Okay, let's call the next one.

COUNTY CLERK: Our next testifier is calling in on the last four digits 7950. To be followed by Bill Kamai.

COUNCILMEMBER KING: Looks like 7950 says dropped.

CHAIR LEE: Okay, Bill Kamai.

COUNTY CLERK: Bill Kamai.

CHAIR LEE: Shall we go to the next one?

COUNTY CLERK: The next one is Bill Meheula.

CHAIR LEE: The next one?

COUNTY CLERK: Next one would be Bianca Isaki.

CHAIR LEE: How do the spell last name?

COUNTY CLERK: I-S-A-K-I.

CHAIR LEE: Okay. Next.

MR. BILL MEHEULA, GRAND WAILEA [testifying on Bill No. 148 (2021)]:

Excuse me. Oh, this is Bill Meheula.

CHAIR LEE: Bill Meheula. Okay . . .

MR. MEHEULA: I'm trying to get my camera. I'm sorry, I just couldn't get my audio to work and now I can't get my video to work.

CHAIR LEE: Well, the main thing is the audio.

MR. MEHEULA: Okay.

CHAIR LEE: And we can hear you.

MR. MEHEULA: Okay, I'll just try one more time here.

CHAIR LEE: Say, say who you are and what you're testifying on, okay?

MR. MEHEULA: Thank you. Okay. My name is Bill Meheula and I'm representing the Grand Wailea today, testifying on behalf of the Grand Wailea. I represent the Grand Wailea in the SMA contested case hearing before the Maui Planning Commission, the one that Mr. Castro referred to earlier.

And I'm here to advocate for an amendment to Bill 148, and the specific amendment we'd like to have added is at the current time, in Section 2, there is an exemption for any applicant that has received a final discretionary approval prior to the effective date. And we'd like to add to that, an additional exemption which would be the applicant has

received from the Department of Planning a written notice of application of completeness. And the reason for that is any applicant that has gone that far has expended a lot of time and resources to get to that point.

Earlier the Maui Planning Commission had proposed an amendment that's similar to that, only broader. And theirs was an additional exemption if an application has been submitted, that is properly filed with the County. So the difference is application properly filed, versus application filed and the Planning Department has issued a written notice of application completeness, which is further down the road. And it kind of prevents any risk that people are going to like just submit an application to try and get under, get in under the wire. So it eliminates that risk.

But the reason for the Grand Wailea's request for this amendment is the same reason that the Maui Planning Commission proposed its amendment that was in recognition that applicants in the County spent a lot of time and resources to get to the point where they submit an application, and of course, spend a lot more time and resources to get to the point where the application has been completed, as acknowledged by the Department of Planning. And so that's why we're doing that.

And here, this particular applications is an SMA application to the Maui Planning Commission that was submitted back in 2019, beginning of 2019. The notice of application completeness was submitted, was, by the Department of Planning the end of March of 2019. May 28, 2019, the Planning Department actually came out with its report and recommendation in favor of the application. So that's two and a half, two and a half years ago.

Since then, we've been in a contested case hearing, and the contested, the status of the contested case hearing is that the hearing is closed. All evidence is closed. The parties, the intervenors, the applicant, the Planning Department, have submitted their proposed findings of fact, conclusions of law to the hearings officer and we're all just waiting for the hearings officers to issue her recommended findings of fact, conclusions of law. And then it will go to the Maui Planning Commission for determination.

This particular application initially requested 224 additional rooms. And through the process of the contested case hearing, in recognition of areas that there were some risks to resources such as iwi kupuna, Grand Wailea reduced it to 137 new rooms. The application also is to renovate most of the swimming pools. So we're kind of in a situation where without this additional exemption, without this requested amendment, what could happen is that the planning, I mean the Planning Commission could issue an SMA that grants additional rooms, whether it's 137 or less?

And if the Bill 148 comes in, then parts of the application that were granted, like for example, if the swimming pools are granted, they could move forward with the swimming pools, but they couldn't move forward with the rooms during the period of the moratorium, whether it's two years or more. And, but when you put together a project like this, which is about \$100 million, you can't just add after, it's all bid with it all being built together and it's also bid based on existing law. And of course the moratorium wasn't existing law.

So the reason why the Maui Planning Commission recommended its amendment is because they realized it was unfair to have to get that far along in the road, and then have the project pulled cause it kind of goes against the concept of predictability of laws, disclosure, fair notice, things like that. And the main thing is that it's curable. So by issuing this amendment you cure the unfairness of the timing of this for projects like this one, where they went two, three years down the road in reliance on existing law, and then a new law comes about, that it kind of, you know, throws it all in array.

So that's the purpose of it and we hope you see the merit, and the justness in granting this amendment for the same reason why the Maui Planning Commission did. And it's important that the Maui Planning Commission did, because they are the Commission that is closest to this issue, all Planning Department applications go there if they require a discretionary permit. So they're familiar with the amount of work that the applicant and the County agencies go through to get to this point.

I did want to mention one thing, and that is this, this application, there's been some, some news on it, and I'll say this, I think whether you like the application or not, I think it's really not relevant to your decision on the amendment. Because the decision as to whether or not the application should be granted or not is really number one for the Planning Commission. If that's not liked by either party, then it can go to the Second Circuit Court on appeal. And if either party doesn't like that they can go to the Intermediate Court of Appeals or the Hawaii Supreme Court. It's relevant to them as to what, whether or not it's a good application or not. But as to whether or not this amendment should be granted, I don't think the merit of it is relevant to this body. I, at least that's my opinion and of course, the merit of the application has not been submitted to you for determination.

CHAIR LEE: Okay, thank you. I think you've reached your time limit, but the bell. Oh, there it is.

MR. MEHEULA: I'm finished. Thank you.

CHAIR LEE: Alright, thank you. Questions, Members?

Member Johnson, Member Paltin, Member King.

COUNCILMEMBER JOHNSON: Thank you, Chair. I just have a quick question. So clarification. No ground has been broken as of yet, correct?

MR. MEHEULA: Correct.

COUNCILMEMBER JOHNSON: So how much of that, you mentioned this is a \$100 million project. How much of that has been spent in preparation.

MR. MEHEULA: You know, I'd be guessing, but I would, I would say it's, it's around 10 million.

COUNCILMEMBER JOHNSON: Okay, alright. Thanks. Thank you, Chair. I have no further question.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: I just was, that was over three minutes. That was at least four minutes from when I started clocking. So I don't know if we have to give everybody else that amount of time? Or what the procedure is? But that was--

CHAIR LEE: Okay, okay, I, I believe everybody else has been going by the three-minute clock. If, whomever is the time keeper missed a minute, I'm sure they won't going forward.

Madam Clerk, can you make sure that the timer is set for three minutes?

COUNTY CLERK: Yes, Chair.

CHAIR LEE: Alright. So the next person is Member King.

COUNCILMEMBER KING: Chair. Aloha, Mr. Meheula.

MR. MEHEULA: Aloha.

COUNCILMEMBER KING: I, I wanted to ask you, cause your, your statement that it doesn't matter whether we like this project or not? And we just heard from former members of the Planning Commission that the community input is very important. So there was community input against this project when the original, I don't know if you were part of

the original group that started doing its due diligence and came to see me first back in 2019. Were you part of that group?

MR. MEHEULA: You know I was retained when the intervenors made their first appearance, which I believe was mid-2019.

COUNCILMEMBER KING: Okay, so, I don't know, maybe they were, okay, it was before that I think that I had that conversation. So part of, you know, I just wanted to find out, do you agree that part of development projects is doing due diligence? I mean you, you can't just assume that because the law allows you to do something that you're going to be allowed to do it. And usually due diligence means you find out if it's an appropriate project for that, that area and if it's a, if it fits into the community plans, which, you know, this extended growth it goes beyond what our Maui Island Plan says we should be at with our tourism population.

MR. MEHEULA: Yes, no, no, I, I agree with you that for purposes of granting or not granting . . . that, that, that community input is definitely important. And it's obviously important to you guys. All I'm saying is whether or not this amendment should be granted, I don't believe it should . . . the merits of the application should come in, because there's a lot that went into the merits of this application. And that's why you give it to a particular board to make that decision. But that particular commission, and whoever else is involved in it, like the applicant, of course, that's been taken into consideration--

COUNCILMEMBER KING: Right, but those people are not elected by the general populous and that's why we have a County Council to make the final decision because we are beholden to the, you know to the people want. So, you know, I just wanted to find out if you were involved in, from the beginning of this project? Because the project was, you know, was already at the proposal stage when it put us over and above what our Maui Island Plan describes as a comfortable tourist population. So I think that's what a lot of us are looking at that part of the law.

CHAIR LEE: I think he answered your question already; right?

COUNCILMEMBER KING: Okay.

CHAIR LEE: Alright.

MR. MEHEULA: Thank you.

CHAIR LEE: So the next person is Member Sugimura.



COUNCILMEMBER SUGIMURA: I think Mr. Sinenci had his hand up first.

CHAIR LEE: Oh, I'm sorry, Mr. Sinenci.

COUNCILMEMBER SINENCI: Mahalo, Member Sugimura. Mahalo, Chair. Just for clarification for Mr. Meheula. So the Bill 148 would affect the expansion of the rooms, but with, you're saying with the amendment, you could be working on the . . . section of . . . elaborate on that.

MR. MEHEULA: You know, I, I, I didn't hear all of that. Can you repeat that?

COUNCILMEMBER SINENCI: Yeah, sorry, the rain is just hitting us now. So the amendment would allow Grand Wailea to continue with other sections of the project, because you're saying it's combined with, construction is combined with the, the room construction?

MR. MEHEULA: No, I, I, I think what I meant to say was that this, that the amendment I'm, we're seeking would allow, the, the Bill 148 wouldn't apply to this application, because, because the notice of application completeness had been satisfied before the effective date of this bill. And, but if the amendment is not accepted by the Council, and if the Maui Planning Commission grants the project, then any part of the project that included additional rooms could not go forward during the moratorium period.

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

CHAIR LEE: Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. So Mr. Meheula, I think what I'm hearing you say that the Grand Wailea to put in layman's terms, the Grand Wailea proceeded on with getting their approvals based upon the law as it existed at that time. And what this moratorium would do then, would be change, changing the rules and therefore, that the County then has some, I'm going to say the word liability, but for the, for this change, if we change the moratorium. I'm concerned about that, but I'm not sure if I'm reading it wrong.

MR. MEHEULA: You know, I think we're coming from the standpoint of fairness that's curable by the Council in this, in this particular circumstance without risk of opening it up for others to submit applications quickly so they could add additional rooms. We're not talking about liability here. I mean I have not been retained for that purpose. And I don't know anything about that kind of effort. It's more just an appeal to fairness, for the same reason that the Maui Planning Commission made its amended recommendation.

COUNCILMEMBER SUGIMURA: So thank you, you're right, the Maui Planning Commission did put that recommendation in as part of what they transmitted from the Planning Commission to the Planning Department to us. So it was taken into consideration from that body. Thank you.

CHAIR LEE: Any more questions, Members? If not, thank you, Mr. Meheula.

MR. MEHEULA: Thank you.

CHAIR LEE: Madam Clerk.

COUNTY CLERK: Chair, Mr. Kamai has come back onto the call. So we can call up Mr. Kamai. To be followed by Bianca Isaki.

CHAIR LEE: Bill Kamai.

MR. BILL KAMAI, HAWAII REGIONAL COUNCIL OF CARPENTERS [testifying on Bill No. 148 (2021)]:

You can hear me? Okay, alright.

CHAIR LEE: Yes.

MR. KAMAI: Aloha and good afternoon, Chair Lee and Councilmembers. Happy Aloha Friday, first of all. My name is Bill Kamai, I am testifying on behalf of the Hawaii Regional Council of Carpenters. I'll be testifying on Bill 148.

I just wanted to make a comment on the recent change to Section 2 on the exemptions that reads to cover any project that has not received its final discretionary approval before the measure becomes law. The issue is that for an applicant to be close to being approved or has been going through the process of securing its approvals, and now they are put on hold and, and have to wait another two years is very costly.

Any applicant currently going through the process of securing an SMA or even filing for a building permit has gone through a thorough costly design and engineering phase already. As an example, the hiring of an architect, engineer, landscape architect, and contractors for cost analysis. They take into account setbacks, both County and State shoreline setbacks, flood zones, drainage issues, burials, the metes and bounds of the property lines, view planes, sewer, water, Maui Electric powerlines to and from the property, height restrictions, building codes, how the building or project is situated on

their property, material costs. All of this taken into consideration prior to filing an application.

Not to mention the design of the building itself, it has to be engineered to withstand hurricanes, and look aesthetically pleasing and oh, yeah, not block your neighbors' view of the ocean. The whole point I'm trying to make is that there's a lot of thought, energy, and effort that goes into an application before it even reaches you folks for approval, not to mention the huge amount of money already spent in its design. The carrying cost is an issue. It's money already spent by the applicant before he even sees any kind of return on their investment.

That's the main reason why affordable homebuilders would rather go through the 201H process than through the County process. At the very least they would know if they have a project in 45 days or not? They don't have to pay a monthly note for something they not even sure if they going to get approval on.

Some applications, some applicants are in the process for over two years already and counting. What is troubling is that an applicant who spent all this money to get near the finish line, so to speak, only for the finish line to be moved. Ideally, should this or when this ordinance take effect, it shouldn't stop or affect applications close or near to getting its final approval. As the Maui Planning Commission suggested the--

CHAIR LEE: Bill, can you, can you conclude, can you conclude in 30 minutes, 30 seconds?

MR. KAMAI: Sure. That the application that had properly filed with the County prior to the effective date. I don't think that's fair for someone who has spent all the time, money, and effort in following the roadmap, which is a County process and then to have the finish line moved. That's all I have to say. Happy Holidays. Happy Aloha Friday. And mahalo for your time.

CHAIR LEE: Happy Holidays to you and your family. Members, do you have any questions for Bill? If not, thank you again. Aloha.

MR. KAMAI: Aloha.

CHAIR LEE: Madam Clerk.

COUNTY CLERK: Our next testifier is Bianca Isaki. To be followed by Faith Chase.

MS. BIANCA ISAKI [testifying on Bill No. 148 (2021)]:

Good afternoon, Councilmembers. I hope you can hear me. I'm Bianca Isaki and I'm testifying in my personal capacity on Bill 148. I also represent three kanaka maoli intervenor groups in a contested case before the Planning Commission, that's Hooponono o Makena, Malama Kakanilua, and Pele Defense Fund. They have been raising serious concerns about Grand Wailea's resort through pending contested case procedures.

I support Bill 148 including Section 2 which specifies that, applies to projects that have not received final discretionary approvals. That this application, that the Grand Wailea's application has not been approved is due to many community concerns that these groups are raising in that contested case. And those concerns are much of the same overtourism impacts that this bill addresses. Traffic congestion, . . . water use, nearshore ecosystem impacts, crowding out Hawaiian traditional practitioners, the beach, sunscreen contaminating nearby salt pans, and sadly in light of Maui's particular history of hotel construction, the desecration of Hawaiian burials.

Grand Wailea is a prime example of overtourism. Dealing with these issues in the contested case is not ideal though, it's expensive, time consuming and out of reach for many people. What Bill 148 does is give space for better planning around tourism, growth and relieve some of the burden on the communities who otherwise have to intercede project-by-project. It's good law, and it's good planning.

Councilmember raised liability. I'm quoting the Supreme Court here, mere good faith expectancy that a permit will issue does not create a property right to continue that proposed construction. That's Life of the Land, 1979 case. So it's been on the books for a while. Quoting them again, it's a general rule that a newly enacted, for instance zoning regulation which makes a proposed construction unlawful applies to projects which are in the planning stage, even though the planned project is lawful under preexisting law.

Also I think several people have raised fairness, especially Grand Wailea's representative. I'll just note that though the resort is complaining that it's completed application was two and a half years ago. They do not note that they are the ones that have been continually adding new evidence, causing reopening of the hearing, and it's because their application was not complete. It did not address significant impacts that they have to address.

And, I mean, they knew this moratorium was going on through this process, but the process has been pulled out and lengthened because there are many, many flaws in

that application. So for the resort to say that it should get a special exemption because they completed application two years ago, that's wholly disputed. It's, we don't think it's complete, we don't think it's, it's proper.

To the extent that Grand Wailea is proposing to craft a special exemption that's just going to apply for them, that's just not lawful. So please do not amend the bill with any questionable loopholes at this point and thank you for your work on Bill 148.

CHAIR LEE: Members, questions? I see two hands.

Member King.

COUNCILMEMBER KING: Thank you, Chair. Thank you for being here, Ms. Isaki. Really appreciate your testimony and your legal background on this. So three parties that you mentioned were the intervenors that you represent. Were they there also at the Planning Commission meeting or meetings where this item was being discussed for the SMA permit and other permits?

MS. ISAKI: I believe so and I believe that's when they asked for it. You know what, Clare Apana will be coming on later I believe, and she can speak more for the intervenors.

COUNCILMEMBER KING: Okay, so I just want--

MS. ISAKI: I wasn't retained till later.

COUNCILMEMBER KING: Chair, I just wanted to clarify that they were there and that, you know, because we keep hearing that, how important community input is and somehow we keep getting these approvals despite community input with, you know . . . concerns. So, that's, that's one of my biggest concerns that what's happened with that, these approvals. But thank you for being here, I really appreciate the . . .

MS. ISAKI: Thank you.

COUNCILMEMBER KING: Thank you, Chair.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Ms. Isaki. I just was wondering is this the last appeal that could happen or would it like go up to the Supreme Court again like the other one that we had heard about earlier this morning. Or is this the last?

MS. ISAKI: Well we're, we, the Planning Commission hasn't even had a chance to look at this yet. Right now we're at the hearing officer, so yeah, it could go up quite a few more levels, if there's an appeal from the Planning Commission. Assuming the Planning Commission grants the permit, I, I, I think that there's a lot of flaws in the application that like prohibit the Commission from granting it. So I think lawfully they couldn't, but yes, you're right, after that if they made the wrong decision, we could keep appealing.

COUNCILMEMBER PALTIN: Okay, thank you. That was my question.

CHAIR LEE: Any more questions, Members? If not, thank you very much.

Madam Clerk.

COUNTY CLERK: Chair our next testifier is Faith Chase. To be followed by Walter Kanamu.

MS. FAITH CHASE [testifying on County Communication No. 21-541, and Bill Nos. 141 (2021) & 148 (2021)]:

Aloha, Chair. Aloha, Council. I just want to speak in favor of County Communication 21-541, the extending of the water use and development plan. I just want to quickly say thank you for, I know a lot of times this Council has the responsibility, feels the responsibility of where the State and the Department of Hawaiian Home Lands has lacked. And I am definitely your witness to that, and I just want to say I appreciate you being that intermediary government supporting body when we have to face where other people have failed. Thank you. And especially to my Councilmember Shane Sinenci for reaching out to all the East Maui aquifer stakeholders. I really appreciate that thoroughness.

I'm also in support of Bill 141, DHHL I think that nobody can be actually prepared for the kind of reservations that are coming down the line. I did hear the testimonies earlier from DHHL, I'm disappointed that Chair Aila wasn't here to testify, I was actually looking forward to what he might have to contribute, but nonetheless I appreciate Jonathan.

You know, they are asking for 11 million gallons for Upcountry, Keokea, Waiohuli, there's more, they need more. The DHHL has never been completely part of this conversation. I know I've said this before, when Councilmember Alikea Atay was in office we were setback four water commission, water committee meetings. And so we're catching up, we're behind the ball, so please be aware that reservations are going to increase and be requested on behalf of the Department of Hawaiian Home Lands.

Kahikinui is completely water barren. That, that homestead carries their own water. So good work on that bill, I really appreciate it.

Of course I'm in support of the moratorium, 148. And I just want to say, you know the message to the visitor industry testifiers, I, you, I just, if anybody is still listening, I would just make a serious, I know my testimony is supposed to be directed to you, Chair, but I would just make serious suggestion to these visitor industry stakeholders that, to consider a transition, a career transition, and really adopt what our Hawaii agricultural needs are. You know, look beyond, look beyond the visitor industry, please. Thank you so much, you guys.

CHAIR LEE: Thank you. Members, questions? No questions. So thank you very much, Ms. Chase.

Madam Clerk.

COUNTY CLERK: Our next testifier is Walter Kanamu. To be followed by Thomas Croly.

MR. WALTER KANAMU [testifying on Bill Nos. 148 (2021)]:

I believe I have my audio is on.

CHAIR LEE: Yes, it's on.

MR. KANAMU: Okay. Aloha kakou. My name is Walter Kahoiwai Kanamu. My dad was from Wailua, and my mom is from in Ulupalakua.

In October, I did the Huaka'i Ku Hele Po and we walked around the whole island of Maui. It consisted of almost 200 miles in ten days. And I want to share with you a little bit of what I saw as I walked around the island.

When you walk around the island, something seems to say I am with you always, every single day. It may come from the wind that leaves goosebumps on your skin or even shadows of shadows that come from deep within. Even hear the voices, whisper in your ear, or feel the house that bring you oh, so near. You stop a while and know the presence is so real. Your eyes begin to swell, because of what you feel. At times you want to stop, cause the presence is so deep, you want to spread your hāli'i and fall off to sleep.

But the walk continues, and you must go along with others that you've come to know. Did we not see what you've touched, or heard what you feel? But the experience for

them is still very real. You feel ups and downs like the roads that are up ahead, but you know for yourself that you are far from dead. The mana that moves you forward is the same that keeps you back. There are times of breathing heavy and times for holding back. As we share our mana'o all across the land, we begin to hear the voices of each and every hand. Every time you're greeted at each and every moku, you bring with you the gifts of mahina and hoku. The fish is still alive and carried gracefully to the tops of the mountains from the bottoms of the sea. You walk for each other, not just for me. We walk for our kupuna, we walk to make them free.

I have written several of these different parts of the land Kahikinui, Kaupo, Hana, Kipahulu, Honokohau, but you know when I walked through from, from the Bay Kanaio and we reach Makena, from when I reach Makena and walk through Kihei, there was no feeling. It was dead. When I walk from Olowalu through Lahaina, same thing it was dead.

In 1983 my grandma died. After her funeral, we had a pā'ina up in Ulupalakua at her old house. And my cousins and I walked out into the field, the pasture and we looked down at Makena, and we all started crying. We were crying because my grandma died. We heard crying because Maui died. Aloha.

CHAIR LEE: Members, any questions?

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Point of personal privilege. I just wanted to mahalo Mr. Kanamu for that treat. Mahalo. Mahalo, Chair.

MR. KANAMU: . . .

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

Madam Clerk.

COUNTY CLERK: Our next testifier is Thomas Croly. To be followed by Junya Nakoa, I'm sorry, Clare Apana.

CHAIR LEE: And then how many?

COUNTY CLERK: And then one more after that so far.

CHAIR LEE: Okay, okay. Hello Tom.



MR. THOMAS CROLY [testifying on Bill Nos. 148 (2021)]:

Aloha, Council Chair. Aloha, Councilmembers. Those were beautiful words and quite moving. Thomas Croly speaking on my own behalf. There is four points I want to make. And you got my written testimony so you should be able to know what they are.

No. 1 is that when the Planning Commission reviewed the moratorium bill, it did contain Section 2 that said this is not going to apply to the permits that are in, in process. And Corporation Counsel made that crystal clear to everyone who was at the Planning Commission that this bill does not apply to you, if you have a permit that's in application. So to change it at first reading just doesn't seem reasonable or fair.

The second point that I want to make is the, this Council created caps for the short-term rental permits, and reduced those caps in, in July. And I looked up to see how many pending short-term rental permits there were, and there were 16 as of the time I wrote my testimony. One of them, the one that the Council made a special carve-out for when they, when they created the caps was granted today. So you guys should feel good that the one that you wanted to be granted, did get granted today.

But there are 15 other applicants, some of whom have had their applications in review for as much as four years that are trying to meet the, the requirements. I don't know that they all will, but we shouldn't pull the rug out from under those people at this point and say, well now, forget it. You know you've put four years' worth of effort and so forth, and so forget your application.

The third is just a basic fairness idea. How can we treat one applicant differently than other applicant in this regard? Certainly you can say from this point forward, you can't put in any new short-term rental permit applications. And of course you've made changes to the short-term rental law to insure that very, very few people will ever be able to get a permit in the future. But again, to pull the plug on, on the people who are currently in the process just from the basic fairness point doesn't seem right.

And finally, Councilmember Rawlins-Fernandez made an amendment at the, at first reading, where she said what the purpose of this ordinance is, is to put a cap on the number of visitor accommodations just like we already have done for the short-term rentals and the bed & breakfasts. So I would submit that you've already done your work in that regard. We have a cap. In most community plan districts we are at that cap or above that cap, which means in most cases permits other than the ones that were submitted prior to the change in the cap numbers aren't going to be able to get granted at least until other ones go away.

And do understand that about 15 permits have gone away in the last six months; that is people have sold their homes or they haven't renewed or whatever. So we're not adding more permits, we're not adding to, to the current quantity. So respectfully, I am asking that you put a, an exclusion in for any short-term rental home permit that was submitted prior to today's date, or even if you want to go back to the date that you, that you codified with the caps, which was July 1 for everyone, other than the one that, that did get granted today. That, that, you know, they pushed that one through quickly and got it done for an individual and I'm sure you folks . . . about that. Thank you, Chair.

CHAIR LEE: Members. Yes, Member King.

COUNCILMEMBER KING: Thank you, Chair. Aloha, Mr. Croly. Thanks for being here again and looking out for your constituency. I, I, I agree with you, we already do have caps on the short-term rental permits. And you said you identified 16 outstanding permits, and those are all within the caps in their respective areas? Is that?

MR. CROLY: Right. So I just looked up the, the applications that were in process on the KIWA system. These aren't applications I have anything to do with in--

COUNCILMEMBER KING: Right, no I understand that. I just wanted to make sure that when you looked at them that you ascertained that those were still within the caps for their respective area.

MR. CROLY: Two of them were applications that came in after you guys set the caps. Okay, the one that was just granted, as well as one more. So out of those 16, 14 were, they did leave space in the cap. Well, not in the caps, but they said, the cap bill said it's not going to apply to these applications that were submitted prior to July 1.

COUNCILMEMBER KING: Okay, so the, okay so the other question I have is how does it take four years for one of these applications to go through? What issues are?

MR. CROLY: Yeah, I can't say specifically, because I have nothing to do with, with that application and so forth. But I can tell you that what happens sometimes is there may be some aspect of the property that is not in compliance with all State, Federal, local laws, which is the case just so you know on about 80 percent of the properties in, on the island. Most people's homes are not in full compliance with all State, Federal and local laws. So then the, the applicant has to put the property in compliance, and sometimes that takes getting SMA permits, and, and, and so forth.

So I can't tell you exactly what's the hold up on individual ones. I do know one other, which is out in Hana, and he's been waiting over a year to have a hearing before the Hana Advisory Committee and they haven't scheduled it yet.

COUNCILMEMBER KING: Okay, well that's, that's unfortunate. But, so, in your experience, there's never, there's never been a deadline put on these, you know, when you apply, that there's never been a deadline put on it like you have to come into compliance by this date, otherwise your application is removed, and you have to submit later. Because I can't, I mean, these, these applications just stay open ended until these, these compliance issues are solved. Is that, is that how . . . your experience?

MR. CROLY: You know, I, I, I believe that every application is handled by a different planner and the planners put their own spin on it, if you will and they are working under the Director. So you have to direct that question to Director of Planning. But I can tell you that it usually takes a year to get through the process. That's, that's a normal process.

COUNCILMEMBER KING: I'm just asking you for, in your experience, there's never been a time cap put on the, the--

MR. CROLY: Yes, yes, there are times, there are times when the planner will say you must fix this within 60 days or address this issue within 60 days or whatever. But oftentimes what holds them up is the person will be showing that they are trying to make compliance, but they are waiting for agencies to respond to their permit applications for maybe back permitting something and that kind of thing.

COUNCILMEMBER KING: Okay, I, I just think four years seems like an extensive amount of time.

MR. CROLY: I agree.

COUNCILMEMBER KING: Thank you, that really helps because I, yeah, I think that, I think that's a different issue because the original, the previous moratorium was just on new construction. So this new one has the permit issue in it too.

MR. CROLY: . . . may not ever get grant, keep in mind. That guy with a four-year-old permit, there may be something he's never able to overcome.

COUNCILMEMBER KING: Yeah, but they need to . . . just move on. Okay, thank you.

CHAIR LEE: Any other questions?

If, Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Croly. I just wanted it clarify, you said you don't represent any of those remaining 15 or 14?

MR. CROLY: No, I didn't say any. I, I, I have not assisted most of them. So I don't know about most of them. There are two of the folks that are in that list, that, that I have assisted in putting together their applications. But I, to be honest, I'm not just here speaking on their behalf. I'm speaking on a basic fairness for everyone, anyone who's put in an application.

COUNCILMEMBER PALTIN: So there's no financial interest involved for you for those two applications, you get paid whether they go through or not?

MR. CROLY: I get paid by people for work that I do. I do not get paid to be here and I do a, I do a lot of my work pro bono. I do a lot of my work just to make sure that people are complying with the law. Now when someone hires me to put together an application, they pay me to put together the application. They don't give me a bonus if the application gets granted or anything like that. So there is no, my, my reason for being here has nothing to do with any financial gain that I may make. You're making a lot more money sitting there than I am on this issue.

COUNCILMEMBER PALTIN: Thank you,

CHAIR LEE: Any more questions? If not, thank you, Tom.

MR. CROLY: Thank you.

CHAIR LEE: Madam Clerk.

COUNTY CLERK: Next testifier is Clare Apana. To be followed by Junya Nakoa.

MS. CLARE APANA [testifying on Bill No. 148 (2021)]:

Thank you, good afternoon, Council.

CHAIR LEE: Hi.

MS. APANA: I would like to speak in support of Bill 148. And I'd like to say that it seems that this bill gives a chance for some more fairness to come in. Speaking just for myself, and, and the organization that I represent at times, we have to put in so much effort to try to save our aina, and the, just the ocean, the water, we have to put in so much effort, it doesn't seem fair, and I would like to see that this could have some remedy in, in this respect.

Let's take for instance the Grand Wailea, a perfect example of why we should not continue indiscriminately to be building so much rooms and taking up all the resources.

1. 2009, they have had a grease trap violation since that year. Yet they still came to the Planning Department to bring in their application.
2. When they brought their application, they didn't have a shoreline setback determination. How can you possibly have an application when you don't know where the shoreline is? They still don't have a shoreline application that is, that is verified.
3. The water usage, in 2008 they promised the, some Councilmembers that they were going to put in a water saving plan. It never happened. They are the largest water user of everyone on this island.

What have they really done that has shown that they were ready for this permit? 'A'ole, they were given that because of their influence and power. Where do you get to break laws, and get your permit, get your application approved? Well, there comes the contested case. In this case, there was a contested case, which we had to do because of all the things that were wrong, but mostly because they plan to dig into a known burial ground once again.

To this date, there is no AIS that shows completely where all of the burials have been, where they've been taken to, where they are still on this property. This developer refuses to do that. We asked him very simply, very plainly in pre-negotiations, please show us what's happened to our ancestors? Stop digging into them. Our records, or your records are showing that you have many more iwi on this property. Why are our ancestral burials the sacrifice because they want to build a bigger hotel and more pools? 'A'ole, we need better laws. We need the moratorium.

I can add, I can go through, we have 303 pages of findings of facts, that show all the violations that this permit application has, and that is what the contested case is for. And you should, what's going to happen to us if you don't acknowledge that, yes, this application really was not complete? Thank you very, very much, and I'm happy to answer any questions. There's so much more information, but I won't give that to you at this time. Thank you very much.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Oh, my times up, no just kidding. Clare, thank you once again for being here. I'm going to ask a question that I asked Ms. Isaki, she said to ask you folks, for the intervenors. Were you folks there with all this information at the Planning Commission when this project came up before the Planning Commission for approval?

MS. APANA: Yes.

COUNCILMEMBER KING: Okay, so this, so this information was presented to the Planning Commission.

MS. APANA: Oh, excuse me, excuse me. We were there. You asked me two questions. We were there, we did not have all of this information. We had some of it. And, but during the process of the contested case, we have found more information that we really would be, would have been much happier not to find about violations and how things just haven't been done, that needed to be done by law.

COUNCILMEMBER KING: Okay, but you were, but you and the other two intervenor groups were there, were in protest of this project from, at the Planning Commission?

MS. APANA: Yes, we were.

COUNCILMEMBER KING: Thank you so much. Thank you for bringing that information. If you, if you can send us, I don't know if Ms. Isaki already did, if you can send us the, you know . . . application that would be helpful.

MS. APANA: Can you say that one more time and excuse me.

COUNCILMEMBER KING: It would be helpful if you or Ms. Isaki could send the Council a summary of all of the violations that you just, you know, some, you named some of them, but you said there was more. But, you know, the things that made the complete application--

MS. APANA: Thank you. Yes, we will be very happy to do that. I hope you enjoy reading.

COUNCILMEMBER KING: Okay. Take a weekend. Thank you.

CHAIR LEE: Any more questions, any more questions, Members? If not, thank you, Clare.

MS. APANA: Thank you very much, Chair.

CHAIR LEE: Madam Clerk.

COUNTY CLERK: Our next testifier is Junya Nakoa. To be followed by Liz McGain.

MR. JUNYA NAKOA [testifying on the West Maui Community Plan and Bill Nos. 141 (2021) and 148 (2021)]:

Howzit guys? Junya Nakoa from Napili, but frick I still stay Honolulu. Howzit. Well I'm, I not one paid lobbyist. I not working for no developer. I am pretty much talking about the people of Maui and how we feel and what not. Well, so, okay, I get three bills I going talk about. I going start, I going go slow, so I no screw up.

Bill 141, yeah, the, the Hawaiian Homes exemption for the water policy. Yeah, like the brother said from the DHHL in Honolulu, they, they get, they only get little stuff, but they still get their, the water, you know, they get, they get, get the water for their projects. So they get to, you know, move faster. You know? And in Lahaina, we get the one that's by Honokowai, we get the one, the Leiali'i, so you know what I mean, if the, we can get this thing, only going help the Hawaiian Homes to get the Hawaiian people like us in houses. Yeah, and so, yeah, go, I support that buggah.

And then okay, now going, go for the next one. I just go right to the next one or you guys going ask me questions?

CHAIR LEE: No, you can go to the next one.

MR. NAKOA: Okay, just like make sure, I like make sure. Okay, now, 148, the, okay guys, yeah.

CHAIR LEE: Moratorium.

MR. NAKOA: You know, I when, yeah, I've been, I've been listening to the testimonies, and you know, again, a lot of the talk about the Planning Commission come up. And, yeah, I love those buggahs, they give, give up the time, they working for free, you know all that kind stuff, but they take the recommendation from the Planning Department, and you know with all of this SMA's and exemption of SMA's you guys know that I, we get one project I've been working on that, you know, the Planning Department when screw up on, okay. And so this is, this is sounds like another thing, one other one for the Grand Wailea buggahs, you know, they, they think they all powerful and money and what not.

So, you know, like Uncle Kanamu was saying, no, no, no more the feeling, brah. Even when I was staying at the . . . stuff just no more the feelings and that's because of that, because of this, all this haole million dollar homes and the hotels going up and going up and going up. You know what I mean? So and anyway, the, I heard they got permission this week that the Planning Department is being audited. Thank you, guys, for, you know, putting them in, the money for have it audited by one Honolulu company and not one Maui one. Mahalo for that.

So again I support the moratorium. Yes, make . . . and then, make um so us guys no get kick out , you know, of our own island. Like no let Maui die, guys, like Uncle said. No let Maui die. You know what I mean? Just, you know what I mean? Pass this moratorium and protect us kanakas and, you know, Auntie Clare, she working hard on this thing so stop already. Nuff these buggahs, enough is enough. Okay, I'm pau that one.

Okay, now you guys going start on this buggah, oh, boy. Okay, I going start now. I am in support of the West Maui Community Plan. Okay, and the four testifiers that when talk in behalf of the Kā'anapali 2020, they was the only one that talk about today, I going, I'm going to talk about Kā'anapali 2020.

Before I went on my vacation, I told you guys, you know, I had three meetings with the guy, Clayton whatever. And I . . . you know, I, we when bring up to them about that 97 acres that, you know, Sugimura and Kama when question about, you know, is this going be crucial to the, you know, to that project? Brah, okay, you can put in the infrastructure even though the buggah is in open space and parks. . . . what not.

