Attachment C

'21OCT19 AM 8:11 CITY CLERK

October 18, 2021

From: Planning Commission

Re: Public Written Testimonies on Short-Term Rental Submitted 8/18/21 – 9/8/21 relating to Departmental Communication D-702 (2021)

From: Anne Towey Joyer [mailto:annetoweyjoyer@gmail.com]
Sent: Tuesday, August 31, 2021 10:14 AM
To: info@honoluludpp.org
Subject: DPP Draft Bill For B&B and Vacation Rentals 8/31/21

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Aloha Members of the Planning Commission,

I am in strong support of the bill for an ordinance relating to transient accommodations bill that is before you.

I am a retired hotel employee. I have enjoyed my work serving our visitors for 35 years. A work that now in my retirement provides me with the benefits of employer contributed Social Security, health insurance coverage, and a pension.

The thousands of illegal short term vacation rentals that have proliferated in our residential neighborhoods, are in direct and unfair competition with our legitimate hotel industry. They also take away jobs from our hotel employees and do not provide their workers with the same important benefits. I'm also witness to the many negative impacts that short term vacation rentals have on our residential neighborhoods.

I am grateful and thank the City for finally listening to the concerns of the residents and not permitting additional B&Bs and TVUs in residential zoning.

Anne Towey-Joyer

MACNAUGHTON

Chair Brian Lee
Planning Commission
City and County of Honolulu
650 South King Street, 7th Floor
Honolulu, HI 96813

BY EMAIL: info@honoluludpp.org

August 31, 2021

Re: Proposed Amendments to Chapter 21 (Land use Ordinance), Revised Ordinances of Honolulu 1990, as Amended, Relating to Transient Accommodations

Dear Chair Lee and Commissioners:

Please accept this testimony in support of the intent of the proposed amendments to Chapter 21 (Land use Ordinance), Revised Ordinances of Honolulu 1990, as Amended, Relating to Transient Accommodations.

I write on behalf of MacNaughton, formerly known as The MacNaughton Group. MacNaughton is a family-owned, full-service real estate firm specializing in multi-family, hotel and commercial development in Hawai'i. Over the last 40 years, MacNaughton and its partners have completed more than 40 projects in Hawai'i–representing more than $2B in residential development and more than 2.5M square feet of retail space. Through our work, we have witnessed the importance of thoughtful transient accommodation regulation.

We support the intent of the proposed bill. We have concerns with some of the provisions of the proposed bill, and we look forward to working with the administration and the Honolulu City Council to revise the proposed bill to address those concerns.

Thank you for your time and consideration.

Respectfully Submitted,

Brett MacNaughton
Director, Development and Design

1288 Ala Moana Blvd., Suite 208 Honolulu, HI 96814
808-545-7722
info@macnaughton.com
MacNaughton.com

-----Original Message-----
From: Rhonda Douglas [mailto:rhonda3douglas@gmail.com]
Sent: Tuesday, August 31, 2021 10:48 AM
To: info@honoluludpp.org
Subject: Sept 1 testimony

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Firstly I don't understand what or how this will affect me. Very confused and scared.
My story,
We have a unit in Waikiki Sunset. We bought it when our Canadian dollar was on par to the US dollar. We did this because we new if we didn't we wouldn't be able to continue to come to Hawaii because we wouldn't be able to afford the hotel prices. The hotels are so expensive for the average Canadian. We kept paying the NUC fee for years and continue to do so. We hired a local company to rent our place out a little bit not too much to keep the air flow moving and to keep it clean of dust etc. to keep mold away. Mold loves dust and no air flow.
My understanding is that we might not be able to own our unit anymore as it might become a hotel. We would not be able to stay in our beautiful home as the hotel would charge us regular room rates, which we could not afford. I'm assuming the hotel would make us get rid of our beautiful hardwood floors and furniture as it would not be hotel compliant. Who pays for this ? The city ? Us? Hotel?
So our dream is gone our retirement dreams gone, our 535 sq foot home we love gone. Our home is not ours no more. Just can't win in this world.
The Waikiki sunset is right in the resort area and has been running as a hotel/StR for years and years. Its a great opportunity for tourists to stay in str that is affordable. For tourists to spend money eating locally. For local tourism to get the Mexico tourists.
What happens if Waikiki Sunset becomes just a resident Condo. All the tourists $$$ waikiki would lose as locals don't eat out much etc.
if we have to sell our home, who would buy to have it just as a hotel room? Local investors? Foreign investors?
I completely understand locals loving the quietness of no STR in residential areas but I think waikiki sunset is a special circumstance as it's right in the resort zone. Please rezone the Waikiki Sunset so we can all keep our homes and allow for STR in the sunset without it having to become a hotel or just residential.
Please don't take away my beautiful home that I love so much and worked so hard for. I love every inch of my home.
We have so many wonderful friends in Hawaii which we won't be able to afford to see during the next years.

Best regards,
Rhonda Melnyk

From: Amika Hisamoto [mailto:amika@captaincookresorts.com]
Sent: Tuesday, August 31, 2021 10:29 AM
To: info@honoluludpp.org
Subject: STR Draft Bill

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TO:
The Honolulu Department of Planning and Permitting,

Property rights and equity:

- This bill seeks to take away long-established property rights in the resort zone that explicitly allow people to own and operate TVUs. Those who have chosen to operate short-term rentals in this zone have done so in a good-faith effort to comply with existing laws.
- Those who have purchased or operated within the law have made their commitment to compliance; the County of Honolulu should uphold its end of the deal.
- This bill drastically expands hotels interests while choking out individual property rights. The bill imposes ownership, operations, and financial hurdles and restrictions on TVU operators while at the same time giving corporate hotels unfettered right to operate without the same restrictions and siphon tourism revenue to the mainland

Taxing short-term rentals at the hotel rate is grossly unfair:

- Short-term rentals are severely limited as to how many days they can permissibly be rented, while hotels are free to rent their rooms every day.
- Bed and breakfast homes may only rent two of the rooms in the home, while hotels may rent as many rooms as are habitable on any given day. Likewise, bed and breakfast homes are limited to two guests per room, while there is no such limitation on hotels.
- Hotels have additional revenue sources that most short-term rentals do not.

This bill would cause unintended economic fallout:

- Visitors outside the resort zones stimulate the economy in local neighborhoods by patronizing grocery stores, artisans, tour operators, restaurants and the like.
- Owners of the B&Bs and TVUs hire cleaning staff, maintenance and repair persons nearby.
- Visitors outside resort zones interact with locals, fostering cultural exchange and good neighborliness.
- Dollars spent outside of resort zones tend to remain in those neighborhoods rather than flow offshore.
- Conversely, prohibiting STRs in outlying neighborhoods negatively impacts local economies.
- Many people are able to afford homes here through short-term rentals.

- Most STR operators pay their cleaning staff $50/hour or more. Hotel staff usually are paid $30/hour when work is available.
- Cleaners working at STRs generally act as independent contractors. Thus they have greater flexibility in their working schedule to accommodate other responsibilities and opportunities to pick up extra jobs when desired.

Overall Points:

- Nuisance issues can be addressed with management, not banishment
- In order to come up with effective and fair solutions for our entire community, we ask DPP to sit down with vacation rental owners and operators, who can help provide insights and solutions it may not otherwise uncover.
- Short-term rentals not only offer accommodations for visitors, but also provide decent and affordable opportunities to others such as traveling medical staff, families arriving to care for their loved ones, contract workers, relocated military families, local residents in need of temporary housing, and others, etc.

--

Amika Hisamoto
Marketing / Property Manager

Captain Cook Resorts · Captain Cook Real Estate
1012 Kapahulu Ave, #110 Honolulu, HI 96816
Office:808-735-5588 Direct:808-453-0700
Amika@CaptainCookResorts.com

Vacation Rentals / Real Estate Sales / Property Management

From: Sandy Van [mailto:zipnbro@twc.com]
Sent: Tuesday, August 31, 2021 10:44 AM
To: info@honoluludpp.org
Subject: ** SPAM ** Opposition to DPP STR Draft Bill

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I am strongly opposed to the DPP STR Draft Bill as it is an attack on individual property rights. Worse, it is designed to create a competition-free environment for corporate hotels, and will deprive local residents of employment opportunities.

The bill is onerous and over-reaching. While I agree that vacation rentals/short-term rentals need reasonable oversight and standards, the proposed bill is throwing the proverbial baby out with the bathwater. Stated issues, including claims that owners do not pay the required taxes can be addressed in the same way that other taxes are collected. Noise and nuisance complaints can be similarly addressed on an as-needed basis with owners required to appropriately manage and oversee their properties. I support that completely and have made a practice of making sure I am a good neighbor by overseeing my short-term guests properly.

Implementing a minimum 180-day stay is, I believe, unlawful and discriminatory as it precludes anyone on the island from renting month-to-month. Many people cannot afford a long-term lease, but under this bill will be unable to rent month-to-month; this will contribute to homelessness. Traveling medical professionals, specialty construction workers and others who are in the islands for temporary work assignments will not have access to affordable home-like living quarters.

In addition, I hire local individuals for laundry, house cleaning and yard services. Under this proposed bill, they will lose their jobs and income. Hawaii is struggling. This bill will make it exponentially worse for Hawaii residents on many levels.

On a personal note, we are in the midst of an 18-month economic slowdown/shutdown. Many of us rely on the income from short-term rentals to put food on our own tables and pay our mortgages.

This proposed bill will deprive us of our means of survival. It attacks our property rights and our right to earn a living. At the same time, it directly benefits the hotel industry by removing all competition. This is wrong on every level.

I would be happy to sit down with the DPP in good faith to try to identify reasonable and workable solutions that will be fair to all property owners.

Sandy Van

Sent from Mail for Windows

From: Kris Grant [mailto:kjgrants2000@yahoo.com]
Sent: Tuesday, August 31, 2021 11:35 AM
To: Takara, Gloria C
Subject: Short-term rentals on Oahu

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Our family has been renting a home on Oahu for five years in a row. We've miss the last two years because of COVID but have booked for February 2022. All of our family vacations are in VRBO type properties, and we especially love our rental on Oahu as we experience island living rather than staying in a high-rise which feels like a city.

It was hard for us to go from our customary 7-10 day vacations, but we decided to bite the bullet and book for the 30 day period required by law. We would never be able to come back to the island if the 180 day bill passes. We are island people, having lived on Guam for years. And our stay on Oahu has been the highlight of the year for our children and grandchildren.

A family reunion in a high-rise hotel is not a family reunion. If this law passes we will have to remove Oahu as our preferred family destination.

We hope you vote against this proposed new law that will basically eliminate rental home vacations.

r/
Joe & Kris Grant
492 Brightwood Rd
Millersville, Md 21108

From: Chin Lee [mailto:chinheng@chinheng.com]
Sent: Tuesday, August 31, 2021 11:35 AM
To: info@honoluludpp.org
Subject: Strongly oppose the Draft Legislation on STR

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Aloha,

I am writing to strongly oppose the current version of Short Term Rental regulation proposed by DPP. The current version does not provide reasonable regulations and only limits our ability to provide affordable accommodations to those wishing to visit Honolulu. There are many, including myself, who rely on vacation rental to supplement their income due to the high living expenses in Oahu, and do it legally. This is why I strongly oppose the draft regulation as it is currently written, because it only favors the hotel industry and does not set up fair regulation for the day to day individuals who try to make end meet.

Thanks! Chin Lee

-----Original Message-----
From: McCartney, Jaren
Sent: Tuesday, August 31, 2021 11:26 AM
To: info@honoluludpp.org
Subject: Testimony - September 1st Planning Commission Meeting

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Aloha,

Please find testimony on behalf of Paul Hupitzer (Shaper2000@yahoo.com) below. His testimony is regarding agenda items 1 & 2 relating to TVU's.

"Three years of complaints to DPP have failed to close down the illegal rental at 451 Keolu Drive. For 4 years I've had to contend with daily exposure to the noise and the drunken rudeness of an endless variety of both local and out of town renters who, among other things, have set fire to materials on a balcony less than 10 feet from my house, thrown debris across my yard and driveway, partied loudly and late into the evening a few feet from my bed, come back to home base at all hours of the night, disturbing the peace and slumber of myself and nearby neighbors who need to report to work at regular daylight hours. I ask the committee to please follow-up in this specific instance and rectify this absentee landlord abuse of the laws. The owner has never lived in this home since he purchased it even though for tax purposes he has treated it as his primary residence and claimed a full disability exemption from real estate tax."

Mahalo

From: Jon Krahulik [mailto:jon.krahulik@gmail.com]
Sent: Tuesday, August 31, 2021 11:33 AM
To: info@honoluludpp.org
Subject: Proposed City and County of Honolulu Planned Land Use Ordinance Changes

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From: Jon Krahulik and Sherri Krahulik, owners at Beach Villas at Ko Olina

Re: Written submission regarding Proposed Amendments to Chapter 21, Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations.

Committee members:

As stated ably by our neighbor, Jim Tree, in the attached document, I ask the Committee to consider the following at is relates to the TVU:

The definition of TVUs should explicitly exclude all hotels, all condominium hotels, and condominiums in a resort zone. If the text of the chapter is revised to be consistent with the recent change to Table 21-3 the exclusion still needs to be written into the definition for TVUs, otherwise, hotels will need to meet the occupancy, permitting, and other compliance issues surrounding TVUs.
Examination of the purpose of this Proposed Ordinance and the purpose of the Resort zone also leads to the conclusion that the definition of TVUs need to be modified to exclude all hotels, all condominium hotels, and condominiums in a resort zone. Both the August 13, 2021 staff report ("The purpose of this Ordinance is to better protect the City's residential neighborhoods and housing stock from the negative impacts of STRs...") and the Proposed Bill itself ("Short-term rentals are disruptive to the character and fabric of our residential neighborhoods; they are inconsistent with the land uses that are intended for our residential zoned areas...The purpose of this Ordinance is to protect the City's residential neighborhoods...") clearly explain the purpose of this Proposed Bill is to protect the residential neighborhoods. The City and County has a clear nexus in regulating STRs in residential neighborhoods but there is no nexus in regulating TVUs in resort zones. In fact, to do so goes against the history and purpose of the Resort Zone. "The purpose of the resort district is to provide areas for visitor-oriented destination centers. Primary uses are lodging units and hotels and multifamily dwellings...This district is intended primarily to serve the visitor population..." ROH Sec. 21-3.100.
In short there is no valid reason to further regulate STRs inside a Resort zone. Accordingly, the definition of TVUs should explicitly exclude a dwelling unit or a lodging unit inside a Resort zone.

As such, the Proposed Ordinance should be revised to explicitly allow for STRs by all hotels, all condominium hotels, and condominiums that are located in a Resort zone and that do not have HOA restrictions against STRs. These properties should be excluded from the definition of TVUs. To do so preserves existing laws and rules, is not contrary to the stated purpose of the Proposed Ordinance, and is consistent with the purpose of the Resort zone.

Mahalo for your consideration.

Jon and Sherri Krahulik

Sent from my iPad

From: yato14k@yahoo.com [mailto:yato14k@yahoo.com]
Sent: Tuesday, August 31, 2021 12:14 PM
To: info@honoluludpp.org
Subject: Fw: "Planning Commission Sept 1 testimony"

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PUBLIC HEARING ON AMENDMENTS TO TRANSIENT VACATION UNIT RULES

The City administration has proposed reform to manage and **restrict** transient vacation units (TVU), bed and breakfast (B&B) homes.

- New TVUs or B&Bs allowed only in A-1 and A-2 apartment districts located in or near resorts (Waikiki, Gold Coast, Ko Olina & Turtle Bay)
- 759 TVUs and 34 BBs units already permitted can continue operating
- B&Bs and TVUs are defined as less than 180 consecutive days
- B&Bs and TVUs will be placed in new property tax categories
- Real property taxes collected will be used to fund enforcement

The amendments will be heard by the Planning Commission, then later by the City Council. There will be many meetings and testimony is needed. .

Testimony – Sept 1, 2021 hearing

The following is submitted for testimony in reference to the above hearing.

Opposed to

- ***B&Bs and TVUs will be placed in new property tax categories***

Note that B&Bs and TVUS are different types of operations for vacation rentals.

B&Bs are **Residences** that are owner occupied. They are a small business, limited to the number of units that they can rent and do not charges hundreds and thousands of dollars a day.

A TVU are large investment properties that are often run by agents, because owners are off island. Many charge thousands of dollars a day.