But anyway, when I did question Clayton and all the ladies inside that office about that, if we could have a 100 percent affordable, okay, you know, and you know what, they cannot commit. Like you know, Kelly King, mahalo for trying to get them to commit in writing. These guys no can commit, the developers cannot commit and keep screwing us over. Okay, guys, so if they cannot commit, why should you guys commit to them. Okay, and anyway, the thing not going even, going even happen in the next ten years. So in the, in the ten years from now, they can come out again, and, and try, try, try . . . do this whole West Maui Community, you know, plan, we going redo um again in ten years and then, then we can try again in ten years.

You know, I talk about the, I tell you, I tried to get one developer that we working on Koa Realty was going go over there try cover all the 51 percent of the affordable at no cost to Kā'anapali 2020. And they said, oh no they been talking to some other guys. But I going tell you, if we get them, this, this realty guy is not going to take one penny, you know, other than the money that they when invest into this project. Because this



is one, one group that just like help out people. And what they going do with the money they get back and they spend, hopefully get some more places they can go and build some more houses.

And gang, this is for real stuff. That's why I'm in Honolulu, working on that planning and so, you know, and the affordable housing got to stay affordable. You know what I mean, true affordable, not \$700,000, not five, not \$600,000. It's not . . . it's not affordable for the workforce that live across the street at Kaanapali that work in all the hotels. Those buggahs going have to work three different jobs just for make the payments, guys. Yeah, and so I am full support of this West Maui Community Plan. And . . . tell you guys mahalo, shoots, and stay dry gunfunnit, cause the buggah wet.

CHAIR LEE: Okay, any questions for Junya? If not, Junya, you have a great weekend.

MR. NAKOA: Coming back Maui tomorrow. Yes, sir. See you guys later. Chee hoo.

CHAIR LEE: Madam Clerk.

COUNTY CLERK: Chair, our next testifier is Liz McGain. And Ms. McGain will be followed by the testifier calling in on number 5606.

MS. LIZ MCGAIN [testifying on Bill No. 148 (2021)]:

Can you all hear me?

CHAIR LEE: Yes.

MS. MCGAIN: Okay. Thank you so much, Chair and Council for letting me speak. And I'm calling in support of Bill 148. Personally speaking to the illegal transient accommodation, yes, this needs to be addressed; however, creating more transient accommodation with hotels is not a healthy alternative when the visitor numbers we have are unsustainable. And at what point is enough going to be enough? And are we following the visitor number cap that we already have?

Some of us today are speaking out to our quality of life and rich culture here on Maui, which we have held near and dear and hope to bring forth for our children. Some are speaking to perpetuating an industry oriented around profit and revenue, with goals that serve the business, not the goals for the greater community.

Overdevelopment and transient accommodations and the overtourism is passing a point of sustainability by our existing island residents and lands. It is creating a need

to bring in more workforce people from off-island, intensifying the housing problems. It is not sustainable, and it will continue on and on until we chose to diversify into areas other than tourism and stop disregarding the island's capacity for visitors.

Our island has finite resources. We are individuals, we are families, kupunas, communities with a rich culture not found anywhere else in the world, who want to continue our quality of life, enjoying the beaches, camping, hiking, water resources for our own homes, and culture the island currently holds. We have enough visitors coming already. Allow time for our community to create small business and diversify in other ways. Sharing the island with visitors is not hard to do when the numbers are sensible and resources shared. We are surpassing that point. Bill 148 allows time to address this.

Last thoughts, what about revitalizing Kahului? Creating parks and small business shops, even housing with the existing structures which are already abandoned, as opposed to continuing to develop transient accommodation related buildings on some of our most cherished coastal areas. We need time to have a rethink for the greater good of the island community for the culture that is Maui. Bill 148 supports that. Thank you, County Council, for all of the hard work you have been doing in this regard. Thank you for allowing me to speak.

CHAIR LEE: Members, any questions? If not, thank you Ms. McGain.

Clerk. Madam Clerk.

COUNTY CLERK: Our next testifier is calling in on number 5606. To be followed by Mr. Albert Perez

MS. ISAKI: Apologies this is Bianca, I think I accidentally raised my hand. Please bypass this.

CHAIR LEE: Okay, Mr. Perez. Mr. Perez.

MR. ALBERT PEREZ, MAUI TOMORROW FOUNDATION [testifying on County Communication Nos. 21-542 & 21-543, the West Maui Community Plan, and Bill No. 148 (2021)]:

Aloha, sorry, I thought I had another minute. I'm Albert Perez. Aloha Chair Lee, Members of the Council. I'm with the Maui Tomorrow Foundation, and I'll be testifying on several items today. Some of them are related. But I would like to have up to three minutes on each one.

First one is County Communication 21-542. These are amendments to the West Maui Community Plan. So we support the high-resolution maps, but the current draft does not show labels for the individual land use polygons, as was discussed in Committee. I think it was brought up by Member Johnson. The purpose of this is to eliminate the difficulty in interpreting the legend of a map that uses only color. Especially for people who have color vision issues. So as a trained cartographer, I can say that best practice is to never use more than three to five colors in a map, unless you provide labels within or pointing to each polygon. So please revise the maps to add the land use district labels and make them usable for all.

We support the addition of the requirement that developments accommodate the West Maui Greenway. As far as replacing Policy 2.4.2, we support part and don't support part. So we don't support the part that says to allow only one house for every three transient vacation units. We're already over the visitor resident ratio specified in the Maui Island Plan, especially in West Maui. So the CPAC settled on a one-to-one ratio of transient units to housing units. That would already allow more transient units than, than we really need. But this amendment would make it even worse. The part that we do support is the part of the amendment that specifies income ranges and the 30-year affordability requirement. So I hope, I hope that's clear.

And we do support incorporating the language of the 1996 West Maui Community Plan that requires six acres of park, including a linear park greenway adjacent to Kahoma Stream. We're not calling for the removal of any existing homes, but we also do not support rewarding the developer for ignoring the clear requirements of the 1996 Plan and skirting the impact of the court decision.

So I will move onto the actual bill, West Maui Community Plan. So as we said before the people of West Maui have made their voices heard, and this Council has been exemplary in listening to that voice. The process was very thorough. And I mean, 36, 39 community plan meetings, advisory committee meetings, the Planning Commission review, and the Planning and Sustainable Land Use Committee, it was very thorough and fair.

I do remain concerned that people are being told with certain exceptions like conditional use permits, they're being told that the community plan is not enforceable throughout the community plan area. And this is made worse by the vague land use descriptions that Mr. Mayer mentioned. As I have testified before, this language gives the Planning Department wide discretion as to what is acceptable within a particular land use designation. And landowners, even the landowners don't really know what they'll be able to do until staff makes a decision.

This requires staff who are well-trained at administering this type of land use regulation and it requires staff who are not subject to political pressure to allow projects proposed by developers who have good political connections. Unless we have a way to insulate planners from political pressure, I'm concerned that the current language is not specific enough to prevent abuse.

I did propose additional language during the Committee that would make the designations more specific as to what is allowed. While that was rejected in Committee, I remain very concerned, especially since the Planning Department is moving ahead with the South Maui plan and telling people that the same approach will be used. And they're using that same approach with vague land use descriptions in the zoning code rewrite. So we ask the Council to do everything they can to make sure that the people's voice will have the force and effect of law in all areas of the community plan from mauka to makai so that their faith in government won't be eroded, which would undermine our society.

And Chair, I'd like to move to Bill 148, the moratorium. So we strongly support this visitor accommodations moratorium. I also support Dick Mayer's proposed amendment to Section 2 to clarify that only projects that have obtained final approval are exempt from the moratorium. I'm going to kind of divert a little bit into Communication 21-543 that would allow the use of housing credits to gain an exception to the moratorium. From listening earlier, it didn't sound like that was the intent, but I got to say even the Maui Planning Commission members have been trying to get developers to actually build homes instead of use housing credits.

We do like the part of the amendment that says that the houses have to be physically constructed. So maybe you could keep both sentences. Please don't delete the other one that prohibits use of housing credits.

And as far as Section 2 going back to the actual Bill 148. As far as Section 2, we do support the proposed language as proposed by Mr. Mayer to just say that this ordinance takes effect on approval and applies to any new transient accommodation that has not received its final discretionary approval. Even with a completed, accepted application there is no guarantee at any point in the process that your project will be approved. So without a requirement from final approval to gain an exception to this moratorium, proposals like the Grand Wailea could continue to be approved during the period of the moratorium.

This moratorium is temporary, and the community is crying out for a halt. The developers can wait. So please adopt the simplified language for Section 2 as suggested by Mr. Mayer. Mahalo.

CHAIR LEE: Members? I have a question. Albert, are you suggesting that we recommit the West Maui Community Plan?

MR. PEREZ: No, I'm not. As much as I don't like all of the outcome, I do like a lot of outcome. I feel like it was a fair process. And I feel like there's more to do than just revise this language. There's more to do to make the community plans, as well as all the other parts of the general plan enforceable.

CHAIR LEE: So you're suggesting that we pass, pass the plan.

MR. PEREZ: Yes.

CHAIR LEE: Regardless of the questions and issues that you and Mr. Mayer raised; right?

MR. PEREZ: Yeah, that's essentially correct, Chair. I think the Council can come back and correct whatever issues there are with the community plan. But we need to move forward and there's a lot of good stuff in this plan that needs to go into effect.

CHAIR LEE: Okay, alright any more questions? If not, thank you, Mr. Perez. And you made Member Paltin very happy.

MR. PEREZ: Alright, aloha.

CHAIR LEE: It kind of contradicts your testimony, but hey, it's getting late.

MR. PEREZ: Chair.

CHAIR LEE: Member, I mean not Member but.

MR. PEREZ: Chair.

CHAIR LEE: Yes.

MR. PEREZ: Sorry, Chair, I don't think that my testimony was contradictory. I can clarify, if you'd like. Or I can just, I see a question.

CHAIR LEE: No, no, no. The main issue is that you brought up some concerns that I asked if those concerns should be incorporated or, to be changed as far as the West Maui Community Plan was concerned. We should make the proper changes and you said no. Right?

MR. PEREZ: Thank you, Chair.

CHAIR LEE: Okay, Member Paltin.

MR. PEREZ: Thank you.

COUNCILMEMBER PALTIN: I guess I just had a clarifying question. I mean it's not that we're going to take this item up for discussion, including the ASF, which I posted, which I intend to file. And just to clarify, it's not that we can't make more amendments today at first reading. So that's why we still have the opportunity to fix the thing, some, all, or none, that what you said, depending on how the votes go, correct?

MR. PEREZ: That's a question for me?

COUNCILMEMBER PALTIN: Yes.

MR. PEREZ: Yes, that is correct.

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

MR. PEREZ: Okay, mahalo.

CHAIR LEE: Okay. I know, but they had quite a list, Member Paltin. You know--

COUNCILMEMBER PALTIN: That's why I said, some, all, or none.

CHAIR LEE: Okay. Alright, who is the next testifier, Madam Clerk?

COUNTY CLERK: Our next testifier is Fay McFarlane. To be followed by Mr. Sam Small.

MS. FAY MCFARLANE [testifying on County Communication No. 21-542, the West Maui Community Plan, and Bill Nos. 141 (2021) & 148 (2021)]:

Aloha, 'auinalā, Chair Lee and Councilmembers. O Fay McFarlane, kou inoa and I'm testifying on behalf of Aha Moku o Maui in regards to County Communication 21-542. Aha Moku supports the inclusion of high res maps found at weareMaui.org and the addition of labels corresponding to the legend. Aha Moku supports adding the Honokowai chart and figures requested by DHHL. Aha Moku also supports the preservation of the pre-existing 1996 language requiring Kahoma park land. We agree with the Preserve Kahoma Ahupua'a plaintiffs who won the Hawaii Supreme Court

ruling upholding the Court of Appeals decision. Stanford Carr can and should go through the process of a plan amendment to rectify their illegal development of Kahoma Village.

The rest of Aha Moku comments on CC 21-542 relate to the West Maui Community Plan compliance with Bill 148, for which the Council has already heard support for in earlier testimony, Po'o Ke'eaumoku Kapu. As Mr. Kapu stated Aha Moku o Maui joins the broader community in supporting the cessation albeit too brief of building new hotels and visitor units.

Furthermore, Aha Moku o Maui opposes any amendment to allow the Grand Wailea and others to proceed building more hotel units or similar, and I believe you guys already heard that language about Section 2. The Planning Commission with their developers, realtors, mortgage brokers, and construction owners, they absolutely prioritize the testimony of paid lobbyists over the overwhelming testimony of the public. Aha Moku o Maui asks you the County Council to consider the testimony of the community who does not support a loophole for the Grand Wailea. Their owners Blackstone are worth more than 26 billion and the 10 million mentioned by their lawyer means nothing to them.

Aha Moku reminds the Council that Bill 148 is already a compromise which allows plenty of exceptions to developers that the community actually oppose. Just look at the affordable housing ratio, moving from one to one, to one to three. Now developers can build triple the hotel units than affordable housing. Also many in the community wanted affordability in perpetuity, not just 30 years. Another example is that people wanted affordables first, but developers are now allowed to do concurrent builds.

Regarding the mauka redevelopment of Slorexa Hotels, rather than completing demolition, they're allowed to occupy their newly built units before they are even done with the demolition on the old units. We're not expecting anyone to remove the exceptions in 19.98.040, we're just saying that developers got a lot of concessions to allow them to build despite the moratorium.

Moving on to testifying as an individual, I support Bill 141, because I agree the DHHL does need this bill to facilitate the awarding of homesteads. I also support Bill 148, but wish it was longer with fewer exceptions. And I support the West Maui Community Plan with the provisions mentioned by Aha Moku and I'm saying that as an individual that participated in all of the CPAC process, the testimony to the commissions, testimony to the committees, and I always attended all of those meetings with no less than a huge flock of kupuna. So, thank you so much for your time today.

CHAIR LEE: I don't see any hands anyway. Oh, now I see one.

Member King.

COUNCILMEMBER KING: Like I should apologize, sorry. There is one question. Aloha, Ms. McFarlane, thank you for being here. I wanted to ask you because you talked about several of the exceptions that were in the moratorium bill. In your opinion, what are the two most egregious exceptions?

MS. MCFARLANE: Because that testimony was from a prepared statement from Aha Moku, I don't know whether or not I can answer that decisively? I would be happy to consult with Aha Moku Council and submit that response in writing.

COUNCILMEMBER KING: Okay, because you're representing the Aha Moku Council?

MS. MCFARLANE: Correct.

COUNCILMEMBER KING: Okay, I understand. Thank you. Thank you, Chair.

CHAIR LEE: Any more questions? If not.

COUNCILMEMBER PALTIN: --to the area--

CHAIR LEE: What's that, Member Paltin?

COUNCILMEMBER PALTIN: Oh, I'm sorry, I didn't know I was unmuted. All the restaurants around us got the red cards. So just was--

CHAIR LEE: Thank you for sharing.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I hope there's not an infestation at your office, Member Paltin. Okay, aloha, Ms. McFarlane. Mahalo for your testimony. I wanted to follow-up on Member King's question. I understand that the testimony you provided was on behalf Aha Moku o Maui, and but I was curious if you had a personal take on the egregious exceptions?

MS. MCFARLANE: We're, because you're asking. Okay, as an individual, as an individual, I do understand that we want to incentivize the, we want to incentivize these properties to engage in managed retreat from shoreline. However, you know, I would be remiss



if I represented that Aha Moku is okay with the shoreline hotels building mauka. It's, it's not, I don't see that that type of consensus happening from all of the different moku. Let alone, you know, the mokus most affected by tourism resort areas. So I don't really see that. But I understand where the bill is coming from. You guys want to incentivize managed retreats. So, you know, as an individual I understand, but I don't believe that that is, that the cultural practitioners are going to ever agree that mauka redevelopment of the Slorexa Hotels is something that they want.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo for that response, Ms. McFarlane. Mahalo, Chair.

CHAIR LEE: Any more questions?

If not, Madam Clerk.

COUNTY CLERK: Our final individual signed up to testify is Mr. Sam Small.

CHAIR LEE: Mr. Small? Okay, I see you, we see you. No, but we can't hear you.

MR. SAM SMALL (testifying on County Communication No. 21-553 and the West Maui Community Plan):

This one? Is that better?

CHAIR LEE: Yes, yes.

MR. SMALL: Okay, okay. Thank you. Sorry for that. Thank you as always, it's an honor to be participating in this process. I, you know, appreciate so much the time and energy that you're putting into details on these community plans, and you know, unfortunately, you are suffering from the responsibilities that were ignored from past County Councils. You know, the demand from the public has been clear for years that the administration of land development in Maui County is a mess. Title 19 is a mess. Title 18 is a mess.

Participants and employees of the different departments have testified in the past that oh, no, no, don't change it. Well, you know, there's a reason for that, and unfortunately some of that reason was that they were in position, plan examiners were in a position to receive financial compensation directly from developers. And the loopholes that exist, that caused the complexities of, of what you're dealing with today are, are, we're living with those loopholes.

You know, Greg Brown, of course circumvented this whole community plan process by I believe committing fraud. You know, in his plans and the plan examiner who approved his plans specifically long time person has resigned. That person . . . absolutely offered this Council direct testimony of his experience of . . . committed by that particular individual, who was responsible for Greg Brown. So, you know, this falls on the County Council. This is your responsibility. And you know, we need you, we beg you, Albert Perez mentioned, you know, there are additional things that need to be done. Yeah, there are additional things that need to be done. Title 19 needs to be restructured. Title 18 needs to be restructured.

Maui County's development program is unique, it does not follow best practices. Public Works, in most communities deals with roads, they don't deal with construction plans for individual houses. All of that stuff needs to be shifted over to the Planning Department that is effective, that is populated by individuals that have a direct professional experience.

Finally at Public Works, there's a gentleman there, the lead inspector Derek Hyland, he's has, you know, mainland experience, and was promoted into a position of leadership because all of the other inspectors recognized, long-standing inspectors recognized that he had the experience to be able to be the leadership in that organization. Individuals like that are priceless to us here on Maui, and they need to be fostered and advanced.

And you, this Council has the responsibility to restructure these specific ways that development happens here on Maui. And if you do that, I tell you, I promise you that all of the, the problems that you're dealing with now will go away.

CHAIR LEE: Okay. And I assume you're talking about the West Maui Community Plan, right.

MR. SMALL: Yes, well it's, the community plan, so the, that, pardon me for, for diverting into the global perspective on the community plans. The difficulty with any of the community plans is that the implementation is subverted by loopholes in Planning and Public Works, Title 19, Title 18.

So as Mr. Perez said, you know, West Maui is great, go ahead and do it. And there's bedrock changes that need to be made, and they will only be made by this Council.

CHAIR LEE: Okay, thank you. Now Members do you have any questions for Mr. Small? If not, thank you very much, Mr. Small.

MR. SMALL: Thank you all.

CHAIR LEE: Bye.

Madam Clerk.

COUNTY CLERK: Chair, we do not have any other testifiers noted. And if an individual connected to the meeting at this time has not testified, but would like to do so, please unmute and identify yourself now. This is the last call for testifiers. Please indicate if you would like to testify.

COUNCILMEMBER KING: Chair, we have Kai Nishiki.

MS. KAI NISHIKI [testifying on County Communication Nos. 21-551 & 21-554, the West Maui Community Plan and Bill Nos. 141 (2021) & 148 (2021)]:

Good morning, Chair, Councilmembers. I'd like to testify, please.

CHAIR LEE: Alright, Madam Clerk, you may call up the next testifier.

COUNTY CLERK: Our next testifier is Kai Nishiki.

MS. NISHIKI: Good morning, Chair, Councilmembers. Can you hear me?

CHAIR LEE: Yes, we can.

MS. NISHIKI: Oh, wonderful, thank you. Okay, I'd like to start on Bill 148. I am so excited about this bill. Thank you very, very much to the leadership of Vice-Chair Keani Rawlins-Fernandez, and this amazing Council for really listening to the needs of our residents over the greed of consumerism and capitalism. Thank you.

But I, what I'm really excited about is that there is this huge financial incentive regarding moving resorts mauka out of the Slorexa. And, you know, there should be so much excitement around this because this gives a great opportunity for the construction industry, planners, demolition, real estate, hoteliers, everybody. And, you know, everyone's always like, hey, we want more development. Well, this is some development that some of our residents could get behind in moving these aging resorts off of the shoreline.

So I think that, you know, instead of everybody crying about like how horrible it is, like hey, let's look at what a great opportunity this is for us. And also, to really validate that our leadership is really listening to our community and our residents because for so long, it just really seemed like the vision and direction for Maui County was just on

growth, luxury development, big hotels, tourism accommodations. And our residents' needs, and the supporting infrastructure have been neglected. So this just really gives us a great opportunity to put the focus back where it should be, on the residents' need, not developers' greed. Mahalo.

Moving on to the West Maui Community Plan. First off, I don't think we were, we weren't really aware of the whole situation that Mr. Lance Collins brought up about the area surrounding Mala. So I hope that we can give a little attention to that.

But I'm testifying on my own behalf, although I am the Chair of the, the CPAC. We really focused the plan on the quality of life for residents and the needs of the community and let that guide our actions. We provided areas of growth close to jobs and services such as Wainee and around the Kapalua Airport.

And it seems some developers who didn't get their way are now trying make like it's either, you know, parks or housing? There is no need to pit parks versus housing. Both can be accomplished. Both are accomplished in this plan. The estimated housing units needed in West Maui projected by 2040 were 6,923 and the housing units possible with the scenario presented to you is 7,950 which is an excess of 1,000.

Large parks should not be considered a burden or out of the question, but actually incredible assets and can actually be self-funding with income generators such as entrance and parking fees. If funding or care is an issue, let's address that as a priority. Parks and open space are as vital to a community's quality of life as roads, water, and sewer.

In addition we incorporated sea level rise and erosion into our planning, leaving room for relocation of the cemeteries, support for the canoe paddling clubs and hale. Perhaps even that the roadway, I mean I know that Kā'anapali 2020 keeps talking about like connections and infrastructure on the low road, but if you look at the maps, the low road in that area is super close to the ocean and it is completely covered by water.

So not only does the road need to be moved, but all of the parks, all you know, all of the things that are makai of that. So that's why we, that's one of the reasons why we chose such a large area in addition to, if you look at the entire plan, not just that. You want to see that there are, that there's a need for a break between, you know, Kā'anapali 2020 has like a thousand acres that they want full development of, and it's nice to have that little break between Lahaina and Kaanapali.

In addition, the map that was provided by Chad of KLMC to the CPAC showed a hotel and resort and UCC which is the highest density area in Kaanapali South. So they are

not being completely transparent on what they originally presented to us. But, you know, now they are saying, oh we are going to put housing over there. No. Look at the map I sent you folks, they want, wanted a hotel and very high-density development in that area.

Let's see, another thing I wanted to bring up is that look at the current conditions, designation versus what the CPAC put forward. Ka'anapali 2020 and KMLC should actually be at the Council saying thank you so much because we actually, not just, I mean, up zoned but actually like up-designated it if you want to get technical. All of the, all of their lands were all ag, and some project district and we, you know, look at the map now, it's almost three-quarters pink, whereas, before it was like three-quarters green. So you're welcome, Chad and Kaanapali Land Management Company.

How about . . . I'll wrap up. You've been talking for how many years on, you know, building some stuff and Kā'anapali 2020 was supposed to happen 2020. How about start work on the remaining 800 acres of entitlements that we gave you guys. Entitlement, like, you guys, you're welcome. Get started on that and in ten years, if you guys still need more land to develop, then we can look at that. Or, you know, not me, be the next people.

Let's see, and then of course, I was really happy, because I am a big advocate of managed retreat to see County Communication 21-551 and 554, relating to managed retreat in the context of planning and land use, and infrastructure and transportation. I think it's kind of the theme for today. And I am just so thankful that you folks are being so proactive and showing incredible leadership on this issue as a County. Because I think that's the only way that we're going to get to where we need to go is that the people who are in positions of power put policies and budget considerations towards managed retreat and sea-level rise. And just how important our shorelines are to our, not just our quality of life for our people who live here, but even for our economy. Like, if we don't have the beaches, and the shoreline areas, tourists, that's why they come here. So we really need our budget to reflect how important our shorelines are for quality of life, cultural reasons, and our economy.

And I think, oh and then of course, Bill 141, getting our, there is no other better way to get like local people, and unfortunately, like, you know, people who are financially struggling on the land than through Hawaiian Home Lands. So I'm really happy to see that hopefully at least maybe water won't be the biggest issue in getting homes actually built for Maui County. Mahalo. Thank you.

CHAIR LEE: Alright. Do we have any questions, Members? If not, thank you, Kai and have a nice weekend.

MS. NISHIKI: Thank you, you as well. Bye.

CHAIR LEE: Madam Clerk.

COUNTY CLERK: Chair, that was our last testifier noted and nobody else expressed an interest to testify.

CHAIR LEE: Alright Members, do you have any objects 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. Christopher Delaunay, Pacific Resource Partnership;
2. Chad Fukunaga, Kaanapali Land Management Corp.;
3. William J. Aila, Jr., Hawaiian Homes Commission;
4. Dick Mayer;
5. William Meheula, Grand Wailea Resort;
6. Thomas Croly;
7. Kai Nishiki;
8. Jeff Anderson;
9. Elle Cochran;
10. Amber Coontz;
11. Kai Duponte;
12. Suzette Felicilda;
13. Gordon Firestein;
14. Tom Fox;
15. Jerry Gibson, Hawaii Hotel Association;
16. Sarah Hofstadter;
17. International Union of Bricklayers and Allied Craftworkers Local #1 of Hawaii;
18. Joy and Rob Kaaz;
19. John Kevan and Angela Leone;
20. Stephen Leis, Dorvin D. Leis Co., Inc.;
21. Ryan Nobriga, ARDA Hawaii;
22. Jen Russo, Maui Vacation Rental Association;
23. Charlene Schulenburg and Gary Passon;
24. Paul Subrata, Maui Land & Pineapple Company, Inc.;

25. Joyce Naruse, ILWU Local 142;
26. Charles Andrion, ILWU Local 142;
27. Eliza Baltazar, ILWU Local 142;
28. Emmanuel Baltazar, ILWU Local 142;
29. Marissa Busto, ILWU Local 142;
30. Edna Cabanting, ILWU Local 142;
31. D. Castillo, ILWU Local 142;
32. Mariano Castillo, ILWU Local 142;
33. Dustin Doronio, ILWU Local 142;
34. Ben Garcia, ILWU Local 142;
35. Dionicio Guzman Jr, ILWU Local 142;
36. Lucia Guzman, ILWU Local 142;
37. Almie Madriaga, ILWU Local 142;
38. Henry Oandasan, ILWU Local 142;
39. Myla Onellion, ILWU Local 142;
40. Ligaya Parilla, ILWU Local 142;
41. Nick Sado, ILWU Local 142;
42. Warren Ulep, ILWU Local 142;
43. Benedicto, Valdez, ILWU Local 142;
44. Evelyn Valdez, ILWU Local 142; and
45. Remedios Valdez, ILWU Local 142.

CHAIR LEE: So ordered.

Madam Clerk.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair.

CHAIR LEE: Yes. Vice-Chair,

VICE-CHAIR RAWLINS-FERNANDEZ: Chair, can we get a recess before we dive into the agenda?

CHAIR LEE: Well I thought we'd do the minutes first.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, okay. No objections.

CHAIR LEE: And then we go into the rest. Okay, just the minutes.

Madam Clerk.

## MINUTES

The minutes of the Council of the County of Maui's regular meeting of September 17, 2021 was 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 BY THE  
CLERK.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sugimura, to approve the minutes of September 17, 2021.

Any discussion? If not, all those in favor say "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: Okay, all "ayes", zero "noes"; motion carries.

So Members, why don't we take a ten-minute break and be back at 3:20? Meeting is in recess till 3:20

(THE MEETING WAS RECESSED BY THE CHAIR AT 3:07 P.M., AND WAS RECONVENED AT 3:23 P.M., WITH ALL MEMBERS PRESENT.)

CHAIR LEE: Will the Council meeting of December 3, 2021, please return to order.

Madam Clerk.



COUNTY CLERK: Chair proceeding with the Consent Calendar, action on the Consent Calendar.

## ACTION ON THE CONSENT CALENDAR

### COUNTY COMMUNICATIONS

NO. 21-536 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,  
(dated November 15, 2021)

Requesting a one-month time extension to submit the Finance Director's Quarterly Report and the Capital Improvement Project Report as of September 30, 2021 (Fiscal Year 2022 First Quarter).

NO. 21-537 - DEAN M. RICKARD, ACTING CHIEF OF POLICE,  
(dated November 22, 2021)

Informing of the Department's intent to expend \$5,364.98 in Federal Forfeiture Funds to cover travel costs related to K9 selection and trainer recertification.

NO. 21-538 - DEAN M. RICKARD, ACTING CHIEF OF POLICE,  
(dated November 22, 2021)

Informing of the receipt of \$2,794 in Forfeiture Funds from the Department of the Attorney General, State of Hawaii.

NO. 21-539 - MICHAEL P. VICTORINO, MAYOR,  
(dated November 18, 2021)

Informing of a vacancy on the Public Works Commission due to the resignation of John Blanchard, effective November 17, 2021.

CHAIR LEE: Council Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO FILE ALL ITEMS ON THE CONSENT CALENDAR.

COUNCILMEMBER SUGIMURA:

SECOND.

COUNCILMEMBER SINENCI: Second.

CHAIR LEE: Okay. Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sugimura, to file all the items on the Consent Calendar.

Discussion? Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: No discussion, Chair. Mahalo.

CHAIR LEE: Any other comments or questions, discussion? If not, all those in favor, say "aye", to file.

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

NOES: NONE.

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

Madam Clerk.

COUNTY CLERK: Proceeding with item J. Communications.

### COUNTY COMMUNICATIONS

NO. 21-535 - JEFFREY T. PEARSON, DIRECTOR OF WATER SUPPLY,  
(dated November 23, 2021)

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

CHAIR LEE: Member Sugimura.

COUNTY CLERK: And County--

CHAIR LEE: Oh, sorry. You weren't done?

COUNCILMEMBER SUGIMURA: Thank you. So, I move to, I would like this to go to my Committee, so to the Infrastructure, Transportation Committee.

CHAIR LEE: Any objections, Members?

MEMBERS VOICED NO OBJECTION.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Okay, so ordered.

Madam Clerk.

NO. 21-540 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,  
(dated November 17, 2021)

Transmitting 64 contracts/grants for the month of October 2021.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE TO FILE COUNTY COMMUNICATION 21-540, EXCEPT  
FOR THOSE GRANTS AND CONTRACTS THAT  
COUNCILMEMBERS REQUEST FOR COMMITTEE  
REFERRAL.

CHAIR LEE: Second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Sinenci to file County Communication 21-540, except those items requested by the Members. Members?

Member King.

COUNCILMEMBER KING: Thank you, Chair.

I'D LIKE TO REQUEST THREE GRANTS. G5442, THE MAUI FAMILY FARMER TRAINING NETWORK ON THEIR BIOBAMBOO; GRANT G5453, KEEP, KEEP MAUI BEAUTIFUL; AND G5522, WAIPUILANI BEACH RESERVE PROJECT, WHICH IS OED, I THINK THAT'S COMING OUT OF THE SOUTH MAUI DISTRICT FUND.

CHAIR LEE: Alright, any other contracts?

COUNCILMEMBER KING: Oh, sorry, to the CARE Committee.

CHAIR LEE: CARE Committee. Let's act on that one now. Members, any objections to referring these three grants to the CARE Committee?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: Okay, so ordered.

Okay, anymore grants or contracts? Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair.

I WOULD LIKE TO PULL TWO GRANTS INTO THE AFFORDABLE HOUSING COMMITTEE. THAT IS G4, OR BEG YOUR PARDON, G5467, NA HALE O MAUI FOR \$2 MILLION; AND THE OTHER GRANT IS G5525, HALE MAHAOLU FOR \$190,000.

Thank you.

CHAIR LEE: Any objections to referring these two items to the Affordable Housing Committee?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: No objections? So ordered.

Other grants or contracts, Members? Alright then, the rest will be filed. All those in favor of filing the rest, 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: Okay. Motion carries. All "ayes", zero "noes"; motion carries.

Madam Clerk.

Vice-Chair Rawlins-Fernandez? Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Sorry, I'm frozen.

CHAIR LEE: Oh, okay. You're okay now. Your hand is no longer up. Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Sorry about that.

CHAIR LEE: Madam Clerk.

NO. 21-541 - SHANE M. SINENCI, COUNCILMEMBER,  
(dated November 26, 2021)

Transmitting a proposed resolution entitled "APPROVING A TIME EXTENSION FOR THE COUNCIL TO ADOPT THE MAUI ISLAND WATER USE AND DEVELOPMENT PLAN".

CHAIR LEE: Member Sinenci.

COUNCILMEMBER SINENCI: Mahalo, Chair. Consideration for County Communication 21-541, please.

MOVE TO WAIVE THE REQUIREMENT OF, MOVE TO WAIVE  
THE REQUIREMENT OF COMMITTEE REFERRAL AND

REPORT FOR COUNTY COMMUNICATION 21-541 IN  
ACCORDANCE WITH RULE 7.G. OF THE RULES OF THE  
COUNCIL.

CHAIR LEE: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

COUNCILMEMBER KAMA: Second.

CHAIR LEE: Moved by Member Sinenci, seconded by Member, Vice-Chair Rawlins-Fernandez, to waive the Rule of the Council on this matter.

Any discussion, Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. Approval of my motion by a two-thirds vote of the entire membership of the Council to enable the Council to consider the proposed bill today.

CHAIR LEE: Anymore discussion? If not, all those in favor of the motion, raise your hand, say "aye".

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

NOES: NONE.

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

Member Sinenci.

COUNCILMEMBER SINENCI: Mahalo, Chair.

I MOVE TO ADOPT THE PROPOSED RESOLUTION  
ATTACHED TO COUNTY COMMUNICATION 21-541, FILE THE  
COUNTY COMMUNICATION.

COUNCILMEMBER JOHNSON:

SECOND.

COUNCILMEMBER KING: Second.

CHAIR LEE: Second? Moved by Member Sinenci, seconded by Member Johnson, to adopt the resolution and file the communication.

Discussion, Mr. Sinenci?

COUNCILMEMBER SINENCI: Mahalo, Chair. The Agriculture and Public Trust Committee received request from the public through written and oral testimonies that they would like more time to review the revisions made to the Maui Island Water Use and Development Plan before we move it, to adopt and finalize the plan.

So, Chair, in order to accommodate this request, we posted a track changes version of the plan on Granicus, discussed extending the deadline to adopt the plan. Our current deadline is December 31, 2021, so this resolution is time-sensitive and will extend the plan to February 4, 2022.

Members, we also had some Committee staff changes recently that required reallocating some of the recording duties. And so, for these reasons I respectfully ask for the Councilmembers continued support of my motion. Thank you, Chair.

CHAIR LEE: Any questions, comments? If not, all those in favor of the motion, 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: All "ayes", zero "noes"; motion carries.

COUNCILMEMBER SINENCI: Thank you, Members.

CHAIR LEE: Madam Clerk.

NO. 21-542 - TAMARA PALTIN, CHAIR, PLANNING AND SUSTAINABLE LAND  
USE COMMITTEE, (dated November 24, 2021)

Transmitting proposed amendments to the proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B.070, MAUI COUNTY CODE, TO ADOPT THE UPDATED WEST MAUI COMMUNITY PLAN".

CHAIR LEE: Member Paltin, are you going to have a lot of changes?

COUNCILMEMBER PALTIN: I'm going to file this communication. You know, posting it ahead of time allowed Corp. Counsel and Department of Planning to discuss with me their feedback on it. So, I have a new Amendment Summary Form that I'll circulate and can be taken up when we discuss later in the agenda, a bill relating to the, an ordinance amending Section 2.80B.070, Maui County Code, to adopt the updated West Maui Community Plan. And at that time, I can explain further, if you'd like.

CHAIR LEE: Okay. So, you want to make a motion to file?

COUNCILMEMBER PALTIN:

I MOVE TO FILE CC 21-542.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Been moved by Member Paltin, seconded by Member King, to file County Communication 21-542.

Any discussion, Member Paltin?

COUNCILMEMBER PALTIN: I, I think I discussed.

CHAIR LEE: Okay. Just checking. Anybody else? If not, all those in favor of the motion, please say "aye", 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.

Madam Clerk.

NO. 21-543 - YUKI LEI K. SUGIMURA, COUNCILMEMBER,  
(dated November 26, 2021)

Transmitting a proposed amendment to Bill 148 (2021) entitled "A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 19.98, MAUI COUNTY CODE, DECLARING A MORATORIUM ON NEW TRANSIENT ACCOMMODATIONS ON MAUI".

CHAIR LEE: Member Sugimura, do you want to wait till we get to that item?

COUNCILMEMBER SUGIMURA: Yes, please.

CHAIR LEE: Any objections, Members, to taking up this when we deal with 148?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: So, ordered. Okay.

COUNCILMEMBER SUGIMURA: Thank you.

(See pages 142 through 159 for discussion.)

CHAIR LEE: Madam Clerk.

COUNTY CLERK: Chair, proceeding with communications for referral. The following county communications are recommended for referral to the following Committees as noted:

NO. 21-544 - SCOTT K. TERUYA, DIRECTOR OF FINANCE,  
(dated November 17, 2021)

Reporting on temporary transfers/loans from the General Fund and Department of Water Supply Revenue Fund to the General Obligation Bonds Series 2022 Fund as of October 31, 2021.

The recommended action is that County Communication No. 21-544 be referred to the Budget, Finance, and Economic Development Committee.

CHAIR LEE: Okay. Wait, wait. Hold on, hold on. This is going to be referred. So, the next one, we may take action on it. So, just forewarning you.

Madam Clerk.

COUNTY CLERK: Okay.

NO. 21-545 - LORI TSUHAKE, DIRECTOR OF HOUSING AND HUMAN CONCERNS, (dated November 19, 2021)

Transmitting a proposed resolution entitled "APPROVING CERTAIN FINANCING STRUCTURE COMPONENTS RELATING TO THE USE OF FUNDS RECEIVED THROUGH CHAPTER 3.35, MAUI COUNTY CODE, THE HALE PILINA FAMILY AFFORDABLE HOUSING PROJECT".

The recommended action is that County Communication No. 21-545 be referred to the Budget, Finance, and Economic Development Committee.

CHAIR LEE: Is it Member Kama, or Member Johnson, or which Member?

Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair.

I MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE REFERRAL AND REPORT TO COUNTY COMMUNICATION 21-545 IN ACCORDANCE WITH RULE 7.G. OF THE RULES OF THE COUNCIL. APPROVAL OF MY MOTION--

COUNCILMEMBER MOLINA:

SECOND.

COUNCILMEMBER JOHNSON: Oh.

CHAIR LEE: Second?

COUNCILMEMBER JOHNSON: Okay.

CHAIR LEE: I think it was Member Molina. No, no, wait. Member Johnson moved to waive the Rule of the Council and seconded by Member Molina.

Now, we have discussion. Now you can explain.

COUNCILMEMBER JOHNSON: Thank you.

CHAIR LEE: Only about the Rule now, not the whole, not the whole matter.

COUNCILMEMBER JOHNSON: Right. So, approval of my motion by a two-thirds vote of the entire membership of the Council will enable the Council to consider the proposed resolution today and allow the Hale Pilina Project to move forward with the additional financing and without further delay.

CHAIR LEE: Okay, all those in favor of the motion regarding Rule 7.G., raise your hand, say "aye". We need nine, uh, seven.

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 Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair.

I MOVE TO ADOPT THE PROPOSED RESOLUTION AND FILE  
THE COUNTY COMMUNICATION 21-545.

CHAIR LEE: Second?

COUNCILMEMBER MOLINA:

SECOND.

CHAIR LEE: Moved by Member Johnson, seconded by Member Molina.

COUNCILMEMBER JOHNSON: Thank you, Members.

CHAIR LEE: To, let's see, adopt the recommend, to approve the recommendations in County Communication 21-545.

Discussion, Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. Members, the proposed resolution has become more or less a standard procedure for housing projects that have been awarded grants for the Affordable Housing Fund.

Catholic Charities Development Corporation received a 660,000 grant from the Affordable Housing Fund for Hale Pilina. In order to better leverage funding from non-County sources, the project seems to receive the grant as a loan, in addition to other financing structure components.

Hale Pilina was approved for development under Chapter 2.97, Maui County Code, at the Council's November 5, 2021 meeting. It will provide 178 rental units in Kahului for households at 6, 60 percent AMI or below. This resolution will allow the continued progress of the project in delivering much-needed affordable housing for our residents. I ask for the Councilmembers support of my motion.

CHAIR LEE: Any more discussion? If not, all those in favor the motion, please say "aye", raise your hand?

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

NOES: NONE.

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

Madam Clerk.

COUNTY CLERK: Continuing to Committee referrals.

NO. 21-546 - KELLY TAKAYA KING, COUNCILMEMBER,  
(dated November 12, 2021)

Relating to seabird and biodiversity protection.

The recommended action is that County Communication No. 21-546 be referred to the Climate Action, Resilience, and Environment Committee.

NO. 21-547 - KELLY TAKAYA KING, COUNCILMEMBER,  
(dated November 26, 2021)

Relating to Maui County environmental grants.

The recommended action is that County Communication No. 21-547 be referred to the Climate Action, Resilience, and Environment Committee.

NO. 21-548 - MICHAEL J. MOLINA, COUNCILMEMBER,  
(dated November 22, 2021)

Relating to Recent and Potential Future Court Rulings Affecting Council Practices.

The recommended action is that County Communication No. 21-548 be referred to the Government Relations, Ethics, and Transparency Committee.

NO. 21-549 - KARLA H. PETERS, DIRECTOR OF PARKS AND RECREATION,  
(dated November 16, 2021)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 13.04A.080, MAUI COUNTY CODE, RELATING TO THE ALCOHOL PROHIBITION FOR CERTAIN PARKS AND RECREATIONAL FACILITIES".

The recommended action is that County Communication No. 21-549 be referred to the Human Concerns and Parks Committee.

NO. 21-550 - KELLY TAKAYA KING, COUNCILMEMBER,  
(dated November 22, 2021)

Transmitting a proposed resolution entitled "PROPOSING THE YOUTH COUNCIL".

The recommended action is that County Communication No. 21-550 be referred to the Human Concerns and Parks Committee.

COUNTY CLERK: --To your infrastructure--

CHAIR LEE: Member King. Member King.

COUNCILMEMBER KING: Thank you, Chair. I ask for consideration of County Communication 21-550.

I MOVE TO ADOPT THE PROPOSED RESOLUTION, TO FILE  
COUNTY COMMUNICATION 21-550.

CHAIR LEE: Okay. So, are we taking two actions?

COUNCILMEMBER KING: Well, I, I wasn't given two action, it's not, because it's a resolution, we don't need to. Do we still need to waive?

CHAIR LEE: Um, I'm not sure. Corp. Counsel or Deputy Clerk. Deputy Clerk, I mean, Madam Clerk. I'm sorry.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. The waiver of Rule 7.G. isn't required for resolutions that don't have the force and effect of law. Mahalo, Chair.

CHAIR LEE: Okay. I know, but this is not congratulating somebody. It's, you know, creating a Youth Council. I just want to check with Madam Clerk. Do you, do you know the answer to that?

COUNTY CLERK: It would be the same as Councilmember, Vice-Chair Rawlins-Fernandez, that's the sentiment that the reso's don't carry force and effect of law.

CHAIR LEE: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Well, well, point, Chair.

CHAIR LEE: Yes, Vice-Chair?

VICE-CHAIR RAWLINS-FERNANDEZ: That this reso doesn't have the force and effect of law. So, because this reso doesn't have the force and effect of law, then it wouldn't require the waiver of Rule 7.G.

CHAIR LEE: Okay. This one seems to be a little bit more weightier than--

COUNCILMEMBER KING: Can we ask--

CHAIR LEE: --you know, the ceremonial.

COUNCILMEMBER KING: --OCS? Because they're the ones that . . .

CHAIR LEE: Pardon me?

COUNCILMEMBER KING: Can we ask OCS, our OCS attorneys, cause they're the ones who--

CHAIR LEE: Okay, yeah, that's a good idea. Just, just want to double-check.

COUNCILMEMBER KING: To make sure cause they gave me the notes and there was no waiver on them.

CHAIR LEE: Oh, they gave you the notes? Okay, then there shouldn't be a problem then. There's no need to waive any Rules then. Right, David?

DEPUTY DIRECTOR OF COUNCIL SERVICES DAVID RAATZ: That's correct, Chair Lee. Thank you.

CHAIR LEE: Okay. Alright. So, can we have your motion again?

COUNCILMEMBER KING: Okay.

CHAIR LEE: Member King.

COUNCILMEMBER KING:

SO, I MOVE TO ADOPT THE PROPOSED RESOLUTION AND  
TO FILE COUNTY COMMUNICATION 21-550.

CHAIR LEE: Second?

COUNCILMEMBER JOHNSON:

SECOND.

CHAIR LEE: Okay. Moved by Member King: Moved by Member King, seconded by Member Johnson to adopt the resolution in County Communication 21-550.

Discussion, Member King.

COUNCILMEMBER KING: Thank you, Chair. Members, there's already broad support for the Youth Council in the community and on the Council. But the creation of the program has been delayed after discussions with the Commission on Children and Youth, the Commission's assigned Corporation Counsel attorney, and the OCS legal team. It was advised that an enabling resolution be passed before commencing with recruitment, advertising, and group activities for the Youth Council.

This delay has altered the program timeline. Passage today would enable immediate publication, virtual soft recruitment through fliers and communication with community partners, and formal planning of the Youth Council's schedule and curriculum. It would also enable live recruitment activities to small groups and classes at schools and community youth centers to begin in January. This would allow the Youth Council to follow a timeline where the group convenes in February for initial orientation and training.

Meeting this initial training deadline would allow for flexibility and independent work among the Youth Council during budget session, which will likely be necessary, given staff workload. According to this new timeline, the culminating activity for the Youth Council, where they would be seated and vote and deliberate on policy priorities would be held in August. The next iteration of the Youth Council could then align more closely with the next school year.

Results of the pilot program would inform future iterations and expand opportunities for academic credits. I would also like to add that I recently gave a short presentation to Maui Huliau students on my takeaways from COP26. And one of the issues we discussed was the limited youth participation. Because my participation at the conference largely focused on our greatest hope for climate action being at the local-level of government, working together with other governments across all levels around the world, I think the Youth Council is a perfect example of how, of how we at the County-level can move ahead where the Federal and world stages have not. I ask the Members for a full support of my motion.

If anybody would like, I didn't request the Clerk to read it in the interest of time, but if anybody would like us to a, a . . . we could request of the Clerk.

CHAIR LEE: I don't think so. We had this before.

COUNCILMEMBER KING: Okay.

CHAIR LEE: Remember when Axel gave us the presentation?



COUNCILMEMBER KING: Yes.

CHAIR LEE: Alright. Any more discussion? If not, all those in favor of the motion, 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.

COUNCILMEMBER KING: Okay. Thank you, Members.

CHAIR LEE: Madam Clerk.

COUNTY CLERK: Continuing with committee referrals.

NO. 21-551 - TAMARA PALTIN, COUNCILMEMBER,  
(dated November 22, 2021)

Relating to managed retreat in the context of infrastructure and transportation.

The recommended action is that County Communication No. 21-551 be referred to the Infrastructure and Transportation Committee.

NO. 21-552 - YUKI LEI K. SUGIMURA, COUNCILMEMBER,  
(dated November 26, 2021)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.98, MAUI COUNTY CODE, ALLOWING STREETS, PARKS, AND FACILITIES TO BE NAMED AFTER FAMILIES".

The recommended action is that County Communication No. 21-552 be referred to the Infrastructure and Transportation Committee.

NO. 21-553 - MICHELE MCLEAN, PLANNING DIRECTOR,  
(dated November 12, 2021)

Transmitting the following:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE COMMUNITY PLAN DESIGNATION FROM SF-SINGLE FAMILY TO P-PUBLIC/QUASI-PUBLIC FOR PROPERTY SITUATED AT KIHEI, MAUI, HAWAII, TAX MAP KEY (2) 3-9-048:109";
2. A proposed bill entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM R-2 RESIDENTIAL DISTRICT TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT FOR PROPERTY SITUATED AT KIHEI, MAUI, HAWAII, TAX MAP KEY (2) 3-9-048:109"; and
3. Related documents.

The recommended action is that County Communication No. 21-553 be referred to the Planning and Sustainable Land Use Committee.

NO. 21-554 - TAMARA PALTIN, COUNCILMEMBER,  
(dated November 22, 2021)

Relating to managed retreat in the context of planning and land use.

The recommended action is that County Communication No. 21-554 be referred to the Planning and Land Use Committee.

NO. 21-555 - YUKI LEI K. SUGIMURA, COUNCILMEMBER,  
(dated November 24, 2021)

Transmitting a proposed resolution entitled "REFERRING TO THE LĀNA'I, MAUI, AND MOLOKA'I PLANNING COMMISSIONS A PROPOSED BILL RELATING TO FARM DWELLINGS".

The recommended action is that County Communication No. 21-555 be referred to the Planning and Sustainable Land Use Committee.

CHAIR LEE: Alright, are there any objections to the referrals as read by the Clerk?

Member Sugimura.

COUNCILMEMBER SUGIMURA: So, I don't have any objections, but I want to know if the Members would consider 21-555? And it's a referral to the Planning Commissions.

I'D LIKE TO, WITH YOUR PERMISSION, MOVE TO ADOPT  
THE PROPOSED RESOLUTION, AND FILE COUNTY  
COMMUNICATIONS 21-555.

COUNCILMEMBER KAMA:

SECOND.

CHAIR LEE: Okay, let's, let's, okay, moved by Member Sugimura, seconded by Member Kama, to adopt the resolution in County Communication 21-555.

And discussion, Member Sugimura?

COUNCILMEMBER SUGIMURA: Yeah. Member, this proposed resolution would refer to the Lāna'i, Maui, and Moloka'i Planning Commission a proposed bill to increase the size allowance for second farm dwellings in the Agricultural District.

Sections 8-4.4, 8.4 *[sic]* and 8-8.6 of the Revised Charter of the County of Maui 1983, as amended, require that the appropriate Planning Commissions review proposed land use ordinances and amendments and provide findings and recommendations to the Council. I ask for your support of this motion.

CHAIR LEE: Members?

Member Paltin, then Member Molina.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Member Sugimura. For my discussion, I don't support this bill, but I don't mind going through the process and sending it to the Planning Commission. My only comment would be, you know, we've done this in the past, and the feedback that I did receive from the Planning Department is, even if it looks straightforward to us like this, they're not able to provide a reason why, if the Planning Commission asks if we don't discuss it in Committee.

So, the only caveat would be for Member Sugimura to either be in attendance to explain why, so that it's not like wasting their time from what feedback I've gotten in the past or submit written testimony. So that if they have those, it's actually better if her or someone from the office is there in case they need to clarify the written testimony.

I have no problem with it going through the process. The reason I, I don't support it is because it furthers, you know, those legacy estates and the fake farm mentality. But you know, it's all about the process. So I don't have objection to going straight to the Planning Commission.

COUNCILMEMBER SUGIMURA: I will commit to that. Thank you.

CHAIR LEE: Member Molina, and then Vice-Chair Rawlins-Fernandez.

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. I'm kind of used to things doing, done in the usual way, if you know what I mean? Go to Committee, then through Committee, we then pass it onto the Maui Planning Commission, because it gives the public additional time to review, provide comment. And I know we want to get things done expeditiously, but at the same time, I guess I'm just used to doing things a certain way to give that, the public one additional opportunity early on before it even gets referred to the Planning Commission. Cause sometimes the public doesn't have an opportunity to go to the Planning Commission meetings and you know. So, and I assume this matter, if it did go to the Planning Commission, it would go, first go to PSLU, am I correct?

COUNCILMEMBER SUGIMURA: Yes.

COUNCILMEMBER MOLINA: Okay. Can I ask Councilmember Sugimura why you, you are taking a more expeditious route to get this to the Planning Commission and bypass this going to the PSLU first?

COUNCILMEMBER SUGIMURA: So, this was actually asked from my community. And, and so therefore, I wanted to, you know, just propose it and get the input from the public through the different Planning Commissions. I mean, I'm open to sending it to Tamara Paltin's Committee. That's not a problem. But I figured then, we'll just get that input and come back and then the Members can talk about it.

COUNCILMEMBER MOLINA: Okay. Thank you. But I kind of have reservations about doing it this way cause it takes out one step of the process for the public to give input from the start. But anyway--

COUNCILMEMBER SUGIMURA: Okay.

COUNCILMEMBER MOLINA: --let's just . . . . Thank you.

COUNCILMEMBER SUGIMURA: I think we--

COUNCILMEMBER MOLINA: Thank you.

COUNCILMEMBER SUGIMURA: Thank you. I think we do this process so often that, you know, I didn't look at it like it's taking away of transparency. That wasn't my intent. But my intent was more because of our housing shortage to try to see if we could get, you know, comments back, I mean comments from them, and then the different Commissions and then come back to us. But I'm open to whatever. I just, I'm just trying to answer a call from the community.

CHAIR LEE: Members. Were you done, Member Molina?

COUNCILMEMBER MOLINA: Yeah, no, just one last quick question. So, did you consult with Planning, the Planning Department on this, Member Sugimura, about how they feel this just going straight to the Planning Commission then?

COUNCILMEMBER SUGIMURA: Oh, I didn't. I didn't consult with them. I didn't think that we do that, but--

CHAIR LEE: Okay.

COUNCILMEMBER SUGIMURA: I certainly--

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR LEE: You're frozen.

VICE-CHAIR RAWLINS-FERNANDEZ: I agree with Member . . . Ah, okay, how about now? Now, can you hear me? Yes?

CHAIR LEE: Well, you know, your, what do you call that, the strength of your--

COUNCILMEMBER KING: You might want to try--

CHAIR LEE: Well, anyway.

COUNCILMEMBER KING: --turning off your video.

CHAIR LEE: Yeah, if you turn off your video. You'll probably be, have a stronger audio.

VICE-CHAIR RAWLINS-FERNANDEZ: Alright, can you hear me?

CHAIR LEE: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: Can you hear me? Okay. Okay.

CHAIR LEE: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: Alright. Mahalo, everyone. Teamwork makes the dream work. Alright. I agree with Member Molina, that if this is something more, you know, controversial as Member Paltin alluded to, that it may serve everyone better if it goes to Committee first. And that way, if there is a lot of push back from the community, that perhaps, you know, we will save the Planning Commission time. Because we know that the Planning Commissions often have a very full docket.

That said, I, I, if, if it does have the votes to, you know, pass out or be adopted today, I was hoping that Member Sugimura would please explain the rationale behind her amendment. Mahalo, Chair.

CHAIR LEE: Member Sugimura.

COUNCILMEMBER SUGIMURA: Yeah, so I think I said, Tamara Paltin asked that question, and it's a request that came from my community. As you know, I have breadbasket, right, I mean, I have a lot of ag in Upcountry, so does Member Molina.

VICE-CHAIR RAWLINS-FERNANDEZ: Member Sugimura?

COUNCILMEMBER SUGIMURA: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: I understand that it was a request from the community.

COUNCILMEMBER SUGIMURA: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: But if you could explain what the purpose of the amendment is--

COUNCILMEMBER SUGIMURA: Oh. So--

VICE-CHAIR RAWLINS-FERNANDEZ: --and what it would--

COUNCILMEMBER SUGIMURA: So, the purpose of the amendment is to, is to do farm dwelling for 1,000 and increase it to 1,500. And it is, as you heard from the Dragon Fruit discussion that we had in PSLU, the need for farm workers and how to accommodate that for the industry. So, that was the combination of that. That was the request.

CHAIR LEE: Okay. If I may say something, Member Sugimura.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR LEE: I can understand why you made that suggestion, because we've had several items go straight to the Planning Commission lately. But we've been getting, the feedback we've been getting is, Council, vet your items first, you know, go through the process first then send it to the, to the commissions. Because they have no idea what we have in mind, you know? So, what they want is a finished product rather than a starting product.

COUNCILMEMBER SUGIMURA:

OKAY, SO I WITHDRAW MY MOTION, THEN.

I'm hearing you guys. That's really fine with me. I just thought we would move the process along because of our housing shortage. But that was, you know, my thought on that.

CHAIR LEE: If I, if I remember correctly, I think the moratorium bill went straight to the Planning Commission.

COUNCILMEMBER SUGIMURA: It did. Do we remember? Yeah, that's exactly what I had said.

CHAIR LEE: That one and several others. So, but I don't think that's a good trend to follow.

COUNCILMEMBER SUGIMURA: Okay. Okay, we won't do that.

CHAIR LEE: In the future, because, because we're, we've been getting feedback from, from the Planning Department and the Planning Commission.

Yes, Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. If you're going to use the hotel moratorium bill as an example, there were two. And the other one was discussed before the second one went to the Planning Commission. Wanted to put that on the record for clarification. Mahalo, Chair.

CHAIR LEE: No, I, I wasn't trying to pick on your moratorium bill. I was just giving an example, that was a recent example. And there were probably several other examples that don't come to mind at the moment.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, I understand, Chair. I just wanted, you know, it's fact specific and I just wanted to add those facts because it matters. Mahalo, Chair.

CHAIR LEE: Okay. There were two moratorium bills, right? But I was only talking about one.

Member Paltin.

COUNCILMEMBER PALTIN: But I just wanted to clarify, it wasn't the Dragon Fruit Farm that requested this increase in square footage, was it? Oh, okay. That was just an example? Oh, okay. Okay.

CHAIR LEE: They don't live in Kula. Or do they? I don't know, maybe they do.

COUNCILMEMBER PALTIN: That was the problem. They don't live at Launiupoko.

CHAIR LEE: Yeah, I think they live in Haiku, yeah? Haiku.

COUNCILMEMBER PALTIN: Oh, okay.

CHAIR LEE: Okay. Alright, so we got that straight.

COUNCILMEMBER SUGIMURA: Thank you, Members.

CHAIR LEE: Alright. Yeah, so this you're asking to be referred to the PSLU?

COUNCILMEMBER SUGIMURA: Yeah. . . . sent to my Committee if you want me to talk about it, but PSLU.

CHAIR LEE: Well, she, she's, she doesn't have enough, I think. Her, her agenda is so slim, yeah.



Okay. So, then, we were, I was asking you if there were any objections to the referrals as read by the Clerk. And there were no objections, except for CC 21-555. So, that will be, without objections, sent, referred to the PSLU Committee. No objections?

MEMBERS VOICED NO OBJECTION.

CHAIR LEE: Okay, moving right along. Madam Clerk.

COUNTY CLERK: Okay, Chair. For the record, as far as the reso numbers assigned to the resolutions passed so far:

County Communication 21-545, regarding Hale Pilina, is RESOLUTION 21-198.

County Communication 21-550, establishing the Youth Council, is RESOLUTION 21-199.

And, oh, County Communication 21-541, Water Use and Development Plan extension, is 21-197.

CHAIR LEE: Alright. Ordinances.

COUNTY CLERK: Item M, Ordinances for first reading.

## ORDINANCES

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 149 (2021)

A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B.070, MAUI COUNTY  
CODE, TO ADOPT THE UPDATED WEST MAUI COMMUNITY PLAN

CHAIR LEE: Member Paltin, are you going to have multiple amendments? Like, long multiple amendments or not? I was wondering if we should save this for last.

COUNCILMEMBER PALTIN: Okay. Alright.

CHAIR LEE: Okay. Because Vice-Chair Rawlins-Fernandez can do like five or six in one fell swoop.

COUNCILMEMBER PALTIN: That's fine with me.

CHAIR LEE: Okay.

COUNCILMEMBER PALTIN: Save the best for last.

(See pages 160 through 202 for discussion and action.)

CHAIR LEE: Yeah. Madam Clerk. The second and final reading.

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 140 (2021)

A BILL FOR AN ORDINANCE AMENDING  
THE FISCAL YEAR 2022 BUDGET FOR THE COUNTY OF MAUI  
AS IT PERTAINS TO APPENDIX A, PART I,  
GRANTS AND RESTRICTED USE REVENUES – SCHEDULE OF GRANTS AND  
RESTRICTED USE REVENUES BY DEPARTMENTS AND PROGRAMS,  
DEPARTMENT OF POLICE,  
(HIGH INTENSITY DRUG TRAFFICKING AREAS (HIDTA))

CHAIR LEE: Vice-Chair Rawlins-Fernandez, you, you want to go one by one, or you want her to read all of them?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. We can do all of the Budget, Finance, and Economic Development second reading items. Bill 141, well, I mean, I, I guess if Member Sinenci wants me to, to do the motion for that, I can do that one too.

Okay, I got the thumbs up. Go ahead, Madam Clerk, or Madam Chair.

CHAIR LEE: Well, Madam Clerk, go ahead.

COUNTY CLERK: Okay.

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 141 (2021)

A BILL FOR AN ORDINANCE AMENDING SECTION 14.12.030, MAUI  
COUNTY CODE, EXEMPTING DEVELOPMENT BY THE DEPARTMENT OF  
HAWAIIAN HOME LANDS UNDER THE HAWAIIAN HOMES COMMISSION ACT  
FROM THE WATER AVAILABILITY POLICY

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 142 (2021)

A BILL FOR AN ORDINANCE AMENDING  
THE FISCAL YEAR 2022 BUDGET FOR THE COUNTY OF MAUI  
AS IT PERTAINS TO ESTIMATED REVENUES;  
DEPARTMENT OF WATER SUPPLY,  
WAILUKU-KAHULUI COMMUNITY PLAN AREA,  
WATER SUPPLY, BOND FUND,  
ACQUISITION OF 1888 WILI PA LOOP BUILDING AND PROPERTY;  
TOTAL CAPITAL IMPROVEMENTS PROJECT APPROPRIATIONS;  
TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 143 (2021)

A BILL FOR AN ORDINANCE AMENDING  
THE FISCAL YEAR 2022 BUDGET FOR THE COUNTY OF MAUI  
AS IT PERTAINS TO APPENDIX C – CAPITAL IMPROVEMENT PROJECTS,  
DEPARTMENT OF WATER SUPPLY, WAILUKU-KAHULUI COMMUNITY PLAN AREA,  
ACQUISITION OF 1888 WILI PA LOOP BUILDING AND PROPERTY

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 144 (2021)

A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 5219,  
BILL NO. 48 (2021), RELATING TO THE ISSUANCE OF GENERAL  
OBLIGATION BONDS OF THE COUNTY OF MAUI  
ISSUANCE, SALE AND DELIVERY OF SAID BONDS  
(DEPARTMENT OF WATER SUPPLY – ACQUISITION OF  
1888 WILI PA LOOP BUILDING AND PROPERTY)

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 145 (2021)

A BILL FOR AN ORDINANCE AMENDING  
THE FISCAL YEAR 2022 BUDGET FOR THE COUNTY OF MAUI  
AS IT PERTAINS TO ESTIMATED REVENUES;  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT,  
WAILUKU-KAHULUI COMMUNITY PLAN AREA,  
SEWER, SEWER FUND,  
KAHULUI AND WAIIEHU BEACH ROAD SEWER LINE UPGRADE,  
TOTAL CAPITAL IMPROVEMENTS PROJECT APPROPRIATIONS,  
TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 146 (2021)

A BILL FOR AN ORDINANCE AMENDING  
THE FISCAL YEAR 2022 BUDGET FOR THE COUNTY OF MAUI  
AS IT PERTAINS TO APPENDIX C – CAPITAL IMPROVEMENT PROJECTS,  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT,  
KAHULUI AND WAIIEHU BEACH ROAD SEWER LINE UPGRADE

COUNTY CLERK: Bill 147 (2021).

CHAIR LEE: Council, okay, stop. Council Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Madam Clerk wanted me to do all of the second and final readings.

COUNTY CLERK: All the heavy lifting.

VICE-CHAIR RAWLINS-FERNANDEZ: Just get it done one time.

OKAY, I MOVE TO PASS, PASS BILL 140 THROUGH BILL 146  
ON SECOND AND FINAL READING.

COUNCILMEMBER KAMA:

SECOND.

COUNCILMEMBER SINENCI: Second.

COUNCILMEMBER MOLINA: Second.

CHAIR LEE: Okay, moved by Vice-Chair Rawlins-Fernandez, seconded by Pro Tem Kama to move Bills 140 through 146 on second and final reading.

Discussion?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR LEE: Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Bill 140 amends Appendix A, Part I, of the Fiscal Year 2022 Budget to increase the appropriations for the grant entitled "High Intensity Trafficking Areas *[sic]* (HIDTA)" in the amount of \$45,000.

On behalf of Member Sinenci, Bill 141 amends Section 14.12.030, Maui County Code, to exempt development by the Department of Hawaiian Home Lands, under the Hawaiian Homes Commission Act from the Water Availability Policy. While discussing this proposal in our Agriculture and Public Trust Committee meetings, we revised the original bill per the guidance of our Managing Director, Department of Water Supply, Deputy Corporation Counsel, and representative of the Department of Hawaiian Home Lands. They all provided their support of the bill.

At our last Council meeting, we further revised the bill to clarify the exemption applies development by the Department of Hawaiian Home Lands, under the Hawaiian Homes Commission Act, provided that exemptions for industrial, business, hotel and resort, or other commercial use projects designed and intended to generate revenue as authorized by the Hawaiian Homes Commission Act, be approved by the Council. And further, clarified during testimony today that Hawaiian Home Land residential projects often don't get the exemption because of the income qualification requirement of those that would be residing in the homes or purchasing the homes that is not part of DHHL's waitlist process.

Bill 142 through 144 amend the Budget bill, the Appendix C, and the Bond Authorization bill, to add funding and a project description under Department of Water Supply, Wailuku-Kahului Community Plan Area for the acquisition of 1888 Wili Pa Loop Building and Property, in the amount of \$4,020,000.

Bill, Bills 145 and 146 amend the Budget bill and Appendix C bill to add funding and a project description under the Department of Environmental Management, Wailuku-Kahului Community Plan Area, for Kahului and Waiehu Beach Road Sewer Line Upgrade, in the amount of \$250,000 in additional Sewer Fund Revenue.

I ask the Councilmembers continued motion of these items on second and final reading. Mahalo, Chair.

CHAIR LEE: Very good.

Member Sugimura.

COUNCILMEMBER SUGIMURA: So, as you know in first reading, I had concerns about the Maui County Federal Credit Union facility, to purchase it for that four million for Department of Water Supply. And I, our staff wrote a letter, and I got a really comprehensive letter back from Michele Yoshimura, so appreciate that. And basically, the questions that I had about parking, I'm going to share it with you just so that the public knows what we're buying and the impact of this purchase. Cause I can, as you can tell, it's going to go through.

So, there's 43 parking stalls, 30 for employees, 13 for the public. And that there are nine employees moving from One Main Plaza. There's also fifth floor employees, which is Department of Water Supply, to expand the current space occupied by the Engineering Division. They plan to occupy the building if we purchase it by, move-in 2022.

Electric vehicles, as you know, there's a charger there and the charge is 1,500 annually. They expect minimum reservation. This was a good thing to hear. Minimum furnishing, because the Maui County Federal Credit Union to include some furnishings when we purchase the facility. There is Wi-Fi internet.

The conference room capacity is 22, which to me sounds small. But maybe with the new COVID requirements of being able to testify online, it kind of changes the dynamics. But the Kalana Pakui Building is also available.

The Director and Administration is not moving to the new building. That was one of my questions. They do not pay rent on, cause there's, you know, they're their own enterprise. They do not pay rent on the fifth floor. And that they may consider acquisition of more properties.

And the good thing that Member Paltin will like is that they're actually coming up with a consolidated list with the requested information, which was in my letter. And I

basically asked for a list of all non-County owned facilities and the rent pay per year, terms of lease, which departments are there, how many employees occupy that, other related costs as it may be appropriate, and how does that impact the whole total County facilities outlook?

So, I, I was, I was feeling, at the first reading, that we were getting things in piecemeal and then Member Paltin said she would take it, is that right, Member Paltin, you're going to take it up in your Committee? Is that what you said?

COUNCILMEMBER PALTIN: Oh, I--

COUNCILMEMBER SUGIMURA: I can take it up in my Committee.

COUNCILMEMBER PALTIN: Got it. It is in plan, is it in Planning and Land Use, or would it be Water or Budget or something?

COUNCILMEMBER SUGIMURA: Yea, probably not. Well, I, I don't mean only this. I mean overall, the overall plans for the County. I was more concerned about the big, big picture, not only about this, cause this, this is going to go through, right, so?

COUNCILMEMBER PALTIN: Oh, yeah. I have all the, not the, not, I have the item of all County-owned inventory, County-owned property inventory in my Committee, correct.

COUNCILMEMBER SUGIMURA: Okay. So, you're planning on taking it up eventually? Anyway, I have this, I have this really good letter that I got back. Well done, Michele Yoshimura, as usual, and the team, Administration team. So, thank you.

CHAIR LEE: Okay.

COUNCILMEMBER SUGIMURA: Just wanted to share.

CHAIR LEE: Thank you. Thank you. I was going to say something and then I got distracted. It'll come back. Okay. Any more discussion? Any more discussion? Oh, yeah, I thought you said, Member Sugimura, something about Water going to Kalana Pakui?

COUNCILMEMBER SUGIMURA: Oh, for conferences, for conference room. So, if they're not, their conference room fits only, did I say 22 people? Conference room capacity is 22 and if there are more, you know, Board of Water Supply meetings where it's more than 22 people, that they indicated that the Kalana Pakui Building has a larger, you know, the conference room that we always use for Planning.

CHAIR LEE: Okay.

COUNCILMEMBER SUGIMURA: So--

CHAIR LEE: That is unsettled yet.

COUNCILMEMBER SUGIMURA: That is unsettled?

CHAIR LEE: Yeah, because that is going to be our property.

COUNCILMEMBER SUGIMURA: Oh, oh.

CHAIR LEE: So, that's up for negotiation, yeah.

COUNCILMEMBER SUGIMURA: You have to loan it to them. Okay.

CHAIR LEE: But we'll see. Okay.

COUNCILMEMBER SUGIMURA: Anyway, that's the information I got. I was very pleased with the responses, and I appreciate that. And I'll gladly share with you the letter that I received, this, if the other Members are interested. Thank you.

CHAIR LEE: You see. There is rhyme and reason for what we do.

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR LEE: Occasionally.

Alright, Madam Clerk.

COUNCILMEMBER SUGIMURA: The vote.

CHAIR LEE: We have the balance left. Oh, we have to vote yet. Madam Clerk, okay. All those in favor of the motion, raise your hand and say "aye".

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

CHAIR LEE: Okay. Opposed "no".

NOES: NONE.



CHAIR LEE: Motion carries.

Madam Clerk.

COUNTY CLERK: Okay. Continuing on for second and final reading.

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 147 (2021)

A BILL FOR AN ORDINANCE AMENDING SECTION 19.06.020, MAUI COUNTY  
CODE, ADOPTING DIGITAL ZONING MAP (3) AS THE OFFICIAL ZONING MAP  
FOR THE ISLAND OF MAUI

COUNTY CLERK: And bill--

CHAIR LEE: Member Paltin. Well, let's just take one at a time. Member Paltin.

COUNCILMEMBER PALTIN: I'm not as multi-talented as Member Rawlins-Fernandez. I  
gotta go . . . So--

CHAIR LEE: Go ahead.

COUNCILMEMBER PALTIN: You calling on me?

CHAIR LEE: Yes, for Bill 147.

COUNCILMEMBER PALTIN: Okay, so funny story.

IF THERE IS NO OBJECTIONS, I WOULD LIKE TO PLACE  
THIS ITEM ON THE CLERK'S TABLE UNTIL THE NEXT  
MEETING, OR UNTIL THE FIRST AMENDMENT TO THE  
UNILATERAL AGREEMENT AND DECLARATION FOR  
CONDITIONAL ZONING DATED JULY 31, 2020, IS  
RECORDED AND RECEIVED.

And I'm, I can explain more but I don't know if you really want to know. So, that's--

CHAIR LEE: Probably not. Okay.

COUNCILMEMBER MOLINA:

NO OBJECTIONS.

CHAIR LEE: Second? Okay, the, we have a motion to table this item, put it on the Clerk's table until certain things are received, seconded by Member Molina. More discussion?

Member King, you wanted to hear the long story?

COUNCILMEMBER KING: Did I raise my hand, or was I shuffling some papers? Sorry.

CHAIR LEE: Okay, anymore discussion, anybody? 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.

NOES: NONE.

CHAIR LEE: Nine "ayes", zero "noes"; motion carries. Bill No. 147 is to lay on the Clerk's table until the next Council meeting.

Madam Clerk.