By raising the tax rates on both of these types of operations, equal to the hotels, will place the small business residential B&B Hawaiian owners out of business. B&Bs are needed to help the local economy and peripheral types of employment (cleaning, landscape and maintenance services) and local community shops, restaurants and grocery stores. The profit margin for B&Bs is not compared to TVUs and certainly not

like the hotels. **It would be an unfair to raise the taxes on the B&Bs. If tB*Bs go out of business employment for these peripheral services will be lost, also the revenue to the community business. In the long run Hawaii State will lose money by raising the taxes on the B&B.**

- ***Real property taxes collected will be used to fund enforcement***

TVU's / B&Bs pay 10.25% Transient Tax, yet they are NOT allowed to use that tax for improvements and get the Tax breaks that Hotels do with the TA Tax. **Why is this tax not used to fund enforcement?** The current structure of this tax benefits only the hotel industry, and is a tax burden for the TVUs/B&Bs with no benefits. **The TAT money collected for the vacation should be used for enforcement.**

Thank you for considering these vital points when reviewing the AMENDMENTS TO TRANSIENT VACATION UNIT RULES.

Sincerely,

J. Nielsen

From: Sherrie Rodi [mailto:sherrie@rodifamily.com]
Sent: Tuesday, August 31, 2021 1:22 PM
To: Takara, Gloria C
Subject: Opposition to Transient accommodations proposal

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Aloha,

I am for the original proposal that was supposed to be implemented in October 2020. It was fair, it addressed the "no manager" on duty issue, and it kept the amount of STR's to a minimum.

This new proposal is an AX and takes away too many freedoms for those that would like to earn a little extra money.

I have a relative that manages STR's and it has become a big part of her livelihood. She was struggling before and now the thought of moving away is no longer discussed.

I believe the STR situation in Kailua is probably pretty bad, but in other neighborhoods, like mine, I don't even notice it at all.

As long as there is a manager living there, I appreciate the jobs it creates for the locals, plus increases neighborhood businesses. Why should only Waikiki get some of that visitor money?

Please do not pass this new amendment.

sincerely,

sherrie

From: surfsarlo@aol.com [mailto:surfsarlo@aol.com]
Sent: Tuesday, August 31, 2021 2:04 PM
To: Takara, Gloria C; ktsuneyoshi@honolulu.gov; info@honoluludpp.org
Subject: ** SPAM ** DPP Amendments

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To whom this concerns
Aloha my name is Deborah Sarlo, I own 2 long term rental properties located on the North Shore, and have owned these properties over 35 years. I live next door to an illegal vacation rental. I don't believe they pay any of the required taxes. This has been going on for 10 years and the owners are absentee owners.They operate against the HOA rules. I would love to have enforcement, as it is now when I call no one comes out to investigate. I don't understand how this proposed Bill/Amendments will generate the funds,(3 plus million dollars,) when they can't seem to enforce or follow up the compliants now. The Bill offers no incentive for my illegal neighbor to legitimize his business. Thank you for taking the time to read my letter.
Best regards
Deborah Sarlo

To: Mr. Brian Lee
Chair, and Members of the Planning Commission

From: Paul and Cindy Nachtigall, Resort TVU Property Owners in retirement.

Re: Proposed Amendments to LUO relating to Transient Accommodations – Detrimental effects on Property owners - EXCESSSIVE CHARGES.

Dear Mr. Lee et al.,

The proposed changes to the Land Use Ordinances relating to Transient Accommodations will have a severe effect on us as property owners in retirement. The monetary requests for the Government are overwhelmingly high. We purchased a TVU in a resort area as part of our ongoing retirement income structure. We currently and willingly pay over 4.5 % in General excise tax and 10.5% on the Transient Accommodations Tax on revenue on top of our property taxes. The State recently passed a law allowing the City and County to increase the Transient Accommodations Tax but that has not yet been worked out but we can easily anticipate another 2%.

The proposed Amendments will require that we pay an additional $7,500 to register to be allowed to continue to do what we have been legally doing in addition to an increase from 3.5 per thousand to 13.5 dollars per thousand in property taxes each year. Suppose our unit was assessed (but actually not saleable) at one million dollars.

Taxes would be:

Property taxes - $13,500
Registration Fees -$7,500
State GET- 4.5% plus
State TAT – 10.5%
City and County TAT 2%

That is $21,000 annually in property taxes and registration fees
(monthly 21,000/12= $1750) plus 16.5% in assessments on income.

Suppose one rented a place out for 300 dollars a night and filled it 15 nights per month The income would be $4500. Taxes GET and TAT on income would be 4500 X 16.5% = $742.50

The Government would be taking $1750 plus $742.50 or **$2492.50 of the GROSS $4500 MONTHLY INCOME.** That is substantially more than 50%. Does that not seem excessive to you?

We therefore request that you do not charge these **excessive fees**. Please look at the whole picture to see what Government is charging a simple retired couple trying to keep their investment alive and continuing to operate in a legal manner.

Sincerely,
Paul and Cynthia Nachtigall
940 Maunawili Circle
Kailua, Hawaii 96734

-----Original Message-----
From: btfx [mailto:btfxhawaii@aol.com]
Sent: Tuesday, August 31, 2021 2:14 PM
To: info@honoluludpp.org
Subject: Short term rental proposals

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As a property owner, I feel that the DPP is putting forth some very heavy-handed proposals regarding short term rentals.
Short term rentals provide jobs, tax revenue, and options for travelers. This is 2021, and HUGE amounts of travelers simply don't want to stay in hotels these days. They prefer the privacy, seclusion, and options that short term rentals offer. Oahu will lose visitors if we don't allow them these options. They won't just cave-in and book a resort hotel, they will go someplace else...and so will their money. These are terrible ideas that will backfire on all of us.

Sincerely,

Derek Maxwell

Sent from my iPhone

ATTORNEYS AT LAW

DURRETT LANG MORSE, LLLP

KALANI A. MORSE, ESQ.
Direct: 808.792.1213
kmorse@dlmhawaii.com

(Via email to: info@honoluludpp.org; CC: lee@code-studio.com)

City and County of Honolulu Planning Commission
c/o Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to article five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. We write on behalf of Mr. Jeffrey Bloom owner of a 2.02-acre parcel identified as Tax Map Key No. (1)41024086. The parcel is presently zoned for agricultural use. Mr. Bloom is urgently worried that he will lose the right to live in his own home due to the stricter occupancy restrictions looming in article five of the proposed revisions to the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are free to live in their homes on agricultural land if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1] The proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming. This suggested revision to the LUO specifically articulates that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3]

These new occupancy restrictions appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural land.[4] Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, these occupancy restrictions will have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities.

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[1] Quoted text is taken from HRS 205-4.5

[2] The proposed changes to the LUO can be viewed in their entirety on the Department of Planning and Permitting's own website homepage (http://www.honoluludpp.org) under the "News" heading

[3] See Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

The disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes. Indeed, implementing this new occupancy standard will amount to a de facto eviction for Mr. Bloom and other individuals and families residing on agricultural land who are unable to actively farm their lands, either due to health conditions, advanced age, retirement, finances, caregiving responsibilities, or other personal circumstance that may preclude active farming.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, to dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if the new provisions are allowed to proceed.

Mr. Bloom's parcel faces many conditions unfavorable to largescale, sustained agricultural production. Most notably, the parcel is only two acres, an exceedingly small size that makes viable agricultural production difficult. Additionally, agricultural production would be impossible on several segments of Mr. Bloom's parcel due to existing structures. For instance, the parcel includes a thin strip of land that provides vehicle access to the road bordering the property. Planting is neither possible nor reasonable in that area. A single residence and a horse stable also exist on the parcel. Agricultural production cannot be undertaken in the area covered by those buildings. The area of the parcel which remains usable for agricultural purposes is so small that the yields drawn from it cannot provide substantial financial support to Mr. Bloom and his family.

Very limited planting and cultivation is currently taking place on the parcel. Mr. Bloom's land supports the growth of flowers and a small number of fruit trees. Any substantial expansion of the existing activity, or the establishment of new agricultural operations, would be impossible due to the size constraint discussed above. Therefore, applying a new occupancy standard to Mr. Bloom's land which would require him to continually farm to maintain a legal right to reside in his own home would be unreasonable and needlessly harmful to Mr. Bloom.

The small size of the land is not the only barrier to agricultural production on Mr. Bloom's parcel. The current occupants of the land are themselves not able to engage in agricultural production. Mr. Bloom lives on the parcel with his wife and his 95-year-old Mother-in-Law. It is our understanding that these three members of the Bloom family are the only permanent residents living on the parcel. Mr. Bloom and his wife have several critical responsibilities which preclude their engagement in agricultural work, including caring for their 95-year-old loved one.

Mr. Bloom and his wife are also of advanced age themselves. They are not able to engage in the physically strenuous work required to continually sustain agricultural production. As no member of the Bloom family currently occupying the parcel is in a position to farm the land, codification of the new occupancy restriction could render the Bloom family's occupancy of

their own land illegitimate and amount to a de facto eviction of Mr. Bloom and his family from a property that they have developed, made agriculturally productive, and invested in extensively. This potentiality is of profound concern to Mr. Bloom.

Even if no immediate enforcement actions are taken against the Mr. Bloom in connection with the LUO revision. the new occupancy restrictions will continually be a source of stress and concern for Mr. Bloom and any future landowners or occupants of the parcel. The passage of the revised LUO will create a threatening uncertainty which will loom over Mr. Bloom's sincere hope of peacefully living out their days on their own property and passing that property down to their heirs without the threat of eviction and foreclosure.

Allowing Mr. Bloom's occupancy rights to be degraded because he and his wife are elderly and physically unable to operate a substantial farm would be unjust, blatantly discriminatory, and senseless. Furthermore, applying the new occupancy standard to Mr. Bloom's parcel would fail to meaningfully protect O'ahu's agricultural industry or discourage the establishment of gentlemen farms. Instead, the occupancy restriction would seriously harm Mr. Bloom and others living in agricultural communities, the very people land use laws should be designed to serve.

Mr. Bloom strongly objects to the proposed changes to the LUO. Should the LUO revision proceed, Mr. Bloom would request a contested case hearing to ensure due protection of his interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations.

Mr. Bloom asks that the Planning Commission cautiously approach any actions or decisions that would disproportionately harm those disabled and elderly members living in Oahu's agricultural communities. Indeed, Mr. Bloom trusts that the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O`ahu without stripping agricultural landowners of their basic property rights and evicting people like Mr. Bloom from their longtime homes. Mr. Bloom implores the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

Kalani A. Morse

KAM
Enclosure

ATTORNEYS AT LAW

DURRETT LANG MORSE, LLLP

KALANI A. MORSE, ESQ.
Direct: 808.792.1213
kmorse@dlmhawaii.com

(Via email to: info@honoluludpp.org; CC: lee@code-studio.com)

City and County of Honolulu Planning Commission
c/o Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to Article Five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. Our office represents Mr. Mark Afuso, trustee of Mr. Mark Afuso (the "Trust" or the "Client"). The Trust owns the parcel identified as Tax Map Key No. (1)87018009 (the "Parcel"), which is presently zoned for agricultural use. Mr. Afuso is anxious with worry about losing rights to ever live in his own home on the Parcel, due to the stricter occupancy restrictions looming in the proposed revisions to Article Five of the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are currently free to live in their homes on agricultural lands if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1]

The recently proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for those living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming.

More specifically, the suggested revision to the LUO asserts that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3] When applied in the context of HRS 205-4.5 and other provisions in the LUO governing the occupancy of farm dwellings, these new occupancy restrictions in the proposed LUO changes appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural lands.[4]

Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, the occupancy restrictions used to achieve those goals will have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities. The

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[1] HRS § 205-4.5

[2] Proposed changes to the LUO can be viewed in their entirety on the Department of Planning and Permitting's own website homepage (http://www.honoluludpp.org) under the "News" heading

[3] *See* Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes.

Indeed, implementing this new occupancy standard will stand as a de facto eviction for Mr. Afuso and other families who either reside on agricultural land or hope to one day make a home on their agricultural lands, but are otherwise precluded from actively farming their lands. Many are now or soon will be unable to do so due to their health conditions, advancing age, retirement, finances, caregiving responsibilities, or other personal circumstance that may prevent a landowner from farming in "actively" enough to avoid breaking the law simply by living on their land.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, too dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival.

Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if these proposed revisions are approved. For example, the Trust's Parcel faces many challenges which complicate active agricultural production on the land. The Afuso family tries to maintain a small farming operation, but despite the Parcel's larger size, sufficient agricultural production cannot be generated, for various insurmountable factors related to the Parcel and personal circumstances.

Moreover, the Parcel has historically been occupied by two generations of Afuso family members, some of whom were not directly involved with farming operations. While there is a small farming operation currently maintained on the property, conditioning occupancy on one's ability to directly engage in agricultural labor is troubling, as is the idea that the proposed LUO revisions could render illegitimate the occupancy of those who, for various understandable reasons, are unable to perform farm labor. Codifying stricter occupancy restrictions in the LUO will potentially render any occupancy of the Afuso family land illegitimate and will likely force abandonment of a property they have developed, invested in extensively, and resided upon for generations.

Even if no immediate enforcement actions are taken against Mr. Afuso in connection with the LUO revisions, the new occupancy restrictions will continually be a source of distress and concern for the Afusos and any future landowners or occupants of the Parcel. Passage of the revised LUO will create a threatening uncertainty which will loom ominously over their genuine hope of ever living peacefully on their own property or passing that property down to their heirs without the threat of eviction and foreclosure ever looming.

As such, the Afuso's strongly object to these proposed changes to the LUO. Should the LUO revisions proceed, the Trust must request a contested case hearing to ensure due process protection of their interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings

into their homes on agricultural lands over decades and generations. Surely there are better, less harmful, and non-discriminatory means of disincentivizing and preventing luxury developments on agricultural lands.

Mr. Mark Afuso also trusts that the Planning commission will cautiously approach any actions or decisions that would harm disproportionately those disabled and elderly members living in Oahu's agricultural communities. Indeed, Mr. Mark Afuso trusts that the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting goo people from their homes. Mr. Afuso implores the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

Kalani A. Morse

KAM
Enclosure

From: Warren Brace [mailto:bracew@gmail.com]
Sent: Tuesday, August 31, 2021 2:10 PM
To: info@honoluludpp.org
Subject: Oahu Short Term Rentals

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Hi,

I am a property owner on Oahu in the Hawaiian Monarch building and am writing this email in regards to your upcoming planned changes.

I rent out my apartment legally on AirBNB and pay high property taxes to do so. It is the only way I can afford my property. If you make all vacation rentals illegal in Hawaii, I will not be able to afford my mortgage and will have to sell my Hawaii home. Hawaii will also lose all the property tax money that I pay as well as all the other AirBNB hosts pay.

AirBNB guests frequent all the same local attractions, bars, restaurants, and inject tons of money into the local economy. It is not just the hotel guests that do this. Hawaii should not have to lose out on all this extra tax money coming in to the state.

Please reconsider what you are doing! We are not huge Hotel chain corporations; we are middle class citizens trying to afford to live and play in the greatest state in the US.

Mahalo!

Thank you,
Warren Brace
803-361-2737

From: Rose Wilson [mailto:lokewilson@aol.com]
Sent: Tuesday, August 31, 2021 2:14 PM
To: Department of Planning and Permitting
Subject: proposed amendments to Chapter 21

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

concern regarding the change of definition from 30 days to 180 days.
Rose Wilson

ATTORNEYS AT LAW
DURRETT LANG MORSE, LLLP

KALANI A. MORSE, ESQ.
Direct: 808.792.1213
kmorse@dlmhawaii.com

(Via email to: info@honoluludpp.org; CC: lee@code-studio.com)

City and County of Honolulu Planning Commission
c/o Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to Article Five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. Our office represents Mrs. Jan K. Burns. Mrs. Burns is a registered owner of the parcel identified as Tax Map Key No. (1)86007001, which is presently zoned for agricultural use. Mrs. Burns is anxious with worry about losing rights to ever live in her own home on the parcel, due to the stricter occupancy restrictions looming in the proposed revisions to Article Five of the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are currently free to live in their homes on agricultural lands if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1]

The recently proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for those living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming.

More specifically, the suggested revision to the LUO asserts that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3] When applied in the context of HRS 205-4.5 and other provisions in the LUO governing the occupancy of farm dwellings, these new occupancy restrictions in the proposed LUO changes appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural lands.[4]

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[1] HRS § 205-4.5

[2] Proposed changes to the LUO can be viewed in their entirety on the Department of Planning and Permitting's own website homepage (http://www.honoluludpp.org) under the "News" heading

[3] *See* Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, the occupancy restrictions used to achieve those goals will have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities. The disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes.

Indeed, implementing this new occupancy standard will stand as a de facto eviction for Mrs. Burns and other individuals and families who either reside on agricultural land or hope to one day make a home on their agricultural lands, but are otherwise precluded from actively farming their lands. Many are now or soon will be unable to do so due to their health conditions, advancing age, retirement, finances, caregiving responsibilities, or other personal circumstance that may prevent a landowner from farming in "actively" enough to avoid breaking the law simply by living on their land. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if these proposed revisions are approved.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, too dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival.

Furthermore, the proposed occupancy restrictions will degrade Mrs. Burns occupancy rights in the inevitable event that Mrs. Burns eventually becomes physically unable to farm due to illness, disability, or old age. Therefore, codifying stricter occupancy restrictions for dwellings situated on agricultural lands will potentially render any occupancy of Mrs. Burn's land illegitimate and will likely force abandonment of a property that Mrs. Burns has developed and invested in extensively.

Even if no immediate enforcement actions are taken against Mrs. Burns in connection with the LUO revisions, the new occupancy restrictions will continually be a source of distress and concern for the Burns family and any future landowners or occupants of Mrs. Burn's land. Passage of the revised LUO will create a threatening uncertainty which will loom ominously over the Burns family's genuine hope of ever living peacefully on their own property or passing that property down to their heirs without the threat of eviction and foreclosure ever looming.

As such, Mrs. Burns strongly objects to these proposed changes to the LUO. Should the LUO revisions proceed, Mrs. Burns must request a contested case hearing to ensure due process protection of their interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations. Surely there are better, less harmful, and non-discriminatory means of disincentivizing and preventing luxury developments on agricultural lands.

Mrs. Jan K. Burns also trusts that the Planning Commission will cautiously approach any actions or decisions that would harm disproportionately those disabled and elderly members living in Oahu's agricultural communities. Indeed, Mrs. Burns trusts that the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting good people from their homes. Mrs. Burns implores the Planning Commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

Kalani A. Morse

KAM
Enclosure

-----Original Message-----
From: Rebecca Taggart [mailto:becbectaggart@gmail.com]
Sent: Tuesday, August 31, 2021 2:10 PM
To: info@honoluludpp.org
Subject: Written submission

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Dear Sir, or Madam,
In regards to Proposed Amendments to Chapter 21 (Land use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations.
I am opposed to all B&B and TVU in non resort areas.
When so called ' Legal' permits were granted back in the 80's, there was never public consultation. The situation is now out of control, and the DPP has not had the resources to crack down on illegal operators, there has been no interested from the HTA or hotel union's to stop this mess which has been left to grow out of control over the past 20 yrs.
Thank you. R.Taggart

Sent from

From: Wm Alan & Barbara Thom [mailto:waikiki13410@gmail.com]
Sent: Tuesday, August 31, 2021 1:57 PM
To: info@honoluludpp.org
Subject: Proposed ban on condo bed and breakfast units

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Our names are William and Barbara Thom. Our phone # is 425 737 5310. We own one unit # 1-3410 in Waikiki Banyan. It and social security are our only form of income. We have a non conforming use certificate since 2002. We need this income as we are in our 70's. More expenses would hurt us greatly.

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To whom it may concern,

Regarding the proposed Amendments to Chapter 21 (Land Use Ordinance), Revised Ordinances of Honolulu (ROH)1990, as Amended, Relating to Transient Accommodations, I hereby submit my comments and testimony in opposition.

I fully support enforcement actions against illegal Short-Term Rental operators.

There is no need to change the definition from 30-days to 180-days, and I support every effort to properly enforce the 30-day minimum.

What is rationale of your suggestion that Condo-Hotel properties MUST be operated by the Hotel? What is this for other than protecting hotels' income? It's not for Hawaii economy, but only for Hotels' income.

The proposed draft of bill will destroy not only property owner's rights, but also devastate life of property management companies and its family, cleaning team, handymen, and other many people in this industry, and their family, too...

The draft Bill plans to ban the legal 30-day minimum vacation rentals in Apartment Precincts in Waikiki. I oppose this Bill for the following reasons:

1. There are people on Oahu who need rentals of less than 180-days. These uses include:
   - Families from out of State that are taking care of loved ones
   - People moving to Oahu and looking to buy a home
   - Families who are waiting for their new home to complete construction
   - Government contract workers
   - Traveling nurses
   - Military PCS while looking for a home to buy
   - Home Sellers who need to rent until they find a new property
   - Film and TV crews while on a shoot

   Those people don't need or want to stay at ocean front hotels paying expensive accommodation fees. There should be an option for them to stay at condos less than 180 days with affordable rates. This also benefits Hawaii's economy.

2. Some buildings in Apartment Precincts in Waikiki ban 30-day vacation rentals in their Building Bylaws, while there are some buildings that allow 30-day vacation rentals. If the purpose of this Bill is to protect neighbors, why not let Owners Associations decide by allowing their input? I do not believe the DPP should override those owners' rights and implement such a one-sided standardized rule ignoring each building's owners' opinion and right to decide.

   While it is understandable banning illegal vacation rentals in more quiet "residential" neighborhoods such as Kailua or Hawaii Kai, it makes no sense for Waikiki. Waikiki is unique as a successful tourism destination, with many local businesses, restaurants, and shops, that depend on tourists. Healthy successful tourism needs a variety of accommodations that provide options

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to visitors. With this proposed Bill it is narrowing accommodations to only local residents with long term 180-day leases, who will not contribute to the special businesses aimed at tourism and income for business owners and the state of Hawaii.

It is obvious that this Bill is aimed to help the Hotel Industry in Waikiki. It does not benefit Oahu by providing healthy competition as it only promotes the vested interest of the Hotel industry and its revenue.

I also oppose this Bill for the following reasons:

1. Condo-Hotel properties MUST be operated by the Hotel: There are no illegal vacation rentals in condo- hotels. They are zoned as Hotel/Resort and many privately owned. I'm not a lawyer, but I think it may violate antitrust laws (In the United States, antitrust laws are a collection of federal and state government laws that regulate the conduct and organization of business corporations and are generally intended to promote competition and prevent monopolies). I cannot see any rationale in this move other than monopolizing the tourism market by protecting the hotel industry's interest and destroying legal property management companies.

   Competition in this industry is vitally important to keep improving Hawaii's accommodation services and attracting visitors to Hawaii. Competition results in better service, better property management with increased tax income to the State that benefits all local residents.

2. At the City and County level, this bill will affect the market value of many properties. Affecting these values will affect tax revenues and their ultimate use.

There should be other ways to stop illegal vacation rentals or solve the issue of the shortage of housing for local residents.

Letting the Hotel Industry monopolize the Oahu's accommodation options will result in a ruined economy.

You should remember those points and need explain rationale other than protecting hotel industry which includs your wife in Aston Aqua. Hotel should improve their service by themselves to attract more people. Using political power to shut down vacation rentals to protect hotels is not for Hawaii.

- This bill seeks to take away long-established property rights in the resort zone that explicitly allow people to own and operate TVUs.
- This bill drastically expands hotels interests while choking out individual property rights. The bill imposes ownership, operations, and financial hurdles and restrictions on TVU operators while at the same time giving corporate hotels unfettered right to operate without the same restrictions and siphon tourism revenue to the mainland.
- Short-term rentals are severely limited as to how many days they can permissibly be rented, while hotels are free to rent their rooms every day.

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- This bill would cause unintended economic fallout: Visitors outside the resort zones stimulate the economy in local neighborhoods by patronizing grocery stores, artisans, tour operators, restaurants and the like.
- Owners of the B&Bs and TVUs hire cleaning staff, maintenance and repair persons nearby.
- Visitors outside resort zones interact with locals, fostering cultural exchange and good neighborliness.
- Dollars spent outside of resort zones tend to remain in those neighborhoods rather than flow offshore.
- Conversely, prohibiting STRs in outlying neighborhoods negatively impacts local economies.
- Many people are able to afford homes here through short-term rentals.
- Most STR operators pay their cleaning staff $50/hour or more. Hotel staff usually are paid $30/hour when work is available. Cleaners working at STRs generally act as independent contractors. Thus they have greater flexibility in their working schedule to accommodateother responsibilities and opportunities to pick up extra jobs when desired.
- Nuisance issues can be addressed with management, not banishment
- In order to come up with effective and fair solutions for our entire community, we ask DPP to sit down with vacation rental owners and operators, who can help provide insights and solutions it may not otherwise uncover.
- Short-term rentals not only offer accommodations for visitors, but also provide decent and affordable opportunities to others such as traveling medical staff, families arriving to care for their loved ones, contract workers, relocated military families, local residents in need of temporary housing, and others, etc.

Name Yoh Kuwano .

Date 8/31/2021 .

Signature DocuSigned by: Yoh Kuwano . D940355AD58C40A...

From: BC [mailto:brittain.caldwell@gmail.com]
Sent: Tuesday, August 31, 2021 1:52 PM
To: info@honoluludpp.org
Subject: Ordinance 19-18

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Aloha,

I am concerned about some of the proposed changes to Ordinance 19-18, particularly the move to change the definition of a Transient Vacation Unit or Bed And Breakfast to include any property with a rental period of less than 180 days, up from the current 30 days.

The proposed change to the law cites a concern with "traffic, crowding and tourists" invading residential neighborhoods. Indeed, the type of person who rents a furnished property in Hawaii for a period of only a few days is likely a tourist, and is unlikely to ever "acclimate" to the patterns of life in a local neighborhood. I once lived next to a vacation rental, and the constant rotation of jet-lagged tourists definitely disrupted the neighborhood. However, the type of tenant who rents a property for 30 days or more is different from the type who rents for a few days or weeks. This kind of person is unlikely to be a tourist: according to 2019 HTA data the average length of stay for a "tourist" is less than 10 days (https://www.hawaiitourismauthority.org/media/4166/2020-01-29-hawaii-visitor-statistics-released-for-december-2019.pdf). This begs the question: What type of person rents a dwelling for less than six months but more than two weeks? While HTA data does not answer the question, my personal experience helps to fill in the gaps.

I am a local homeowner, and I am a military veteran. I have moved to 'Oahu twice in the past decade under a military Permanent Change of Station (PCS), and both times I rented a furnished house in the local community while going through the competitive process of finding a home to rent or buy long-term. These were both "short-term" rentals of less than 180 days, but I was decidedly not a tourist. I used these houses as a way of choosing which local community I wanted to buy or rent in, and I was welcomed by the owners and neighbors in both cases as we got to know them and they helped me understand the rhythms of their community. In both cases, I ended up settling in the local neighborhood; in the first case I rented a condo for 2.5 years, and in the second case I rented a house for a year and then bought a different house in the same neighborhood. While I renovated that house, I again lived in a month-to-month rental. I have now finished my house, separated from the military, and proudly call Hawai'i my home.

The military member is not the only category of person who lives in shorter-term accommodations while looking for a place to rent or buy. My sister-in-law moved to the islands to work for a local bank. She rented a month-to-month furnished house nearby while she waited to get stabilized in her new job and find a permanent home. I know someone who rents

a furnished unit month-to-month as a travel nurse who is on island to support local hospitals during the COVID-19 pandemic. The majority of travel nurses are in month-to-month lease situations in furnished accommodations, as are employees in various branches of government, the energy industry, the film industry, and other seasonal occupations, not to mention all those between jobs or renovating their homes who need a place to stay for a few months.

If this amendment is passed, it will make it illegal for any of these accommodations to exist outside of a resort area. Tourists do not typically rent homes for more than 30 days, but residents do, and so do "non-tourist non-residents" who still integrate with our communities and often put down roots here and become permanent residents. Also, unlike the illegal mega-homes that are often associated with non-resident owners, there are many local families who legally rent a portion of their home or their ADU to these types of people, not only meeting a critical housing need but also supporting their own families. Even if not a "B&B" by definition, these living arrangements foster connections between people that ultimately strengthen our communities. Passing this amendment will have an immediate negative effect on these owners during a season where many are already struggling financially, and will also force their tenants to seek new housing options in a market where almost all short-term options will disappear overnight.

I urge the Commission to reject this misguided attack on legitimate short-term housing and prevent damage and disruption to countless families' living situations. If the goal is to regulate tourism, this provision is badly misplaced.

-Brittain Caldwell

From: SANG HUTCHINSON [mailto:SANG0710@msn.com]
Sent: Tuesday, August 31, 2021 1:56 PM
To: info@honoluludpp.org
Subject: No to Hotel / Condotel management only! Don't restrict fair competition.

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Iam a owner of a condotel in the hotel rental zone of Waikiki. I have owned this property for over 15 years. For over 11.5 years we were under the regime of 3 different hotel management companies all of which took 45% off the top for their so called services. The had restrictions on owners personal use, parking, furniture, flooring, and window coverings.
I finally pulled the plug on the hotel management team and went with a offsite management company. That was the best decision that we have made regarding this property. The have better marketing, maintenance, correspondence, owner privileges and much less greedy at only 20% management fee.
If you restrict us to the hotel mgmt you have given them carte blanche to take us owners to the cleaners every month.
You will have created a giant monopoly with no options for owners who paid a premium to purchase a condo in the hotel zone.
Where does it stop, will the hotel mgmt team want 45% of the retail store or restaurant earnings that are on the premises?
Without competitive competition you will have ultimately driven up prices in Waikiki with an inferior product. As prices go up in Hawaii traveler's will look to cheaper options; Mexico, Caribbean etc.
The restriction of fair competition will never end with satisfactory results. This will cause the loss of jobs, property values and cost effective options for tourists.

Regards,

Sang and Wayne Hutchinson
Get Outlook for Android

From: Joan Parsons [mailto:jparsons250@gmail.com]
Sent: Tuesday, August 31, 2021 1:51 PM
To: info@honoluludpp.org
Subject: OBJECTIONS TO THE CURRENT DPP PLANNING CHANGES TO LEGAL SHORT TERM RENTALS

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

August 31, 2021

To whom it may concern,

As a Hawaii resident I purchased a Beach Villas condo in 2006 pre-construction, which explicitly allowed me to legally rent WITHIN A RESORT ZONE as the owner of the condo. I have done so legally since the property was completed in 2008, paying all GET and TAT taxes as well as 4 X the residential Property Tax rate for the privilege of being a legal short-term rental.

The Beach Villas are a conforming use today, as they have been since 2008 when the doors opened. The three uses guaranteed to me upon purchase included Transient Vacation rentals, long term residential and Hotel, all included in our declarations.

The Beach Villas uses should all remain permissible in the new LUO. All the listed restrictions are unnecessary as the BV has operated as intended by the planning commission for thirteen years since its inception.

The new LUO would wipe millions of dollars of value off the Beach Villas and taxes for the City & County of Honolulu, as well as my livelihood. You are changing the rules of the game, despite my good faith adherence to every law. That just simply is not fair, and extremely self-defeating for the C&C of Honolulu.

The new restrictions on TVR are excessive, burdensome and defeat the purpose stated by the planning board. TVRs serve the visitor population in a resort zone and do not impact residential zoning areas at all.

Our condo and other rentals at the Beach Villas have consistently and reliably provided a 5-Star reviewed alternative to hotels for families coming to Hawaii, who wish to be in their own condo environment RATHER than a hotel to feel

safe and protected during Covid, as well as a more affordable alternative to potentially exorbitantly higher hotel rates.

The Beach Villas appear to be being punished for being the type of property we are.

In addition, we support local residents by hiring them at hourly rates SUBSTANTIALLY above minimum hourly wages normally paid by hotels, to clean and maintain and service our property. We specifically refer our guests to sustainable attractions, entertainment and practices that protect our environment and support local populations. In fact, I wish there were many more sustainable tourist options that we could offer to them, and have attempted to cultivate such with local communities since 2008 as a member of Sustainable Tourism Authority of Hawaii (STAH) and on my own with our local communities.

I have personally reported illegal rentals to authorities when I see unauthorized use by owners who offer short term weekly rentals in areas zoned 30 day or longer rentals, WITH LITTLE RESPONSE FROM THE CITY AND COUNTY BECAUSE OF POOR ENFORCEMENT. Those parties cannibalize our LEGAL short term rental offerings made from within a RESORT ZONE, while destroying residential comfort and safety, and should be prevented from doing so. The C&C of Honolulu has failed miserably to ensure this does not occur, despite its verbal commitment yet failed financial support to enforce such violations.