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 148 (2021)

A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 19.98,  
MAUI COUNTY CODE, DECLARING A MORATORIUM ON  
NEW TRANSIENT ACCOMMODATIONS ON MAUI

CHAIR LEE: Second? Oh, Member Paltin.

COUNCILMEMBER PALTIN:

I MOVE TO PASS BILL 148 (2021) ON SECOND AND FINAL  
READING.

CHAIR LEE: Second?

COUNCILMEMBER JOHNSON:

SECOND.

CHAIR LEE: Member Johnson. So, moved by Member Paltin, seconded by Member Johnson to pass Bill 148 on second and final reading.

Discussion? Member Paltin.

COUNCILMEMBER PALTIN: Your Planning and Sustainable Land Use Committee, having met on November 3, 2021, makes reference to County Communication 21-280, transmitting a proposed resolution referring to the Maui Planning Commission a bill to establish Chapters 19.98 and 20.41, Maui County Code, declaring a moratorium on new transient accommodations on Maui.

The purpose of the proposed bill is to establish Chapters 19, 19.98 and 20.41, Maui County Code, for a moratorium to maintain the number of transient accommodation units for a two-year period 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, or two years from the enactment of the bill, whichever is sooner.

Your Committee notes, the, the Maui Planning Commission, at its meeting of September 28, 2021, recommended approval of the proposed bill attached to Resolution 21-98, with revisions.

Your Committee received numerous written and oral testimony in support and opposition to the revised proposed bill.

Your Committee received a computer-generated presentation from the Department of Planning, entitled "Proposed Moratorium on New Transient Vacation Accommodations," and discussed revisions as recommended to the Commission with your Committee, which your Committee supported.

Your Committee further amended and revised the proposed bill to delete language extending the moratorium an additional six months; delete Title 20 which was confirmed to be redundant by the Department of the Corporation Counsel; and add an exception to allow modifications to permits that existed prior to the effective date of the moratorium but do not increase the number of units. I respectfully ask for the Members support of my motion. Thank you.

Oh, we can't hear you, cause you're muted.

CHAIR LEE: More discussion?

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Can you hear me?

CHAIR LEE: Yeah.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. I turned off my video. Let me know if you can't hear me, okay? I have the, a motion to amend. Okay, let's see. Alright, I have three areas to amend. Chair, what would your preference be? Would you like me to take them one at a time or should I--

CHAIR LEE: Wait, wait, wait. So, you're talking about three separate amendments?

VICE-CHAIR RAWLINS-FERNANDEZ: Yes.

CHAIR LEE: Okay. Just one a time then, yeah?

VICE-CHAIR RAWLINS-FERNANDEZ: Alright. Okay, we'll take the first one up.

AND THIS IS IN SECTION 19.98.040, EXCEPTIONS. AND E. OH, SORRY F. WHERE IT WOULD READ "ANY DEVELOPMENT THAT INCLUDES NEW HOUSING UNITS [S/C] BUT, AT A RATIO OF AT LEAST ONE HOUSING FOR EVERY THREE TRANSIENT ACCOMMODATION UNITS". I MOVE TO AMEND THREE TRANSIENT ACCOMMODATION UNITS TO ONE.

CHAIR LEE: Okay.

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: That's a second, Members. King, is that a second?

COUNCILMEMBER KING: That was a second.

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

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I don't think I need to elaborate too much. We, we're in a housing crisis. Mahalo, Chair.

CHAIR LEE: Okay. Any, anybody else?

Member King.

COUNCILMEMBER KING: Thank you, Chair. And you know, I, when this exception was put in, I wasn't there. So, but if I had been, I would've opposed it just outright, because we tried, you know, this was, this was tentatively put in the original moratorium bill and, and voted down. But I, I think it's a, it's a loophole, it's a little bit of a dangerous loophole because it, it could allow developers of hotels to just attached themselves to existing housing projects. And, but I understand that it passed out of Committee. I think this is a better version of it, one for one, rather than one housing unit for every three transient units. So, I support the amendment.

CHAIR LEE: Okay. Anyone else? All those in favor of the amendment, raise your hand and say "aye". Okay, I see one, two, um, Madam Clerk, roll call.

All those in favor of the amendment, raise your hand and say "aye". Oh, I'm sorry. Go right down the line. Go right down the line.

COUNTY CLERK: Okay.

Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI:

AYE.

COUNTY CLERK:

Councilmember Mike Molina.

COUNCILMEMBER MOLINA:

AYE.

COUNTY CLERK:

Councilmember Kelly Takaya King.

COUNCILMEMBER KING:

AYE.

COUNTY CLERK:

Councilmember Gabe Johnson.

COUNCILMEMBER JOHNSON:

AYE.

COUNTY CLERK: Councilmember Tamara Paltin.

COUNCILMEMBER PALTIN: AYE.

COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: NO.

CHAIR LEE: Can't hear you.

COUNCILMEMBER SUGIMURA: No.

CHAIR LEE: What did you? No.

COUNCILMEMBER SUGIMURA: No.

CHAIR LEE: Okay. Next.

COUNTY CLERK: Council Pro Tem Tasha Kama.

COUNCILMEMBER KAMA: YES.

COUNTY CLERK: Vice-Chair Keani Rawlins-Fernandez

VICE-CHAIR RAWLINS-FERNANDEZ: AYE.

COUNTY CLERK: And Chair Alice L. Lee.

CHAIR LEE: NO.

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

NOES: COUNCILMEMBER SUGIMURA AND CHAIR LEE.

CHAIR LEE: So, the motion carries; seven to two.

Okay, may we have the next amendment?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

OKAY, SAME SECTION F.4. ALRIGHT, I MOVE TO ADD, AFTER THE EXISTING LANGUAGE, SO AFTER "HOUSING CREDITS MAY NOT BE ISSUED TO OR USED BY THE DEVELOPER TO SATISFY THE REQUIREMENT OF THIS SUBSECTION FOR ANY TYPE OF UNIT CONSTRUCTED". I MOVE TO ADD "THE NEW AFFORDABLE HOUSING UNITS MUST BE PHYSICALLY CONSTRUCTED OR MAY BE CONVERTED FROM HOUSING UNITS CURRENTLY USED AS TRANSIENT ACCOMMODATIONS TO BE USED AS LONG-TERM HOUSING FOR THE PURPOSES OF THIS SECTION".

And I can put it in the chat.

CHAIR LEE: I think most people got it. You need it in the chat, Members? Okay. Alright. A second?

COUNCILMEMBER KING:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez, seconded by Member King, to approve the amendment by Vice-Chair Rawlins-Fernandez.

Any more discussion? Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Alright. Okay. So, this is kind of a compromise from what we received from Member Sugimura and Mr. Mayer. Mr. Mayer's proposed language better reflects the intention of the previous amendment made at first reading. This amendment makes Section 2 of the bill consistent with the language in 19.98.040, Exceptions of this bill, which reads, "This Chapter does not apply to: A. Any new transient accommodation that has not received its last discretionary approval prior to the effective date." Oh, shoot. Yes, okay. "Prior to the effective date of the ordinance established, establishing this Chapter." And, oh, okay, no. Sorry.

CHAIR LEE: Are you, aren't you jumping ahead?

VICE-CHAIR RAWLINS-FERNANDEZ: I sure am. You're right. Alright, so, I will go back to what I was saying, this is a combination of Member Sugimura's and clarifies what was intended. Okay, mahalo, Chair.

CHAIR LEE: Further discussion? Member Sugimura. Okay, we can't hear you.

COUNCILMEMBER SUGIMURA: Yeah. Okay, thank you. Thank you, Keani, for that. I'm going to, I'm going to be speaking against the motion. As you know, what I filed with County Communication 21-543, I'm sticking to it because I think that what we did was keep to the intention of what the Planning Commission had said. And if all of you know about credits, I listened to the Planning Commission's audio and they specifically did not want, and they wanted to send the, you know, as part of the recommendations that no credits could be used. And they actually wanted, which was, which is my motion, for actual houses to be built. So, housing units must be physically constructed for the purpose of this section. And that, that's what I proposed. But I'm going to be voting against this because I think that I, well, that was my reason.

CHAIR LEE: Okay.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Anybody else want to chime in?

Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. I can support the amendment. It's a fair concession. So, you know, we, we'll try, you know, like with Member Sugimura's initial proposal to bracket out that language, I was concerned about that. But the proposal that was made by Mr. Mayer earlier about including both, you know, keeping existing language as well as Member Sugimura's language is fine by me. And then, of course, with Vice-Chair Rawlins-Fernandez now further adding or maybe slightly modifying the language from Member Sugimura's amendment, I think works well in my opinion. So, I'll support. Thank you.

CHAIR LEE: Okay. Anyone else? All those, oh okay, we'll do a roll call again. Easier with, Madam Clerk, roll call.

COUNTY CLERK: Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: AYE.

COUNTY CLERK: Councilmember Mike Molina.

COUNCILMEMBER MOLINA: AYE.



COUNTY CLERK: Councilmember Kelly Takaya King.

COUNCILMEMBER KING: AYE.

COUNTY CLERK: Councilmember Gabe Johnson.

COUNCILMEMBER JOHNSON: AYE.

COUNTY CLERK: Councilmember Tamara Paltin.

COUNCILMEMBER PALTIN: AYE.

COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: NO.

COUNTY CLERK: Council Pro Tem Tasha Kama.

COUNCILMEMBER KAMA: YES.

COUNTY CLERK: Council Vice-Chair Keani Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: AYE.

COUNTY CLERK: And Council Chair Alice L. Lee.

CHAIR LEE: AND I'M A NO.

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

NOES: COUNCILMEMBER SUGIMURA AND CHAIR LEE.

CHAIR LEE: So, seven "ayes", two "noes"; motion carries.

Next. Vice-Chair, next. Your third one.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR LEE: Your third, did you say you had three amendments?

VICE-CHAIR RAWLINS-FERNANDEZ: Yes.

LAST ONE IS TO SECTION 2, AND IT WOULD READ, "THIS ORDINANCE TAKES EFFECT ON APPROVAL". AND I MOVE TO, OKAY, TO MAKE IT READ, "THIS ORDINANCE TAKES EFFECT ON APPROVAL AND APPLIES TO ANY NEW TRANSIENT ACCOMMODATION THAT HAS [SIC] RECEIVED ITS FINAL DISCRETIONARY APPROVAL PRIOR TO THE EFFECTIVE DATE OF THIS ORDINANCE".

CHAIR LEE: Second?

COUNCILMEMBER PALTIN:

SECOND.

VICE-CHAIR RAWLINS-FERNANDEZ: And I can put it in the chat.

CHAIR LEE: Okay. Moved by Vice-Chair Rawlins-Fernandez, seconded by Member Paltin.

Discussion? I think this is where everybody's waiting for your discussion.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Chair. Okay, so this is where Mr. Mayer's proposed language better reflects the intention of the previous amendment made at first reading. The amendment makes Section 2 of the proposed bill . . . exceptions to this bill, which reads: "This chapter does not apply to: A. Any new transient accommodations that has received its last discretionary approval prior to the effective date of the ordinance establishing this chapter; and B. Any new transient accommodation that's not, that does not require any additional discretionary approvals prior to the operation as of the effective date of this ordinance establishing this chapter." Mahalo, Chair. And I put it in the chat.

CHAIR LEE: Does everybody understand the amendment?

We have Deputy Corp. Counsel Richelle Thomson.

FIRST DEPUTY CORPORATION COUNSEL THOMSON: Thank you. Just a quick question on the chat. Do you mean for it to say, "that has not received its final discretionary approval"? I think it's just the "not" is missing from it. But I believe that's what, what you were saying verbally.

CHAIR LEE: We can't hear you. We can't hear you. You're muted.

VICE-CHAIR RAWLINS-FERNANDEZ: Yes. I, I was muted. I was reading it to myself again. Section 2, this ordinance takes effect, oh sorry. This ordinance takes effect on approval and applies to any new transient accommodation that has received its, and applies to any that has received its--

COUNCILMEMBER PALTIN: Does not apply.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Yeah.

COUNCILMEMBER PALTIN: Does not apply to any new that hasn't.

VICE-CHAIR RAWLINS-FERNANDEZ: Does not. Does not. Received its final discretionary approval prior to the effective date of this ordinance. Okay, I'll put it in the chat again. Okay, it's in the chat. Mahalo, Ms. Thomson. Mahalo for that catch.

CHAIR LEE: Anymore discussion?

Yes, Member Kama.

COUNCILMEMBER KAMA: Question. So, I'm kind of confused about what we're actually saying here. So, in everyday language, we're saying the ordinance is going to take effect, but, and it applies to any new transient accommodation that hasn't received its final discretionary approval? That's what we're saying?

CHAIR LEE: You're muted.

VICE-CHAIR RAWLINS-FERNANDEZ: Yes. Yes, Member Pro Tem Kama. It applies to any new transient accommodations that has not received its final discretionary approval prior to the effective date of this ordinance.

COUNCILMEMBER KAMA: So then, my other question is, so how many other types of approvals do you have to go through before you get to the final discretionary? I mean, are there other approvals? And, and at what juncture of your approval are certain applications in that would prohibit them from continuing the process or stopping in the middle of the river. Just . . . question.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Pro Tem Kama. Okay.

COUNCILMEMBER KAMA: Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: So there, there are discretionary approvals that come from different bodies, like the Planning Commission. And then there's, I think it's called municipal approvals or like administrative approvals and I . . .

CHAIR LEE: Ministerial. Ministerial.

VICE-CHAIR RAWLINS-FERNANDEZ: Thank you. Thank you. I was looking for that, that word. Ministerial. So, those are the ministerial and discretionary. And the ministerial happens administratively. And the discretionary happens through bodies like, like ours and the Planning Commission. I--

COUNCILMEMBER KAMA: So--

VICE-CHAIR RAWLINS-FERNANDEZ: I'd like Ms. Thomson to explain it better than I just did. You can also ask her.

COUNCILMEMBER KAMA: No, I think I got that. I was just thinking that between the ministerial and the discretionary, if somebody is in between that, they don't get to continue on to the process. They would have had to have gone through the entire, till they got to the discretionary. So, what comes first, ministerial or discretionary? Or it comes at whatever, to whatever entity gets to get to you last or first?

VICE-CHAIR RAWLINS-FERNANDEZ: Right. And, and I will defer to Ms. Thomson cause I'm sure she'll say it better than I would.

COUNCILMEMBER KAMA: Thank you.

CHAIR LEE: Ms. Thomson.

FIRST DEPUTY CORPORATION COUNSEL THOMSON: So, in general, you would have your discretionary permits coming first, such as SMA and, you know, your, your larger approvals. And then, once those are done, then you move into ministerial permits. So, they're more of just the, after the major approvals are done, then you move into ministerial. And the reason that it's important is for a vested rights issue. So, once you have your discretionary approvals completed, then certain rights have vested. And that's the reason for that distinction.

COUNCILMEMBER KAMA: Thank you. Thank you, Chair.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you. I just wanted to clarify this is not substantially different than what was there before, right? It's just prettier in terms of how the words are strung together.

CHAIR LEE: Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Yeah, kind of. I mean, it's phrased clearer.

COUNCILMEMBER PALTIN: But it doesn't have any different effect than what was there before? Same end result?

VICE-CHAIR RAWLINS-FERNANDEZ: The way it was worded didn't, I think it would have, I'll pull up the original language, if you want? But it kind of got a little mixed up. So, this makes it clearer.

COUNCILMEMBER PALTIN: I guess, maybe Corp. Counsel's opinion, if this is a substantive change or not?

CHAIR LEE: Ms. Thomson?

FIRST DEPUTY CORPORATION COUNSEL THOMSON: Thank you, Chair. I believe that this clarifying language follows the prior version, and there is an exception A. for any new transient accommodation that has received its last discretionary approval prior to the effective date of the ordinance establishing the chapter. So, I believe that Councilmember Rawlins-Fernandez amendment is in line with that language. So, correct, not a change . . .

COUNCILMEMBER PALTIN: Okay. I just wanted to understand that. Thank you.

CHAIR LEE: Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. So, I'm going to speak against the motion. By listening to the communications, or testimony, as well as what the Planning Commission had said, is that they very clearly, Planning Commission said that they wanted to include, or not to include permits that were already in process. So, this would be contrary to what the Planning Commission recommended, and the Planning Department sent over to us initially. So, I'm going to, speaking against the motion.

CHAIR LEE: Anyone else? If not, all those in favor of the amendment, the motion, roll call.

Madam Clerk.

COUNTY CLERK:	Councilmember Shane Sinenci.
COUNCILMEMBER SINENCI:	AYE.
COUNTY CLERK:	Councilmember Mike Molina.
COUNCILMEMBER MOLINA:	AYE.
COUNTY CLERK:	Councilmember Kelly Takaya King.
COUNCILMEMBER KING:	AYE.
COUNTY CLERK:	Councilmember Gabe Johnson.
COUNCILMEMBER JOHNSON:	AYE.
COUNTY CLERK:	Councilmember Tamara Paltin.
COUNCILMEMBER PALTIN:	AYE.
COUNTY CLERK:	Councilmember Yuki Lei Sugimura.
COUNCILMEMBER SUGIMURA:	NO.
COUNTY CLERK:	Councilmember Tasha Kama. Council Pro Tem Tasha Kama.
COUNCILMEMBER KAMA:	NO.
COUNTY CLERK:	Council Vice-Chair Keani Rawlins- Fernandez.
VICE-CHAIR RAWLINS-FERNANDEZ:	AYE.
COUNTY CLERK:	And Chair Alice L. Lee.
CHAIR LEE:	I AM A NO.
AYES:	COUNCILMEMBERS JOHNSON, KING, MOLINA, PALTIN, SINENCI, AND VICE-CHAIR RAWLINS- FERNANDEZ.

NOES: COUNCILMEMBERS KAMA, SUGIMURA, AND  
CHAIR LEE.

CHAIR LEE: So, the vote is six to three; motion carries. That's three amendments. Anymore amendments, Members?

We're going to vote on the main motion as amended. Ready? Deputy County Clerk.

COUNTY CLERK: Do you want a roll call for that?

CHAIR LEE: Oh, I'm sorry. Madam Clerk. Yeah, Madam Clerk.

COUNTY CLERK: Okay. Okay. Roll call for the main motion. Councilmember Shane Sinenci.

CHAIR LEE: As amended.

COUNTY CLERK: As amended.

Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: AYE.

COUNTY CLERK: Councilmember Mike Molina.

COUNCILMEMBER MOLINA: AYE.

COUNTY CLERK: Councilmember Kelly Takaya King.

COUNCILMEMBER KING: AYE.

COUNTY CLERK: Councilmember Gabe Johnson.

COUNCILMEMBER JOHNSON: AYE.

COUNTY CLERK: Councilmember Tamara Paltin.

COUNCILMEMBER PALTIN: AYE.

COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: NO.

COUNTY CLERK: Council Pro Tem Tasha Kama.

COUNCILMEMBER KAMA: NO.

COUNTY CLERK: Council Vice-Chair Keani Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: AYE.

COUNTY CLERK: And Council Chair Alice L. Lee.

CHAIR LEE: NO.

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

NOES: COUNCILMEMBERS KAMA, SUGIMURA, AND CHAIR LEE.

CHAIR LEE: So, the motion carries. The "ayes" have it with six, and the "noes", three.

Now, the final item.

COUNTY CLERK: One, one unfinished matter is the disposition for Councilmember Sugimura's County Communication 21-543.

COUNCILMEMBER SUGIMURA: Yeah, file County Communication, was it 543?

I MOVE TO FILE COUNTY COMMUNICATION 543.

Thank you. Thanks for the reminder.

COUNCILMEMBER JOHNSON:

SECOND.

COUNCILMEMBER KAMA: When you get to the . . .

CHAIR LEE: What's that? Somebody talking? Moved by Member Sugimura, seconded by Member Johnson, to file the communication.

Any discussion, Member Sugimura?



COUNCILMEMBER SUGIMURA: No.

CHAIR LEE: Anybody else? All those in favor of the motion, 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.

Oh, Vice-Chair, you didn't vote "aye"? This is to file the communication.

VICE-CHAIR RAWLINS-FERNANDEZ: Sorry, . . . Yes.

CHAIR LEE: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: No, I, I vote "no". Just kidding, just kidding. I voted "aye". I was just frozen. Sorry.

CHAIR LEE: Okay. So, nine "ayes", zero "noes"; motion carries. Alright.

Now, we got the big one.

COUNTY CLERK: Our final item is M. Ordinances, First Reading, a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B.070, MAUI COUNTY CODE, TO ADOPT THE UPDATED WEST MAUI COMMUNITY PLAN".

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: I can do this now, but aren't we supposed to waive some Rules on the other one?

CHAIR LEE: Which other one?

COUNCILMEMBER PALTIN: That we just did.

VICE-CHAIR RAWLINS-FERNANDEZ: I'll move it. I'll make the motion.

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I think procedurally, we were suppose to waive the Rule before we take the vote on the main motion. But we already took the vote. So, I don't know if waiving the Rule after the fact is how it works. Can we ask Mr. Raatz?

CHAIR LEE: Yeah, let's, let's ask him.

DEPUTY DIRECTOR OF COUNCIL SERVICES: Thank you, Chair.

CHAIR LEE: Vice-Chair?

DEPUTY DIRECTOR OF COUNCIL SERVICES: The--

CHAIR LEE: Wait, I just want to check. Vice-Chair, did you have it in your script, and you just overlooked it?

VICE-CHAIR RAWLINS-FERNANDEZ: No.

CHAIR LEE: It wasn't there at all?

Okay, Mr. Raatz.

DEPUTY DIRECTOR OF COUNCIL SERVICES: Thank you, Chair. The Rules have no legal effect. So, the bill has been passed on second and final reading in accordance with the Charter. So, technically, all that needs to happen has already occurred. But for the sake of complying with the body's own Rules, if the motion were made to put on the record that you're waiving Rule 19.C. that would be fine. And it has happened in the past, where the motion and vote on the waiving the Rule actually happens after the action on the bill. So, just a matter of the body's preference on adhering to its own procedural Rules. Thank you, Chair.

CHAIR LEE: Alright, I suggest that we take a vote on the Rule and make it retroactive.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

I MOVE THAT WE PUT ON THE RECORD THAT WE, FOR THE  
RECORD--

CHAIR LEE: Intended.

VICE-CHAIR RAWLINS-FERNANDEZ:

--INTENDED TO WAIVE RULE 19.C. OF THE RULES OF THE  
COUNCIL WHEN TAKING THE VOTE ON THE MAIN MOTION  
ON BILL 148.

CHAIR LEE: Okay. And second?

COUNCILMEMBER JOHNSON:

SECOND.

CHAIR LEE: Moved by Vice-Chair Rawlins-Fernandez and seconded by Member Johnson, to rule, to waive, I mean, to waive the Rule of the Council on action that we just took on Bill 148. Okay. Because we intended to do it, but somehow it was inadvertently overlooked. Alright, all those in favor of the motion, 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: Okay, we got nine "ayes" on that, zero "noes"; motion carries. Okay, very good.

So, we're on the West Maui. Okay, now what did, were you starting to say, Member Paltin?

COUNCILMEMBER PALTIN: Sorry, I would have brought it up earlier, but I thought it was okay we waive it after cause I wasn't sure it was going to pass and then, you know. But I'm ready for my part.

CHAIR LEE: Yours.

## ORDINANCES

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 149 (2021)

A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B.070, MAUI COUNTY  
CODE, TO ADOPT THE UPDATED WEST MAUI COMMUNITY PLAN

COUNCILMEMBER PALTIN:

I MOVE TO PASS THE BILL ENTITLED "A BILL FOR AN  
ORDINANCE AMENDING SECTION 2.80B.070, MAUI COUNTY  
CODE, TO ADOPT THE UPDATED WEST MAUI COMMUNITY  
PLAN" ON FIRST READING.

CHAIR LEE: Second?

COUNCILMEMBER JOHNSON:

SECOND.

CHAIR LEE: Moved by Member Paltin, seconded by Member Johnson, to move the West  
Maui Community Plan bill on first reading. Bill, yeah, okay.

Discussion, Member Paltin.

COUNCILMEMBER PALTIN: Chair, at this time, I would like to introduce my amendments  
that will be distributed to the, by the Clerk in a new ASF.

CHAIR LEE: Okay. Madam Clerk, please email mine, please. Instead of putting it on  
Granicus, can you email the ASF to me?

COUNTY CLERK: Okay. Okay. Does everybody want them emailed to them?

COUNCILMEMBER PALTIN: I thought that's how it always--

COUNTY CLERK: Okay, we'll do emails.

CHAIR LEE: How many do you have, Member Paltin?

COUNCILMEMBER PALTIN: There are six on the new ASF. So, I guess, you know, the same amount as the old ASF.

CHAIR LEE: But, no, but are the, are those six separate amendments?

COUNCILMEMBER PALTIN: Six amendments on one ASF.

CHAIR LEE: Okay.

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Member Paltin, I got two emails.

COUNCILMEMBER PALTIN: They weren't from me.

VICE-CHAIR RAWLINS-FERNANDEZ: You said it's on one ASF?

COUNCILMEMBER PALTIN: Oh, okay. I thought that's what we were doing. Let's see, so the, disregard the first one. We're working off the second one.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, so the one. Okay, the one that says "ASF Bill for WMCP – CM Paltin (2)". That one?

COUNCILMEMBER PALTIN: Yeah.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo.

COUNCILMEMBER PALTIN: Everybody working off the second ASF? Okay. Alright. I'll get started then.

FOR THE FIRST ONE, I MOVE TO AMEND THE PROPOSED BILL ENTITLED "A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B.070, MAUI COUNTY CODE, TO ADOPT THE UPDATED WEST MAUI COMMUNITY PLAN" AS FOLLOWS:

1. RENUMBER "SECTION 4." AS "SECTION 5."; AND INSERT THE FOLLOWING AFTER "SECTION 3.":

"SECTION 4. THE OFFICIAL VERSION OF THE WEST MAUI COMMUNITY PLAN MAPS ARE THE DIGITAL MAPS MAINTAINED BY THE DEPARTMENT OF PLANNING,

CONSISTENT WITH THIS ORDINANCE, WHICH ARE MADE  
AVAILABLE TO THE PUBLIC AT THE WEBSITE  
[HTTPS://WWW.MAUICOUNTY.GOV/1523/COMMUNITY-PLAN](https://www.mauicounty.gov/1523/COMMUNITY-PLAN-MAPS)  
-MAPS."

VICE-CHAIR RAWLINS-FERNANDEZ: Member Paltin? Chair? Sorry. Point of . . . .

CHAIR LEE: Okay, one second. One second. One second. Okay, Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Member Paltin, would you like me to share screen, so that the, the public can follow along with the ASF?

COUNCILMEMBER PALTIN: It's cool with me if it's cool with the Chair and the Clerk.

CHAIR LEE: It, it's a great idea.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. And I have been given the ability to share screen. Okay, I'll share screen. Mahalo.

COUNCILMEMBER PALTIN: I think I didn't get a second.

CHAIR LEE: Second by, oh, wasn't it Member Johnson?

COUNCILMEMBER PALTIN: Oh.

COUNCILMEMBER JOHNSON: I seconded the main, didn't I? I, I'm, we're on the amendment, right?

CHAIR LEE: Okay.

COUNCILMEMBER JOHNSON: So.

CHAIR LEE: On the amendment, did you second the, the amendment as well?

COUNCILMEMBER JOHNSON:

SECOND.

CHAIR LEE: Okay. Very good.

COUNCILMEMBER PALTIN: Okay. You want me to--

CHAIR LEE: We're, no, we're waiting for the share, the, the screen.

COUNCILMEMBER PALTIN: Oh, okay. And as you see, the reason would be this amendment ensures official high-resolution maps are available for use by both the public and government officials, high-resolution. The original ASF that was posted listed a wrong website, where it is currently kept, but it won't be kept for future, like, officialness.

CHAIR LEE: Okay. Any more discussion, Members? So, on this amendment, just raise your hand. Raise your hand and say "aye".

COUNCILMEMBER PALTIN: Not too controversial. It's just high-resolution.

CHAIR LEE: Yeah. Okay, the only one I don't see is Member Sugimura. Did you say "aye"?

COUNCILMEMBER SUGIMURA: I did. I raised my hand.

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

NOES: NONE.

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

Second amendment.

COUNCILMEMBER PALTIN: Okay.

I MOVE TO AMEND EXHIBIT "1" AT PAGE 12 TO ADD THE  
ATTACHED GRAPHIC TO FIGURE 1.1.

CHAIR LEE: Okay. Oops, what happened?

COUNCILMEMBER PALTIN: Member Rawlins-Fernandez was seconding maybe.

CHAIR LEE: Okay. Moved by--

VICE-CHAIR RAWLINS-FERNANDEZ: Yeah, I was, I was seconding.

CHAIR LEE: --Member Paltin. Yeah, but she took it off the screen. Seconded by Vice-Chair Rawlins-Fernandez.

COUNCILMEMBER PALTIN: So, the graphic is on the last page of the ASF if you want to see the graphic. And this graphic was recommended for inclusion by the Committee, but inadvertently omitted from the bill. So, you guys probably remember saying this was good, and it just got inadvertently left off.

CHAIR LEE: Alright, anymore discussion? All those in favor of this amendment, raise your hand and say "aye".

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

CHAIR LEE: Are there any "noes"? Please say "no".

NOES: NONE.

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

The third amendment.

COUNCILMEMBER PALTIN: Okay, thank you, Chair.

I MOVE TO AMEND EXHIBIT "1" AT PAGE 39 BY INSERTING  
THE FOLLOWING POLICY:

"2.2.13 REQUIRE NEW DEVELOPMENT, REDEVELOPMENT,  
AND HRS CHAPTER 201H AND MCC CHAPTER 2.97  
HOUSING PROJECTS TO INCORPORATE THE PLANNED  
WEST MAUI GREENWAY INTO THE PROJECT AND PROVIDE  
RIGHTS-OF-WAY FOR THE GREENWAY IF THE ALIGNMENT  
CROSSES THE PROPERTY."

COUNCILMEMBER MOLINA:

SECOND.



CHAIR LEE: Okay, moved by Member Paltin, seconded by Member Molina, to approve this third amendment.

And your reason?

COUNCILMEMBER PALTIN: Thank you. This amendment is based on written testimony dated November 17, 2021, from the Maui Bicycling League. And I believe they also worked with the Planning Department on the exact wording, so. And you probably remember they came to the public hearing and testified.

CHAIR LEE: Any more discussion?

COUNCILMEMBER KING: Question, Chair?

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. So, just wanted to ask, are we able to put this requirement as it pertains to HRS Chapter 201H, because it's a State Statute?

CHAIR LEE: Good point.

Member Paltin.

COUNCILMEMBER PALTIN: I will defer to Corporation Counsel.

CHAIR LEE: Ms. Thomson.

FIRST DEPUTY CORPORATION COUNSEL THOMSON: Thank you, Chair. I'm going to ask Michael Hopper. He's also on the call, since he was, followed the plan all the way through . . .

CHAIR LEE: Mr. Hopper?

DEPUTY CORPORATION COUNSEL MICHAEL HOPPER: Sorry, it took me a minute to unmute. The questions with respect to this policy, to the extent the requirement applies to 201H, I mean, I think there's a, my understanding is there's a couple places in the plan where that's referred. I think that could be a statement of policy from the Council.

But remember, the County Council, when it does a 201H has the authority to exempt a project from County ordinances, including the community plan. So, I don't think that that would necessarily be binding on future Councils if they're doing a 201H project,

because those Councils would have some broad authority to exempt the projects potentially.

So, that's I think what I would point to for, you know, trying to establish requirements for a 201H project. That's difficult to do through County ordinance because 201H lets the Council exempt a project from any County ordinances. So, that's what I would, I think, generally say.

COUNCILMEMBER KING: So--

CHAIR LEE: Member King.

COUNCILMEMBER KING: So, is that a . . . and we're okay with this language?

DEPUTY CORPORATION COUNSEL HOPPER: I, I think you could put in, well, Member Paltin had something to add, I guess, so I don't want to speak without hearing, having that first.

COUNCILMEMBER PALTIN: Um.

CHAIR LEE: Member Paltin?

COUNCILMEMBER PALTIN: I guess I just wanted to clarify that it, the County can exempt 201H projects from County ordinances, including the community plan, except if it lies within the SMA as the Supreme Court recently ruled.

CHAIR LEE: Okay. Did that help you . . .

COUNCILMEMBER KING: All I'm asking you is, is it okay for us to make this requirement for a 201H project in, in ordinance?

DEPUTY CORPORATION COUNSEL HOPPER: This is, this is number 3; 2.2.13, correct?

COUNCILMEMBER KING: Correct.

DEPUTY CORPORATION COUNSEL HOPPER: Yes, yeah I think it's okay to put it in the plan. It's just that I think in the future, the Council could decide potentially to, to waive the requirement.

COUNCILMEMBER KING: Right. No . . . in the future. I just want to make sure that we're okay legally to put this in the plan. So, you answered the question. Thank you.

CHAIR LEE: Alright. Any more questions or discussion?

Member Paltin, anything else?

CHAIR LEE: Okay. All those in favor, raise your hand, say "aye".

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

CHAIR LEE: All "ayes". Any "noes"?

NOES: NONE.

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

Okay, let's have number 4.

COUNCILMEMBER PALTIN: Okay.

I MOVE TO AMEND EXHIBIT "1" AT PAGE 42 BY DELETING  
THE PERIOD AT THE END OF POLICY 2.3.2 AND INSERTING  
THE FOLLOWING:

", UNLESS LOW IMPACT DEVELOPMENT STRATEGIES ARE  
IMPLEMENTED TO PREVENT STORMWATER RUNOFF."

CHAIR LEE: Second?

COUNCILMEMBER SINENCI:

SECOND.

CHAIR LEE: Okay. Moved by Member Paltin, seconded by Member Sinenci, to add this fourth amendment.

Discussion, Member Paltin.

COUNCILMEMBER PALTIN: This amendment returns the policy to the version recommended by the Department of Planning.

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

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

CHAIR LEE: Okay. And if you disagree, say "no".

NOES: NONE.

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

Vice-Chair Rawlins-Fernandez.

COUNCILMEMBER PALTIN: Frozen.

CHAIR LEE: Did you have a question, or your--

VICE-CHAIR RAWLINS-FERNANDEZ: Sorry. Sorry.

CHAIR LEE: Okay. Amendment number 5, Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair.

I MOVE TO AMEND EXHIBIT "1" AT PAGE 52 TO REPLACE  
POLICY 2.4.2 WITH THE FOLLOWING:

"DEVELOPERS OF TRANSIENT ACCOMMODATION UNITS  
MUST COMPLY WITH THE COUNTY'S AFFORDABLE  
HOUSING REQUIREMENT AND PRIORITIZE FULFILLMENT  
OF AFFORDABLE HOUSING OBLIGATIONS WITHIN THE  
BOUNDARIES OF THE WEST MAUI COMMUNITY PLAN  
AREA".

And if I get a second, I'll, I'll explain.

CHAIR LEE: Somebody raise your hand.

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

CHAIR LEE: Okay. Member Pal, moved by Member Paltin, seconded by Vice-Chair Rawlins-Fernandez to add the fifth amendment.

And discussion now. Member Paltin.

COUNCILMEMBER PALTIN: Okay, so in discussion with Corporation Counsel, we decided that the policy in the posted bill would be more effectively incorporated with amendments to the Residential Workforce Housing Plan, which I intend to propose.

And this would be strictly limited to the transient accommodations. And so, because we just passed the moratorium and it's on for two years, I'm thinking within the two years we can enact this into, into the Code, rather than just the community plan. If you don't agree, then I guess . . .

CHAIR LEE: Anymore discussion? I guess it's harmless. Any more discussion? All those in favor of the motion to add this fifth amendment, raise your hand and say "aye".

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

CHAIR LEE: It looks like all "ayes". Member Sugimura?

NOES: NONE.

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

And finally, the last one.

COUNCILMEMBER PALTIN: Okay, bear with me gang.

CHAIR LEE: Uh oh. Uh oh.