Property rights and equity:

- This bill seeks to take away long-established property rights in the resort zone that explicitly allow people like me to own and operate short term rentals. Those who have chosen to operate short-term rentals in this zone have done so in a good-faith effort to comply with existing laws.
- Those who have purchased or operated within the law have made their commitment to compliance; the County of Honolulu should uphold its end of the deal.
- This bill drastically expands hotels interests while choking out individual property rights. The bill imposes ownership, operations, and financial hurdles and restrictions on TVU operators while at the same time giving corporate hotels unfettered right to operate without the same restrictions and siphon tourism revenue to the mainland.

Taxing short-term rentals at the hotel rate is grossly unfair:

- We have paid nearly 4X Real Estate Property taxes for 13 years compared to residential properties, PLUS GET and TAT to rent our property within a legally

designated RESORT area. To now add exorbitant fees allowing us to rent is usery and unconscionable.

- Hotels have additional revenue sources that we as short-term rentals do not that offset these exorbitant tax rates.

This bill would cause unintended economic fallout:

- Visitors support local neighborhoods by patronizing grocery stores, artisans, tour operators, restaurants and the like.
- Owners of TVUs hire cleaning staff, maintenance and repair persons nearby.
- Visitors outside resort zones interact with locals, fostering cultural exchange and good neighborliness, and further the Aloha spirit of Hawaii.
- Most STR operators pay their cleaning staff much higher rates, and we support and foster the development of local entrepreneurial endeavors. Most of these, and certainly in our case, are owned by Native Hawaiian and Pacific Islander woman who hire similar workers near our resort area of Ko Olina.
- Cleaners working at STRs generally act as independent contractors. Thus they have greater flexibility in their working schedule to accommodate other family responsibilities and opportunities to pick up extra jobs when desired.

Overall Points:

- Nuisance issues can and should be addressed with appropriate management, oversight, and ENFORCEMENT by the city of Honolulu, not banishment of legal rentals.
- In order to come up with effective and fair solutions for our entire community, we ask DPP to sit down with vacation rental owners and operators, who can help provide insights and solutions it may not otherwise uncover.

Sincerely,

Joan Parsons

-----Original Message-----
From: MoonLight Shepherds [mailto:moonlightshepherds@gmail.com]
Sent: Tuesday, August 31, 2021 1:40 PM
To: info@honoluludpp.org
Subject: Opposition to proposed Bill Regarding short term rentals

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Dear Honolulu City and County Planning Committee,

> I am submitting written testimony in strong opposition to the new proposed draft bill on short term rentals and transient accommodations.

> I am a local homeowner with a property on several acres of land on Oahu. I have a home in a non-residential zoned district.
> I have no close neighbors and adequate space for parking on my property. I pay all of my taxes. There are no issues with extra noise or traffic in my sparse neighborhood. I live on the property so all guests would have to follow house rules and city regulations.
>
> I have been waiting for the last two years since Ordinance 19-18 was passed. In that ordinance, applications for 1700 new permits were suppose to be made available. The applications were delayed multiple times and eventually suspended. Instead of opening up new applications for permits , this new bill now completely prohibits all new permits except in A1 and A2 zoned high density areas.

> Generalized blanket statements about how tourists overrun neighborhoods, have loud parties, increase home values, and take over rentals allotted for long term tenants are unfounded. Statements saying short term rentals are to blame are completely ridiculous as this comprises of only a small fraction of where vacationers reside during their stay. The majority of tourists are actually families that spend tourism dollars to support Hawaii's number one economy. During the height of the pandemic, many locals were jobless and on unemployment because there were no tourists arriving in Hawaii.
> Most vacationers do not know anyone to even throw a party with. Mostly they wake up early, explore the island, and go to sleep early. If local homeowners are not allowed to do short term rentals, most would not convert to long term rentals, but instead be forced to sell their home to mainland or foreign investors. Over time, more and more properties in Hawaii will no longer be owned by the locals. This would actually push up the home values in Hawaii even more.
>
> I understand the concerns with STRs in residential neighborhoods as homes are situated close together. This would clutter street parking and excessive noise would be disruptive to nearby neighbors. However, I am in support of allowing homes in non-residential zones such as AG2 to be permitted for short term rentals where the home owner would live on site and homes are spread several acres apart. My home meets all of the lengthy requirements listed in Ordinance 19-18 for a new STR Bed and Breakfast permit.
>
> Many times travelers like to vacation in quieter areas outside of the busy/noisy Waikiki or other high density areas, stay closer to their family who live in different parts of Oahu, or be able to relax in a

'home' environment. Many times residents also need temporary places to stay such as if their home is being fumigated, they are renovating, or they are returning residents looking to purchase a home. Most hotels charge daily $50 for parking, $50 for resort fees, and the cramped rooms are less than 250 sq ft. Larger families would need to get two hotel rooms which would not be possible for most families to afford. My home would have free parking, no resort fee, and provide guests with a more personalized experience since I live onsite. Also my home would provide much larger living spaces, a full kitchen, and is more cost effective than a hotel. I also support local small businesses by hiring services for home cleaning, landscaping, and property management.

>> Even if travelers were forced to stay in Waikiki and other high density areas, they would still drive to other popular destinations on island which would add to the already congested traffic. By allowing new permits in non-residential zones outside of just A1 and A2, this would give travelers more options of where to stay and spread them out around the island. This would help our local businesses, such as eateries and gift shops, outside of just the resort areas and also alleviate traffic on the roadways.

>> Also, I oppose changing the short term rental of minimum 30 days to a minimum of 180 days. I frequently have family and friends visiting. I need to have flexibility for my home to be available for when guests visit and 180 day rental periods would not allow me to have any visitors in my home if I had long term tenants. Also in many instances, owners and tenants are not a good fit especially if the owner lives on the property. If the 180 day minimum were in effect, then both parties would be forced to live together for 6 months, otherwise neither would be able to break the lease because it would be illegal! That would create many nightmare situations and potential legal issues.

>>> I also oppose the $5000 initial permit registration fee and $2000 renewal fee. This fee should be assessed as a percentage like taxes rather than a high flat fee. Some owners who rent their home out year round can easily pay the permitting fees. Others who only periodically rent out their units should not have to pay such steep fees.

>>> As a single mom with two children, this would allow me to earn some income to offset my high mortgage, provide travelers with an opportunity to stay in a home outside of the busy high density districts, and the city would benefit by collecting property, GET, and TA taxes. There would be no negative effects such as additional noise, parking, or traffic issues as all homes in my neighborhood are on multiple acres.

>>>> Allowing responsible property owners such as myself to have a permitted STR is a win-win for all parties involved. Please do not pass this new bill with stringent government regulations that across the board will prohibit any new permits for Bed and Breakfast STRs except in the high density zoned areas. Passing of such legislation would only benefit the large hotel corporations. We live in the United States where everyone should have the freedom to choose where they would like to stay, and homeowners should have the right to rent out their homes as long as all taxes are paid, all rules/regulations are followed, and there is no disturbance or harm to any other party.
>>>> Thank you for your time and consideration into this matter.

>>>> -LG, Hawaii resident and homeowner

AUGUST 31, 2021

TESTIMONY TO:

CITY AND COUNTY OF HONOLULU

PLANNING COMMISSION

REGARDING PROPOSED AMENDMENTS TO CHAPTER 21 RELATING TO

TRANSIENT ACCOMODATIONS

FROM: LISA H. GIBSON ON BEHALF OF THE BURBANK STREET 'OHANA

Aloha, Chair Lee and members of the Planning Commission. My name Lisa Gibson, a lifetime resident of Burbank St. I offer testimony today on behalf of the Burbank Street 'Ohana, a coalition of over 35 concerned neighbors residing on this quiet street in Nu'uanu. Among our group are those whose families who have lived on this street since the 1800's, 1940's, 1960s, 1970s's as well as parents with new young children who eagerly bought here for the same reasons as our kupuna neighbors.

We have long prided our neighborhood for its safety. However, in the last two years life on our quiet one block street has been degraded and diminished by the establishment of what neighbors believe to be an illegal vacation rental at 91 Coehlo Way.

Since 2019, we have been deeply concerned about the on-going activities that take place at this house. We have filed numerous complaints with the Department of Planning and Permitting as well as the Honolulu Police Department regarding the transient nature of this house, and our belief in it being operated as an illegal vacation <u>and</u> illegal rental car facility. Since then, we have endured multiple home breaks in, speeding cars, including a high-speed car chase involving HPD, and threatening behavior from the operator of the 91 Coelho Way vacation rental following our complaints to him that were escalated to HPD.

Also, you may know of the property was the site of the police involved shooting of a South African man on April 14th of this year. The operator of the vacation rental property has an open door policy, a practice which we believe created the environment which resulted in this tragedy on a night when the owner was absent from the scene.

This is why members of the Burbank Street 'Ohana have read the draft bill with interest hoping that our outreach and work with our elected officials will result in effective legislation that can return to us our peaceful neighborhood.

Just so there is no ambiguity here. Our goal is that the proposed enforcement amendments and criteria for the ability to operate will provide DPP with the tools to necessary revoke the license to operate the vacation rental at 91 Coelho Way.

It is with this perspective that we ask that the Planning Commission and DPP take into consideration the scenarios which have emerged from 91 Coelho Way as they contemplate the proposed draft. Currently the barriers to enforcement are apparently so vast that during a call with a variety of city officials it was suggested that WE the neighbors form and fund our own underground sting activity to provide proof for DPP that this house is in violation. Surely the goal of the proposed draft ordinance is to eliminate the need to even contemplate such a suggestion.

We ask that the Commission and DPP take into consideration the following:

1. OWNER TO PROVIDE TITLE REPORT. The draft requires that the owner of the vacation rental property provide a title report. We have learned that HSBC Bank USA/Wells Fargo Bank has filed a foreclosure complaint against four entities or individuals who claim to own or have an interest in 91 Coelho Way. One of the four defendants is the operator of the 91 Coelho Way vacation rental who claims to be the present owner pursuant to a Quitclaim Deed. However, of those claimants, only one, a recently disbarred Honolulu attorney, executed a $2,000,000 mortgage with the bank. The complaint asserts that the interests of all other claimants, including the operator of the 91 Coelho Way vacation rental, are subordinate to the lien of the bank's mortgage. Question – Does the current draft empower DPP to take into account this type of cloudy title in its requirement to provide a title report? A copy of the foreclosure complaint is attached.
2. OWN ONLY ONE PROPERTY. The draft states that the operators may *only own one property*. On-line research reveals three Air BNB properties owned by this "super-host". Does the current draft provide adequate tools to DPP to enforce this requirement vis-a-vis 91 Coelho Way?
3. OPERATOR REQUIRED TO LIVE ON PROPERTY. The draft states that vacation rental owners are required to live on the property. It is the observation of the neighbors that the owner of the property in question does not live on site – Will the proposed bill provide DPP with the tools it needs to investigate this and take action?
4. LIMITS ON GUEST OCCUPANCY. The MLS shows that there are six bedrooms at 91 Coelho Way. The draft contains conflicting statements on guest limits:
    1. one says no more than four guests and a two room rooms maximum for rooms rented simultaneously and
    2. the other states no more than 2 persons per bedroom which would result in 12 guests at 91 Coelho Way.

    What is the standard here? Whatever the rule, it is obvious to the neighbors that 91 Coelho Way operates essentially as a boutique hotel for 10-12 guests while simultaneously providing private fleet of 10-12 rental cars in significant excess of the two cars per home legal limit.
5. BARRIERS TO INFORMATION GATHERING. Neighbors believe the length of stays at this home are well under the current 30-day requirement – at this point the DPP is not currently able to access transaction receipts (which could be falsified anyway), nor can

they contact the guests, given the privacy barriers of rental platforms including Airbnb. How does DPP propose to gather this information?

6. LISTING ON MULTIPLE PLATFORMS. Operators of vacation rentals can list their property on more than one online platform, for example, Airbnb, Trivago, etc. How does DPP intend to monitor the actual renting from multiple listings? We understand that Airbnb currently does not allow more than one rental of 30-days at a time, but that does not prevent homeowners from
    1. Facilitating side deals with clients to broker shorter stays
    2. Renting the same property – during the same or adjacent timeframe – from different online platforms.
7. ONE WEEK THEN ONE MONTH NOW 180 Days – Whether vacation rentals are limited to a week, a month or six months, it is important to note that thus far the 30 day requirement has had no impact on the behavior of the operator of 91 Coelho. This begs the question: If DPP is not able to enforce the new rules and is not able to deny renewal of registration for 91 Coelho Way, then how is the new 180 day requirement germane to enforcement? While $3.1 million in funding and new staff may be required, the ability to actually shut down rogue operators who abuse the system is the only deliverable that matters.

We presume this is the beginning of an iterative process and as such request that DPP meet again with the neighbors to discuss the execution of this bill to ensure that the result will solve the problem in ours and other neighborhoods. Without an effective enforcement system which protects the residential nature of neighborhoods, all it takes is one rogue operator to make a mockery of the enforcement and the rule of law. We look forward to further discussion with you, the DPP as well as our other elected officials on this topic.

###

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Attorneys for Plaintiff HSBC BANK USA, NATIONAL ASSOCIATION AS TRUSTEE FOR WELLS FARGO ASSET SECURITIES CORPORATION, MORTGAGE ASSET-BACKED PASS-THROUGH CERTIFICATES SERIES 2007-PA5

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

HSBC BANK USA, NATIONAL ASSOCIATION AS TRUSTEE FOR WELLS FARGO ASSET SECURITIES CORPORATION, MORTGAGE ASSET-BACKED PASS-THROUGH CERTIFICATES SERIES 2007-PA5, Plaintiff, v. GARY VICTOR DUBIN; GREENTREE PROPERTIES, LLC, A NEVADA LIMITED LIABILITY COMPANY; GREGG KAMM, TRUSTEE OF THE GREG KAMM 401(K) PROFIT SHARING PLAN EFFECTIVE JANUARY 1, 2013; JAMES H. HALL; PAMALU ROOFING & RAINGUTTERS, INC.; and DOES 1 through 20, Inclusive, Defendants.	CIVIL NO. (Foreclosure) **COMPLAINT TO FORECLOSE MORTGAGE; DECLARATION OF POSSESSION OF ORIGINAL PROMISSORY NOTE; EXHIBITS 1-2; EXHIBITS A-E; SUMMONS**

COMPLAINT TO FORECLOSE MORTGAGE

COMES NOW Plaintiff HSBC BANK USA, NATIONAL ASSOCIATION AS TRUSTEE FOR WELLS FARGO ASSET SECURITIES CORPORATION, MORTGAGE ASSET-BACKED PASS-THROUGH CERTIFICATES SERIES 2007-PA5 ("Plaintiff"), for cause of action against the above-named Defendants, and alleges as follows:

1. Plaintiff is, and at all times relevant was, a national association, authorized to do business in the State of Hawaii.

2. Defendant GREENTREE PROPERTIES LLC, A NEVADA LIMITED LIABILITY COMPANY is the record owner of that certain parcel of real property commonly known as 91 Coelho Way, Honolulu, Hawaii 96817-1434 (TMK No. (1) 1-8-006-078-0000) ("Property"), which, including all improvements and fixtures, is the subject matter of this foreclosure action. The legal description of the Property is set forth in **Exhibit A** attached to this Complaint and incorporated herein by reference.

3. Defendant JAMES H. HALL may claim an interest in the Property as a present or former owner of the Property pursuant to the Quitclaim Deed State of Hawaii recorded in the Bureau of Conveyances of the State of Hawaii as Document No. A-69040596.

4. Defendant GREGG KAMM, TRUSTEE OF THE GREG KAMM 401(k) PROFIT SHARING PLAN EFFECTIVE JANUARY 1, 2013 may claim an interest in the Property by virtue of that mortgage recorded in the Bureau of Conveyances of the State of Hawaii, on February 2, 2017, as Document No. A-62420351, a First Amendment to Second Mortgage and Promissory Note and Personal Guaranty recorded in the Bureau of Conveyances of the State of Hawaii as Document No.A-71250956, a Second Amendment to Second Mortgage and Promissory Note and

Personal Guaranty recorded in the Bureau of Conveyances of the State of Hawaii as Document No. A-73180462, a Third Amendment to Second Mortgage and Promissory Note and Personal Guaranty recorded in the Bureau of Conveyances of the State of Hawaii as Document No. A-76320930, a Fourth Amendment to Second Mortgage and Promissory Note and Personal Guaranty recorded in the Bureau of Conveyances of the State of Hawaii as Document No. A-76550737, which interest, if any, is junior and subordinate to the lien of Plaintiff's Mortgage.

5. Defendant PAMALU ROOFING & RAINGUTTERS, INC. may claim an interest in the Property by virtue of a Notice of Pendency of Action recorded in the Bureau of Conveyances of the State of Hawaii as Document No.A-73491016, which interest, if any, is junior and subordinate to the lien of Plaintiff's Mortgage.

6. The true names of the Defendants herein named as DOES 1 through 20, inclusive, are unknown to Plaintiff and include all other persons claiming any legal right, title, estate, lien or interest in the property described in the Complaint adverse to Plaintiff's interest, or any cloud upon Plaintiff's title thereto. These unknown Defendants, and each of them, claim some right, title, estate, lien or interest in the Property adverse to Plaintiff's interest; and their claims, and each of them, constitute a cloud on title to the Property. Plaintiff will amend this Complaint to reflect the true names of said unknown Defendants when the same are ascertained.

7. Each of said DOE Defendants has, or claims to have, some interest in the Property, which interest or claim is subsequent to and subject to the lien in favor of Plaintiff's Mortgage.

8. For valuable consideration, GARY VICTOR DUBIN ("G. DUBIN") and GREENTREE PROPERTIES, LLC, A NEVADA LIMITED LIABILITY COMPANY by GARY VICTOR DUBIN, MANAGER ("GREENTREE") executed and delivered a Promissory Note dated June 14, 2007 to Wells Fargo Bank, N.A. in the amount of $2,000,000.00, plus interest at

the rate of 7.25% per annum ("Note"). A copy of the Note is attached to this Complaint as **Exhibit B** and incorporated herein by reference.

9. Plaintiff is the current holder of the Note with standing to prosecute the instant action by virtue of the blank indorsement to the Note, which thereby converted the Note to a bearer instrument, and because Plaintiff is in possession of the indorsed in blank Note.

10. The Note is secured by a Mortgage dated June 14, 2007, executed by GREENTREE, as mortgagor, in favor of Wells Fargo Bank, N.A., encumbering the Property ("Mortgage"). On June 20, 2007, the Mortgage was recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2007-110023. A copy of the Mortgage is attached to this Complaint as **Exhibit C** and incorporated herein by reference.

11. The Mortgage was assigned to Plaintiff pursuant to an Assignment of Mortgage ("Assignment") recorded on May 9, 2019, in the Bureau of Conveyances of the State of Hawaii as Document No. A70680557. A copy of the Assignment is attached to this Complaint as **Exhibit D** and incorporated herein by reference.

12. As of March 1, 2019, G. DUBIN and GREENTREE are in default in the payment of principal and interest mentioned in the Note. As a result of such default and in accordance with the terms of the Note and Mortgage, the entire aggregate amount of the principal obligation of the Note and Mortgage unpaid, together with interest, advances and charges, has become and is now due and payable. Although demand has been made by Plaintiff with respect to the principal and interest due and payable to Plaintiff, the Borrowers have failed to pay the same.

13. In compliance with the Mortgage, notice was mailed via U.S. Mail First Class Mail and Certified Mail to G. DUBIN and GREENTREE advising of the default under the Note and Mortgage, providing thirty-three (33) days to cure the default, advising that failure to cure the

default within the thirty-three (33) days provided may result in Plaintiff's option to accelerate the entire balance outstanding under the terms of the Note and Mortgage, and advising of the right to reinstate after acceleration (the "Notices of Acceleration"). True and correct copies of the Notices of Acceleration are attached to this Complaint as **Exhibit E** and incorporated herein by reference.

14. As a result of the above facts, Plaintiff is entitled to a foreclosure of its Mortgage and to a sale of the Property in accordance with the terms of the Mortgage as a matter of law.

15. Plaintiff in addition to being entitled to foreclose as a matter of law, is entitled to foreclose as a matter of equity including but not limited to: general equitable principals, quantum meruit, unjust enrichment, and/or equitable subrogation.

16. Even if Plaintiff is determined not to be entitled to foreclose on the Mortgage for any reason, Plaintiff is still entitled to have an equitable lien in its favor recognized against the Property in the same amount and priority as the Mortgage, as security for its Loan. See Beneficial Hawaii, Inc. v. Kida, 30 P.3d 895, 918-19, 96 Haw. 289, 312-13 (Haw. C. Ct. 2001)

17. The Mortgage provides that in the event of foreclosure, Plaintiff may be awarded all expenses incurred in pursuing this remedy, including reasonable attorneys' fees and costs, expenses or advances made necessary or advisable or sustained by Plaintiff because of default or in order to protect the security of the Mortgage. As of February 17, 2021, the total due and owing excluding outstanding legal fees and costs under the Note is $2,024,720.01. In addition, per diem interest in the amount of $330.0629 will continue to accrue on the principal from February 17, 2021, along with other additional fees, costs, and advances and legal fees and costs.

18. Any and all of the Defendants named herein claim or may claim some interest in the Property. These interests, however, are subsequent, subordinate or junior to the lien of Plaintiff's Mortgage.

WHEREFORE, Plaintiff prays:

1. That process of this Court issue commanding the Defendants to appear or answer the allegations of this Complaint and to perform and abide by all Court orders, directions and decrees.

2. That upon hearing, the Court ascertain the total amount due to Plaintiff at the time of judgment upon the Note and the Mortgage, including principal, interest, advances, costs and attorneys' fees, and that this Court determine and order:

a. That there is due and owing to Plaintiff by virtue of the terms of said Note and said Mortgage and of all the proofs adduced, a certain sum of money, and that the sum of money, together with legal interest accrued, and all advances, costs and attorneys' fees, be declared to be a first lien upon the Property; that the Court fix and determine just and reasonable attorneys' fees and expenses for Plaintiff's attorney.

b. That any interest or lien claimed by any Defendants be adjudicated subordinate and junior to the lien of Plaintiff's Mortgage.

c. That Plaintiff is entitled to foreclose upon the Property as a matter of law.

d. That additionally, Plaintiff is entitled to foreclose upon the Property as a matter of equity.

e. That additionally, Plaintiff is entitled to an Order recognizing a lien against the Property in the same amount and priority as reflected in the Note and Mortgage and Plaintiff shall have the same and further relief as prayed for in connection with Plaintiff's count for Judicial Foreclosure with respect to its equitable lien.

f. That this Court appoint a Commissioner to take possession of the Property described or mentioned in the Mortgage, and that the Commissioner be authorized to collect rents,

deal with the Property and to sell the Property for cash in the manner provided by law and by the order of this Court; and that upon confirmation of the sale by this Court, the Commissioner be authorized and directed to make and deliver to the purchaser of the Property such instrument of conveyance of the Property as may be appropriate, free and clear of all liens, encumbrances and claims of creditors.

g. That after the payment of all necessary expenses of such sale and attorneys' fees and expenses, the Commissioner be authorized and directed to make the application of the proceeds thereof, so far as the same may be necessary for the payment of sums due and owing to Plaintiff herein, including all costs and expenses.

h. That Plaintiff be allowed to become a purchaser in the sale and credit bid its claim to the extent applicable.

i. That Plaintiff be granted equitable relief as the Court determines to be just and proper.

j. That if the proceeds of the sale shall be insufficient to pay the aforesaid sum to Plaintiff and it shall appear that a deficiency exists, that judgment then be entered for such deficiency against G. DUBIN and GREENTREE, and that Plaintiff have execution thereof.

k. That Plaintiff have such other and further relief as may be just and to the Court seem proper.

l. That if Plaintiff is determined not to be entitled to foreclose on the Mortgage for any reason, that the Court enter an order recognizing that Plaintiff has an equitable lien against the Property in the same amount and priority as reflected in the Note and Mortgage and that Plaintiff shall have the same and further relief as prayed for in connection with Plaintiff's count for Judicial Foreclosure with respect to its equitable lien.

WE ARE ATTEMPTING TO COLLECT THE DEBT AND ANY INFORMATION WILL BE USED FOR THAT PURPOSE.

DATED: Honolulu, Hawaii, March 30, 2021.

/s/ Zachary K. Kondo

ZACHARY K. KONDO
Attorneys for Plaintiff
HSBC BANK USA, NATIONAL ASSOCIATION AS TRUSTEE FOR WELLS FARGO ASSET SECURITIES CORPORATION, MORTGAGE ASSET-BACKED PASS-THROUGH CERTIFICATES SERIES 2007-PA5

To: Mr. Brian Lee
Chair, and Members of the Planning Commission

From: Paul and Cindy Nachtigall, Resort TVU Property Owners in retirement.

Re: Proposed Amendments to LUO relating to Transient Accommodations – Detrimental effects on Property owners - EXCESSSIVE CHARGES.

Dear Mr. Lee et al.,

The proposed changes to the Land Use Ordinances relating to Transient Accommodations will have a severe effect on us as property owners in retirement. The monetary requests for the Government are overwhelmingly high. We purchased a TVU in a resort area as part of our ongoing retirement income structure. We currently and willingly pay over 4.5 % in General excise tax and 10.5% on the Transient Accommodations Tax on revenue on top of our property taxes. The State recently passed a law allowing the City and County to increase the Transient Accommodations Tax but that has not yet been worked out but we can easily anticipate another 2%.
The proposed Amendments will require that we pay an additional $7,500 to register to be allowed to continue to do what we have been legally doing in addition to an increase from 3.5 per thousand to 13.5 per thousand in property taxes each year. Suppose our unit was assessed (but actually not saleable) at one million dollars.

Taxes would be:

Property taxes - $13,500
Registration Fees -$7,500
State GET- 4.5% plus
State TAT – 10.5%
City and County TAT 2%

That is $21,000 in property taxes and registration fees
(monthly 21,000/12= $1750) plus 16.5% in income assessments.

Suppose one rented a place out for 300 dollars a night and filled it 15 nights per month The income would be $4500. Taxes GET and TAT on income would be 4500 X 16.5% = $742.50

The Government would be taking $1750 plus $742.50 or **$2492.50 of the GROSS $4500 INCOME.** Does that not seem excessive to you?

We therefore request that you do not charge these **excessive fees**. Please look at the whole picture to see what Government is charging a simple retired couple trying to keep their investment alive and continuing to operate in a legal manner.

Sincerely,

Paul and Cynthia Nachtigall
940 Maunawili Circle
Kailua, Hawaii 96734

From: Paul [mailto:nachtiga@hawaii.edu]
Sent: Tuesday, August 31, 2021 1:40 PM
To: Mayor Rick Blangiardi
Subject: Mayor's Contact Us Form (Online)-Ideas or Suggestions

Topic

Mayor's Contact Us Form (Online)-Ideas or Suggestions

To: Mr. Brian Lee
Chair, and Members of the Planning Commission

From: Paul and Cindy Nachtigall, Resort TVU Property Owners in retirement.

Re: Proposed Amendments to LUO relating to Transient Accommodations – Detrimental effects on Property owners - EXCESSSIVE CHARGES.

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Message

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Prefix	Mr
First Name	Paul
Last Name	Nachtigall
Contact Phone Number	808-291-6432
Contact Email Address	nachtiga@hawaii.edu
Contact Mailing Address	940 Maunawili Cir, Kailua, 96734
Attachment(s)	

IP: 192.168.200.67

From: Kelsey Moore [mailto:kelseybarden@gmail.com]
Sent: Tuesday, August 31, 2021 4:06 PM
To: info@honoluludpp.org; Takara, Gloria C
Subject: testimony for DPP meeting

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Aloha,

My name is Kelsey Moore, phone number 808-342-4926. I wish to submit testimony in opposition to the proposed Bill making changes to short term rentals and transient accommodation units.

While I agree that the City and County needs to regulate illegal short-term rentals, I do not believe they need to impose further costs and regulations to the units that are currently permitted to house short-term visitors. We have adjusted and worked to comply with the new set of regulations put in place three years ago, but these recent proposed changes are unnecessary and unfair to the owners of short-term vacation rentals.

There seems to be a double-standard of what is expected for TVU's to offer their guests and what is expected of hotels. Are hotels expected to offer parking for every bedroom they have? Are hotels required to be owned by individuals rather than corporations? And are hotels expected to own and operate only one hotel, as would be the expectation for TVUs?

Owning and operating a TVU in Kuilima, we employ many locals, from our cleaning lady to the local plumber and handyman when we need to repair and upgrade our unit. Our guests spend money in the community, rather than their tourist dollars staying mostly within the resort. Overall, having visitors stay at our rental rather than a hotel is a good thing for our community.

Thank you for your consideration.

Aloha,

Kelsey Moore

From: Kelly Lee [mailto:kellyreports@gmail.com]
Sent: Tuesday, August 31, 2021 4:05 PM
To: info@honoluludpp.org
Subject: Opposition to Proposed Amendments to Chapter 21 (Land use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations

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We are against The DPP's proposal amending specific sections of the ROH (Chapters 8 and 21) relating to (TVU), (B&B) homes, and hotels.

Many Realtors, residents, investors and local families are against The DPP's proposal amending specific sections of the ROH (Chapters 8 and 21) relating to (TVU), (B&B) homes, and hotels.

DPP's proposal is an added attempt to restrict property rights in order to create a competition-free environment for the corporate hotels to have a monopoly on accommodations. Hyatt, Hilton, Disney, Wyndham, Four Seasons etc-these are not local family run businesses. This seeks to send island income off-shore to corporations and we need to keep our money local.

The demand for short term rental worldwide is not going away. It is only getting stronger. The desire for families to choose where they stay when they travel or move to and from Hawaii will continue to be a preferred option. Families in general (especially those of us with children) want a place to stay that has laundry facilities and a kitchen to cook in. Let Hawaii not once again be left behind. It is apparent that vacation rentals are a threat to the hotels because this proposal is not subtle in which businesses are supported and which ones are not. People in reality prefer vacation rentals to hotels and this is a way to use the City to crush the competition.

It is not our responsibility to create affordable housing-that is the City's & the State's job. Dean Uchida-Director of the DPP and Mayor Blangiardi say this will bring more rental units to the market for residents. As a property owner & lifetime resident, I do not believe the city should have a right to dictate to owners who they can rent to-unless they plan to pay the property's mortgage, taxes, utilities, deferred maintenance etc. Our homes are not your rental inventory. This is an easy way to force resident's to do the city's job of planning for future housing. If an owner bought or built their home, it is their personal property.

We were promised 1,700 units to be permitted in residential areas if the owner lived on site. The DPP's duty was to provide a permitting process for B&B's throughout the island. If you don't have your word, you have nothing. Scrapping that initiative all together is not what has been promised for many years. Hawaii cannot stay in the 1980's- we have to adjust with the times without crushing our local citizens rights. DPP is asking for additional funding to create a permitting team that was supposed to help process and manage new short term rental permits. Rather than the planned team to support local homeowners' right to apply for permitting- they want to get additional funding to ensure that never happens. A cut to 180 days removes TAT from every month-to-month rental on the island. Tax income will decrease drastically for the City and the State. There won't be enough tax income to give the DPP $3.125 milion dollar to police local homeowners.

Tourists are not going to stay in Waikiki because the DPP Director or Mayor says they should. They will visit places all over the island. We live in the modern age and world travel is desirable to everyone. Visitors will bring their dollars to local family vendors of lodging, goods and services. Banning short term rentals will not serve our local families, our visitors nor our military PCS to and from the islands who need rentals of a month or 2 while transitioning into their long term island home.

It is not the responsibility of an individual homeowner to maintain the level of tourism. The Mayor sites A tsunami of tourists. That again would be the City's job. There are ways to manage the number of people flying in without pointing the finger at individual owners as being responsible. B&B's are not destroying our neighborhoods-that is marketing rhetoric used to sell the idea to the public that only hotels can manage guests. If a 2 bedroom rental goes to a local family of 4 or a visiting family of 4, that does not equate to more people. 4=4

There is no TAT for 180+ days - more state income goes away. Tax dollars from TAT taxes on resident owned B&B's could successfully fund improvements and maintenance of our parks, beaches and hiking trails as well as salaries for city officials and inspectors. Many other destinations have successfully created permitting and rules to regulate short term rentals around the world. We can and should manage tourism and increase ways to provide income for our City & State AND our residents.

Changing minimum days from 30 to 180 days disrupts our entire real estate market. Month to month rentals have been in Hawaii for decades. 180 days is not a usual initial lease term in Hawaii-it never has been. Both tenants and landlords want a trial period-even for long term tenants. They want a month to

3 months to see if both parties are compatible. Stopping short term rentals will not serve our local families, our visitors nor our military PCS to and from the islands who need rentals of a month or 2 while transitioning into their long term island home. Realtors use month to month for a large portion of residential units.

If I can finish this one request. Delay this decision for 30 - 60 days. Most of our clients are not even aware yet what is happening and they deserve the right to have their voices heard. I had several frantic calls over the weekend from property owners whose voices deserve to be heard. This proposal and hearing was rushed intentionally giving us very little time to get actual hard data to present.