COUNCILMEMBER PALTIN:

I MOVE TO AMEND THE PROPOSED BILL ENTITLED "A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B.070, MAUI COUNTY CODE, TO ADOPT THE UPDATED WEST MAUI COMMUNITY PLAN" BY AMENDING EXHIBIT "1" TO ADD THE FOLLOWING AT PAGE 96:

"FOR THE AREA BETWEEN FRONT STREET AND HONOAPIILANI HIGHWAY FROM KAHOMA STREAM TO KENUI STREET, THE FOLLOWING POLICIES AND OBJECTIVES FROM THE 1996 WEST MAUI COMMUNITY PLAN CONTINUE TO APPLY (WITH PAGE REFERENCES TO THE EXISTING COMMUNITY PLAN IN PARENTHESIS):

- (1) CONCENTRATE MULTIFAMILY DWELLING UNITS AROUND THE CENTRAL COMMERCIAL DISTRICT.
- (2) A NEW COMMUNITY-ORIENTED PARK ALONG THE SOUTH BANK OF KAHOMA STREET AND BETWEEN FRONT STREET AND HONOAPIILANI HIGHWAY. (PAGE 18.)
- (3) THE NEW PARK ALONG THE SOUTH EDGE OF KAHOMA STREAM SHOULD BE RECOGNIZED AS MAJOR ENTRY FEATURES TO LAHAINA TOWN WITH APPROPRIATE LANDSCAPE PLANTING TREATMENT. (PAGE 33.)
- (4) THE SOUTH-SIDE OF THE KAHOMA STREAM CHANNEL SHOULD INCORPORATE A 20-FOOT-WIDE LANDSCAPE LINEAR PARK OR GREENWAY, INCLUDING PEDESTRIAN AND BIKE WAYS, TO PROVIDE VISUAL AND OPEN SPACE CONTINUITY BETWEEN FRONT STREET AND THE HONOAPIILANI HIGHWAY. (PAGE 33.)
- (5) ESTABLISH MAJOR RECREATION WAYS FOR PEDESTRIANS AND BICYCLES ALONG THE SOUTHERN SIDE OF KAHOMA STREAM. (PAGE 37.)
- (6) THERE SHALL ALSO BE 6 ACRES OF PARK LAND WITHIN THE PROJECT DISTRICT, INCLUDING A LINEAR PARK OR GREENWAY ADJACENT TO THE SOUTH BANK OF KAHOMA STREAM, FROM HONOAPIILANI HIGHWAY TO FRONT STREET, AT LEAST 60 FEET WIDE AND APPROXIMATELY 1.5 ACRES IN SIZE. THE EXTENSION OF WAINEE STREET FROM ITS PRESENT TERMINUS AT KENUI STREET TO FRONT STREET, AS WELL AS THE

REALIGNMENT OF KENUI STREET SHALL ALSO BE CONSIDERED. SAID ROADWAY IMPROVEMENTS SHOULD BE DEVELOPED AND FUNDED IN CONJUNCTION WITH APPROPRIATE GOVERNMENT AGENCIES. THE REMAINING ACRES IN THE PROJECT DISTRICT SHALL BE EVENLY DIVIDED BETWEEN THE COMMERCIAL/BUSINESS USES, AND MULTI-FAMILY AND SENIOR CITIZEN RESIDENTIAL USES, TO THE GREATEST EXTENT PRACTICABLE. (PAGE 50.)"

CHAIR LEE: Is that it?

COUNCILMEMBER PALTIN: That's it. This was the amendment that--

VICE-CHAIR RAWLINS-FERNANDEZ:

SECOND.

COUNCILMEMBER PALTIN: Okay.

CHAIR LEE: Okay, moved by Member Paltin, seconded by Vice-Chair Rawlins-Fernandez to amend the main motion for the six, number six amendment. Okay.

Discussion?

COUNCILMEMBER PALTIN: Approval of this motion would maintain the Community Plan's status quo for the Kahoma Village project and avoid having the new West Maui Community Plan inadvertently resolve the pending case of Protect and Preserve Kahoma Ahupua'a Association, et al. v. Maui Planning Commission, et al.

CHAIR LEE: Okay. Member Sugimura. No, this is, we're still in discussion.

COUNCILMEMBER PALTIN: Okay.

CHAIR LEE: You just went over the reason. The, those hands, were they for discussion?

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR LEE: Member King.

COUNCILMEMBER SUGIMURA: I have a question. So, this, to me, relates to Lance Collins testimony and that document that he transmitted to us. And I wonder, I asked at that

time if Corp. Counsel could guide us through this, as it's a lawsuit that's happening? So, I'm not, I'm not sure if we have to go into executive session to talk about it, or what, what, you know, what the impact is to this West Maui Community Plan. So, Corp. Counsel, if they could?

CHAIR LEE: Ms. Thomson?

FIRST DEPUTY CORPORATION COUNSEL THOMSON: So, I can address briefly the, the status of the lawsuit is that the ICA vacated the, the issuance of the SMA permit. So, it's been remanded to the Maui Planning Commission. And intervention by the intervenor group that is represented by Mr. Collins, I believe is not a current issue that they will be admitted as a party. At any rate, so that inadvertently resolving the pending case, that would not be something that this, that this community plan amendment would affect one way or another.

I'm going to ask Mike Hopper, though, to come online and just give you our, our general opinion on establishing uses. I realize this is in the existing community plan, but you're, you're reestablishing and amending that in its entirety. You're establishing all of these uses and designations on property that has been completely built out. And that would not be our, our recommendation to do that. But I'd like Mike to elaborate a little bit more if he has something to add to that. Mike?

CHAIR LEE: Mike?

DEPUTY CORPORATION COUNSEL HOPPER: I, I think Ms. Thomson covered, covered the basics there. I do think that this provision would prevent our approval as to form and legality of, of the plan based on this policy. The concern that I would have, and I think I'd have that with any, if this was done in any similar plan, is a, a requirement that six acres of, of park land be, be placed on land where there are existing homes. That in general, I think is, would, would raise a concern in any community plan. But I think that's, that's the, the basic issue I had when I reviewed this. This was a new amendment that had come out that I had seen, I think, for the first time this Monday. And so, I did research the background a bit.

I would say the Hawaii Supreme Court decision did overturn the SMA permit and remitted back to the Planning Commission with instructions to allow the interveners to intervene and to make a determination as how the Planning Commission made findings with respect to consistency with the community plan.

I think significantly the court did not overturn the County's 201H approval for the project, which allowed the project that's currently there to be constructed and, and which was a different project from what the community plan had previously stated, which when I



went back and read it, it appeared to be a commercial and residential project that was not an affordable project.

So, the main concern that I think that we had was that this is requiring six acres of park in an area where there's existing homes right now. And I think if that was something proposed for any community plan area, we have concerns with it. We have additional concerns. We could go to executive session and discuss that, but for now, I would be unable to approve the plan as to form and legality because of this. And that would be, that would be a concern that I would raise. I think Ms. Thomson covered the basics, but those were some additional concerns that I had.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Okay. Anybody else? Are you ready for, to, okay, Member Paltin.

COUNCILMEMBER PALTIN: Thank you. Two questions. First one for Mr. Hopper. This is the only item that's holding up the signature from Corp. Counsel, correct?

DEPUTY CORPORATION COUNSEL HOPPER: I didn't get the transmittal from Mr. Raatz, but going over, yet, but going over the Amendment Summary Form, I think it addressed the, the, several remaining legal concerns we had. But I think barring anything that I haven't, that I didn't remember from Committee meetings or anything, I think that would be one of, be the last item. But again, I haven't gotten the transmittal from Mr. Raatz to request approval with these revisions. But I think the revisions do address the legal issues that we raised.

COUNCILMEMBER PALTIN: Then my second question would be for Mr. Raatz.

CHAIR LEE: David? David, are you on the call? Okay, there he is.

DEPUTY DIRECTOR OF COUNCIL SERVICES: Thank you, Chair.

COUNCILMEMBER PALTIN: Um--

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: What would be the consequence of not having Corp. Counsel's signature on the West Maui Community Plan due to this last amendment?

DEPUTY DIRECTOR OF COUNCIL SERVICES: Thank you, Chair. Corporation Counsel's approval as to form and legality of legislation is a tradition that the Council has often

followed, but it's not a legal requirement. There's nothing in the Charter or the, or the Code that requires Corporation Counsel's approval. Thank you, Chair.

COUNCILMEMBER PALTIN: Thank you. That addresses my questions.

CHAIR LEE: Just want to let you know, Member Paltin, I'll be voting "no" on this one because it doesn't make sense to have a requirement, well, park where homes are currently existing. And I certainly don't want to, I don't know why we're getting involved in, in a court case that is, is really between separate parties. But anyway, I'm voting "no".

Anybody else? Ready for the vote?

Member King.

COUNCILMEMBER KING: Thank you, Chair. I'm going to support this amendment, because I think it speaks to the importance of the community plan, that the community plan was not followed previously. And, you know, the statement is that these things still need to be addressed. You heard from the interveners that their intent is not to try to tear down any homes, but to try to have the situation mitigated and they did feel there was solutions to find possibly other land that could, could serve as the parks space. And so, I think, so I believe that there are solutions that could mitigate the, the concerns and the issues.

But I don't think we can continue, we, we can't keep doing this. We can't keep allowing developers to build, you know, in a way that's contrary to our community plans and then just sweeping it under the rug. You know, and that's been going on for too long because we haven't really taken the community plan seriously. But we're, we're voting this into ordinance, so this is, this is basically law. So, I think it's going to, it's going, the intent of this is to, is to have the developers mitigate the issue after the fact, because we can't do it before the fact. But I think this is the only way we're going to do that, so I'm going to support it.

CHAIR LEE: Anybody else on discussion?

Member Sugimura, then Member Johnson.

COUNCILMEMBER SUGIMURA: Thank you. I'm not going to support it. Tamara, I know you worked hard on all the others, but the last item is a concern for me, also. And I wonder if you have people whose houses are in this six-acre parcel, then what does that mean for them in terms of negotiations, or you know, something that I'm not too sure how you can even resolve that. But I don't want the County to be a party to it. And unfortunately, it happened, but Corp. Counsel's not signing off on it. To me, it's a,

it's a sign of something that I think is important of how I basically look at my job as a policymaker. So, I'm not going to support it. Thank you.

CHAIR LEE: Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. I'm going to support this amendment. I, I believe that our community's voice holds water, and it should hold water with this body. And this is a, this discussion has been going on since the '90's about this thing. Just like what Councilmember King said, you can't ignore our community's voice for generations. So I'm, I'm going to stand in strong support. That's all I have. Thank you, Chair

CHAIR LEE: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I'll turn off my video again so that my audio is better. Okay. So, I, I'm going to vote to support the motion. It's not reestablishing, it's carrying over the designation from before. And like my colleagues, I, I believe in accountability, and this is one way to achieve that. Mahalo, Chair.

CHAIR LEE: Anybody else? Well, I just want to add that the latest CAC and the most recent community did not vote for this. They vote, they voted for something else in the community plan. So, I think the community has spoken. Anybody else?

Member Paltin.

COUNCILMEMBER PALTIN: Oh, I'll yield to Member Kama. She had her hand up for a while. But it like, it's transparent, I think, because of her background. But I'll go after her.

CHAIR LEE: Member Kama, I didn't see you. Sorry.

COUNCILMEMBER KAMA: Thank you, Member Paltin, for seeing my transparent fingers. So, I will be voting against this also. In my heart, in my mind, I'm not sure how we can displace people for a park. So, and I have to, I got to face my God every night and so I have to think that. So, thank you, Chair. Thank you, Tamara.

CHAIR LEE: Member Paltin.

COUNCILMEMBER PALTIN: Thank you. And just to reiterate the CPAC Chair's testimony that they weren't made aware of the situation. And the Supreme Court didn't actually make the decision until after it was out of the CPAC's hands. So, you know, it was still going through the appeal process at that point.

I think, you know, with the emphasis put on the need for parks, the 200 acres south of Lahainaluna Road that we didn't get the vote to keep in park space is a testament to their need for parks. There was that bottom portion that wasn't owned by Kamehameha Schools that remained in parks, and could possibly be a good solution, fit for future negotiations, because I did hear the multiple testifiers say that they're not looking to tear down any houses, obviously. That would be . . .

CHAIR LEE: Okay, are you done?

COUNCILMEMBER PALTIN: Yeah, done.

CHAIR LEE: Okay, so one last question to Corp. Counsel, Mike Hopper. Mike, are you still on the call? Did you say that you would not sign off on this amendment, or did you say you would not sign off on the community plan as well?

DEPUTY CORPORATION COUNSEL HOPPER: I mean, if the amendment passes, it's part of the plan, so that would be, that would be something that we couldn't approve as part of--

CHAIR LEE: So, you would not sign off on the plan itself?

DEPUTY CORPORATION COUNSEL HOPPER: I mean, this is, this is essentially part of an ordinance that we would have a legal issue with and could not approve as to form and legality. So, it's all in one, it's all in one ordinance. So, yes, that would, that would . . . the issue.

CHAIR LEE: Okay. Everybody ready to vote.

Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I just wanted to follow up on that as far as form and legality, the legality part. So, this is not illegal, this amendment.

CHAIR LEE: Mike?

DEPUTY CORPORATION COUNSEL HOPPER: If you want to get into whether it's illegal and why it would be potentially, or not, I would want to go into executive session. I mean, if this is going to pass without, without our signature, and there's potential litigation in the future, I don't want to, in open session, talk, talk about specific legal problems within open session. And I would want the, there to at least be potential defenses to claim. So, I'm not comfortable saying that, going over all the details in

open session. But designating land as park land in an area where you already have existing homes in general, in a plan, we would have legal concerns with. That's, I think, the most I can say in open session on that issue.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Mr. Hopper. So, I'll just, you know, like reiterate again, like, we're, we're not changing it. We're just, we're carrying it over. So, we're actually not going to change it. We'll just keep it the same, instead of changing it from what it was to what the developer would want us to, to change it to.

So, you know, and the, the property owners, so like Member Paltin said, like, no one's trying to tear down the already built houses. But there needs to be accountability in this situation. You know, these property owners, they, they bought into it knowing that the case was on appeal, but they also have a claim against the developer who warranted that everything was legal and legit.

And again, to the point that Member Paltin made, and the CPAC Chair made in her testimony, that even though the Hawaii Supreme Court didn't issue their decision until after the community plan was adopted, or recommended for passage by the CPAC, the, the department knew that this, you know, it went through the ICA. They knew what the ruling from the ICA was and then, you know, it was on appeal at the Hawaii Supreme Court.

So, it's not like no one knew that this was an issue. So, it should have been flagged as other issues were flagged for the CPAC, but it wasn't. And so, I wanted to make sure that that was also on the record. Mahalo, Chair.

CHAIR LEE: Thank you. And for the record, I just want to say that I am going to support the opinion of Corp. Counsel. And from my experience with passing ordinances, we have always been advised not to pass an ordinance that has an illogical conclusion. And in my mind, in my opinion, this is one of them. Okay, so are you ready, everybody, to vote? Okay, so what we're voting on is the main motion, well, we're voting on number six. We're voting on number six amendment. All those in favor of the number six amendment as we just discussed, raise your hand and say "aye".

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

CHAIR LEE: And those who are against, raise your hand and say "no".

NOES: COUNCILMEMBERS KAMA, MOLINA, SUGIMURA,  
AND CHAIR LEE.

CHAIR LEE: So, I see me. Okay, I see Member Molina, Member Kama, Member Sugimura, and myself; four. So, motion carries. Motion passes 5-4.

Now, the main motion as amended.

COUNCILMEMBER SUGIMURA: Wait.

CHAIR LEE: All those in, oh.

COUNCILMEMBER SUGIMURA: I have some amendments.

CHAIR LEE: Oh, you have?

COUNCILMEMBER SUGIMURA: I do. Yeah, sorry about that. Before you go into the main motion.

CHAIR LEE: Okay, wait.

COUNCILMEMBER SUGIMURA: Oh.

CHAIR LEE: Member Paltin, were you done with your amendments?

COUNCILMEMBER SUGIMURA: Oh sorry.

COUNCILMEMBER PALTIN: I was going to do discussion on the main motion, but I can hold off.

CHAIR LEE: Okay.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: So, anybody else have other amendments besides Ms., Ms. Sugimura? No? Okay, Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, I have two. So, this is regarding the Plantation Estates. And my proposal is to change the Plantation Estates' land use designation from Agriculture to Rural Residential.

SO, I MOVE TO AMEND PAGE 87 OF THE PROPOSED PLAN  
BY CHANGING THE LAND USE DESIGNATIONS FOR  
PLANTATIONS ESTATES FROM AGRICULTURE TO RURAL  
RESIDENTIAL.

COUNCILMEMBER KAMA:

SECOND.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Moved by Member Sugimura, seconded by Member Kama.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Discussion, Member Sugimura?

COUNCILMEMBER SUGIMURA: Yeah, so I think many of us heard, or we heard from testifiers during Committee, first reading. And the Plantation Estates was developed in 1990, prior to Rural zoning. The development was never meant to be an agricultural neighborhood. Plantation Estates is part of the Kapalua Resort, maintains its own roads, and is serviced by a private water company which also restricts water usage periodically. The Plantation Estates neighborhood was designated as Rural Residential by the Maui Planning Commission.

And I guess you heard, and I did a site visit, so those are homes in an Ag district that they really are residential. I think there was one parcel, I think that was actually doing agriculture. But the terrain and, you know, the use is really, really Rural Residential. So, I want to make that motion. Thank you.

CHAIR LEE: Member Paltin--

COUNCILMEMBER SUGIMURA: That's the reason for my motion.

CHAIR LEE: And then Member King. Member Paltin and then Member King.

COUNCILMEMBER PALTIN: Thank you, Chair. I speak against this motion. As Member Sugimura said that Plantation Estates was never meant to be an agricultural neighborhood. And the theme that I'm kind of seeing here is the robbing of my community of a chance to get a public hearing on these things. Agricultural subdivisions do not require public hearings. A change in zoning from agriculture to rural would have required a public hearing. So, this is more skirting of the process.

Maui Land and Pine is well known for bait and switch. They said it was going to be an agricultural subdivision with no intention of it being an agricultural subdivision, knowing full well that there's no public hearing process for an agricultural subdivision.

In watching the Maui Planning Commission debate on this, Commissioner Hipolito originally voted to keep it in ag, because as a worker of Maui Land and Pine, he remembers actively farming it. And he, his, I really wasn't made up my mind on the subject until I heard him speak about those upland areas where the mountain breeze and the ocean breeze meet, and how ideal it was for farming.

If we're going to make a policy decision that black plastic and lack of water negates the, the reason to keep land in ag, then all of Maui will be legacy lifestyle estates formerly known as gentlemen estates. And this will change everybody's district into something that I don't think we want to see.

The community spoke pretty loud and clear that, not only on this item, the Greg Brown house, the SMA situation at Kahoma, that they're sick and tired of being left out of the process in these types of work arounds for people to get, especially wealthy people, to get what they want their way. And so, I cannot support this. Thank you.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. I have a question, then I, I'll make some comments. But so, this is just, this is a community plan designation. We're not doing a zone, a zoning change. It would have to go through the original process for, or the regular process for zoning change. But if, if they did go through a zoning change and there were, cause there is one, all I know of is one farm there, one commercial farm, and they're struggling. And what I heard from, and I've talked to a lot of those folks out there, they don't really want to farm. So, but if there were some that wanted to farm, they would be able to get an exemption to remain in ag zone, is that the intent?

CHAIR LEE: Who are you asking?

COUNCILMEMBER KING: I guess I'm asking the maker of the motion.

CHAIR LEE: Member Sugimura?

COUNCILMEMBER SUGIMURA: So, I gotta ask Corp. Counsel, I guess. I don't, I don't under, you know. Richelle?

COUNCILMEMBER KING: If, because if we went through the, if we, you know, this is just a community plan designation right now, but if it goes through the, the process to do the change in zoning to Rural, and there were some who decided they wanted to farm, and I haven't talked to anybody up there who really wants to farm, but would they be able



to get an exemption from that rural zoning? Does it have to be like the entire subdivision has to go rural? Because there is one commercial farm up there that . . .

CHAIR LEE: Ms. Thomson.

FIRST DEPUTY CORPORATION COUNSEL THOMSON: Thank you. So, in the Rural zone, this is Maui County Code, it's 19.29. And one of the principle uses in Rural is growing and harvesting of any agriculture, agricultural or agricultural crop or product subject to the restrictions in this chapter. So, it is, ag is still allowed in Rural as an outright use.

COUNCILMEMBER KING: No, I know that, but, but Rural zoning is a higher tax, is a higher property tax. So, if somebody wanted to keep their property in ag, you know, and keep the lower tax base because they do want to farm, would they be allowed to do that? Would they be able to get an exemption?

FIRST DEPUTY CORPORATION COUNSEL THOMSON: You mean whether they could appeal . . . ag exemption?

COUNCILMEMBER KING: Or just to remain in ag? Because right now, it's ag.

FIRST DEPUTY CORPORATION COUNSEL THOMSON: Right. I believe that they can dedicate their land to ag in a rural district. I can look that up as the discussion is going, but my understanding is that they could do that. It's more difficult in residential for obvious reasons, but in rural . . . dedicate.

COUNCILMEMBER KING: Cause, thank you for that. Because, you know, I, I have had a real concern about these, these gentlemen farming estates for a long time. And I don't think we should, we should be subdividing ag land at all. But where we have, and where we're forcing people to farm who don't want to farm, it's not working. And if people are going to be there and they're willing to pay higher taxes to be rezoned rural, I think that, and they're coming out and asking for that, I'm inclined to support it.

And I've talked to people Upcountry. One of the very first meetings I had when I first got on the Council was with the ag working group Upcountry and I heard this concern. And I heard it, a concern from the Chair of that, of that group back then, that what happens when you have people who don't want to farm, who are forced to have a farm plan and farm, one of the, one of the things I, I didn't even realize was that they're, they're inadvertently competing with people who want to farm or trying to make a living at farming.

And that, that even the Chair was telling me that she used to make a thousand dollars, I couldn't remember if it was a week or month, on avocados. But all these other people

started growing avocados because it's easy. It's easy to put in a grove of avocados. You don't have to do anything. And then they're falling on the ground and they're giving them away. And they were giving them to the market of the people that are trying to farm. So, they're actually impeding the market of people who want to farm because all of this produce is growing, they don't really care about the commercial activity, so they're giving it away.

But what that, what that leads to is that there's a lot of these estates that were forcing people into this idea of farming. And yeah, it is fake farming because they don't really want to farm. But meanwhile, they're paying the lower taxes. They could be paying higher taxes and they, some of them are willing to. And, and we're, we're trying to, I guess, pretend that they're still farming, you know. I don't like it. I, I, I just, we just sold a piece of property that was in one of those kind of farming communities, because, you know, we didn't, saw people, that's what we saw up there were people trying to adhere to the ag zoning, not really wanting to, but trying to figure out the easiest way to get out of farming while still looking like they're farming.

So, you know, I, I, I would support if somebody wants to pay higher taxes and, and, and stop fake farming. But, but, but the other side of it is, we have to stop approving ag subdivisions when we know people aren't going to farm. And you know, we had that big issue come up at a couple of years ago in Maalaea where someone was approve, was proposing a bunch of these, ag, ag sub, an ag subdivision. And it was a really close one. That one almost passed. So, you know, let's think about what we're doing in the future with these, with trying to, with allowing these ag subdivisions. That's what's got to stop, I think. So, anyway, that's my position on that. Thank you, Chair.

CHAIR LEE: Anybody else?

Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I just wanted to share some comments based off of the comments that I just heard. So, when we did the tax reform TIG, we changed the classifications from owner occupied to, sorry, homeowner to owner occupied, and residential to non-owner occupied. And wherever there was a dwelling, they would go into one of those classifications, tax classifications. If there isn't active ag going on, then they, then they wouldn't get an ag exemption for a discount on their property taxes. So, only the portions that are in active ag get the ag exemption. So, I guess, I'm, I'm just a little confused about gentlemen estates, fake farms getting tax breaks, if it's not actively being used for agriculture.

And I'm also not sure, I'm pretty sure and maybe Corp. Counsel can correct me, but I think there also has to be a commercial component to it. Like it can't just be like

gardening, but they, they have to be, like selling the produce to get active ag exemption. So, those are my comments. I will be voting against the motion. Mahalo, Chair.

CHAIR LEE: Okay, Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. You know, in this time of climate change, we should be doing everything we can to encourage our residents to plant trees, plant fruit trees, even better. If they're going to give it to the homeless, or what not, all the better. If, if wealthy folks aren't able to plant trees, then what, what hope do the rest of us have?

This area is Honolua Ridge, Plantation Estates, above Honolua Bay. This is the whole reason the community galvanized back in 2007, 2014, and it looks like they may need to galvanize in 2021. It's like a seven-year cycle. The community never wanted houses there, never got the opportunity to weigh-in on this ag subdivision, bait-and-switch by Maui Land and Pine. People that don't want to live in the ag subdivision, there's Mahana Estates right down the way that is all rural.

As Member Sinenci said before, rural is supposed to be the buffer between ag and urban development. There's rural, there's ag, there's urban development. I strongly disagree with this. I don't know if we need all of the folks to come out at second reading. I hope not. I hope this does not pass.

CHAIR LEE: Any more discussion?

Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Let me first say that I really appreciate the residents of Plantation Estates, very nice people. And certainly, they have the financial means of wanting to pay more taxes which they expressed in order to get this change in land designation. But, by the same token, you know, the majority of the community spoke as to leaving this area designated as agriculture. So, we have to kind of respect that as well.

And, you know, Member Paltin kind of hit on something interesting about in this time of climate change and doing more vegetation, living off the land. And yeah, some people will certainly consider it fake farming, but at least it's something still constructive in terms of living off the land, you know. And, and everybody knew going in when they purchased these properties, these lands were agriculture or were meant for agriculture.

And a lot of the folks that live there now, maybe they were not aware of the history. And that's the key thing here. Historically, the community had a preference for having this as agriculture. So, I have to respect the concerns of my colleague from West Maui on this one. And so, I'll not be supporting Member Sugimura's amendment. And no disrespect. Thank you.

CHAIR LEE: Okay. Anybody else who didn't speak?

Member Sinenci. Member Sinenci.

COUNCILMEMBER SINENCI: I believe Member Sugimura had her hand up before me.

CHAIR LEE: I, I know, but you didn't speak yet, okay

COUNCILMEMBER SINENCI: Oh, okay. Thank you. Yeah, I'm going to, you know, that was one of my questions during the, of the weeklong PSLU meetings that we had, was what does the zoning change do to, as far as taxes and your land values? And so, I think with these zone changes to rural, again, those residents would be able to allow for smaller lots, accessory dwellings, and kind of move away from the agriculture intention as it was originally zoned. So, I'll speak in support of the amendment, Chair. Thank you.

CHAIR LEE: Okay. Who didn't speak?

COUNCILMEMBER SINENCI: Oh that's right. Against, against it. Sorry.

CHAIR LEE: Okay, who didn't speak?

COUNCILMEMBER JOHNSON: Chair, I didn't speak yet. It's Gabe.

CHAIR LEE: Okay, Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. I, I appreciate the idea. I just don't support the amendment. You know, I'm a, I was a farmer up until a year ago, I was a farmer. And what we need is food, water, and a little bit capital. And those folks up on the hill, they have it all. And for us that, who are thirsty to get, to start doing those kinds of jobs, farming, to see them just have gentlemen estates popping up all across the, the islands, as well as, you know, every island seems to have this issue.

So I, I don't, I, I, it's hard for me to kind of put myself in their shoes when there's so many farmers who need more land, more water, and more capital. And that's really

where it is for me. I don't, I don't want to take that out of farmland, no way. That's my two cents. Thank you, Chair.

CHAIR LEE: Okay. Member Kama, did you want to say anything?

COUNCILMEMBER KAMA: Yes, I will. So, thank you, Chair. You know, I kind of like the idea of what we do on this Council, that somebody can come up and have a motion, we can have a great discussion, and in the end, we're going to call for the vote. But the idea is that the discussion is so healthy. And so, that's what I love about this, this Council, is that we don't always have to agree, and we can disagree adamantly, but in the end, when the vote taken, it is what it is.

So, I don't ask a whole lot of questions, because I listen a lot. And I listen, and I read a lot. And, but what I do have to say, I think has merit, at least to me. But what I want to say about this is when those people bought their properties way back then, all the land was all ag. There was no designations. From 1990 to 2021, all the time that goes by, we have zoning changes, we have designation changes, we have tax changes, so much changes over time. And the people that have been there since 1990 told us this is what their preference is. So, I want to support that. That's their preference.

But if the greater community and the voters on this Council say otherwise, then so be it. But our job is to represent our constituencies. And I think we're doing that in the best way we can actually represent them, even if we don't agree and the vote doesn't always come the way we want it to be. So, that's my two cents. I will support this. Thank you, Chair.

CHAIR LEE: Vice-Chair Rawlins-Fernandez. You're muted.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Can you hear me?

CHAIR LEE: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Okay, I'm turning off my video again, so that my audio is stronger. Sorry. Mahalo, Chair. In my first comments, I kind of got thrown off a little bit by the talk of taxes, that tax reform and all that stuff. It's just, I love it, can't get enough of it.

Anyway, so I don't know what's, you know, going on Upcountry and all of that. And I wanted to refocus my comments on the motion itself and reiterate what my colleague from West Maui stated. And I thought it was really good points. One, is, you know, community, the community's say, the greater community. Two, climate change and food security are, are things that we keep saying are very important. And in so much

of our legislation and in our actions, we, we prove and demonstrate that it is a high priority of ours and we're working toward it.

And so, as Member Paltin stated, and this happens on Molokai, too, you know, if, if the farms, if they're not really interested in farming and selling the produce, what we do here on Molokai can be done there and that's, you know, sharing the produce, so that food security is increased in the community. And there's also, you know, Food Bank, and Share Your Mana is always accepting produce to help those that, you know, are food insecure.

So, there's so many opportunities to do good with these farmlands to produce food, and to sequester carbon. And every opportunity that we can sequester carbon from the atmosphere and hold it in the trees and the plants and put it into the ground to reduce our carbon footprint, I think we should take that opportunity. So, for those reasons, I will be voting against the motion. Mahalo, Chair.

CHAIR LEE: Okay. Member Sugimura.

COUNCILMEMBER SUGIMURA: You know, I think I've said enough. I will say that in order to be a farmer, is not just planting a tree, but you got to sell it, right? So, it's a business. It's more than, you know, I guess it's more than feeding a neighbor if you're a serious farmer. But I, anyway, I stand by my motion. And I would like to again, you know, designate the Plantation Estates from Agriculture to Rural. These things were developed in 1990, prior to rural zoning, so they didn't really have a choice of what it should be or not. And they're just trying to make it what it is. So, thank you.

CHAIR LEE: Yeah, and then, I will be voting for the amendment, because I recall very vividly, several times, the one and only farmer up there said that he is, he's like a anomaly, because every place else, nobody, hardly anybody can farm because of the terrain and the soil. It's, it's really not conducive to, especially commercial farming.

So, everybody ready for the vote? The vote that the motion made by Member Sugimura, an amendment to designate the Kaanapali Estates and Honolua Estates from Ag to Rural. All in favor of the motion, raise your hand and say "aye".

AYES: COUNCILMEMBERS KAMA, KING, SUGIMURA,  
AND CHAIR LEE.

CHAIR LEE: Okay, I see Sugimura, King, Lee. And I don't know, Member Kama, which, I cannot see your hand.

COUNCILMEMBER KAMA: My transparent hand says "yes".

CHAIR LEE: Okay, so four "ayes".

All those against, raise your hand and say "no".

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

CHAIR LEE: So, I see five "noes". Okay. Five "noes", motion fails. Alright.

So, are we ready for final?

COUNCILMEMBER SUGIMURA: One more, one more. So, this is on Kā'anapali 2020. I've got one more amendment, Chair. And as you heard from Kā'anapali 2020, they had through the community plan process their land designation change. And so, my proposal is to have West Maui Community Plan reflect the Kā'anapali 2020 Community Plan Group approved map, which was shown to us.

AND SO, I THEREFORE, MOVE TO AMEND PAGE 89 OF THE  
PROPOSED PLAN BY CHANGING THE 100 ACRES  
CURRENTLY DESIGNATED AS "AGRICULTURE" TO "SMALL  
TOWN CENTER"; AND

FURTHER, TO AMEND PAGE 89 TO CHANGE 87 OF THE  
97 ACRES DESIGNATED AS OPEN, I'M SORRY, "PARK/OPEN  
SPACE" TO "RESIDENTIAL", WITH 10 ACRES ABOVE  
HONOAPIILANI HIGHWAY REMAINING AS "PARK/OPEN  
SPACE". AND I THINK THAT WAS FOR THE CANOE CLUBS  
IN CASE OF, IN CASE THEY NEEDED TO DO RETREAT. AND  
SO, THAT IS THE MOTION.

I'll need a second.

COUNCILMEMBER KAMA:

I SECOND.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Okay, moved by Member Sugimura, seconded by Member Kama. Does everybody understand the motion?

Any discussion on the motion? Member Sugimura.

COUNCILMEMBER SUGIMURA: Yeah, thanks. The proposed changes align with the Kā'anapali 2020 Community Plan Group approved map for the area. The Kā'anapali 2020 Community Plan Group has been meeting to help create a master plan for these areas since the late 1990s. Many community members have put in countless hours and years to collaboratively develop a master plan that is rooted in community desires and needs. The community plan, the Kā'anapali 2020 Community Planning Group approved map is consistent with the Maui Island Plan and includes a 10-acre park immediately mauka of Hanakao'o Beach Park, Canoe Beach, while also providing much needed housing in a well-planned, complete community. So, this is the amendment, and it supports the vision and direction that the Kā'anapali 2020 Master Plan had. Thank you.

CHAIR LEE: Anymore? Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I'm opposed to this amendment because, you know, as we try to seat new Community Plan Advisory Committees, the hardest thing to actually get folks onto the CPAC, like, we had plenty of great folks, nobody wanted to apply, because they felt that people changed the thing. And if they're going to invest this one year, six months, what have you, they wanted to know that it would have an impact.

This land was designated Park/Open Space through the Community Plan process. It was retained through the Maui Planning Commission process, and I'm not about to overturn the community's decision, or overturn the Maui Planning Commission's decision for a bunch of folks that have financial interest in having it be different.

Like Lanny Tihada said, I, I also support Kā'anapali 2020's full plan. The most important part of that plan had people living in houses in 2020. Everything else doesn't matter, because nobody's living in houses in 2020. I don't even know if they'll be living in houses in 2030 or 2040, you know. They have entitled land. Pu'ukoli'i Village Mauka was entitled since 2005. The State, the State's priority is not the bypass right now. They got 22 million for realigning the highway, because if you can't get to the southern terminus of the bypass, it doesn't matter where the northern terminus is.

So, you know, a lot can be done. There's so many people that don't have land in the non-sprawl area, folks in Olowalu, folks in Launiupoko that are raring to build. They don't have infrastructure nearby. If Kaanapali Land Management cannot do, it's not



because it's not possible. It's because they're a former sugarcane company. They're not in the business of development, otherwise, something, anything would've been developed by now.

There was a reason it was called Kā'anapali 2020. I love that plan. The main component was being in houses at 2020. Now that we're in 2020, there's a host of other issues that needs to be taken into consideration.

As one of the testifiers said, it's called the Community Plan for a reason. It's not the developer's plan. It's not the landowner's plan. It's the Community Plan. And Kā'anapali 2020 needs to be taken in context of the greater community. We're not just looking at one landowner, one developer's plan. We're looking at the entire community and how it fits in. So, I cannot support this amendment.

CHAIR LEE: Anybody else? I'll just say that I will support the amendment, because I recall various testifiers coming before us, Elle Cochran and so forth, reminding us that this, this was in the Urban Growth Plan, and I think the Maui Island Plan. So, you know, it depends on what plan you're quoting. Anybody else want to chime in?

Member Molina, Member King.

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. I gotta say this one kind of pulls at my heartstrings, cause this was one real, you know, I don't want to call it a tragedy, but it's just from years before, you know, a lot of great intentions and a lot of hope, and a lot of good people, a lot of kupuna who passed on that put their heart and soul into this. And for whatever reason, as time evolved, I guess the goals and objectives to getting the much-needed housing never transpired. And of course, now, we're in a bit of a quagmire, especially for West Maui with the need for affordable housing.

But it, it seems like this one component of this whole West Maui Community Plan is, you know, it's pitting this, this portion of it, is really pitting the community against each other and it's really difficult and sad. So, whatever the outcome of this, I just hope people can come together, because this one really when I hear the compelling testimony from both sides of the issue and the people who have been involved presently and currently, it was real, real tough to hear. And I hate to see something like this divide the community. So, I'll leave it at that, Madam Chair. Thank you.

CHAIR LEE: Member King.

COUNCILMEMBER KING: Thank you, Chair. Just similarly to Member Molina, this is a really difficult one, because so many people were involved in bringing this plan. But, you

know, like Member Paltin said, the plan didn't come to pass. The plan was a plan for 2020.

What really bothers me the most about it is, you know, that we don't know, you know, we've been told that that they'd like to do affordable housing. But we haven't been offered any assurances of what percentage will be affordable housing, where the affordability will be, what, what AMI levels. And I just, I've seen these kinds of promises happen when they're given verbally and not, and not manifest themselves when, when the action, when the actual development is happening.

So, I'm, I just, I'm having a really hard time supporting it without that, that caveat in there. And exactly what those houses, you know, what affordability means to them, and where they plan to put the affordable housing, and what the percentage will be? So, that's where I, I'm really, I do think affordable housing is a priority, but I, I don't see an assurance if that's what this area is going to end up being.

And I wasn't part of those meetings. I knew a lot of those people who were in those meetings, people like Buck Buchanan, who aren't around anymore. And, and I know that they put their heart and soul into it. But there's, I don't know who was around that's going to make sure that it happens the way it was supposed to happen. So, I'm, I'm just having a hard time supporting it. Thank you.

CHAIR LEE: Good. Thank you. Anybody else? Ready for the vote? Okay, ready?

Member Paltin.

COUNCILMEMBER PALTIN: I just want to say, you know, the only members of the community, you didn't, you didn't hear from all of the members of the Kā'anapali 2020 working group that have been around and are still alive. You know, I did consult with Uncle . . . Delos Reyes, life-long resident; Uncle John Kuia, they've been on the Kā'anapali 2020 working group. They don't support, support this iteration of the plan. You know, the, the main thing when people got involved in this community planning process was they thought it was going to be for 2020. It wasn't, I mean, it was great that they were being listened to, but so much has changed in the last 30 years and, and it's not the end of the story.

I mean, we got managed retreat, which is a big issue. We've got nine condotels falling into the ocean. I mean, perhaps a deal can be struck for strategic relocation. The way I see it, it's, it's pretty much a blank slate with a lot, I think Kai Nishiki said 1,000 acres been up zoned already. And I don't want to up zone more until I see some commitments, like Member King said. You know, we've heard the story for the last 30 years. And to up zone more than a thousand acres with no solid commitment is

just, you know, knocking your head against the, the wall a few more times and expecting a different outcome. So, not supporting.

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

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Want to echo Member Paltin's comments, Member King's comments, and I won't be supporting the motion. I won't, I'll keep it brief like that. I think they both did an excellent job, and, and also reiterating CPAC Chair's testimony. Mahalo, Chair.

CHAIR LEE: That's fine. See this is, this is democracy at work. We can disagree. Anybody else? Okay, all those in favor of Member Sugimura's proposed amendment, raise your hand and say "aye".

AYES: COUNCILMEMBERS KAMA, SUGIMURA, AND  
CHAIR LEE.

CHAIR LEE: Okay, two "ayes"?

COUNCILMEMBER SUGIMURA: Three.

CHAIR LEE: Three "ayes"? Who's the third "aye"?

COUNCILMEMBER SUGIMURA: Me.

CHAIR LEE: You, me, and who?

COUNCILMEMBER KING: Tasha.

COUNCILMEMBER SUGIMURA: Tasha.

COUNCILMEMBER JOHNSON: Councilmember Kama.

CHAIR LEE: Oh. I, okay, I guess she's frozen on my screen. I, I don't see her hands at all. So, three "ayes".

And those against, raise your hand and say "no".

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

CHAIR LEE: Six "noes", three "ayes"; motion fails.

Now, we go back to--

COUNCILMEMBER SUGIMURA: Chair?

CHAIR LEE: Go back to the main motion as amended.

COUNCILMEMBER SUGIMURA: Wait, Chair.

CHAIR LEE: All six--

COUNCILMEMBER SUGIMURA: Chair, Chair, Chair. So, this is, if we won't approve this designation, Kaanapali, will you take it back to agriculture?

SO, I MOVE TO AMEND PAGE 89 OF THE PROPOSED PLAN  
TO DESIGNATE KĀ'ANAPALI TOWN SOUTH LAND, LAND  
USE DESIGNATION, AS AGRICULTURE. THAT'S MY  
MOTION.

COUNCILMEMBER KAMA:

SECOND.

COUNCILMEMBER SUGIMURA: Since my first motion failed, I would like to have it designated as agriculture.

CHAIR LEE: Moved by Member Sugimura, seconded by Member who? Kama?

COUNCILMEMBER SUGIMURA: Kama, yeah.

CHAIR LEE: Okay. To redesignate this property as agriculture.

COUNCILMEMBER SUGIMURA: Right.

CHAIR LEE: Okay.

COUNCILMEMBER SUGIMURA: And I will explain. This would reflect--

CHAIR LEE: Discussion.

COUNCILMEMBER SUGIMURA: Kaanapali Town, this would reflect Kaanapali Town South's current land use designation as determined in the 1996 West Maui Community Plan. If kept as an agriculture land use designation, it will allow Kā'anapali 2020 Community Planning Group to continue planning for sea level rise, future managed retreat efforts, infrastructure, and connectivity from the Lahaina bypass. The proposed designation is privately owned land as, yeah, as Park/Open Space infringes on property owner's rights by denying Kaanapali Land Management Company all economically viable use of the land. So, that's--

CHAIR LEE: More discussion?

Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I won't be supporting this motion. I disagree it prevents Kaanapali Land Management from getting the full use of their land. You can, you can do ag if your zoning is ag. Nothing prevents from you from it. What it does prevent you is that problem that Member King said that we need to move away from with the community plan zoned ag, and the zoning, I mean, community plan designation ag and the zoning ag. There's nothing stopping them tomorrow from creating an ag subdivision with no public hearing process.

Keeping the community plan designation in open space reflects the vision that the community has for the area without preventing them from doing ag. They can do all the uses of ag, because the land is zoned ag. The vision from the community is open space. But it's not going to stop them. The only time it would stop them is if they wanted to do an ag subdivision with the fake farms we were just talking about us moving away from, because there's no public hearing process for an ag subdivision. So, we'll be walking down that road that we just said that we wanted to get away from. Thank you.

CHAIR LEE: Anybody else?

Member King.

COUNCILMEMBER KING: Well, thank you, Chair. I think Member Paltin took the words right out of my mouth, because we were just talking about the issue of ag subdivisions. And the only thing that stops the ag subdivision at Maalaea Mauka was the fact that it wasn't in our community plan and so, we had to go through the public process of a community plan amendment. So, you know, if they are going to want to do something like that, then they would have to go through the community plan amendment, and that would bring the public in for comment.

So, you know, and I just, I, I really hope, hope that we, we really move way from these ag subdivisions at some point. Because if we're going to try to keep ag in ag for the reasons that we discussed earlier, you know, and it's not the only way to address climate change and plant trees. Because you can plant just as many trees in a rural zone. But there's, there's that idea that that it's one way to get out of, you know, allow, even notifying people, even notifying your neighbors.

I think we had a bill in that didn't, didn't quite pass that was even just going to require notification of ag subdivisions. And you couldn't even do that. So, if not, I think it needs to stay where it's at in the community plan. And if they do propose something, it'll have to go through the community plan amendment process. And that will bring the public back in.

CHAIR LEE: Okay, anybody else? If not, all those in favor of the amendment, raise your hand and say "aye".

AYES: COUNCILMEMBERS KAMA, MOLINA, SUGIMURA,  
AND CHAIR LEE.

CHAIR LEE: Okay, I have to ask you--

COUNCILMEMBER KAMA: I'm an "aye", Chair.

CHAIR LEE: Okay, four "ayes".

All those against, raise your hand and say "no".

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

CHAIR LEE: Five "noes", four "ayes"; motion fails.

Now, we are ready for the final vote. Okay, the main motion.

Member Paltin.

COUNCILMEMBER PALTIN: Oh, just discussion whenever you deem it appropriate.

CHAIR LEE: Are you going to have more discussion on this? Okay. The main motion as amended. And don't forget, we have six amendments. Okay.

Discussion, Member Molina.

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. And for the Members consideration, I have three amendments. No, just kidding, just kidding.

CHAIR LEE: It's after six.

COUNCILMEMBER MOLINA: No, no, no. I will support.

COUNCILMEMBER KAMA: Thank you for the laughter.

COUNCILMEMBER MOLINA: Yeah, I think we need it. We need it. But yeah, I'll support the Plan. But I would like prior to second reading, we heard in testimony the concerns about the land use designations possibly not being legally adopted. So I'd like to get something in writing from Corporation Counsel in the interest of time. So, I won't ask them right now, but prior to second and final, I'd like to get something in writing from Corp. Counsel with regard to that concern expressed by Mr. Mayer, and I believe even Mr. Perez made mention of that as well. Thank you.

CHAIR LEE: Okay, wait. We just want to make sure that, I don't know if the Clerk's Office would, can do that, but we'll ask David to follow up with Corp. Counsel, okay?

COUNCILMEMBER MOLINA: Alright, thank you.

CHAIR LEE: On that. David, are you on the, are you still on the call? David?

DEPUTY DIRECTOR OF COUNCIL SERVICES: Yes, thank you, Chair.

CHAIR LEE: I just want to make sure, right now, somebody's assigned to it. David, will you take care of it?

DEPUTY DIRECTOR OF COUNCIL SERVICES: Thank you. Yes, we'll follow up with the Department of the Corporation Counsel. Thank you.

CHAIR LEE: Thank you very much. Next hand.

Member Paltin, I'll get to you, okay, cause you probably have the most to say. So, let everybody else say something.

Member King.

COUNCILMEMBER KING: Okay, thank you. And actually, I was going to bring up the land use designations. But I don't think the biggest concern was the legality of it. The

biggest concern was it wasn't specific enough, so that it left open the possibility of, you know, because the designations named a few options, but then it said, "included in these options". And so, it left it wide open for additional types of development. So, I just wanted to get Member Paltin's thoughts on how we can address that? If not, I mean, it sounds like a really, a big job to, to address those land use designations and make them more specific, more than we can do right now. And so, is there any way to--

CHAIR LEE: Member--

COUNCILMEMBER KING: --to look at that?

CHAIR LEE: Member Paltin. Well, maybe we do it before second reading.

COUNCILMEMBER PALTIN: Well, okay, do you want me to answer?

CHAIR LEE: Yes. If you can.

COUNCILMEMBER PALTIN: So, during our, our weeklong review, we had a day when we tried to tighten it up, but we didn't have the votes to do it, and then we had resistance from Planning. If you folks remember, like Albert Perez said, this isn't the first time he brought it up. He brought it up at every single testimony. And then, we had that day when we were working on tightening, tightening them up based on his recommendations, but we didn't get the vote. And like Member Kama said, that you take the vote, win or lose, you disagree, and you move on. So, that's kind of what happened.

In response to Member Molina's concern and Mr. Mayer's concern, I don't believe that it would hold future community plans to those exact designations, because the way that it came to us was Urban Center/Corridor, Park/Open Space combined. And then, we took the action of saying, you know, we don't want the focus to be on Urban Center. Let's call it Transit Oriented Corridor. And then, we said we don't want Park and Open Space together and made Park, Open Space. So, I don't, I don't believe that these things are set in stone. We, we did have an opportunity to try and tighten it up. We didn't get the votes.

At this point, we're closing in on the deadline. And I think this is a good lesson to us all that, you know, it's not done with the passage of the final ordinance. Members of the community need to be forever diligent and forever involved. And this document is not meant to sit on the shelf. It's meant to be used and carried around like a bible and interacted with. And that would be my comment in response to you folks' concern.



COUNCILMEMBER KING: Okay. Thank, thank you for that. I appreciate that. And I, I also want to say, and thanks for reminding us about, you know, not getting the votes. But I also want to say that when those land use designations were brought before those public meetings, I attended one of them, it was at the Planning, I mean, it was at the, yeah, it was at the Planning Commission building, the meeting room. I did bring that up and I did specifically ask are, you know, are, is the intent to try to, you know, instigate this, this land use, you know, program into every community plan?

And I was told by Planning that, you know, it would be up to every community. So, if the South Maui community wants to change it, you know, I've been told a couple of times by Planning Department, yes, we can change it. It doesn't, we don't have to accept it just like it is. So, and maybe that will influence the West Maui Community Plan, to go back and look at it or something. But I just kind of wanted to, to find, I, I hadn't recalled that we took those votes, and we didn't get enough votes so, thanks for the reminder on that. But maybe that's a lesson for next time. Thank you.

CHAIR LEE: David Raatz? If you, David?

DEPUTY DIRECTOR OF COUNCIL SERVICES: Yes, Chair?

CHAIR LEE: If you don't mind, I would still like to pursue that, so that we, you know, Mr. Mayer was quite serious about his testimony, and just some kind of analysis on that. And how difficult is it? How difficult is it to try to, to make amendments, or changes that does tighten up the language, if needed and if agreed upon by everybody?

DEPUTY DIRECTOR OF COUNCIL SERVICES: Okay.

CHAIR LEE: We're sorry, Member Paltin, if we voted something down that was needed at that time. But sometimes your meetings, we're, we have information overload, you know? And we, it's, it's exhausting sometimes. And sometimes, we had enough, and we just want to go home. And so, I'm not trying to make excuses. That's the god's truth, it's a lot of information.

COUNCILMEMBER PALTIN: It was on the Thursday, the, like towards the end. So, I, I don't blame you. And like Member King said, if, if they come up with better iterations, and our community likes their iterations, I'll be more than happy to propose it to our community in a town hall as, for adoption. But yeah, it was, it was towards the end. Maybe, we should have taken it up first

CHAIR LEE: Yeah, we're not too good at the end of the meetings, any meeting.

COUNCILMEMBER KING: Okay. Well, thank you--

CHAIR LEE: Member King

COUNCILMEMBER KING: Yeah, thank you for exploring that. I do remember that when we, you know, that the, the land use designations that were put into the Lanai Plan were brought to the Molokai Plan just like that, and we tried to change them, and we also did not have the votes to change them. Because we wanted, because we felt like this was something they were going to march through every community plan. And they went through, again, it wasn't specific enough. So, and hopefully we, we can take that lesson to the South Maui Community Plan. Thank you.

CHAIR LEE: David, did you want to say something? No?

DEPUTY DIRECTOR OF COUNCIL SERVICES: No, thank you, Chair. We, I think we understand our directions.

CHAIR LEE: Alright, thank you. Anybody else who would like to say anything?

COUNCILMEMBER PALTIN: I was, I was just answering a question. That wasn't my discussion, right?

CHAIR LEE: Oh. No, of course not. I just wanted to check if anybody else had anything to say cause we will end with--

COUNCILMEMBER KING: That was my discussion. Don't take it out of her time.

CHAIR LEE: We'll end, we'll end with you, okay? Alright. Member Paltin.

COUNCILMEMBER PALTIN: Okay. I don't want to blow the load before second reading, so I'll keep it brief this time around. I just wanted to, if anybody was wondering what happened to item 4 on my original ASF regarding DHHL maps. We just need to take an, a different avenue to pursue that, and it's just going to take one more step. So, I didn't want anybody watching or any of you, my colleagues, to think that I just shined DHHL. It's just going to take another step first before we can add it into the community plan. And I did discuss this with Andrew Choy, and he emailed a bunch of folks. So, they're aware and they're okay with that.

And other than that, I know I put you through information overload, and I'm sorry. And I sometimes was very passionate. And just thank you for putting up with me. And I don't want to say the whole thing before second reading, because I don't want to jinx us. Knock on wood.

CHAIR LEE: Okay. Sounds good. Alright, Members, ready for the vote?

COUNCILMEMBER KAMA: Chair?

CHAIR LEE: Member Kama.

COUNCILMEMBER KAMA: Thank you. I just wanted to respond to Member Paltin. Member Paltin, I would expect nothing but the best from you, and this is your best. So, yes, it's late, but it's Friday and we're off tomorrow. So, thank you.

CHAIR LEE: Alright. Member Sugimura, you have your hand up.

COUNCILMEMBER SUGIMURA: You know, for me, it's really, it's really major for Corp. Counsel not to sign the West Maui Community Plan. And I will do my own investigating, or own research until when it comes up for second reading. But I cannot vote for it, because it's not signed form and legality by Corp. Counsel. I think there's a lot of it that's good. But in terms of, you know, the final, to me, stamp, I always look for it, even when we do other, you know, other legislation is Corp. Counsel. So, I'm going to vote "no".

And I'm going to do exactly like what I did with Department of Water Supply purchase of the Maui County Federal Credit Union Building. I'm going to go do the research. But for today, I'm voting "no". Nothing against Tamara, all your good work. But I just want to explain to you why. And, yeah, for me, it's huge. To me, that's, that's pretty huge for a document this important that's going to be living in perpetuity. So, thank you.

CHAIR LEE: Vice-Chair Rawlins-Fernandez. Oh, you're frozen again.

VICE-CHAIR RAWLINS-FERNANDEZ: . . . . Okay. Okay, how about now?

CHAIR LEE: Good.

VICE-CHAIR RAWLINS-FERNANDEZ: Can you hear me?

CHAIR LEE: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Okay. Alright. I, I wasn't going to comment, but I, you know, I think Member Paltin and the community just worked too hard to leave this discussion on not a positive and happy note. So, I just wanted to echo Pro Tem Kama's comments. Member Paltin, thank you so much for your leadership on this and

attending, you and your office attended all the CPAC meetings and the Maui Planning Commission meetings, and really shepherded this through.

And you, you really helped our Council walk through this whole thing, making it as, as easy as possible. I'm not saying this was easy, I'm just saying that you really, you know, put a lot of work, you and your office put a lot of work into it to make it as easy for us to follow all of that information in four days. And then, you know, through the, the public hearing. And so, I just want to commend you and your office, and the community for working so hard on this community plan. And so proud to vote in support of this motion. Mahalo, Chair.

CHAIR LEE: Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. I, I know, I know it's getting late, so I'll be really quick. I really appreciate all of your hard work, Councilmember Paltin. And your communities got your back for all of these great, this great plan. In the back of my bookshelf, I have the Lanai Community Plan, and it is my bible, and I do carry that thing around. So, I really appreciate you saying that, because that is something that the community should be aware of. We should all be able to read our community plans and know it inside and out. So, I, I'm really impressed with the, with the way you manage such a heavy load. And you did a great job at it, so full support. Thank you, Chair.

CHAIR LEE: Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. And yeah, I totally agree with you, Chair, I thought it was information overload. But to, but to Member Paltin's credit, I mean, she put in, she delivered it in a way where, you know, it was organized, we could easily follow along. So, with so much information, I think the way she . . . , we even tried to follow her process with the WUDP process, and that's, you know, 1400 pages. So, kudos to the staff, the Planning Department and, and Member Paltin's office. Glad to support this first reading. Thank you, Chair.

CHAIR LEE: Anybody else?

Member King.

COUNCILMEMBER KING: Thank you, Chair. Just real quickly. I'll, I'll just reiterate what everybody else said. I thought it was a good process. I thought you brought a format to us, Member Paltin, that was easy to follow. And so, I appreciated all the forms and the organization you did for the day-to-day review of the plan. I wish we could have,

the only word I have is I wish we could have tightened up those, those land use designations. But like you said, we didn't have the votes at the time.

And thank goodness we don't have to, everything we pass doesn't have to have Corp. Counsel's signature on it, because I do disagree that, I mean, I think it's, the form and legality is there. So, I don't understand why they wouldn't sign off on the community plan? But, you know, they have their reasons, and this is a policy decision. So, I think we can all feel good about the fact that this is a good policy, we listened to both sides of all the issues, all the controversial parts. And we, we took, you know, we made a vote, and we took a fair vote. And the plan, hopefully, will, will continue to evolve, that we find better ways to do things.

As, hopefully by the time we get done with the South Maui Plan, it won't be time to go back to do the Lanai Plan again, because we have three more plans after that. But, you know, and hopefully, we can find a way to do this faster. But I think you did speed it up. And hopefully the next plan will, goes faster, because the Planning Department already has a template, so.

And also, you know, I wanted to give kudos to the Planning Department, too, because they put a lot of work into this. And, you know, we might not have agreed with everything they brought to us. But they were very helpful in helping us deciphering decisions and leaving the decisions up to the Council in the end. So, I do want to acknowledge all the work that Planning put into this, and that they are now putting into South Maui, the South Maui Plan. Thank you, Chair.

CHAIR LEE: Thank you. Okay, my turn. Member Paltin, I want to congratulate you on an incredible job. It was amazing how you pulled us through, plowed us through this volume, sheer volumes of information. And we made it, and we did it. And of course, we have to thank the Planning Department, and all the others before us, the Planning Commission, the CAC, the community, and everybody else who has their handprint on this. But you are the leader of this one, and we look forward to the rest of the plans that we, we'll be going through.

I do have some concerns about this plan, but I do support you, and I will vote yes with reservations. Okay. Alright, everybody ready for the vote? All those in favor of the main motion as amended six times, raise your hand, say "aye".

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

CHAIR LEE: Okay, so I see eight "ayes". Wait. Okay, I cannot see you, actually, Member Kama. Are you an "aye"?

COUNCILMEMBER KAMA: I'm going to vote "no", Chair.

CHAIR LEE: Oh, okay. So, that's seven "ayes".

All those against, raise your hand and say "no".

NOES: COUNCILMEMBERS KAMA AND SUGIMURA.

CHAIR LEE: No?

COUNCILMEMBER KAMA: It's my "no" because you can't see my hand.

CHAIR LEE: Okay. So, the, the vote passes 7-2. Congratulations. Very good. Very good.

Now, everyone, last say. You going to do anything special this weekend? Get married, whatever, what? Sleep?

COUNCILMEMBER KING: I'm going to clean my closets.

CHAIR LEE: Clean your closets, okay. Anybody else doing anything special?

COUNCILMEMBER SUGIMURA: So, Pukalani, the golf cart parade is postponed to next week Saturday because of the weather, at the golf course. And then, the Made on Maui got rescheduled to tomorrow and Sunday. And that's at the food concession area at the, where Maui Fair is. So, that's where the booths are.

CHAIR LEE: Yeah, well, we're expecting rain again. So, I'm not sure how that's going to go.

COUNCILMEMBER KING: And then, everybody be careful, because, you know, they just found the Omicron variant on, on Oahu. So, you know, we have to be very diligent with COVID . . . .

CHAIR LEE: Alright, Madam Clerk, do we have anything you want to say before we adjourn?

COUNTY CLERK: Just for the record, Chair, that was BILL 149 (2021). And with that, there's no further business before the Council.

CHAIR LEE: Okay. Thank you, everybody. Be safe. And we'll see you on the other--

COUNCILMEMBER KING: Chair?

CHAIR LEE: --side of the weekend.

COUNCILMEMBER KING: Just wanted to say, I hope I see, I know Member Sugimura couldn't make it, but I hope I see you folks at the South Maui District Office on Wednesday. We'll try to have a . . . .

CHAIR LEE: We'll be there. We'll be there and at the, the Paia one also.

COUNCILMEMBER MOLINA: Yeah, Chair, 9:00, if you can make it. Friday, December 10, for the blessing of the District Office at the Heritage Hall, Baldwin Avenue in beautiful Paia.

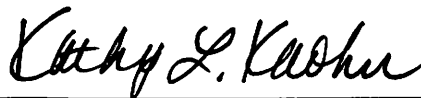
CHAIR LEE: Thank you.

COUNCILMEMBER SUGIMURA: I'll be there after MPO, yeah.

CHAIR LEE: Alright. Alright, everybody, have a great weekend. This meeting is adjourned.

### ADJOURNMENT

The regular meeting of December 3, 2021 was adjourned by the Chair at 6:23 p.m.



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KATHY KAOHU, COUNTY CLERK  
COUNTY OF MAUI, STATE OF HAWAII

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

RECEIVED

2021 DEC -3 AM 7:47

OFFICE OF THE  
COUNTY CLERK

Bill No. 148—Transmitting a proposed resolution entitled “A BILL FOR AN ORDINANCE ESTABLISHING  
CHAPTERS 19.98, MAUI COUNTY CODE, DECLARING A MORATORIUM ON NEW TRANSIENT  
ACCOMMODATIONS ON MAUI”

Friday, December 3, 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.

Imposing a moratorium on the construction of visitor accommodations will further hurt Maui’s economic recovery. Maui’s economy both relies on and benefits tremendously from the visitor industry. Historically, Maui has benefitted from the property tax revenue generated by visitor-use properties. Intelligent and purposeful adjustment of property tax rates has served to heighten reliance on this revenue. Undercutting it poses a long-term threat to the county’s revenue and tax bases. Prior to the pandemic, accommodations-related employment was the largest provider of jobs in Maui County, employing 12,900 residents. Industry employment has subsequently declined by 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.

Maui is confronting a major shift in the composition of its population. The period between 2010 and 2019 saw a decline in Hawaii-born residents and an increase in mainland U.S.—and foreign-born residents. During the same time period, many Native Hawaiian residents have left Maui to live in a different state, as the attached graphs illustrate. By reducing the potential for employment growth, a moratorium will likely accelerate this trend causing local residents and their families to leave Maui for more job opportunities and a better life elsewhere.

Maui’s popularity as a travel destination is unlikely to change. Pausing visitor accommodations development will not stop tourists from flying to Maui. It will only limit places where they can stay. Tourists will continue to

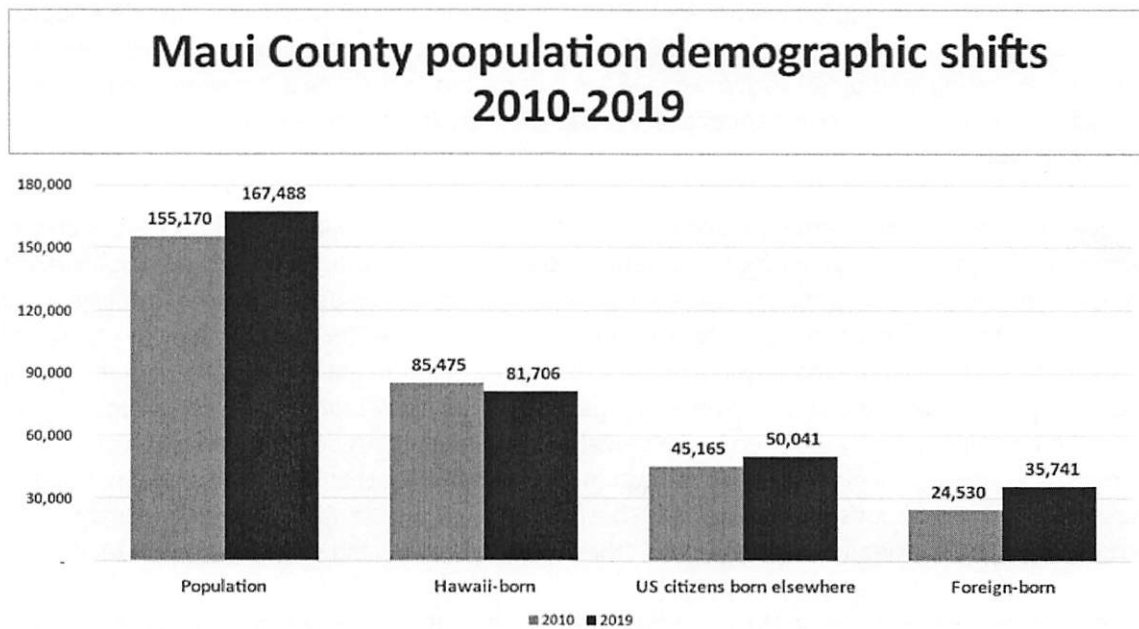




(Continued From Page 1)

visit Maui, particularly once the pandemic passes and pent-up demand for travel is unleashed. Limiting construction of facilities where they can stay will shift their presence to residential neighborhoods that were never intended for visitors.

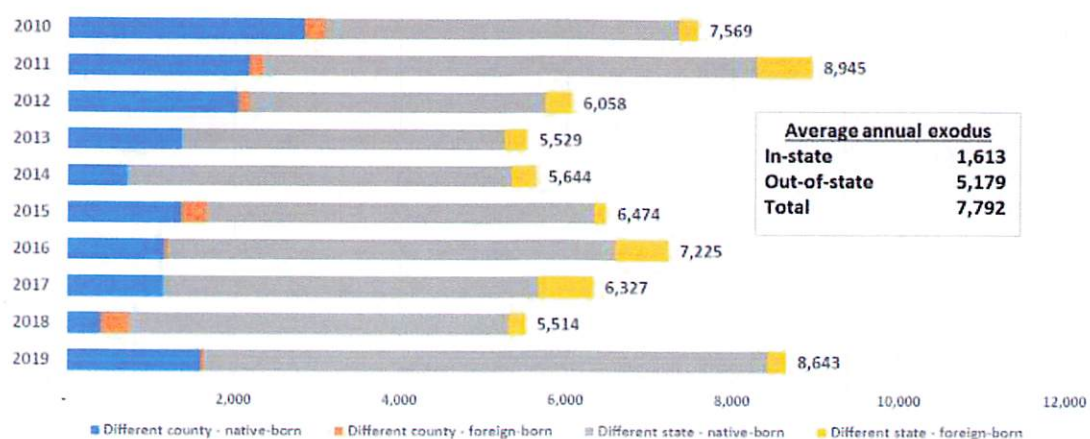
Given the above, we respectfully request that this Council to defer this measure.



Source: <https://data.census.gov/>

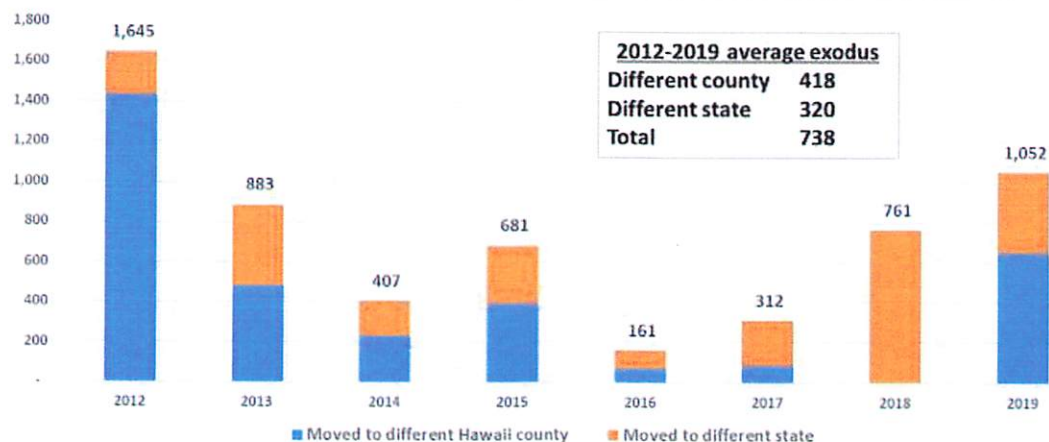
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## Maui County population exodus by destination, place of birth 2010-2019



Source: U.S. Census Bureau American Community Surveys

## Exodus of Native Hawaiians, Other Pacific Islanders 2012-2019



Source: U.S. Census Bureau American Community Surveys



Kaanapali Land Management Corp.

275 Lahainaluna Road • Lahaina, Maui, HI 96761 • t: (808) 661-9652 • f: (808) 667-9658 • www.KaanapaliLand.com

*Honoring our roots.  
Preserving our spirit.*

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OFFICE OF THE  
COUNTY CLERK

December 2, 2021

Council Chair Alice Lee  
Council of the County of Maui  
Office of Council Services  
200 South High Street  
Wailuku, HI 96793

Subject: Council of the County of Maui Regular Meeting 12/03/2021  
Testimony by Chad Fukunaga, Kaanapali Land Management Corp.  
Re: Bill for an Ordinance Amending Section 2.80B.070

West Maui faces many challenges, including a lack of affordable and market housing, and limited infrastructure. We all want better, but how can we come together as a community to effect positive change?

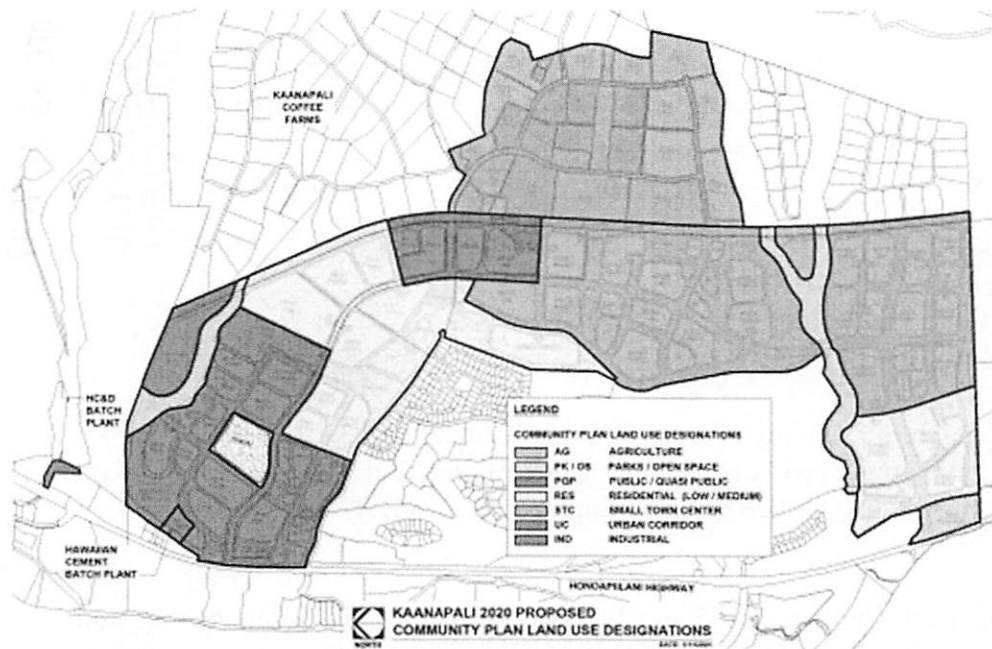
The basis of the Kaanapali 2020 community planning effort was to bring together community members (anyone willing to participate), to share concerns and ideals, to educate, and to collectively create a vision for Kaanapali to meet the needs of future generations.

This effort started over 20 years ago, and was revolutionary at its time, and remains so. I'm not aware of any equal community-based planning effort.

I grew up visiting my grandparents in Honokowai in the 70's and know well the changes to West Maui over the years. Change is inevitable, it's impossible to stop, but with proper planning can be implemented in a manner that best serves the community. However, without proper planning, change is likely to produce inadequate results. Proper planning would not place three schools in an area accessed by a single road. Proper planning would allow for redundant roadways to mitigate blockage from accidents or roadway work. Proper planning would facilitate much needed infrastructure and encourage the creation of housing.

Whereas the proposed West Maui Community Plan is being created now with the intent of providing guidance over the next 20 years, the Kaanapali 2020 master plan can evolve with consideration of regional factors and community input. The current proposed West Maui Community Plan places in serious jeopardy the Kaanapali 2020 master plan and viability of community planning. Please reconsider the proposed plan, most specifically the approximate

100-acres of park and open space designation in Kaanapali Town South (the following exhibit best represents the vision of the Kaanapali 2020 master plan).



West Maui faces a lack of affordable and market housing and has limited infrastructure. Creating a well thought out master plan is a valuable step towards positive change.

Sincerely,

Chad Fukunaga  
Vice President  
Kaanapali Land Management Corp.

DAVID Y. IGE  
GOVERNOR  
STATE OF HAWAII

JOSH GREEN  
LT GOVERNOR  
STATE OF HAWAII



WILLIAM J. AILA, JR.  
CHAIRMAN  
HAWAIIAN HOMES COMMISSION

TYLER I. GOMES  
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS

P O BOX 1879  
HONOLULU, HAWAII 96805

TESTIMONY OF WILLIAM J. AILA, JR, CHAIRMAN  
HAWAIIAN HOMES COMMISSION  
BEFORE THE MAUI COUNTY COUNCIL  
MEETING ON DECEMBER 3, 2021 AT 9:00 AM

**BILL NO. 141 (2021)**

Aloha Chair Lee, Vice Chair Rawlins-Fernandez, and Members of the County Council:

The Department of Hawaiian Home Lands (DHHL) submits testimony **in strong support** of this bill.

The availability of water is one of the key barriers DHHL faces in the development and delivery of homesteads across Hawai'i. By adding DHHL projects to the list of projects that are exempt from the requirements of the Water Availability ordinance (14.12.030, Maui County Code), you will empower the County and DHHL to work cooperatively to provide much needed housing in the County. This will be a meaningful step in helping DHHL and the County to faithfully implement the Hawaiian Homes Commission Act, a Constitutional mandate and a condition of statehood.