Below are comments from a resident and a client who were not given enough warning to prepare for the hearing. I am sure I will get many more from friends, residents & clients and in the coming days & weeks

Wendy Zarella, PharmD
808-277-5061
wz3848@gmail.com
comment: I support short term rentals and do not support increasing the minimum rental period to 6 months. Non Hotel accommodations were vital during the pandemic. Many first time responders needed a place to stay away from their family to protect them from the virus. This was especially helpful in the early days of the pandemic when we were not sure what we were dealing with. Also as an ex military family, having someplace to live for a month or two prior to get your bearings, prior to renting or buying is necessary.

Connie Diamond, Retired UH Professor
808-341-4346
comment: We bought our condo at Waikiki Sunset to use for family and then rent out the rest of the time. 30 days is too much for Waikiki but we can deal with that. No one wants to stay in Waikiki for six months in a hotel-like setting. I do not support this proposal.

Regards,

--
Kelly Lee
Kailua Homeowner

Takara, Gloria C

From: Tom Merrick <tom@waikikiplace.com>
Sent: Tuesday, August 31, 2021 4:04 PM
To: info@honoluludpp.org
Cc: tom@waikikiplace.com
Subject: Speak/provide testimony at 9/1 Planning Commission Hearing on Short-Term Rentals

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I would like to register to provide testimony for the 9/1 Planning Commission Hearing on Short-Term Rentals
Name: Tom Merrick
Phone: 808—271-4800
Subject: In favor of protecting neighborhood character outside of Waikiki Resort Zone **BUT 100% AGAINST** requiring units within the Resort Zone to be operated by hotels. This section of the amendment is clearly a power grab of hotels and labor unions and will DESTOY small businesses like mine that pay our Transient and Excise taxes and is our only means of livelihood.

From: Stephanie Fitzpatrick [mailto:slfmakiki@gmail.com]
Sent: Tuesday, August 31, 2021 4:03 PM
To: Department of Planning and Permitting
Cc: Ms. Stephanie Fitzpatrick; Christina Chase
Subject: Testimony for DPP/Honolulu City Council Hearing, Wed. Sept. 1, 2021, on Amendments on Short Term Rentals -

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Aloha

We OPPOSE the Department of Planning & Permitting [DPP] and Honolulu City Council considering INCREASING the time of short term rentals on Oahu from 30 to 180 days.

We are currently allowed one rental a month, which is manageable for us. BUT not ideal.

Our family has a vintage classic beach house, purchased in 1934, by our grand parents, on the North Shore of O'ahu.

It was always a "beach house" - never rented long-term. We are one of the many local people who are LUCKY enough to be able, so far, to keep a Hawaii classic beach home.

Ours is very typical of those "board and batten" classic homes, circa 1920s, previously called "plantation homes," here in Hawaii. Thru short-term renting, we are able to keep the house up-to-date, and in good repair.

Our renters appreciate vintage Hawaii, and interacting with our local people and economy. This rental and renters keep dollars here in Hawaii, especially on the North Shore.

Most of our renters have been to Hawaii before, and stayed in Waikiki a number of times, been to other islands, and sometimes they will stay in Waikiki, or go to a neighbor island, as part of their vacation.

Our renters (no more than 8 people in a family, usually 4-6) focus their purchases and time on the North Shore. They enjoy the natural surroundings, and ocean offerings, and are taught how to treat our precious wildlife and sea life, as well as safety in the ocean and mountains. We limit their numbers to rent, allow no gatherings or

unauthorized visitors, and we limit noise, the focus usually is on families who rent, and we have our own parking for them.

We are good, responsible, managers, we have good communication with our neighbors, we are hands-on, we attract and screen for responsible renters, and they like us/the house/the location, and staying there, very much. And we are happy when they like to return.

As owners, we hire locally for cleaning, repair, pest control, plumbing, carpentry etc.

We have long-time connections with our neighbors and the district, and we happen to have a long HISTORY here. Particularly through my grandparents. I also have given Waialua walking tours in the past, thru Kapiolani Community College.

With this family property, **currently there are fewer and fewer vintage houses like ours still standing and still in good condition**, and if we cannot sustain the current property taxes, and general utilities, we might be forced to SELL.

Please note that this house has been in our family for 87 years. And we want to keep it.

If we sell, this would mean ANOTHER local family home, most likely being purchased by someone outside of Hawaii, and most likely to tear it down, to build another modern cement, now two story, large house. Not a classic low-rise, wooden Hawaii home, blending into and respectful of the environment, as we have, which has a history, has connections to the neighborhood, and began its life as a fishing shack originally.

You will have a direct impact on local people like us, being able to continue keeping such special unique homes within our families, for even more generations.

Please keep the 30 day rental for us. We provide a wonderful old-fashioned beach house option for those coming to Hawaii, or who locally "stay-cation."

Thank you for your time,
Aloha,
Stephanie Fitzpatrick
Third-generation owner

Please <u>sit with us and work out a plan</u>, for all. Thank you so much.

From: concerned citizen [mailto:ponape_mary-bitag@yahoo.com]
Sent: Tuesday, August 31, 2021 4:02 PM
To: Honoluludpp Info
Subject: I strongly OPPOSE Proposed STR changes related to LEGAL, NUC TVU and legal BB. testimonial

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Oh my, what country are we living in? Cuba, Argentina, Venezuela? Countries that don't give a darn about individual rights or property rights?

Why are legal vacation rentals being attacked, and the livelihood of owners of legal STR's with NUCs being threatened?

Illegal STRs are the issue, not legal STRs.

In General, this proposal is to punish legal STR owners, not solve any problems with the vast number of illegal STRs.

1. Why isn't there any enforcement of the illegal STRs still advertising on Airbnb website? why isn't Airbnb being made to enforce the DPP's rules? some Airbnb listings state "30+ day rental only" but the listing is displayed in a search for a 7 day rental? and the booking system will accept an under 30 day reservation?

HELLO??!! it is still so easy to find illegal listings on Airbnb, wouldn't it be wiser to go after them than to attack the LEGAL STRs only because we are easily identifiable by the DPP's list of legal TVU and BB NUC's? Many Airbnb listings for Oahu still lack the TMK# and tax id despite being after the deadline that those listings would be removed. listers just type in "exempt" and their listing is still online.

2. Why are legal STR's being accused of the blame for too many tourists coming to our island, and NOT the hotels? why is the idea that too many tourists are coming here thrown in to the underlying proposal for changes in the STR rules? why is my NUC or the 759 NUCs more responsible for 'too many tourists' than the hotels, with 10's of 1000's of rooms?

3. How is it justified, or solve the "problem' of too many tourists coming to Oahu if a hotel operator manages and takes bookings for MY NUC unit?

How does the illegal STR problem get solved by forcing me to put my NUC into the hotel pool? First, I offer my legal NUC at an affordable price. The hotel pool is double the daily rate. My vacation guests probably spend more money elsewhere on Oahu because they're spending less on lodgings. Where is the Commission's proof that STR guests spend less than Hotel guests? And how does that solve or relevant to the original Bill 89's objectives to rid illegal STRs?

For me to get back into the hotel pool in my building, I'll be forced to spend 20 to 30k to make my unit MATCH, not improved, the hotel pool's standard look. That's a waste of my time and money. How is that justified?

4. The authors of this proposal are overreaching their roles, authority and scope of the root of the illegal STR issues and are not solving anything by trampling on the rights of law abiding STR owners.

This proposal is completely off target! Start over.

FOCUS on the problem, not your personal likes and dislikes, and come up with solutions that are relevant to the root problem, not perceived problems that are not the blame of legal STRs.

Noise and parking issues are issues in and of themselves with rules in place. The lack of those rules being enforced does not mean DPP can go after legally abiding STRs just because it wants to throw us in the same pot as illegal STRs, or blame all STRs for all of Oahu's problems.

Mahalo,

concerned valis NUC STR host.
(due to lack of any privacy in this forum, name, tax ids, tmks are withheld)

From: J. Marie M. [mailto:sunsetyards@me.com]
Sent: Tuesday, August 31, 2021 4:00 PM
To: info@honoluludpp.org
Subject: Written testimony for Pro Vacation rentals / pro TVU/ pro B&B / Under 31 days / Under 180

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Aloha Department of permitting and planning,

I have been an advocate for short term rentals since 2005. I have paid all my TAT & GE since then as well.

I tried longterm rentals. I could not afford to do so and I did not like to share space with full time residents. it was too busy. Too many people. I had no control of visitors, number of cars and more. I had no control of rules and noise either. With short term I have full control to take care of my property the way I like with also using the additional space when not rented. My house is one of the quietest around with the rules and regulations I can set for short term.
I limit my guests to one or two people maximum. I have paid hundreds of thousands of dollars to TAT & GE over these years in hopes of proper regulations and protections for my rentals. I have been supporting my family with my rentals.

My rentals support my family as I know they do many families. They also support the government, painters, cleaners, and local businesses.
It would be nice if the lawmakers would acknowledged how short term rentals are desired by most visitors these days , and with the pandemic increasingly so. People come to stay longer spend more, and enjoy Hawaii.
My rentals have always been very much for the surf community internationally , and also friends and family of residents, military, surf event competitors and organizers.

Short term income stays in Hawaii directly makes living in hawaii possible for many families and residents.

* I do feel vacation rentals need to be closely managed to be good neighbors with parking and onsite management and very limited numbers per rental.

It would be infringing on any property owners rights to have the government say rentals must be 180 days. I don't want any longterm or vacation renters on my property for more than a month and prefer less.
Longterm is month to month, as short term should be either : One stay per month, OR preferably 2 stays per month.

Please do the fact checks on short term rentals… see they they are supporting Hawaii families and taxes. This is a very expensive state to make ends meet.
We have property tax suddenly double, flood insurance triples, food prices and gas higher than most States.

Maybe lets focus on being better for visitors AND residents by focusing on our bad roads that are dangerous with huge pot holes, and the public bathrooms some of the worst in the world next to the most amazing beaches and surf. Let our TAT & GE go back into our infrastructure in the areas that paid these taxes for the community.

Lets not destroy this neighborhood Mom & Pop economy that is doing so much throughout Hawaii and Oahu.

Joy McDougall
59-014 Oopuola st. 96712
sunsetyards@mac.com
808 7813952

From: beachvillasb903@gmail.com [mailto:beachvillasb903@gmail.com]
Sent: Tuesday, August 31, 2021 3:59 PM
To: info@honoluludpp.org
Subject: FW: BVKO - FW: Public Hearing Date and Time: Wednesday, September 1, 2021, 11:30 a.m. (via WebEx)

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I am an owner at the Beach Villas at Ko'Olina, unit BT903. I am in support of the letter attached written for the Association by Counsel for the Association.

Mahalo for your consideration,

Pamela Domingue
Beach Villas B903
(714) 350-7780 Cell PHone

CHRISTOPHER SHEA GOODWIN

ATTORNEY AT LAW LLLC
737 BISHOP STREET
SUITE 1640 MAUKA TOWER
HONOLULU, HAWAII 96813
TELEPHONE 808 531-6465
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**Admitted to practice in HI and CA

August 31, 2021

Via email: info@honoluludpp.org and telefax: (808) 768-6743

City and County of Honolulu
Department of Planning & Permitting
Planning Commission

RE: Public Hearing Date and Time: Wednesday, September 1, 2021, 11:30 a.m. (via WebEx)

Testimony in Opposition to Select Provisions of the Planning Commission's Proposed Bill to Amend Chapter 21 (Land use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations Affecting the Association of Apartment Owners of Beach Villas at Ko Olina

Dear Planning Commission:

This firm serves as general legal counsel to the Association of Apartment Owners of Beach Villas at Ko Olina ("Association"), a condominium association, organized and existing pursuant to Hawaii Revised Statutes, Chapter 514B (the "Condominium Property Act") and presents this testimony on behalf of the Association in opposition to the Planning Commission's Proposed Bill to Amend Chapter 21 (Land Use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations (referred to hereinafter as the "Proposed Bill to Amend Chapter 21 Re Transient Accommodations" or the "Proposed Bill").

As discussed below, the Association's Board of Directors ("Board") is concerned regarding the proposed amendments set forth in the Proposed Bill to add new Sections 21-5.730.1, 21-5.730.2, 21-5.730.3, 21-5.730.4 to the LUO, and to amend the definition of "transient vacation unit" set forth in ROH, Chapter 21, Article 10.

1. Current Law

Absent possession of a Non-Conforming Use Certificate ("NUC"), rental of a unit for any period less than thirty (30) consecutive days in areas <u>not</u> zoned for "Resort" use, is prohibited under the LUO wherein Section 21-5.730(d) currently provides, in pertinent part, as follows:

> (d) . . . **"Unpermitted transient vacation unit" means a transient vacation unit that is <u>not</u>: (A) Located in the resort district**, resort mixed use precinct of the Waikiki special district, or A-1 low-density apartment district or A-2 medium-density apartment district pursuant to subsection (a); **or (B) Operating under a valid nonconforming use certificate** pursuant to Section 21-4.110-1.
>
> > (2) It is unlawful for any owner or operator of an unpermitted bed and breakfast home or unpermitted transient vacation unit, or the

> owner or operator's agent or representative to: (A) Rent, offer to rent, or enter into a rental agreement to rent an unpermitted bed and breakfast home or unpermitted transient vacation unit for fewer than 30 consecutive days

See, ROH, Ch. 21, Sec. 21-5.730(d), emphasis added.

ROH, Article 10, defines a "transient vacation unit" as "a dwelling unit or lodging unit that is advertised, solicited, offered, or provided, or a combination of any of the foregoing, for compensation to transient occupants for less than 30 days, other than a bed and breakfast home. For purposes of this definition, compensation includes, but is not limited to, monetary payment, services, or labor of transient occupants."

Conversely, in *areas which are zoned for "Resort" use*, there is no minimum required rental period, and rentals for periods less than 30 days are permitted. See, ROH, Sec. 21-3.100-1: ("Resort uses and development standards. (a) Within the resort district, permitted uses and structures shall be as enumerated in Table 21-3.") The Master Use Table, Table 21-3, currently indicates that "Transient Vacation Units" are a "**permitted use subject to the standards in Article 5**" on properties located within the Resort Zoning District, **regardless of the classification of the property as an apartment, hotel or hotel-condominium**.

The City and County of Honolulu, Department of Planning and Permitting (DPP) Property Information Report describes the Beach Villas at Ko Olina Condominium Project located at 92-102 Waialii Place, Kapolei Hawaii 96707, Tax Map Key No. 91057009:0000 as located within the Resort Zoning District. As such, the Beach Villas at Ko Olina is not subject to the conforming use certificate requirements of ROH, Chapter 21 and its unit owners lawfully may rent their units for periods of less than 30 days under the current provisions of ROH, Chapter 21.

Accordingly, Beach Villas at Ko Olina's Declaration, as amended and restated, provides that all hotel or transient vacation uses shall be for periods not less than six (6) consecutive nights. Under the amendments to ROH, Chapter 21, proposed by the Planning Commission, it is unclear whether owners of units at Beach Villas at Ko Olina may continue to lawfully advertise and rent transient vacation units, should the Proposed Bill be enacted into law.

2. **Proposed New Section 21-5.730.1 should be revised to clarify that transient vacation units are also permitted in the Resort Zoning District without a non-conforming use certificate**

Unlike the first draft of the Proposed Bill, Table 21-3 Master Use Table of the Revised Draft of the Planning Commission's Proposed Bill to Amend Chapter 21 Re Transient Accommodations, now includes "Transient Vacation Units" as a "permitted use subject to the standards in Article 5" on properties located within the Resort Zoning District (see, Proposed Bill, Revised Draft at pg. 19). However, at the time the Planning Commission implemented the latest change to the Table 21-3 Master Use Table, corresponding changes were not made to the text of the other proposed amendments in the Proposed Bill. Table 21-3 Master Use Table provides, in

pertinent part, that, "In the event of any conflict between the text of this Chapter and the following table, the text of the Chapter shall control." See, Id. at pg. 19.

Therefore, it is requested the Planning Commission also revise the other proposed amendments as necessary to ensure they are consistent with the revised Master Use Table of the Revised Draft of the Proposed Bill. Currently, the other proposed amendments to add new Sections 21-5.730.1, 21-5.730.2, 21-5.730.3, 21-5.730.4 to the LUO, and to amend the definition of "transient vacation unit" are ambiguous, to the extent it is unclear, despite the revision to Table 21-3 Master Use Table adding transient vacation units back to the list of permitted uses of property in the resort district, whether, under these proposed amendments, short-term rentals of units for less than 30 days (or less than 180 days) may continue at properties located in the Resort Zoning District without a non-conforming use certificate, if the Proposed Bill is enacted.

The Proposed Bill provides, in pertinent part:

> SECTION 17. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-5.730.1 to read as follows:
>
> "Sec. 21-5.730.1 Bed and breakfast homes and transient vacation units.
>
> (a) Bed and breakfast homes and transient vacation units are permitted in the portions of the A-2 medium-density apartment zoning district located in the Gold Coast area of the Waikiki Special District shown in Exhibit A and in the portions of the A-1 low-density apartment zoning district, A-2 medium-density apartment zoning district located in the Kuilima and Ko'olina Resort areas shown in Exhibits C and -B, respectively, and the Resort Mixed Use Precinct in the Waikiki Special District, subject to the restrictions and requirements in Article 5 of this chapter.
>
> See, Proposed Bill, Revised Draft, pg. 26.

It is also unclear whether the Planning Commission's proposed amendment adding Section 21-5.730.1 to the LUO continues to permit transient vacation units ("TVUs") in the Resort Zoning District, as Sec. 21-5.730.1(a) only references the A-2 medium-density apartment zoning district located in the Gold Coast area of the Waikiki Special District; portions of the A-1 low-density apartment zoning district and A-2 medium-density apartment zoning district located in the Kuilima and Ko'olina Resort areas shown in Exhibits C and B, respectively, and the Resort Mixed Use Precinct in the Waikiki Special District.

Exhibit "B" to the Proposed Bill entitled "Short-Term Rental Permitted Areas – Ko Olina Resort," referenced in proposed Sec. 21-5.730.1(a), does not show the area zoned "Resort" as an area where TVUs are permitted, which is contrary to the current ROH, Sec. 21-5.730(d) and Table 21-3 Master Use Table which permit TVUs in the Resort Zoning District.

To be consistent with current ROH, Sec. 21-5.730(d) and current Table 21-3 Master Use Table, proposed Sec. 21-5.730.1(a) should be further revised to **clearly state that transient vacation units are permitted in the resort district, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district, and A-2 medium-density apartment district, without a non-conforming use certificate**.

One of the stated purposes of the Proposed Bill "is to better protect the City's **residential** neighborhoods and housing stock from the negative impacts of short-term rentals by providing a more comprehensive approach to the regulation of transient accommodations within the City." See, Proposed Bill, Revised Draft, Section 1., pg. 1, emphasis added. In addition, ROH, Chapter 21, Sec. 21-3.100 provides that, "[t]he **purpose of the resort district** is **to provide areas for visitor-oriented destination centers. Primary uses are lodging units and hotels and multifamily dwellings**. Retail and business uses that service visitors are also permitted. **This district is intended primarily to serve the visitor population**, and should promote a Hawaiian sense of place." See, ROH, Chapter 21, Sec. 21-3.100, emphasis added. It is recommended the Planning Commission revise proposed new Section 21-5.730.1, as well as proposed new Sections 21-5.730.2, 21-5.730.3, 21-5.730.4 and the proposed new definition of "transient vacation unit" to clearly exempt properties within the Resort Zoning District from these proposed amendments. As discussed below, if the Proposed Bill, is enacted in its current form, it will conflict not only with the expressly stated purposes of the Proposed Bill, but the purposes and intended uses for the Resort Zoning District.

3. **Under the proposed new definition of "transient vacation unit," it is unclear whether properties such as the Beach Villas at Ko Olina may continue to allow short-term rentals for periods less than 30 days and/or 180 days**

The Proposed Bill provides, in pertinent part:

> SECTION 24. Chapter 21, Article 10, Revised Ordinances of Honolulu 1990, as amended, is amended by amending the definitions of "bed and breakfast home", "hotel", and "transient vacation unit" to read as follows:
>
> . . .
>
> ""Transient vacation unit" means a dwelling unit or lodging unit that is advertised, solicited, offered, or provided[~~, or a combination of any of the foregoing, for compensation~~] to transient occupants, for compensation, for periods of less than [~~30~~] 180 consecutive days, other than a bed and breakfast home. For purposes of this definition,
>
> (1) [~~C~~]compensation includes, but is not limited to, monetary payment, services, or labor of guests;
>
> (2) Accommodations are advertised, solicited, offered or provided to guests for the number of days that are used to determine the price for the rental; and
>
> (3) Month to month holdover tenancies resulting from the expiration of long-term leases of more than 180 days are excluded.

See, Proposed Bill, Revised Draft, pgs. 36-37.

The above proposed amendment is ambiguous as to whether the proposed new definition of "transient vacation unit" applies to properties located in the Resort Zoning District, such as the Beach Villas at Ko Olina, and whether the Beach Villas at Ko Olina owners may lawfully continue to rent their units for periods not less than six consecutive nights, as provided under the Association's Declaration should the proposed amendment become law.

As stated above, in *areas which are zoned for "Resort" use*, there is no minimum required rental period, and rentals for periods less than 30 days (or any period) are permitted. See, ROH, Sec. 21-3.100-1. **The Planning Committee's proposed new definition of "transient vacation unit" should be revised to make it clear that it does not amend the definition of "unpermitted transient vacation unit" under ROH, Chapter 21, Sec. 21-5.730(d), and the minimum rental period restriction of 180 consecutive days does not apply, to transient vacation units located in the resort district**, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district, or A-2 medium-density apartment district.

In addition, the proposed amendment to the definition of "transient vacation unit" is inconsistent with, ROH, Chapter 21, Sec. 21-5.730(d)(2) which currently provides it is unlawful to rent an *unpermitted transient vacation unit* **for fewer than 30** consecutive days. See, ROH, Sec. 21-5.730(d)(2), Supra, emphasis added. To ensure consistency between the various sections of ROH, Chapter 21, it is requested the Planning Committee propose an amendment to ROH, Sec. 21-5.730(d)(2) to change the clause therein providing, "for fewer than 30 consecutive days" to "for fewer than 180 consecutive days."

4. **Proposed new Section 21-5.730.2 should be further revised to clarify that properties located within the Resort District are exempt from the registration requirements**

The Proposed Bill provides, in pertinent part:

> SECTION 18. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-5.730.2 to read as follows:
>
> "Sec. 21-5.730.2 Registration, eligibility, application, renewal and revocation.
>
> (a) Registration required. Bed and breakfast homes and **transient vacation units must be registered with the department** . . .

See, Proposed Bill, Revised Draft, pgs. 26-29.

Currently, under ROH, Chapter 21, Section 21-5.730(d), it is lawful to rent a transient vacation unit on property located within the following zoning districts: the **resort district**, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district or A-2 medium-density apartment district, **and neither a non-**

conforming use certificate nor registration with the DPP is needed, since transient vacation units are a conforming use in the foregoing zoning districts.

Therefore, the Planning Commission should revise proposed new Section 21-5.730.2 to make it clear properties located within the resort district, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district, and A-2 medium-density apartment district which rent or offer units for rent for a term of less than 180 consecutive days **are exempt from registration with the department**.

5. **Proposed new Section 21-5.730.3 should be further revised to expressly state that properties located within the Resort District are exempt from the standards and requirements of this Section.**

The Proposed Bill proposes to add a new Section 21-5.730.3 to ROH, Chapter 21 regarding use and development standards for transient vacation units. See, Proposed Bill, Revised Draft at pgs. 29-32. These standards include occupancy limits and sleeping requirements, parking, smoke and carbon monoxide detectors, noise restrictions, gathering restrictions, et seq. that may reasonably apply to residential zoning districts, but not to the Resort Zoning District. Given that one of the stated purposes of the Proposed Bill "is to better protect the City's **residential** neighborhoods and housing stock from the negative impacts of short-term rentals by providing a more comprehensive approach to the regulation of transient accommodations within the City" (see, Proposed Bill, Revised Draft, Section 1., pg. 1, emphasis added), it would appear the Planning Commission did not intend the Proposed Bill to impose these new regulations on properties located in the **Resort Zoning District** which may lawfully rent and advertise transient vacation units under the current LUO. Subjecting properties located within the Resort Zoning District to the use and development standards proposed in new Section 21-5.730.3, would be in direct contradiction to the stated purposes of the Proposed Bill and the purposes of the Resort Zoning District stated in ROH, Chapter 21, Sec. 21-3.100 and discussed at length under Section 2., Supra.

Therefore, it is requested that the Planning Commission should revise proposed new Section 21-5.730.3 to clarify that this section and the use and development standards and requirements stated therein do not apply to properties located in the resort district, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district, and A-2 medium-density apartment district which rent or offer transient vacation units for rent. **As transient vacation units are already a permitted use in the Resort District, proposed new Section 21-5.730.3 should be revised to expressly state that the Beach Villas at Ko Olina and properties located in the Resort Zoning District and other above stated districts are exempt from Section 21-5.730.3.**

6. **Proposed new Section 21-5.730.4 should be further revised to clarify that properties located within the Resort District operating a transient vacation unit are exempt from Section 21-5.730.4.**

The Proposed Bill proposes to add a new Section 21-5.730.4 regarding "Advertisements, regulation, and prohibitions" which makes it unlawful for any person to advertise a dwelling unit that is not a registered transient vacation unit pursuant to Section 21-5.730.2 or operating pursuant to a nonconforming use certificate for a term of less than 180 consecutive days. The following are exemptions to Section 21-5.730.4:

> Exemptions. The following are exempt from the provisions of this Section:
> (1) Legally established hotels,
> (2) Legally established time-sharing units, as provided in Section 21-5.640; and
> (3) Publishing companies and internet service providers will not be held responsible for the content of advertisements that are created by third parties."

See, Proposed Bill, Revised Draft, pgs. 32-34.

The Planning Commission should further revise proposed new Section 21-5.730.4 to provide that the following are also exempt from the provisions of Section 21-5.730.4: transient vacation units operated and located in the resort district, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district, and A-2 medium-density apartment district.

Thank you for your consideration of this testimony and recommended revisions to the Proposed Bill which will have an adverse impact on owners of units at the Beach Villas at Ko Olina and other condominiums located within the Resort Zoning District, if enacted without the above recommended clarifications and revisions.

Very truly yours,

/s/ Christopher Shea Goodwin
/s/Ann E. McIntire

Christopher Shea Goodwin
Robert S. Alcorn
Ann E. McIntire

CSG:AEM:skuw

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Name Naoki Hirakawa

Date 2021/08/30

Signature DocuSigned by: Naoki Hirakawa C9105D45CAA647D...

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Date 2021. 8. 31

Signature TAISUYA OISHI

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Name Mitsuo Inoue

Date 8/30/2021

Signature 井上 充生

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Name tadashi kemmochi

Date 2021/08/30

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Name Kenji Nagai

Date 2021/08/29

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Date 2021/08/29

Signature DocuSigned by: Shingo Yoshimura BA327AC475E44FD...

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Name Kou Yamamoto

Date 2021/08/30

Signature DocuSigned by: Kou Yamamoto 45ED1BBA3CB0491...

To the Planning Commission
Att Gloria Takara.

Re: Proposed Amendments to LUO relating to Transient Accommodations

I agree that ten million visitors annually has become too much, however disagree that attacking and penalizing the TVU and B&B who are by far the smallest receiver of the tourist population, will not solve the problem. It will only feed the Hotels and time share with more greed since they are not owned by locals.
The hotels are corporations who's only goal is to make profit.

TVU properties with NUC license, according to the DPP website are 759 units

The census of 2019 published that Oahu had 166 properties (Hotels) with **46,980** rooms.

TVU's and B&B's accommodate 0.08% of tourists

Making the math versus DPP's intent to abolish short term rentals, going after less than 0.08% of the problem will not solve the influx of tourism in Hawaii

Again DPP's and the City's plans and measurements are very disappointing.

If there should be any action from the City and the DPP, it is obvious that the reduction of Hotel rooms and Time shares would be more effective than eliminating short term rentals

Ordinance 19-18 generated nothing more than confusion, which I believe was purely a rotten intent to benefit the Hotel industry due to lobby from the Hotels. There is even a new hotel "Hui" called The Hawaii Hotel Alliance lead by Mr Gerry Gibson.

The hotels are the biggest beneficiary of the Ordinance 19-18
The verbiage says the ordinance is to protect the residential neighborhoods, when in truth it hurt thousands of local residents who lost their income.
In turn the real estate market never dropped nor did the price of long term rentals.

the hotels, the city and the people have to work together to achieve a balance, where the residents and people of Hawaii (not foreign or mainland corporations) should inform the city of inconveniences of neighbors that rent and stress the areas. We all know that "monster houses" are a bigger problem in most neighborhoods, than short term rentals

Increasing fine to up to $25,000.00 per day will not solve the problem.

From: Dick Hagstrom [mailto:rehagstrom@aol.com]
Sent: Tuesday, August 31, 2021 3:57 PM
To: info@honoluludpp.org
Subject: proposed changes to short term rentals

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

I fully support the proposed changes to short term rentals. I have personally experienced over the years how allowing short term rentals in residential zoning has eroded the social fabric of communities and limited rental properties available for residents. Please correct past mistakes by approving this proposal and restore our neighborhoods.

Francine Hagstrom
367 Lama Place
Kailua HI 96734
francine33333@aol.com
(808) 262-6828

ATTORNEYS AT LAW

DURRETT LANG MORSE, LLLP

KALANI A. MORSE, ESQ.
Direct: 808.792.1213
kmorse@dlmhawaii.com

(Via email to: info@honoluludpp.org; CC: lee@code-studio.com)

City and County of Honolulu Planning Commission
c/o Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to Article Five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. This office represents Mrs. Erin Carruth, trustee of "THE PUEO LAND TRUST" (the "Trust"). The Trust owns the parcel identified as Tax Map Key No. 9-4-005-0100000. The parcel is presently zoned for agricultural use. Mrs. Carruth is anxious with worry about losing rights to ever live in on the parcel, due to the stricter occupancy restrictions looming in the proposed revisions to Article Five of the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are currently free to live in their homes on agricultural lands if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1]

The recently proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for those living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming.

More specifically, the suggested revision to the LUO asserts that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3] When applied in the context of HRS 205-4.5 and other provisions in the LUO governing the occupancy of farm dwellings, these new occupancy restrictions in the proposed LUO changes appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural lands.[4]

Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, the occupancy restrictions used to achieve those goals will have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities. The

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[1] HRS § 205-4.5

[2] Proposed changes to the LUO can be viewed in their entirety on the Department of Planning and Permitting's own website homepage (http://www.honoluludpp.org) under the "News" heading

[3] *See* Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes.

Indeed, implementing this new occupancy standard will stand as a de facto eviction for Mrs. Carruth and other individuals and families who either reside on agricultural land or hope to one day make a home on their agricultural lands, but are otherwise precluded from actively farming their lands. Many are now or soon will be unable to do so due to their health conditions, advancing age, retirement, finances, caregiving responsibilities, or other personal circumstance that may prevent a landowner from farming in "actively" enough to avoid breaking the law simply by living on their land. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if these proposed revisions are approved.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, too dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival.

The parcel held by Mrs. Carruth's trust faces many challenges which complicate agricultural operations on the property. While the parcel is large, it is situated within a large gulch. As such, the bulk of the acreage is taken up with extremely steep topography inhospitable to crops. The soil is also very rocky and large portions of the land have not reliably grown crops for decades Finally, the Kipapa Stream runs through the property and unpredictably floods the land.

A poultry farm is present on a portion of the parcel. However, water access issues threaten the continued operation of the farm. The farm does not have control over its water supply. Water for the farm comes from a basal aquifer and is pumped from a well situated on a parcel owned and operated by another business. Farm operators have gone without water for days due to service issues with the pump. The well has also been contaminated in the past and it is our understanding that water from this well is considered unpotable. These water supply issues sometimes result in expensive and damaging mass die offs among the chickens raised on the property. At any point the challenging conditions faced on the property due to its suboptimal location and inconsistent water access could interrupt or indefinitely foreclose any agricultural production taking place on the land. As such, it would be unreasonable to apply a new occupancy standard to the parcel which required anyone wishing to reside on the property to actively and continually farm.

Furthermore, the restrictions contained within the proposed LUO revisions will degrade the occupancy rights of Mrs. Erin Carruth or any other potential occupant in the inevitable event that the occupant eventually becomes physically unable to farm due to illness, disability, or old age. Therefore, codifying stricter occupancy restrictions for dwellings situated on agricultural lands will potentially render any occupancy of the Trust's land illegitimate and will likely force abandonment of a property that Mrs. Erin Carruth has developed and invested in extensively.