DHHL supports the language that is before the Council that was passed at your previous meeting. We would be happy to answer any questions.

Thank you for your consideration of our testimony.

Me ke aloha,

A handwritten signature in black ink, appearing to read "William J. Ailā, Jr.", written over a horizontal line.

William J. Ailā, Jr., Chairman  
Hawaiian Homes Commission

RECEIVED

2021 DEC -2 PM 1:00

OFFICE OF THE  
COUNTY CLERK

ORDINANCE NO. \_\_\_\_\_

BILL NO. 141 (2021)

A BILL FOR AN ORDINANCE AMENDING SECTION 14.12.030, MAUI COUNTY CODE, EXEMPTING DEVELOPMENT BY THE DEPARTMENT OF HAWAIIAN HOME LANDS UNDER THE HAWAIIAN HOMES COMMISSION ACT FROM THE WATER AVAILABILITY POLICY

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

SECTION 1. The purpose of this Ordinance is to exempt development by the Department of Hawaiian Home Lands under the Hawaiian Homes Commission Act from the Water Availability Policy.

SECTION 2. Section 14.12.030, Maui County Code, is amended to read as follows:

**“14.12.030 Exemptions.** This chapter [shall] does not apply to:

A. Building permits as described in chapter 18.28 [of this code,] or other ministerial construction permits that do not require new or additional water services;

B. Subdivisions that do not require water service, such as[, but not limited to,] family subdivisions as defined in section 18.20.280 [of this code], consolidations and concurrent re-subdivisions that do not create additional developable lots, road widening lots, utility lots, or easements for access or utility purposes;

C. Subdivisions that will not be regulated as a public water system [pursuant to] under department of health rules, [provided] except that this exemption [shall] does not apply to any subsequent subdivision of any of the resulting parcels;

D. Infill development, [provided] except that this exemption [shall] does not apply to any subsequent development or subdivision of any resulting parcels;

E. Residential workforce housing units developed by a qualified housing provider [pursuant to] under chapter 2.96 [of this

code,] and are within the service area of the department's central or west Maui water system;

F. Residential development projects with [one hundred] 100 percent affordable housing units and are within the service area of the department's central or west Maui water system; [or]

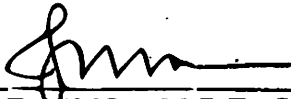
G. Public or quasi-public development projects as defined in section 19.04.040 [of this code] and related subdivisions that are within the service area of the department's central or west Maui water system[.]; or

H. Development by the department of Hawaiian home lands under the Hawaiian Homes Commission Act, provided that exemptions for industrial, business, hotel and resort, or other commercial use projects designed and intended to generate revenues as authorized by the Hawaiian Homes Commission Act be approved by the council."

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This Ordinance takes effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:



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JENNIFER M.P.E. OANA

Department of the Corporation Counsel  
County of Maui

paf:kmatt:21-349b

DIGEST

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 141 (2021)

A BILL FOR AN ORDINANCE AMENDING SECTION 14.12.030, MAUI  
COUNTY CODE, EXEMPTING DEVELOPMENT BY THE DEPARTMENT OF  
HAWAIIAN HOME LANDS UNDER THE HAWAIIAN HOMES COMMISSION ACT  
FROM THE WATER AVAILABILITY POLICY


This bill proposes to amend Section 14.12.030, Maui County Code, exempting development by Department of Hawaiian Home Lands from the Water Availability Policy.

I, KATHY L. KAOHU, County Clerk of the County of Maui, State of Hawaii, DO  
HEREBY CERTIFY that the foregoing BILL NO. 141 (2021) was passed on First Reading  
by the Council of the County of Maui, State of Hawaii, on the 19th day of November, 2021,  
by the following vote:

AYES: Councilmembers Gabriel Johnson, Natalie A. Kama, Kelly T. King,  
Michael J. Molina, Tamara A.M. Paltin, Shane M. Sinenci, Yuki Lei K.  
Sugimura, Vice-Chair Keani N.W. Rawlins-Fernandez, and Chair  
Alice L. Lee.

NOES: None.

DATED at Wailuku, Maui, Hawaii, this 23rd of November, 2021.



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KATHY L. KAOHU, COUNTY CLERK  
COUNTY OF MAUI, STATE OF HAWAII

Copies of the foregoing Bill, in full, are on file in the Office of the County Clerk,  
County of Maui, for use and examination by the public.



Aloha Councilmembers;

I know that you are at second reading of the moratorium Bill 148 ordinance. However, two issues have come up with the ordinance wording.

#1. **CC 21-543** asks you to approve what looks like a minor change in 19.98.040 part F4. It would amend the ordinance to allow previously granted housing credits to be utilized to meet the housing requirements for additional transient accommodations.

These credits can be used by developers who are putting up market homes, but should **NOT** be used to construct new tourist accommodations.

Rather than deleting the sentence that she wants deleted. I would keep that sentence AND add a sentence with a slight modification. It will make everything very clear.

**Allow both sentences:** 4. Housing credits may not be issued to or used by the developer to satisfy the requirement of this subsection for any type of unit constructed. The new affordable housing units must be physically constructed for the purposes of this section.

\*\*\*\*\*

#2. A second concern regards the very last paragraph (Section 2.) of this **Bill 148 (2021)** ordinance. The wording could be much clearer. Here is the present version, followed by a suggested revision.

#### EXISTING

SECTION 2. This Ordinance takes effect on approval, but does not apply to the processing, approval, or granting of any application for the approval of a new transient accommodation that has received its final discretionary approval prior to the effective date of this Ordinance.

#### SUGGESTED REVISION

SECTION 2. This Ordinance takes effect on approval, [ ~~but does not apply to the processing, approval, or granting of any application for the approval of a~~ ] and applies to any new transient accommodation that has not received its final discretionary approval prior to the effective date of this Ordinance.

. Mahalo for all you do, Dick Mayer  
808-283-4376

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December 2, 2021

OFFICE OF THE  
COUNTY CLERK

Council of the County of Maui

Councilmember Alice L. Lee, Council Chair

Councilmember Keani Rawlins-Fernandez, Council Vice-Chair

RE: BILL 148 – "A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 19.98, MAUI COUNTY CODE, DECLARING A MORATORIUM ON NEW TRANSIENT ACCOMMODATIONS ON MAUI"

Hearing date and time: Friday, December 3, 2021, at 9:00 a.m.

Aloha Chair Lee, Vice-Chair Rawlins-Fernandez and Honorable Councilmembers,

I am writing on behalf of Grand Wailea to comment on Bill 148, the proposed moratorium for new visitor accommodations on Maui.

In October 2018, Grand Wailea began what has become a more than three-year review of a request for permission to move forward with the resort's first major renovation and expansion since it opened 30 years ago. The project includes 137 guest rooms, new pool amenities, expanded pool decks, infrastructure upgrades, and other improvements to the iconic property.

Conversations with community members have guided the scope of Grand Wailea's enhancement plans. Since the review process began, there has been a significant reduction in the number of new rooms being proposed, the chapel will be preserved, and a new floor of parking has been eliminated. There has also been careful planning to minimize potential impact on cultural resources.

Grand Wailea is currently awaiting a Maui Planning Commission hearing where commissioners will vote on the project's final discretionary approval.

Economist Paul Brewbaker estimates Grand Wailea's enhancement plans would provide a significant boost to Maui's economy and tax base for four years during construction and continuing after the expanded resort starts welcoming guests. 215 construction jobs will be created each year over four years, generating \$46 million in earnings and \$7 million in new state taxes. 245 permanent tourism jobs will be added on Maui, equating to \$12 million in earnings per year and \$2 million in state taxes. These jobs will be in key areas, including management, food and beverage, accounting and at the front desk.

The expansion will add \$650,000 per year in property taxes paid to the County of Maui, amounting to a 12.4% increase to the current \$5.2 million. It will also increase Grand Wailea's annual contributions to more than \$20 million in Transient Accommodations Tax revenue for the state.

On this Council's referral of Bill 148 to the Maui Planning Commission, commissioners explicitly noted the investment of time and resources that go into complex permitting and planning applications to the County. In response, the Planning Commission voted to modify Section 2 to exempt from the moratorium any projects that have "filed" applications with the County authority that will determine the project's final discretionary approval.

Before voting in favor of passage on the first reading, Councilmembers amended Section 2 to read:

*Section 2. This Ordinance takes effect on approval, but does not apply to the processing, approval, or granting of any application for the approval of a new transient accommodation ~~that is properly filed with the County that has received its final discretionary approval~~ prior to the effective date.*

In adopting the current version of Section 2, we understand it may have been the intent of Councilmember's to prevent what some fear will be a rush to file new permit applications on the eve of the moratorium becoming law.

Grand Wailea respectfully asks Councilmembers to consider a minor but important change, as shown below with inserted language underlined.

*Section 2. This Ordinance takes effect on approval, but does not apply to the processing, approval, or granting of any application for the approval of a new transient accommodation that has received from the Department of Planning a written notice of application completeness and acceptance, or received its final discretionary approval prior to the effective date.*

Councilmembers can rest assured, given the limited scope of the proposed change, such an amendment will not result in a mass of new applications that will evade the moratorium. A review of publicly available information about new visitor accommodations projects with complete applications awaiting final discretionary approval appears to be limited to one: Grand Wailea's enhancement plans, which has been "complete" for more than two years and is in the final stage of its final discretionary approval.

Please know that Grand Wailea is committed to achieving a sustainable tourism future where visitors are redirected to the parts of the island where tourism was intended and envisioned by the Maui Island Plan. The resort also stands ready to work together with the Council to minimize the impacts of visitors through thoughtful planning and conservation efforts that will, likewise, maximize the benefits of tourism for local communities and families.

Mahalo for your consideration,



William Meheula, Esq.

Sullivan Meheula Lee  
A Limited Liability Law Partnership

*Counsel for Grand Wailea*

**From:** Tcroly <tcroly@maui.net>  
**Sent:** Thursday, December 2, 2021 3:28 PM  
**To:** County Clerk  
**Subject:** Testimony for Bill148

2021 DEC -2 PM 3:41

OFFICE OF THE  
COUNTY CLERK

You don't often get email from tcroly@maui.net. [Learn why this is important](#)

## Transient accommodations moratorium

Aloha Council members

I was disappointed to see that a fundamental change was made to Section 2 of the transient accommodation moratorium at first reading that would result in the suspension of the processing of all current Short Term Rental Home permit applications, some of which have been in the system for more than three years. I am hoping that you might consider further amending this ordinance out of fairness to these permit applicants.

I would suggest an additional exemption be added to section 19.98.040 to read:

F. Any Short Term Rental Home permit application submitted prior to December 3, 2021.

When this moratorium was reviewed by the Maui Planning commission, Corporation Council made very clear that the moratorium would not apply to permit applicants who had already submitted their applications. In their discussion and comments, the Maui Planning Commission strongly supported this provision of the proposed moratorium ordinance. Then, when the moratorium was discussed in Council committee, this provision, protecting current applicants, remained. Then suddenly at first reading it was changed, without allowing the public or the administration to comment on the affect of such a change.

When the amendment to Section 2 was proposed, Council member King asked if the Planning Director was available to comment on how many permits were in process. I don't know what hotel, timeshare or condo permits are in process, but I do know that the County's kiva system currently shows 16 STRH permits in process. One of these applications dates back to 2017, five date back to 2018, one from 2019, one from 2020 and seven from 2021. While I don't expect that all of the applications will be granted, it seems unfair to these applicants to suspend any further processing of their permit applications for which they have already spent allot of money, time and effort in the process.

I asked the Planning Director how she intended to treat these open STRH applications with respect from the moratorium. She said that she had expected to continue processing them, until last week's amendment to section 2. She said that if that amendment stands, these applications would be suspended and no further processing would take place until the moratorium had ended. So even if these applications did meet all the requirements, they still would not be ready to grant at the end of the moratorium, because only then would the department's processing resume. It would seem far better to allow the department to dispose of all of these applications by either granting or denying them and only begin accepting any new applications after the moratorium would end.

In July, the Council reduced the caps that apply to STRH permits in each community plan district and reduced those caps to the existing number of permits (or less) while allowing the applications that had been submitted by July 1, 2021 to be processed. Telling those same applicants, some of whom have been waiting many months for the department to even begin processing their applications, that now, after accepting their application fees that they will have to wait an additional two years to have their permit applications processed is just plain bad faith on the part of the County.

Council member Rawlins-Fernandez made a further amendment to the purpose of the moratorium to say that a cap on all transient accommodations in each community plan district would need to be established to end the moratorium. Similar to the caps already established for STRHs and B&Bs. It would seem that the Council has already done this for STRHs and has included the current applications in those caps. That being the case, the question might be, why would this moratorium apply to any STRH?

I respectfully ask that you amend the transient accommodation moratorium to add an exemption in 19.98.040 to include:

F. Any Short Term Rental Home permit application submitted prior to December 3, 2021.

Tom Croly  
submitted on my own behalf



## County Clerk

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**From:** Kai Nishiki <kai.nishiki@gmail.com>  
**Sent:** Friday, December 3, 2021 11:12 AM  
**To:** County Clerk; Alice L. Lee; Tasha A. Kama; Yukilei Sugimura; Mike J. Molina; Kelly King; Keani N. Rawlins; Shane M. Sinenci; Gabe Johnson; Tamara A. Paltin  
**Subject:** CC21-542 West Maui CP- K2020 map submittal

Good morning Chair and Council members,

I'd like to provide this map that Ka'anapali Land Mgt Co/K2020 originally handed out to the CPAC and our community with Ka'anapali Town South proposed with Resort/Hotel(brown) and Urban Center/Corridor(Red) with the highest density in this area. They later changed their maps, perhaps realizing this proposal would never be approved.

Mahalo,

Kai

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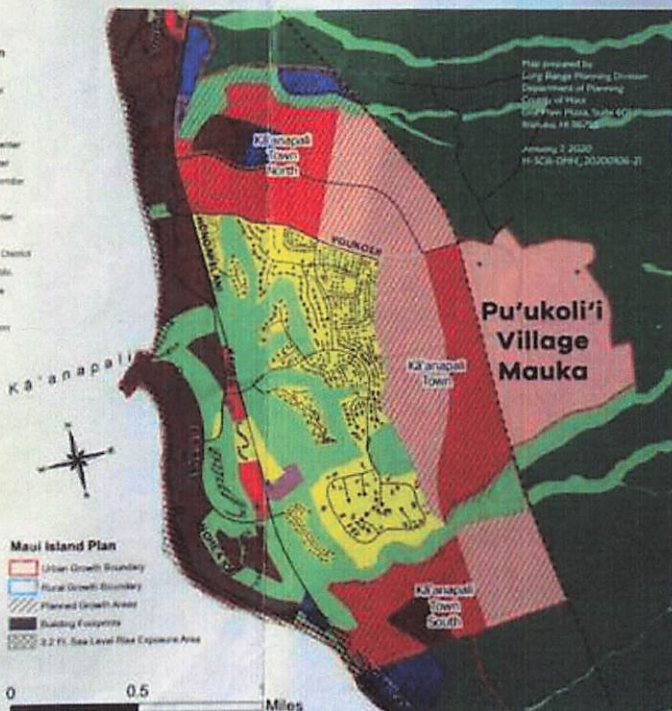
Puukoli'i Village Mauka

## West Maui Community Plan 2 • Expansion • Ka'anapali Subarea

Consistent with K2020 Community Vision

### Community Plan Designations

- Rural Residential
- Residential
- Rural Village
- Neighborhood Center
- Small Town Center
- Urban Center/Center
- Road/Highway
- Employment Center
- Industrial
- Special Purpose District
- Public/Quasi-Public
- Park/Open Space
- Agriculture
- State Conservation



### KLMC Company Involvement

- Maui Cultural Lands partnership
- Nature Conservancy partnership (1,187 +/- acres)
- HDOT Lahaina Bypass Development Agreement



For more information, please contact

Chad Fukunaga  
Kaanapali Land Management Corp.  
Ph: 808-661-9652  
Email: [chad@kaanapaliland.com](mailto:chad@kaanapaliland.com)

All maps, concept plans and other renderings and drawings and other data are furnished to provide general information about Ka'anapali 2020, and are subject to change. Neither Kaanapali Land Management Corp. nor any of its affiliates, or their respective representatives, makes any warranties, representations or assurances whatsoever that Ka'anapali 2020 or any other plans presently envisioned for the Ka'anapali 2020 lands can or will be carried out, or that any land in any interest therein now owned or hereafter acquired by Kaanapali Land Management Corp. or any of its affiliates (including without limitation all or any portion of the Ka'anapali 2020 lands) is or will be designated to or developed for a particular use. Nothing contained or referenced herein constitutes an offer or solicitation of any kind. Kaanapali Coffee Farms, Inc. has been registered with the Department of Commerce and Consumer Affairs, State of Hawaii, pursuant to the Hawaii Uniform Land Sales Practices Act (HRS Chapter 484A, Registration No. S-1787, and with the Bureau of Consumer Financial Protection, pursuant to the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701 et seq.), as amended. REGISTRATION DOES NOT INDICATE APPROVAL OR DISAPPROVAL OF THE SUBDIVISION. NO FEDERAL, STATE OR COUNTY AGENCY HAS JUDGED THE MERITS OR VALUE, IF ANY, OF KAANAPALI COFFEE FARMS OR ANY OTHER PROPERTY OR PROJECT WITHIN KAANAPALI 2020.



## County Clerk

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**From:** Jeff and Sue Anderson <smander@pacbell.net>  
**Sent:** Sunday, November 28, 2021 10:41 AM  
**To:** County Clerk  
**Subject:** County Council Testimony re First Reading of A BILL TO ADOPT THE UPDATED WEST MAUI COMMUNITY PLAN

 You don't often get email from smander@pacbell.net. [Learn why this is important](#)

Aloha Councilmembers,

This testimony is regarding the 12/3/2021 agenda item for the First Reading of A BILL TO ADOPT THE UPDATED WEST MAUI COMMUNITY PLAN. Note that there doesn't appear to be a bill identifier in the agenda.

I want to say a big THANK YOU to the folks who participated in creating the new West Maui Plan, especially the volunteer CPAC committee members. I sat in on a few of their many long meetings they held over literally years. The committee put in lot of work and the plan is quite an accomplishment. I admire their passion and commitment to reviewing every aspect and to upholding key values that should serve us well in the future. The plan's focus on avoiding sprawl by locating new development near existing infrastructure, employment and services is great. I'm especially fond of the new "Areas of Stability".

You will likely get lots of feedback spurred on by self-interested groups and individuals suggesting last minute changes. Please resist the urge to make any big changes to the plan. Making big changes would shift the plan from a community crafted and supported effort to one built and owned by the County Council. It would devalue many thousand hours of effort, much of it by unpaid volunteers, to get the plan to this point. Overriding the plan would also discourage community members from participating in similar future efforts.

Please approve the West Maui Community Plan as-is or with minimal changes.

Jeff Anderson, Lahaina

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COUNTY CLERK

## County Clerk

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**From:** Elle Cochran <cochranelle00@gmail.com>  
**Sent:** Thursday, December 2, 2021 11:58 PM  
**To:** County Clerk  
**Subject:** Fwd: Bill(2021) First Reading

----- Forwarded message -----

**From:** Elle Cochran <cochranelle00@gmail.com>  
**Date:** Thu, 2 Dec 2021 at 23:51  
**Subject:** Fwd: Bill(2021) First Reading  
**To:** County Clerk <county.clerk@mauicounty.us>  
**Cc:** Elle Cochran <cochranelle00@gmail.com>

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COUNTY CLERK

Aloha Council Chair Lee and Coouncilmembers,

I continue to be in favor of keeping the Ka'anapali 2020 Plan in its entirety. Just as it has been kept in, all through the General Plan Advisory Committee (GPAC), the General Plan (GP) and the Maui Island Plan (MIP) processes. This has been a Prime example of Consistency which needs to be upheld.

I really believe the Ka'anapali 2020 has been ahead of its time. The Plan continues to be Relevant today as It addresses Today's Real-Time Issues of our Kupuna, young adults and local housing needs. Members do the right thing by taking this opportunity to address the longstanding issues of our West Maui community.

Members,perhaps try to think of a new title for the Plan in your open mind as the name seems to trigger resentments of the Past and taints the Plan with negative thoughts. Look at it through a fresh set of eyes through the eyes of our Kupuna and Youth. The Pandemic has taught us now more than ever that we are in dire need of Medical facilities in West Maui. With the West Maui Hospital, Medical Center and Wellness Center moving forward within the K2020 Plan, housing for Skilled Nurses, Doctors, wellness professionals, etc. will be in demand along with current needs. It's a Wonderful tthing that surrounding these complexes in the Plan are set to have Multi-family and Single-family homes which could build a medical community to enhance all of our Quality of Life.

As a whole the entire plan addresses Sea Level Rise (SLR) and is the Best answer to our Managed Retreat issues well into the future just by the sheer location being Way Mauka of the ocean and Honoapi'ilani Highway. When our population of local families, workforce housing, jobs/businesses,churches, community centers, need to move inland or upland from SLR it's this Project that will answer these needs. In particular, the Ka'anapali South portion directly Mauka of Hanakao'o Beach Park, the Burials there and Wahikuli Wayside Park. Should the Canoe Hales, Picnic Tables/Benches, BBQ Pits, Lifeguard Towers, bathrooms, etc. be threatened by SLR then the Ka'anapali South has a prime 10 acre parcel slated for Park to assist with these threats.This 10 acre park parcel also creates a nice green viewplane corridor when looking Mauka from Hanakao'o. K2020's most Northern portion has a huge section for a Memorial Park where the Burials at Hanakao'o could be nicely reinterred with views. Think about it, West Maui has no where for our Veterans to be buried or a place for West Mauians to be buried in their Hometown if not affiliated with a Churches private graveyard.

K2020's internal infrastructure not only beautifully ties its entire project together for a Walkable/Bikeable Community but also helps to create needed connectivity with the Northern portion of The Bypass along with the Bypass Extension to Hwy.30 and surrounding landowners like Department of Hawaiian Home Lands (DHHL), Department of Land and Natural Resource (DLNR) and Hawaii Housing Finance & Development Corporation (HHFDC) to the South. Ka'anapali Land Management Co.(KLMC) has already paid \$3M into the Bypass. Their interior North-South roadway would work

as a parallel alternate route to the existing Hwy 30 when fires, accidents, road work, downed power lines, floods, SLR, etc. occur. This Project can be part of the solution to utilizing the R1 Water being Injected By the West Maui Treatment Facility next door.

The majority of K2020's build out will be Low-Med Affordable Multi-family and Single Family Homes which are desperately needed . We are at THE Worst Crisis Level for affordable homes and rentals for our people who want to continue to call West Maui their home and others who want to be able to move closer to their jobs located in West Maui!

Members, DO the Right Thing and take this Once In A Lifetime opportunity to support a Project that will answer our ongoing communities woes for affordable housing, for professional careers, to being business friendly, to perpetuating our Culture, to have a Bus/Transportation Center and to create an actual Smart Growth/Walkable/Bikeable Award Winning Community which would set an example for others to follow.

It's amazing that there is a wide acceptance by All the Neighborhoods most directly affected by the build out of this Project since there has not been a single Anti K2020 sentiment by anyone ever since its inception!

In closing, I believe that I captured a good cross section of supportive signatures from our diverse community voice on the K2020 Petition. The Signatures on my Petitions came from Generational Families of West Maui, our Kupuna , our Young Adults, local workforce, parents, Kama'aina who want to come home, entrepreneurs, etc. The West Maui community needs you more than ever to make their Dreams Come True by Supporting to keep the K2020 Plan in its entirety!

Mahalo for your time and consideration,  
Elle Cochran

## County Clerk

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**From:** Amber C. <ambercoontz@gmail.com>  
**Sent:** Wednesday, December 1, 2021 11:28 PM  
**To:** County Clerk  
**Subject:** A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 19.98, MAUI COUNTY CODE, DECLARING A MORATORIUM ON NEW TRANSIENT ACCOMMODATIONS ON MAUI

 You don't often get email from ambercoontz@gmail.com. [Learn why this is important](#)

Aloha Maui County Councilmembers,

I'm writing testimony in SUPPORT of BILL 148, A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 19.98, MAUI COUNTY CODE, DECLARING A MORATORIUM ON NEW TRANSIENT ACCOMMODATIONS ON MAUI.

Over-tourism and overdevelopment in Maui County are responsible for Maui's housing shortage for full-time residents. Residents can't find long-term rentals because owners prefer to earn short-term rental income legally and illegally from transient accommodation. Residents can't afford to buy homes because over-tourism and overdevelopment have inflated land and housing prices in Maui County.

Maui County has a shortage of teachers, doctors/nurses/healthcare workers, and skilled trades people due to the high cost and low availability of housing. The housing shortage has also contributed to hospitality/tourism worker shortages in the last several years.

Maui County doesn't need more jobs, despite the disingenuous claims made by tourism and real estate development lobbyists. Maui County needs to create more housing options by incentivizing home owners to rent to long-term residents that can fill the current worker shortages in essential sectors like healthcare, skilled trades, and education.

Building new transient accommodation will not solve the housing shortage and will not provide residents with high wage, full-time employment. Union construction workers should be retrained to update Maui's outdated and overburdened infrastructure. Roads, sewage treatment, coastal erosion, outdated electric and internet infrastructure, medical facilities, and public schools are all in dire need of repair to support the existing resident and tourist populations. How can a state that hosts 10 million visitors per year be in such a state of disrepair? How is building more transient accommodation going to fix the housing shortage and infrastructure that's already overburdened by too many visitors?

How is building more transient accommodation going to stop rampant illegal commercial activities operating with impunity at county and state beaches, harbors, and near shore waters? County and state agencies already claim they can't keep up with enforcing existing laws for commercial activities on public land. How will more tourists and more tourist accommodation fix this problem?

Maui's median household income is approximately \$80,000 per year. Half of Maui's households earn \$80,000 or less while the median home price is almost \$1 million. One bedroom apartment rentals are \$1,800-\$2,500 per month, not including utilities. The residents who work in hospitality jobs for \$20-25 per hour can't afford to pay rent and pay for essential needs like clothes, food, transportation, and medical care. Tourism is not creating high-paying employment and Maui can't build it's way out of this mess.

There are already too many visitors here for limited land and resources. On any given day, there are approximately 50,000-75,000 tourists on Maui in addition to the resident population of approximately 160,000. Maui has a finite amount of natural resources, land, and infrastructure to support the existing over-tourism numbers. Why would Maui

need to build more transient accommodation when the County Charter clearly states visitor numbers should not exceed approximately 30% of the resident population?

Visitors should be staying in the existing hotels and resorts and legal, short-term vacation rentals. There is absolutely no need for additional transient accommodation in Maui County. State and county agencies already cannot enforce existing tax and zoning laws for transient accommodation violations. How is building more accommodation and bringing more visitors going to solve this problem?

Stop building, stop new developments, and stop bringing more visitors. Maui County must raise taxes on existing transient accommodation, provide tax incentives for owners of long-term rentals, and create training and recruitment programs for residents to fill job vacancies in essential sectors. Residents with full-time employment in education, healthcare, skilled trades, and other professional jobs can contribute to Maui's tax base and island economy. More development from out of state and foreign corporations that exploit tax loopholes will not solve Maui's over-tourism issues. More low-wage service jobs will not solve Maui's over-tourism issues. Doubling down on a failed strategy is not the answer. We don't need even more of something that isn't working in the first place. The status quo is failing Hawaii residents and enriching exploitative industries that profit off of local residents and Maui's natural resources. Please pass Bill 148 to show Maui residents you support effective and meaningful policies to limit the current over-tourism levels that are not economically or environmentally sustainable.

Mahalo,  
Amber Coontz  
Lahaina, 96761

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December 1, 2021

RE: Bill 148

Moratorium on Transient Accommodations

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COUNTY CLERK

Aloha Maui County Council Members:

I am writing this letter in support of the proposed moratorium on visitor accommodations on Maui. This moratorium is a crucial step toward remediating the current unregulated over-tourism we are seeing here.

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 just finished months of a severe water shortage, yet only Upcountry residents were affected, not tourists. While my family's yard dried up and died 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 experiencing.

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 not showed any support of controlling tourism, including vetoing the last proposed moratorium for south and west Maui and vetoing the affordable housing bill. 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. It is the responsibility of government officials to ensure that there is adequate affordable housing for those who are essential to making our community work (health care professionals, teachers, police, social workers, restaurant workers, grocery/retail workers and yes, workers in tourism), not to incentivize nonresidents' profiting off tourism.

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.

Hardworking residents are trying 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

**County Clerk**

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**From:** suzette montalvo <sumontalvo296@gmail.com>  
**Sent:** Friday, November 19, 2021 2:05 PM  
**To:** County Clerk  
**Subject:** Section 2.80B.070

2021 NOV 29 AM 9:18

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<http://aka.ms/LearnAboutSenderIdentification>.]

Aloha Chair Lee and Councilmembers,

My name is Suzette Felicilda a multi-generation member of Mala, Lahaina. I have attended many council meetings on this subject and I support to adopt the updated West Maui Community Plan. I've seen growth over many years here in Lahaina and the entire West Maui. I agree we need to lay down the foundations and I do wish to give our future generations opportunities to decide the growth of West Maui. We need our future generations to have options. If we take everything at this moment, where is their room for their growth. Thank you for your time.

Suzette Felicilda  
Kanaka Maoli  
Mala, Lahaina

Sent from my iPhone



## County Clerk

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**From:** Gordon Firestein <gfirestein@seapact.com>  
**Sent:** Monday, November 29, 2021 10:57 AM  
**To:** County Clerk  
**Subject:** West Maui Community Plan

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Aloha, Councilmembers,

I am delighted that the West Maui Community Plan is before you now for final approval.

This represents the culmination of countless hours of community meetings and official hearings. I participated in some of them, but the CPAC members attended all of them! What a fantastic contribution to the community. I am confident the plan represents the desires of the vast majority of West Maui residents, especially when it comes to the challenging issues of where to locate affordable housing and which areas should be protected from future development.

You can be sure that adopting the plan as presented is the right thing to do.

Sincerely,

Gordon Firestein  
Launiupoko

## County Clerk

**From:** Tom Fox <tomfoxlaw@gmail.com>  
**Sent:** Thursday, December 2, 2021 5:22 PM  
**To:** County Clerk  
**Subject:** My Testimony for Bill No. 148

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Hello County Clerk,

I would appreciate it if you would please include the following as testimony for tomorrow's hearing on Bill No. 148. I have sent this testimony to each of the council members, individually. Thank you, Tom Fox

I own a small home in Launiopoko and have had a short-term rental application pending for 6 months. I understand that bill 148 would place moratorium on all new transient accommodations including those with already submitted applications. I can't weigh in on the politics of this issue because I simply don't know anything about that. I can only address why I made the decision to apply for one myself.

I was born in Honolulu in the mid 1950's when my father was in the US Navy and stationed at Barber's Point. My parents, being midwestern farm folks, immediately fell in love with Hawaii and left reluctantly. They vowed that when they could, they would move back, and when they both retired, they did just that.

They first bought a condominium in Puamana, but in 2001, they purchased a lot and built a home in Launiopoko. Shortly after they bought their lot, I purchased one as well. They lived there for about 10 years before selling their Maui home and moving back to the mainland due to health concerns in 2011.

After they moved, for a couple of years, I would bring them back for their respective birthdays, renting a condominium, usually at the Puamana and would notice that when they were in Maui, they would seem ten years younger. You couldn't wipe the smile off their faces and they walked straighter and quicker.

That prompted me to build my small house on my property. It is intended to be my retirement home, and for my parent's frequent use, as long as they were able. While it was being built, I would travel over every third week, for 5-7 days at a time. My home was finished about 8 years ago, in 2013. I take great pride in it, so it wasn't an easy decision to decide to apply for the short-term rental application. My lot, being in an agriculture-zoned subdivision meant I needed to farm. And as a result I have put in a large fruit orchard and palm nursery and hire a host of workers to care for the orchard.

Pre-pandemic, mom and dad would use my place, 3-4 times a year for 3-4 weeks at a time. I too would get over every other month. Since the pandemic, for a variety of reasons, that has changed. Dad's health has deteriorated significantly, so they haven't been back for a couple of years, but I do hope to get them back this Christmas.

I don't know what the future will bring. I want to spend as much time with my parents as I can, so my trips to Maui are less and less. Time will tell when I will be able to move over. In the interim, the cost of maintaining 2 homes, one of which is 2,500 miles away, is problematic.

I recognize how lucky that I am to have my Maui home. I truly do. When I look around and see the homeless people here in Los Angeles, I count my blessings. I understand that there is now a visible homeless population on Maui as well, and that breaks my heart.

I recognize the need on Maui for more affordable housing, though I understand that the homelessness and the lack of affordable housing might be separate issues, but I've got to believe that they are somehow interrelated. But, again, I haven't studied it enough to know the solution.

I'm uncertain on the reason why there is a movement to put a moratorium on short term rental permits, but my small home and orchard are not the solution to it.

I can only address the issue as it relates to my application, which is, that if my application isn't eventually approved, it will mean that I won't be able to offset my mounting costs, but it also won't mean that I will be renting it out for a long-term rental. I want/need to maintain the flexibility of getting over to the island that I love, as often as I can, hoping that Mom & Dad can squeeze a few more trips into their lives. Once I can no longer be of use to them, I'll move over permanently to tend to my farm.

All of this is background for my requesting that, if you think it's necessary to put in a moratorium on transient accommodations, I ask that you consider allowing the applications, such as mine, that are already in the pipeline, to go through the process that they have already initiated.

Respectfully,

Tom Fox

Thank you for including this testimony,

Tom Fox  
Law Office of Thomas L Fox APC  
16133 Ventura Blvd., Suite 1200  
Encino, CA 91436  
Phone: (818) 995-4074  
Fax: (818) 995-1213  
[www.tomfoxlaw.com](http://www.tomfoxlaw.com)

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December 3, 2021

Councilmember Alice Lee, Chair

Councilmember Keani Rawlins-Fernandez, Vice- Chair

Members of the Maui County Council

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RE: **Opposition to Bill 148 ("A BILL FOR AN ORDINANCE ESTABLISHING  
CHAPTER 19.98, MAUI COUNTY CODE, DECLARING A MORATORIUM ON  
NEW TRANSIENT ACCOMMODATIONS ON MAUI")**  
**Hearing date: Friday, December 3, 2021 at 9:00AM**

Aloha Chair Lee, Vice Chair Rawlins-Fernandez and members of the Maui County Council,

My name is Jerry Gibson, President of Hawai'i Hotel Alliance ("**HHA**"). I am testifying in **STRONG OPPOSITION** to a moratorium on building permits for hotel development, as described in Bill 148 regarding a bill for an ordinance establishing Chapter 19.98, Maui County Code, declaring a moratorium on new transient accommodations on Maui. Bill 148 seeks to create an island wide moratorium which prohibits the issuance of any permit under Title 19 for two (2) years.

The purpose of Bill 148 is to establish a moratorium to reduce the number of visitors to comply with visitor to resident ratio specified in Chapter 2.80B of the Maui Island Plan by pausing the increase of transient accommodations. However, there is no evidence which indicates that pausing the development of transient accommodations will decrease the number of visitors to Maui. Bill 148 will not stop visitors from flying to Maui. Rather, visitors will continue to travel to Maui and will seek out other accommodations even though transient accommodations are limited. It is concerning that such a broad and inflexible policy would be implemented without first showing transient accommodations as the primary cause of these negative impacts.

In turn, the volume of visitors will stay in accommodations such as the increasing number short-term vacation rentals ("**STR**"), which are the fastest-growing segment within Maui's visitor accommodations industry. These STRs burden residential neighborhoods and long-term apartment inventory on Maui and directly impact the quality of life for Maui residents. The data shows that the number of hotel rooms on Maui has decreased by 16% from 8,577 in 2000 to 7,251 in 2020, however, the average number of visitors arriving on Maui per day rose by 25% from 2000 to 2015. Thus, it is clear that the increase in visitors to Maui is directly correlated to the growing number of STRs. The moratorium fails to address the illegal STRs that continue to permeate residential neighborhoods on Maui. If the purpose of the bill is to ultimately decrease the visitor count, perhaps further regulation is needed on the number of illegal short-term vacation rental units that are allowed.

Moreover, Section 2 as currently drafted is grossly unfair to existing projects undergoing permit application review. Under the new Section 2 language the moratorium will be applicable to permits currently being reviewed that have not received their final discretionary approval. Essentially, applications that have already expended a substantial amount of recourses and time

will be halted in the current step of the application review process once the moratorium is passed. It is clear, the amended Section 2 is patently unfair to applicants that have properly filed and applied for a permit prior to the implementation of the moratorium. In addition, Section 2 as currently drafted undermines the Planning Commission's recommendation that the moratorium not impact current permit applications. Accordingly, if Bill 148 is to be passed, HHA respectfully requests the following amendment of Section 2 of Bill 148:

"Section 2. This Ordinance takes effect on approval, but does not apply to the processing, approval, or granting of any application for the approval of a new transient accommodation that has received from the Department of Planning a written notice of application completeness and acceptance, or received its final discretionary approval prior to the effective date."

The proposed amendment would allow projects with applications deemed complete and awaiting final review to be exempt from the moratorium and will permit said projects to move forward if ultimately approved.

Furthermore, this measure will result in substantial negative economic impacts for Maui County. The visitor accommodations industry provides employment to thousands of Maui residents which make up approximately 75% of all private-sector jobs on Maui. Bill 148 will result in the loss of much-needed employment opportunities for local Maui residents who work in construction, tourism, and other related industries. In fact, if such a moratorium is implemented, there will be a loss of hundreds of construction jobs and hundreds more hotel jobs during the two-year period alone. For example, the proposed renovation of the Grand Wailea which will be paused by the moratorium will result in the loss of:

1. **215 construction jobs** that will be created each year over four years, which generate \$46 million in earnings and \$7 million in new state taxes.
2. **245 additional permanent tourism jobs on Maui**, equating to \$12 million in earnings per year and \$2 million in state taxes. These jobs will be in key areas, including management, food and beverage, accounting and at the front desk.
3. **An additional \$650,000 per year in property taxes paid to the County of Maui** – amounting to a 12.4% increase to the current \$5.2 million.
4. Increased annual contributions from Grand Wailea to the **newly established County Transient Accommodations Tax and more than \$20 million in Transient Accommodations Tax revenue for the state.**

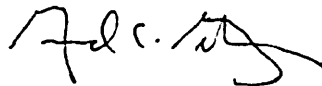
The loss of new jobs and economic impact will be far more substantial with the prevention of future transient accommodations. In turn the moratorium will contribute more to the outward migration of local families.

Lastly, Bill 148 will discourage future capital investment in Maui. It is concerning that the County would seek to implement policy that would deter future investment in Maui as the County continues to recover from the COVID-19 pandemic. With the passage of Bill 148 the County will

risk forgoing substantial amounts of future investments, tax revenues and job creation for Maui's economy moving forward.

On balance, the unintended consequences, including the negative impact on our economy, far outweigh any potential, yet unsubstantiated reduction in the number of visitors this moratorium will cause. Indeed, there are far more effective ways to reduce the amount of visitors on Maui without such a far reaching measure. Accordingly, HHA respectfully asks the Council to defer Bill 148 or alternatively pass Bill 148 with the proposed amendment to Section 2.

Mahalo for your consideration,

A handwritten signature in black ink, appearing to read "Jerry Gibson", with a stylized flourish at the end.

Jerry Gibson, President  
Hawaii Hotel Association

**Testimony for Maui County Council  
Meeting of December 3, 2021**

Aloha, Committee members.

My name is Sarah Hofstadter. I am a full-time, permanent resident of Kihei and a steering team member of the HALE Hawai'i community group. I am writing to express my strong **support** for the proposed **visitor accommodations moratorium** (Agenda Item M.2, Bill No. 148).

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, neither Maui County nor the State of Hawai'i has the 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. As the detailed discussion below clearly illustrates, **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 population of the County of Maui is just over 168,000. (<https://worldpopulationreview.com/us-counties/hi/maui-county-population>) That means that under the one-visitor-to-three-residents ratio, our daily visitor count should not exceed about 56,000 per day. Yet in July 2021, we had an average daily visitor census of 76,195 – some 20,000 *more* visitors than called for under the Maui County Plan. (<https://www.hawaiiitourismauthority.org/media/7924/july-2021-visitor-statistics-press-release.pdf>) Obviously, we already have more visitors than we want, and more importantly, more than our island's infrastructure and carrying capacity can handle.

Moreover, we already have approximately 21,400 visitor accommodations units on Maui, each of which will presumably house from two to four people. (See illustration below, from <https://www.hawaiiitourismauthority.org/media/8208/202-visitor-plant-inventory-report-1-11.pdf>.) Assuming an average occupancy of three visitors per unit, we *already* have enough rooms to handle 64,000 visitors – 8,000 *more* than called for by the Maui County Plan. And that figure does not include two developments in Kihei which will not be affected by the moratorium – the Maui Bay Villas by Hilton Grand Vacations timeshare on the former Maui Lu site, and the expansion of the Maui Coast Hotel.

It is worth noting that even at the 2021 peak of visitor numbers in July, Maui hotels had an occupancy rate of less than 82 percent. (<https://mauiNOW.com/2021/08/23/occupancy-at-81-7-for-maui-county-hotels-in-july-2021/>) In other words, *our existing hotel rooms are not full.*

The opposition to the proposed moratorium has been groundless and deceptive. Why do the hotels need to expand, when they are not operating at full capacity now, and even more visitor accommodations are already set to open before the proposed moratorium could take effect? If the visitor lodging industry really needs 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.

Mahalo nui for your attention. - Sarah Hofstadter, Kihei resident and HALE Hawai'i Steering Team member

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LOCAL #1 HI, IUBAC



## International Union of Bricklayers and Allied Craftworkers Local #1 of Hawaii

2251 North School Street, Honolulu, HI 96819

Phone: (808) 841-8822 • Fax: (808) 777-3456

December 3, 2021

The Honorable Alice L. Lee, Chair  
The Honorable Keani Rawlins-Fernandez, Vice-Chair  
Maui County Council  
200 South High Street, Eighth Floor  
Wailuku, Hawai'i 96793

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### **Statement of Local 1 in STRONG OPPOSITION to Bill 148** **Moratorium on New Transient Accommodations on Maui**

Dear Chair Lee, Vice Chair Rawlins-Fernandez, and Members:

The International Union of Bricklayers and Allied Crafts, Local 1, writes to strongly oppose Bill 148, which proposes a moratorium on new transient accommodations on Maui.

Our members would be dramatically and detrimentally affected by the proposed moratorium. Due to the discerning nature of Maui's visitors, hotel construction and renovations typically involve a substantial amount of high-quality, high-finish stone, marble, terrazzo, and tile work – the type of work that our well-equipped contractors and well-trained members perform. Hotel construction and renovation work provides our members with living wage jobs so they can support their families on Maui County.

If the proposed moratorium were to pass, our members and contractors would find it nearly impossible to find stable and economically-sustaining work opportunities in Maui County. While the moratorium purports to only be in effect for a few years, if our Maui members are forced to move away from the island, it will be much more difficult for them to return home afterwards even if hotel construction were to be permitted again. If local contractors close up shop and are unable to open back up after the moratorium expires, the void will be filled by mainland contractors which would further harm the local economy.

With the tourism industry in a tenuous position due to the COVID-19 pandemic and with an uncertain future ahead for the local construction industry due to the state of the global economy, we are extremely concerned by this proposal. **Thus, we must respectfully urge the Council to reject this very problematic moratorium proposal.**

**However, if the Council decides to proceed forward on this problematic proposal, we would request that language be added to address projects which have already submitted completed applications to be allowed to proceed.** For projects which have submitted applications, in many cases, our contractors have at that point already provided pricing information and assessed manpower requirements. Prohibiting projects with completed applications from moving forward would be an even more difficult blow for our membership, many of whom have been waiting for job opportunities so they can provide for their families.

Thank you for the opportunity to testify on this matter.

## County Clerk

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**From:** Kaaz <rbjyz@gmail.com>  
**Sent:** Wednesday, December 1, 2021 1:24 PM  
**To:** County Clerk; Mike J. Molina; Shane M. Sinenci; Tasha A. Kama; Alice L. Lee; Yukilei Sugimura; Kelly King; Keani N. Rawlins; Gabe Johnson  
**Subject:** Moratorium on Transient Accommodations, Bill 148

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Aloha Maui County Council Members:

We are writing this letter in support of the proposed moratorium on transient visitor accommodations on Maui. We support this moratorium as an initial step toward remediating the current unregulated over-tourism we are experiencing on Maui.

In accordance with the Maui County Plan, 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. Despite Federal and state regulations and guidelines, tourists on our beaches and in our coastal waters have been seen disturbing spinner dolphin pods and honu which are trying to bask and sleep during the day causing them illness and harm. 25% of Maui's coral reefs are damaged and destroyed both directly and indirectly by tourism. The ocean water is often oily and poisoned by excessive use of cancer causing sunscreen. 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.

Rents and the cost of housing are sky high due to short term transient tourist rentals (TVRs). Many residents of Maui can no longer afford to live here. Eliminating TVRs will decrease rents and improve the quality of residential neighborhoods. Please don't authorize the building of what we have too much of already.

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 transient tourist accommodations. Maui is literally being "loved to death" by excess tourism, and we are in danger of sacrificing our island, it's 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 and Rob Kaaz  
Kihei residents

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## County Clerk

**From:** Angela Leone <angie@coconutcondos.com>  
**Sent:** Thursday, December 2, 2021 1:54 PM  
**To:** County Clerk  
**Subject:** Opposition to Moratorium on Transient Accommodations

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Dear Maui County Councilmembers,

On behalf of Maui PRMA, the Vacation Rental Trade Council under the Maui Chamber of Commerce, we would like to **express our opposition to the proposed moratorium on transient accommodations, Bill 148 establishing chapter 19.98.**

PRMA, the Professional Rental Management Association, is a coalition of professional property management companies representing over 1600 **legally zoned condominium vacation rental units throughout Maui**. Our members are licensed in the State of Hawaii, engaged in the management of legal vacation rental properties, primarily condominiums, and comply with real estate license law and code of ethics. Our companies represent 216 years in business, employing nearly 200 employees and over 300 independent contractors and vendors.

The visitor industry supports so many other small businesses, contributing to our island's overall economic health. When this industry is stifled and suffers, jobs are lost and that creates broad waves of negative impacts that ripple throughout our community. When our industry was shut down during COVID, West Maui in particular saw unemployment rates in the 50%+ range with food lines that were 2-3 hours long. **Changes to our industry affect our local community, especially in the areas where many of the tourism related employees live and reside (West/South Maui).**

Ultimately, this will not stop visitors from traveling to Maui. We believe it will have other negative impacts such as reduced industry revenue and increased costs for guests, which could potentially lead to stays in illegal units at a time when we are trying to support legal vacation rentals and shut down illegal operations. The council and planning office have spent so much time and effort in establishing rules, permitting and oversight for legal vacation rentals. We would support continued efforts in allowing permitted transient accommodations to apply and operate in order to continue to collect GET & TAT revenue and reduce the number of illegal operators. **If there is no means for homeowners interested in pursuing legal permits, we run the risk of creating more illegal operators. At the end of the two years, this moratorium may create a bigger problem than when it started.**

On behalf of PRMA, we ask that you please focus your attention on the Maui Nui Destination Management Action Plan (DMAP) for the islands of Maui, Molokai, and Lanai. We would prefer to see the Council focus on efforts to support the DMAP and further this work instead of looking for ways to punish property owners and potentially inadvertently create more illegal vacation rentals.

We welcome any discussion with you or a member of your administration and can be contacted at [Mauiprma@gmail.com](mailto:Mauiprma@gmail.com).

Mahalo,

John Kevan  
Angela Leone  
Co-Founders of Maui Professional Rental Management Association (Maui PRMA)

## County Clerk

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**From:** Michelle Sigmund <michelles@leisinc.com>  
**Sent:** Thursday, December 2, 2021 9:00 AM  
**To:** County Clerk  
**Cc:** Michelle Sigmund; Stephen Leis  
**Subject:** Written Testimony - Bill 148 (Dorvin D. Leis Co., Inc.)

2021 DEC -2 AM 9:07

OFFICE OF THE  
COUNTY CLERK

**Importance:** High

You don't often get email from michelles@leisinc.com. [Learn why this is important](#)

Aloha,

This message is from Stephen Leis, President of Dorvin D. Leis Co., Inc. which is a Maui-based mechanical contractor who have employed thousands of Maui residents over our 50+ years on the island.

Dear Council Members,

As a long-time Maui-resident, with deep ties to the community, we understand the community's concerns with balancing the quality of life and need for economic stability. This need for economic stability also presents itself in our business as a long-time Maui-based contractor, who employee hundreds of Maui residents at any given time that allow them to provide for their families. We are sensitive to overgrowth on Maui, but we do not advocate for that balance to be forced through a 2 year moratorium whose restrictions will continue well past the 2 year mark. The initial investment of capital and resources required just in the due diligence period for large hotel developments span multiple years, and this moratorium may avert Developers to other communities where they will spend their development, construction, and operating budgets in benefit of the communities in which they reside. Growth needs to be managed, but we feel there is a better way within the various planning committees and regulatory bodies to accomplish this task already, without impacting Maui's future developments.

If this passes, we ask that the Council consider amending the language in Section 2 of the Bill to allow an exemption for developments who have already submitted complete applications that meet all requirements and are awaiting final review.

Thank you for your time, consideration, and hard work.

Stephen Leis

Thanks,  
MS



**Michelle Sigmund**

CFO

Dorvin D. Leis Co., Inc.

202 Lalo Street, Kahului, HI 96732-2924

Office: 808.270.0120

Cell: 808.987.7488

Fax: 808.871.6828





December 3, 2021

TO: Councilmember Alice Lee, Chair  
Councilmember Keani Rawlins-Fernandez, Vice- Chair  
Members of the Maui County Council

RECEIVED  
2021 DEC -3 AM 8:06  
OFFICE OF THE  
COUNTY CLERK

FR: AMERICAN RESORT DEVELOPMENT ASSOCIATION – HAWAII (ARDA-Hawaii)

RE: Opposition to Bill 148 ("A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 19.98, MAUI COUNTY CODE, DECLARING A MORATORIUM ON NEW TRANSIENT ACCOMMODATIONS ON MAUI")  
**Hearing date: Friday, December 3, 2021 at 9:00AM**

Aloha Chair Lee, Vice Chair Rawlins-Fernandez and members of the Maui County Council,

Thank you for allowing ARDA-Hawaii to submit testimony in **STRONG OPPOSITION** to Bill 148 regarding a bill for an ordinance establishing Chapter 19.98, Maui County Code, declaring a moratorium on new transient accommodations on Maui. Bill 148 seeks to create an island wide moratorium which temporarily prohibits the issuance of any permit under Title 19. The proposed measure creates multiple concerns that could have broad impacts on Maui's economy.

The stated purpose of the proposed bill is to establish a moratorium to comply with visitor to resident ratio specified in Chapter 2.80B of the 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. As we have seen, the volume of visitors will permeate into the residential neighborhoods and long-term apartment inventory on Maui through an increase in short-term vacation rentals ("STR"), which are the fastest-growing segment within Maui's 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 illegal short-term vacation rental units that are allowed.

There are better alternatives to accomplish the Council's goals of reducing the impacts of the tourism industry on Maui residents, without the negative economic impacts created by the proposed moratorium. Regulating on the fastest growing segment of transient accommodations in

Maui would provide the greatest reduction in the number of visitors to comply with the Maui Island Plan.

Conversely, the moratorium would seek to limit transient accommodations island wide, thus, prohibiting increased accommodations even in districts that are intended for tourism. Hotel and resort areas are where visitor accommodations should be focused and aid in insulating Maui residents from the perceived negative impacts of tourism.

In addition, there several legal concerns associated with the procedure and public transparency of Bill 148. The legislation appears to be rushed with it being heard by the Planning and Sustainable Land Use Committee before receiving and having the opportunity to consider the Commission's minutes. Further, the proposed moratorium may be unconstitutional as it: 1) fails to substantially advance a legitimate government interest as required by the due process clause; 2) is unconstitutionally vague; 3) and it violates the equal protection clause in treating similarly situated individuals differently. Additionally, the new language in Section 19.98.010 which allows the moratorium to remain in effect until the temporary investigative group establishes "a transient accommodation limit categorized by accommodation type and by community plan area, or two years from the effective date of the ordinance" raises concerns regarding termination of the moratorium. The new language is unclear and doesn't provide a definitive end date for the moratorium.

Furthermore, the new language in Section 2 of Bill 148 may unfairly impact existing projects currently undergoing permit application review. Section 2 as currently drafted makes the moratorium applicable to permits currently being reviewed that have not received their final discretionary approval. This amendment to Section 2 is patently unfair to applicants who have already expended resources and time to obtain a permit that is being reviewed. Further, Section 2 would directly contradict the Planning Commission recommendation that the moratorium does not affect current permit applications. In turn, Section 2 should be amended to reflect the Planning Commission's intentions.

Moreover, the moratorium will have substantial economic impacts on Maui's economy. It is concerning that the County would seek to deter capital investment in a time where it is still recovering from the pandemic. This is especially concerning given the recent surge in cases that may continue to impact the tourism industry. The County would risk forgoing substantial amounts of investments, tax revenues and job creation for Maui's economy. For example, the timeshare industry is currently a major contributor to Maui's economy by providing more than \$73 million per year in state and local taxes, sustaining occupancies to keep Maui residents employed and supplying well compensated jobs to Maui residents.

The proposed ordinance would enact a moratorium to "maintain the status quo" while the Tourism Management Temporary Investigative Group ("TIG") explores and recommends legislation to better manage the tourism industry's impact on the environment and residents' quality of life. This poses significant risk to Maui's economy, without first obtaining information to better manage the industry. Instead, the TIG, in collaboration with the tourism industry, could address the Council's concerns prior to the moratorium to prevent causing unnecessary harm to Maui's fragile economy, which is still recovering from the pandemic.

Additionally, 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 showing transient accommodations as the primary cause of these negative impacts. As mentioned previously, further regulation of STRs would reduce the negative impacts on resident's quality of life. Measures eliminating illegal STRs would accomplish the moratorium's intended goals without implementing such an inflexible policy that would result in lost jobs and reduced economic activity for residents.


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 and Maui County. Maui is a "home away from home" as Timeshare visitors 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 Maui residents with the ability to continue to work and 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 recommend the Council defer this measure and instead pursue the further regulation of STRs prior to implementing any form of moratorium to address the Council's concerns in a more meaningful way.

Thank you for your consideration of my comments.

Respectfully submitted,

  
Ryan Nobriga  
Maui Task Force Chair  
ARDA Hawaii



## County Clerk

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**From:** Maui Vacation Rental Association <jenrusso@mauivacationrentalassociation.org>  
**Sent:** Friday, December 3, 2021 1:39 PM  
**To:** County Clerk  
**Subject:** Bill 148, oppose, needs amendments; West Maui Plan needs amendments

Aloha Chair Lee, and Councilmembers,

Thank you for the opportunity to submit testimony on Bill 148.

We agree that the visitor industry needs management. However we do not agree with ostracizing any of the short term rental home permits that have already been submitted. We cannot support this bill in its entirety. Please revise the language to allow permits that have been in process to continue that process. The planning commission also recommended that these permits in process be allowed to finish the process. Several of these permits are held by local residents and they have been in process for years. These are small businesses, supported by the current Maui Island Plan.

With regard to the West Maui Community Plan, we do not support the language in the plan that states that vacation rentals need to be phased out to create housing. We think this proposal is problematic. The many meetings that the Planning Commission held and the testimony heard, resulted in the change of this language in the community plan. That language was changed again in committee back to the original. We believe that language should be changed back to what the planning commission recommended: that is to just create housing. Vacation Rentals are the biggest contributor to the housing fund. It doesn't make sense to phase them out, we need them to fund real property tax, and the affordable housing funds and projects.

I appreciate the opportunity to submit this testimony. Thank you for all of your hard work.

--

Best,

Jen Russo  
Executive Director  
Maui Vacation Rental Association  
[mauivacationrentalassociation.org](http://mauivacationrentalassociation.org)  
140 Hoohana St Suite 210  
Kahului, HI 96732

RECEIVED  
2021 DEC -3 PM 2:25  
OFFICE OF THE  
COUNTY CLERK

## County Clerk

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**From:** Gary <gary@ALOHAAKU.COM>  
**Sent:** Tuesday, November 30, 2021 2:39 PM  
**To:** County Clerk  
**Subject:** Testimony on Bill 148 - Amendment request for Proposed TA Moratorium

You don't often get email from gary@alohaaku.com. [Learn why this is important](#)

Aloha Councilmember Kelly King, Chair Lee, other Council Members, and Staff,

My husband, Gary Passon, and I have been following the Transient Accommodations Moratorium bill. We believe it comes up on Friday for a second reading.

While there are many good and acceptable elements of the bill, there is a part that was recently added that directly and punitively affects a very small set of people that still have **in-process STRH permits**. It appears this fundamental change was made to Section 2 without getting MPC and/or community input. We would appreciate your giving some additional consideration to this proposed addition to the bill.

What has been added is a block on allowing in-process STRH permits to be granted by the planning department during the moratorium.

We are asking that an Amendment to the TAM is made **to exempt any in-process STRH permit applications that have been in process prior to 12/3/2021 to allow for them to continue to be processed and if approved granted in a timely manner.**

The current wording in the TAM is extremely unfair to the few families (we believe approx. 16 of them) that have been working inside the Planning Department system for a long time (in some cases up to 4 years). In all cases, the applicants have spent significant monies, time, and effort to prepare the property to meet the *very stringent requirements* already needed to get these permits.

In full disclosure, my husband Gary Passon and I are **awaiting a permit for a STRH application that has been in-process for 3+ years**. This is on a property we acquired in Jan 2017 and our application went in BEFORE the 5 years waiting period was introduced.

We ask that the Council allow these few in-process permits be allowed to continue.

Mahalo for your consideration,

Charlene Schulenburg and Gary Passon

Cell (808) 446-4310

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2021 NOV 30 PM 3:30  
OFFICE OF THE  
COUNTY CLERK



Maui Land & Pineapple Company, Inc.

RECEIVED

2021 DEC -3 AM 7: 47

OFFICE OF THE  
COUNTY CLERK

December 3, 2021

Alice L. Lee, Council Chair,  
Maui County Council  
County of Maui  
200 S. High Street  
Wailuku, Hawai'i 96793  
county.clerk@mauicounty.us

**SUBJECT: TESTIMONY REGARDING A BILL FOR AN ORDINANCE AMENDING  
SECTION 2.80B.070, MAUI COUNTY CODE, TO ADOPT THE UPDATED  
WEST MAUI COMMUNITY PLAN.**

Dear Chair Lee and Council Members:

Thank you for the opportunity to provide testimony on a Bill for an Ordinance Amending Section 2.80b.070, Maui County Code, to Adopt the Updated West Maui Community Plan. Previously we submitted comments at the Council Public hearing on the Updated West Maui Community Plan. Our concern remains the same, as reflected in this testimony.

Maui Land and Pineapple Company, Inc. (MLP) appreciates the countless hours of work the many community members, the Community Plan Advisory Committee (CPAC), the Planning Department, the Planning Commission, and the Planning and Sustainable Land Use Committee, put in to in the process of updating the West Maui Community Plan (Plan).

During the process, MLP submitted written testimony to, and testified before, the Maui Planning Commission to express concerns regarding the elimination of Project District designations and replacement with community plan designations may not be consistent with current Project District zoning and ordinances. The Kapalua Resort includes two Project Districts:

1. Lahaina Project District 1 (Kapalua), related Project District ordinance codified as Maui County Code (MCC) Chapter 19.73
2. West Maui Project District 2 (Kapalua Mauka), related Project District ordinance codified as MCC Chapter 19.92

Through the Planning Commission hearings, and working with the Planning Department, the two undeveloped areas within Project District 1 were designated Small Town Center on the Plan. Wording was also added to clarify that for lands formerly designated as Project District, the boundaries between designations can be adjusted, provided the total acreage of each designation remains the same.



Maui Land & Pineapple Company, Inc.

MLP's understanding at the time was that the Small Town Center designation would permit all the uses permitted under Chapter 19.73, MCC which includes a list the specific permitted uses within Lahaina Project District 1. MLP also understood that the Plan designations for West Maui Project District 2 would permit all the uses permitted under MCC Chapter 19.92

Before the Plan is adopted MLP would like a clear, a definitive statement in the Plan that the uses permitted under Chapter 19.73, MCC and Chapter 19.92 MCC would still be permitted under the Plan designations without being required to seek a community plan amendment.

Thank you for your time and attention to this matter and the opportunity to provide testimony.

Maui Land & Pineapple Company Inc.

Paul Subrata  
Vice President



## County Clerk

---

**From:** Joyce Naruse <jnaruse@ilwulocal142.org>  
**Sent:** Thursday, December 2, 2021 8:56 AM  
**To:** County Clerk  
**Subject:** Statement of ILWU Local 142 On County Communication 21-543  
**Attachments:** Statement of ILWU Re County Communication 21-543.pdf

You don't often get email from jnaruse@ilwulocal142.org. [Learn why this is important](#)

Good morning. Attached are signed statements from members working at the Grand Wailea Resort regarding County Communication 21-543.

**Joyce Naruse**

*Division Clerk*

**ILWU Local 142 – Maui**

896 Lower Main Street | Wailuku, HI 96793

Main: (808) 244-9191 | Fax: (808) 244-7870

**ILWU 142 Hawaii**

International Longshore & Warehouse Union

*This electronic message transmission contains information from the ILWU that may be proprietary, confidential and/or privileged. The information is intended only for the use of the individual(s) or entity named above. If you are not the intended recipient, be aware that any disclosure, copying or distribution or use of the contents of this information is prohibited. If you have received this electronic transmission in error, please notify the sender immediately by replying to the address listed in the "From:" field.*

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21 DEC -2 AM 9:07  
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COUNTY CLERK

December 2, 2021

Maui County Council  
Kalana O Maui Building, 8<sup>th</sup> Floor  
Councilmember Alice Lee, Chair  
Councilmember Keani Rawlins-Fernandez, Vice Chair  
Friday, December 3, 2021; 9:00 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON COUNTY COMMUNICATION 21-543**

Dear Maui County Council:

As a member of the ILWU Local 142 and an employee of the Grand Wailea Resort, I strongly **oppose** Bill 148. Bill 148 will negatively impact myself, fellow co-workers and all working families in Maui County.

As you know, we are living during a very uncertain and turbulent time. The Covid-19 pandemic wiped out thousands of jobs on Maui and many of us are just starting to return back to our jobs. This is the wrong time to limit job growth on Maui when workers are struggling to find good employment. I strongly urge you to vote against Bill 148 in its current form and support the proposed amendment by the Grand Wailea Resort which clarifies Section 2 by stating:

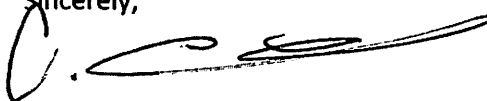
"Section 2. This Ordinance takes effect on approval, but does not apply to the processing, approval, or granting of any application for the approval of a new transient accommodation that has received from the Department of Planning a written notice of application completeness and acceptance, or received its final discretionary approval prior to the effective date" of the moratorium."

Ultimately, we need to focus on job growth and healing our hospitality industry that has been negatively impacted by the COVID-19 pandemic. This is the wrong time to implement a moratorium on new transient accommodations on Maui – in particular the proposed Grand Wailea Resort renovations and addition which would stimulate our local economy.

Please do not hurt local families. Workers need good-paying jobs on Maui.

Thank you for your consideration of this testimony.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Andrion', with a long, sweeping horizontal stroke extending to the right.

Charles Andrion

December 2, 2021

Maui County Council  
Kalana O Maui Building, 8<sup>th</sup> Floor  
Councilmember Alice Lee, Chair  
Councilmember Keani Rawlins-Fernandez, Vice Chair  
Friday, December 3, 2021; 9:00 a.m.

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Thank you for your consideration of this testimony.

Sincerely,

  
Eliza Barragan  
Housekeeping

December 2, 2021

Maui County Council  
Kalana O Maui Building, 8<sup>th</sup> Floor  
Councilmember Alice Lee, Chair  
Councilmember Keani Rawlins-Fernandez, Vice Chair  
Friday, December 3, 2021; 9:00 a.m.

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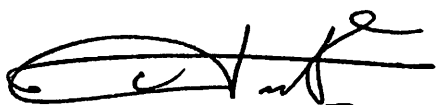
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Please do not hurt local families. Workers need good-paying jobs on Maui!

Thank you for your consideration of this testimony.

Sincerely,

  
Emmanuel A. Baltaran  
Honuhoupi



December 2, 2021

Maui County Council  
Kalana O Maui Building, 8<sup>th</sup> Floor  
Councilmember Alice Lee, Chair  
Councilmember Keani Rawlins-Fernandez, Vice Chair  
Friday, December 3, 2021; 9:00 a.m.

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Please do not hurt local families. Workers need good-paying jobs on Maui.

Thank you for your consideration of this testimony.

Sincerely,

  
MARISSA V. BUSTA  
LAUNDREY

December 2, 2021

Maui County Council  
Kalana O Maui Building, 8<sup>th</sup> Floor  
Councilmember Alice Lee, Chair  
Councilmember Keani Rawlins-Fernandez, Vice Chair  
Friday, December 3, 2021; 9:00 a.m.

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Thank you for your consideration of this testimony.

Sincerely,

*Edna T. Gabanting*  
EDNA T. GABANTING  
*Housekeeping*

December 2, 2021

Maui County Council  
Kalana O Maui Building, 8<sup>th</sup> Floor  
Councilmember Alice Lee, Chair  
Councilmember Keani Rawlins-Fernandez, Vice Chair  
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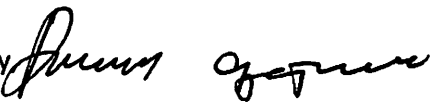
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Thank you for your consideration of this testimony.

Sincerely,   
Diana Rodriguez  
H SKP.

December 2, 2021

Maui County Council  
Kalana O Maui Building, 8<sup>th</sup> Floor  
Councilmember Alice Lee, Chair  
Councilmember Keani Rawlins-Fernandez, Vice Chair  
Friday, December 3, 2021; 9:00 a.m.

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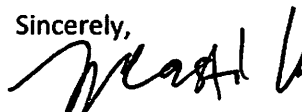
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Thank you for your consideration of this testimony.

Sincerely,

  
MARIANO CASTILLO  
HOUSEKEEPING

December 2, 2021

Maui County Council  
Kalana O Maui Building, 8<sup>th</sup> Floor  
Councilmember Alice Lee, Chair  
Councilmember Keani Rawlins-Fernandez, Vice Chair  
Friday, December 3, 2021; 9:00 a.m.

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Ultimately, we need to focus on job growth and healing our hospitality industry that has been negatively impacted by the COVID-19 pandemic. This is the wrong time to implement a moratorium on new transient accommodations on Maui – in particular the proposed Grand Wailea Resort renovations and addition which would stimulate our local economy.

Please do not hurt local families. Workers need good-paying jobs on Maui.

Thank you for your consideration of this testimony.

Sincerely,



DUSTIN DORONIO  
GDR

December 2, 2021

Maui County Council  
Kalana O Maui Building, 8<sup>th</sup> Floor  
Councilmember Alice Lee, Chair  
Councilmember Keani Rawlins-Fernandez, Vice Chair  
Friday, December 3, 2021; 9:00 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON COUNTY COMMUNICATION 21-543**

Dear Maui County Council:

As a member of the ILWU Local 142 and an employee of the Grand Wailea Resort, I strongly oppose Bill 148. Bill 148 will negatively impact myself, fellow co-workers and all working families in Maui County.

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Thank you for your consideration of this testimony.

Sincerely,



BEN GARCIA  
ENG'G.

December 2, 2021

Maui County Council  
Kalana O Maui Building, 8<sup>th</sup> Floor  
Councilmember Alice Lee, Chair  
Councilmember Keani Rawlins-Fernandez, Vice Chair  
Friday, December 3, 2021; 9:00 a.m.

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Thank you for your consideration of this testimony.

Sincerely,

*Dionicio Burman Jr*

*[Signature]*

*Huma Hama*

December 2, 2021

Maui County Council  
Kalana O Maui Building, 8<sup>th</sup> Floor  
Councilmember Alice Lee, Chair  
Councilmember Keani Rawlins-Fernandez, Vice Chair  
Friday, December 3, 2021; 9:00 a.m.

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Please do not hurt local families. Workers need good-paying jobs on Maui.

Thank you for your consideration of this testimony.

Sincerely,

*Lucia Guzman*  
Lucia Guzman  
Stewarding



December 2, 2021

Maui County Council  
Kalana O Maui Building, 8<sup>th</sup> Floor  
Councilmember Alice Lee, Chair  
Councilmember Keani Rawlins-Fernandez, Vice Chair  
Friday, December 3, 2021; 9:00 a.m.

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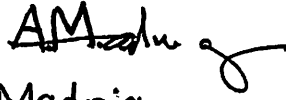
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Thank you for your consideration of this testimony.

Sincerely,

  
Almie T. Madriaga  
SPA Department

December 2, 2021

Maui County Council  
Kalana O Maui Building, 8<sup>th</sup> Floor  
Councilmember Alice Lee, Chair  
Councilmember Keani Rawlins-Fernandez, Vice Chair  
Friday, December 3, 2021; 9:00 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON COUNTY COMMUNICATION 21-543**

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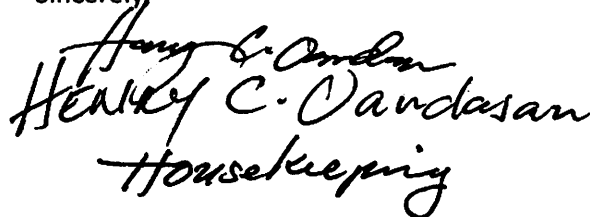
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Thank you for your consideration of this testimony.

Sincerely,

  
Henry C. Davidasan  
Housekeeping

December 2, 2021

Maui County Council  
Kalana O Maui Building, 8<sup>th</sup> Floor  
Councilmember Alice Lee, Chair  
Councilmember Keani Rawlins-Fernandez, Vice Chair  
Friday, December 3, 2021; 9:00 a.m.

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Thank you for your consideration of this testimony.

Sincerely,

MYLA O'NEILL

*Monellion* GOR - department

December 2, 2021

Maui County Council  
Kalana O Maui Building, 8<sup>th</sup> Floor  
Councilmember Alice Lee, Chair  
Councilmember Keani Rawlins-Fernandez, Vice Chair  
Friday, December 3, 2021; 9:00 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON COUNTY COMMUNICATION 21-543**

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Thank you for your consideration of this testimony.

Sincerely,

  
Ligaya Parilla  
Laundry

December 2, 2021

Maui County Council  
Kalana O Maui Building, 8<sup>th</sup> Floor  
Councilmember Alice Lee, Chair  
Councilmember Keani Rawlins-Fernandez, Vice Chair  
Friday, December 3, 2021; 9:00 a.m.

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Thank you for your consideration of this testimony.

Sincerely,



NICK SADO  
Housekeeping

December 2, 2021

Maui County Council  
Kalana O Maui Building, 8<sup>th</sup> Floor  
Councilmember Alice Lee, Chair  
Councilmember Keani Rawlins-Fernandez, Vice Chair  
Friday, December 3, 2021; 9:00 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON COUNTY COMMUNICATION 21-543**

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Thank you for your consideration of this testimony.

Sincerely,

  
**WARREN B. ULEP**  
**HOUSEKEEPING**

December 2, 2021

Maui County Council  
Kalana O Maui Building, 8<sup>th</sup> Floor  
Councilmember Alice Lee, Chair  
Councilmember Keani Rawlins-Fernandez, Vice Chair  
Friday, December 3, 2021; 9:00 a.m.

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Thank you for your consideration of this testimony.

Sincerely,

  
Benedicto Valdez  
Landscaping

December 2, 2021

Maui County Council  
Kalana O Maui Building, 8<sup>th</sup> Floor  
Councilmember Alice Lee, Chair  
Councilmember Keani Rawlins-Fernandez, Vice Chair  
Friday, December 3, 2021; 9:00 a.m.

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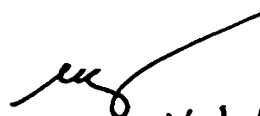
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Thank you for your consideration of this testimony.

Sincerely,

  
Evelyn C. Valdez  
HS kp.



December 2, 2021

Maui County Council  
Kalana O Maui Building, 8<sup>th</sup> Floor  
Councilmember Alice Lee, Chair  
Councilmember Keani Rawlins-Fernandez, Vice Chair  
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Thank you for your consideration of this testimony.

Sincerely,

  
Remedios R. Valdez  
House Keeping