Even if no immediate enforcement actions are taken against Mrs. Carruth and the Trust in connection with the LUO revisions, the new occupancy restrictions will continually be a source of distress and concern for Mrs. Carruth and any future landowners or occupants of the parcel. Passage of the revised LUO will create a threatening uncertainty which will loom ominously over their genuine hope of ever living peacefully on their own property or passing that property down to their heirs without the threat of eviction and foreclosure.

As such, Mrs. Carruth strongly objects to these proposed changes to the LUO. Should the LUO revisions proceed, Mrs. Carruth and the Pueo Land Trust must request a contested case hearing to ensure due process protection of their interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations. Surely there are better, less harmful, and non-discriminatory means of disincentivizing and preventing luxury developments on agricultural lands.

Mrs. Erin Carruth also trusts that the Planning Commission will cautiously approach any actions or decisions that would harm disproportionately those disabled and elderly members living in Oahu's agricultural communities. Indeed, Mrs. Carruth trusts that the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting good people from their homes. Mrs. Carruth implores the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

Kalani A. Morse

KAM
Enclosure

From: K & N [mailto:kurtnancz@msn.com]
Sent: Tuesday, August 31, 2021 3:53 PM
To: info@honoluludpp.org
Subject: Public Hearing, Proposed Amendments to Chapter 21

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Nancy Zachmann, 808-779-6361, Illegal TVU's

We are in support of the amendment to change from 30 day minimum to a minimum duration of less than 180 consecutive days.
FINALLY! a change that will make a difference & give us our homes back. We have been trying to stop illegal tvu's at Makaha
Valley Towers for years. These illegal vacation rentals have raised our maintenance, constantly expose us to covid because tourists don't
wear masks. Our condo is operating like hotel, 99% of owners operating these units don't live here. It's just a money making racket at the
expense of us local people. These owners are using the 30 day loophole to continue advertising on Airbnb & VRBO, by making them sign a
30 day contract even if they stay 1-2 weeks. Pull up Airbnb & VRBO & see how many units are listed.
Mahalo

Sent from Mail for Windows

From: Debra Dubsky [mailto:hulaterp@gmail.com]
Sent: Tuesday, August 31, 2021 3:52 PM
To: info@honoluludpp.org
Subject: Written Testimony for Proposed Amendment to Bill 89 (Ordinance 19-18)

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My family is one of 185 homeowners of the Waikiki Sunset that have been negatively affected by Bill 89. Since August 2019, we have been extremely frustrated trying to find a solution to obtain a NUC (Non-Conforming Use Certificate) to operate as a short-term rental again. Like many short term rental owners, we have had no rental income for over 2 years. Below is a summary of our concerns regarding the proposed amendment to Bill 89.

1. The courts have not provided injunctive relief for many affected property owners across Honolulu except for the Waikiki Banyan that filed first in the courts and were granted a "stay" while we could do nothing. The non -NUC Waikiki Banyan short-term rental owners were able to rent and receive income while no other non-NUC short term rentals were permitted to operate in Oahu after August 2019.
2. The proposed cost and requirements of registering with the Department of Permit and Planning are very expensive and difficult. The initial registration fee of $5000 and an annual $2500 renewal fee is very high compared to other Hawaiian counties or license fees in other U.S. cities.
3. We oppose the proposed ownership limit of just one short-term rental unit per person or legal entity especially in the four designated resort zones.
4. Condominium-hotel owners are not the equivalent of a hotel room in a hotel. Hotels are the Goliath that have extra earning capabilities from many services, restaurants, and shops. We should not be charged at the same rate as a hotel at 13.9 per $1000 assessed value. We are more residential or closer to the function of a B&B at 6.5 rate with a full kitchen unlike a hotel room.
5. It is wrong to limit our ability to register our short-term rental only to a "natural person". Our attorney had us register our unit as a legal entity for our best interest.
6. It would be better to have a short-term rental designation assigned permanently to a unit and have it transfer automatically when the property is sold or legally transferred. It has been very difficult for those condo

owners in our building to sell their units without a NUC since they do not have the ability to operate as a short-term rental.

7. Our property is located within the Waikiki area but just one block removed from the official Waikiki Resort Zone – in the "Apartment Precinct" bordered by Kuhio Ave to the Ala Wai Canal from Kapahulu to Niu St. It is where many tourists stay within the bordered area but now Bill 89 does not allow us to do short-term rentals. We hope short-term rentals will be able to operate in the Waikiki "Apartment Precinct" area under the proposed amendments.

8. For over 20 years, our unit has been in the "hotel pool" and professionally managed by Aqua Aston Resorts in a short-term rental capacity. The Waikiki Sunset provides accommodations for the short and long term stays to visitors and military personnel alike. Our unit with no NUC has been removed from the rental pool due to Bill 89.

9. We were never informed by any government body that we were not compliant in all the years that our condo-hotel operated as a short-term rental while the state of Hawaii regularly collected GE and TA taxes and property taxes.

10. We believe that we should be "grandfathered in" to have a short-term rental ability with a fair registration cost. Other Hawaiian counties have no cost or at a much lower rate for registration and renewal fees.

11. Recent costly capital replacements/repairs are ongoing to the Waikiki Sunset. We must pay costly special assessments, mortgage, insurance and property taxes from our dwindling savings due to no rental income for 2 years!

We recognize that Bill 89 was enacted to reduce the illegal short-term rentals that have proliferated over the years and to increase affordable long-term rentals. However, we and many other property owners of short-term rental accommodations have been responsible tax-paying owners. Our property is in a "condominium-hotel" and professionally managed by a third-party resort/hotel group and all TA/GE taxes were paid monthly and property taxes paid promptly over many years.

We appeal to you, DPP and our government officials, that the proposed amendments be modified in fairness to all interested parties. We, short term rental

owners, want to work in partnership with the city and county of Honolulu, DPP and the residents of Oahu to find a mutually beneficial solution.

Debra Dubsky

From: Jetsun Dutcher [mailto:jetsun@dwrealtyhawaii.com]
Sent: Tuesday, August 31, 2021 3:47 PM
To: info@honoluludpp.org
Subject: Opposition to proposed amendments to Chapter 21

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Aloha DPP

Land owed in Waikiki should continue follow existing zoning guidelines regardless if the owner is a hotel operation or private entity. They have the same rights.

CDCs current recommendation during this pandemic is that Short Term Rentals are safer than hotels.

Government should be about supporting the small time owner and should not be weighted so heavily on large corporations.

We are local, supporting local families. Our money stays local and supports the community.

We pay our fair share of taxes through property tax, GE and TAT. The Hawaii State Government receives more revenue from us with the business that we are running than if we aren't able to continue to do legal vacation rentals.

Thank you,

Jetsun Dutcher
jetsun@dwrealtyhawaii.com
Realtor - DW Realty
Home Owner
Tax payer

RS- 80326
808-429-7543

Keep It Kailua

Preserving Kailua's Character

Protecting Oahu's Residential Zoning

Please Support DPP Illegal Vacation Rental Enforcement Bill Proposal

WE STRONGLY SUPPORT:

- **Changing the definitions of TVU's and B&B's from 30 day and less rental period to 180 days and less rental period.**
  (We adamantly support this critical and necessary change to the LUO definitions. It's predict over 90% of the illegal vacation rentals are creating fake 30-day leases as subterfuges that hide their illegal vacation rental activities. By requiring a 180 day rental period, illegal vacation rentals and unscrupulous Realtors will no longer be able to utilize fake 30 day contract that camouflages a less than 30 day rental).

- **Raising fines from $10,000 to $25,000 per violation and per day for violations that continue.** *(For some illegal vacation rental owners, they currently look at the fines as a cost of doing business. Issuing significant fines with Notice of Violations will send a clear message to others who are considering violating the law).*

- **Only allowing "new" short-term rentals in or near resort zone areas like Waikiki, Ko Olina and Turtle Bay.** *(This will keep our residential neighborhoods for residents and allow the resort areas to manage the tourist and tourism growth. All short-term rentals in residential zoning, including owner-occupied short-term rentals take housing opportunities away from locals. Numerous studies have shown that cottages, studios, Ohana units, ADU's and spare bedrooms are desperately needed to not only house our young singles and couples who do not need or cannot afford to rent an entire home, but also the elderly. Those who have spare rooms, can earn extra income by renting long-term. Visitor lodging should only be located in resort zoning. The proposed Bill protects and preserves residential zoning for residents).*

- **Creating a special fund to specifically improve the City's enforcement efforts against illegal vacation rentals.** *(The budget is expected to be approximately $3 million per year and will be financed by legal vacation rental properties property tax and permit fees. We are hopeful this significant increase in funds for enforcement activities will be effective).*

- **Having a $100,000 fine for violators who break the terms of a consent agreement with the City.** *(There must be consequences for habitual violators).*

- **Requiring all legal vacation rentals advertisements must include a registration number and their TMK number.** *(There must a way for the DPP, the public and consumers to identify the location of vacation rentals).*

HISTORY

In 1986, after extensive public hearings and debates, the City Council concluded visitor lodging businesses were not appropriate for residential zoned neighborhoods and passed Land Use Ordinance (LUO) 86-96 that prohibited transient rentals (rentals for less than 30 days) for all zoned districts except resort and resort mixed-use. In 1989, the City Council passed LUO 89-154 that specifically prohibited new Bed and Breakfast hotels (B&B's) in residential zoning, but grandfathered existing Transient Vacation Units (TVU's) and B&B's with non-conforming use certificates (NUC) that proved that they were in operation prior to the passing of the ordinances. This *compromise* was agreed upon to avoid possible "unjust taking" law-suits, but included the assurance by the City Council that visitor lodging businesses would ultimately be removed from residential-zoning via attrition[1]. The legislative intent of these ordinances was to prohibit hotel-like businesses from operating outside resort-zoning and protect residential-zoning for residential uses.

In 2005, after being lobbied by a special interest group of illegal vacation rentals and B&B hotel owners, a City Council member by request proposed a bill to legalize visitor lodging businesses in residence zones. The public purpose behind this action remained obscure.

After extensively reviewing the issue, the Honolulu Planning Commission "unanimously" rejected all proposed bills that allow additional visitor accommodations in residential zoning. This decision required the City Council to have a super-majority in order to pass any of the proposed bills. Commission Chair Karin Holma summarized their decision by stating; "*Legalizing bed and breakfast is spot zoning without the legal process involved and it's difficult for me to justify the legalization of mini-resort use in a residential area...I don't see much evidence of a community need or benefit. I think this is a really slippery slope... There is a lot of money to be made in bed and breakfast and*

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[1] In 2009, former 1989 City Council member John Henry Felix reconfirmed the agreement when he publicly stated; "*We have to live up to our commitment of 1989, I would say no more TVU's, no more B&B's, we will allow that number (those grandfathered in 1989) and as they fall out of the system, so be it. We have to keep communities residential in nature and not turn them into visitor destination areas, not a second Waikiki*".

for us to think that allowing more of them will not result in something uncontrollable could be a serious problem."

A tsunami wave of community groups and individuals from around Oahu came forward to oppose all bills that allowed additional visitor lodging businesses in residential zoning including the Kuli'ou'ou/Kalani Iki Neighborhood Board No.2, Waialae/Kahala Neighborhood Board No. 3, Diamond Head/Kapahulu/St. Louis Neighborhood Board No. 5, Waianae Neighborhood Board No. 24, North Shore Neighborhood Board No. 27, Koolauloa Neighborhood Board No. 28, Kailua Neighborhood Board No. 31, Waimanalo Neighborhood Board No. 32, ILWU Local 142, Unite Here Local 5 AFL-CIO, Hawai`I, League of Women Voters-Honolulu, The Institute for Human Services, Punalu'u Community Association, Waimanalo Beach Lots Association, Livable Hawai'i Kai Hui, Save Oahu's Neighborhoods Hawai`I, Lanikai Community Association, LaniKailua Outdoor Circle, Keep it Kailua, Senator Carol Fukunaga, Senator Fred Hemmings,, Senator Ken Ito, Representative Lyla Berg., Representative Michael Magaoay, Representative Cynthia Thielen and Representative Gene Ward and petitions with over 2,000 signatures from Oahu residents.

No Neighborhood Board and no community associations came out to publicly support the proposed legislation that would allow additional visitor lodging businesses in residential neighborhoods.

On December 16th 2009, after careful deliberations, the City Council in third reading rejected Bill 7 that would have allowed B&B hotels in residential zoning. Numerous residents and community groups applauded their final decision.

FACTS

Allowing visitor lodging businesses in residential-zoned neighborhoods and communities is not in accordance with Honolulu's General Plan and some of Oahu's Sustainable Community Development Plans. Oahu's General Plan specifies visitor accommodations will only be located in Waikiki, West Beach, Kahuku, Makaha, and Laie. Allowing visitor lodging in all residential zoning would spread visitor resort areas to all regions of Oahu. In addition, Sustainable Community Plans such as Ko'olaupoko clearly states the government must "Protect the integrity of existing residential areas and enhance the desirable living amenities available to them.

The City and County of Honolulu Oahu Tourism Strategic Plan 2006-2015 states; "The spread of B&B's and Individual Vacation Unit (IVU) rentals in non-visitor designated communities, such as the North Shore and Kailua, are changing the nature of these communities leading to resident dissatisfaction". The plan recommends the City & County enforces current regulations, and as necessary, advocate for additional regulations, related to Bed and Breakfasts and Individual Vacation Unit Rentals to ensure that communities remain great places to live[2].

[2] A resident's sentiment survey conducted by the Hawaii Tourism Authority found 62% agreed that "This Island is being run for tourists at the expense of local people." The figure had been 55% in 2005 and 48% in 2002.

City officials have continuously enforced the LUO's relating to illegal B&B hotels and vacation rentals, but inspector procedures and training have yield unsatisfactory results because they are oriented toward using the same inspection methods as building permit infractions and do not include prima facie evidence or a "preponderance of the evidence" standard as allowed by state law.

Internet advertising of illegal vacation rentals and B&B hotels on Oahu has caused the industry to grow exponentially and these same websites are marketing many of Oahu's residential communities as *tourist destinations*[3].

Numerous municipalities from the US and around the world have faced the same problems as Oahu in regards to the proliferation of visitor lodging in residential zoning. Most of them have passed ordinances restricting these businesses in residential zoning including New York City, Paris, Chicago, Tampa Bay, Bali, San Francisco, Dubai, Miami, Carmel by the Sea, Orange County, Whistler, Key West, Victoria City, Eagle-Vail, Denver, Sedona, Coronado and Oakland[4].

IMPACTS

The proponents of vacation rentals and B&B hotels claim the primary problems with their businesses being located in residential zoning are nuisance issues such as *noise and parking*. These impacts do exist, but they are not the primary problems relating to visitor lodging businesses in residential zoning.

The primary problems with visitor lodging businesses in residential-zoning are the following:

Promotes Tourism Sprawl and Resident Discontent

The proliferation lodging businesses in residential neighborhoods has been cited by numerous surveys as a leading cause of Oahu residents growing dissatisfaction with the tourism industry.

Reduces Residential Housing Supply

Allowing residential homes and rooms to become visitor lodging reduces Oahu residential housing. In communities such as Kailua, the North Shore and Laie, there has been severe shortage of available housing for residents that can be attributed to the proliferation of illegal vacation rentals and B&B hotels. As an Island community, Oahu has finite quantity of land that could be used for residential housing. Reducing the availability of housing in one community, ultimately will impact other communities.

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[3] The world's largest travel advisory website tripadvisor.com declared Kailua, Oahu in 2008 as the 2nd hottest US destination based upon internet surveys.

[4] List of municipalities were compiled from articles and internet searches and are not a complete list of all municipalities that prohibited or restrict visitor lodging in residential zoning. Each municipality zoning ordinances were not reviewed and may change over time.

Drives-up Property Values and Long-Term Rental Rates
This might be good for some residents who already own homes (54%)[5], but it's definitely bad for residents who are renters or hope to own a home someday. Because visitor lodging businesses have a significant higher cash-flow than residential rentals, investors (including out-of-state) can easily outbid Hawaii residents who want to use a residential property as a home or a residential rental. These higher purchase prices properties will also increase property-tax assessment values for surrounding properties. Real estate experts believe illegal visitor lodging in residential neighborhoods have contributed to Honolulu's record-high long-term rental rates by reducing housing inventory and increasing property owners' expectations for return on investment[6].

Alters the Residential Character and Ambiance of Neighborhoods and Communities
Visitor lodging businesses in residential neighborhoods compromise the social fabric of neighborhoods and their communities by displacing local residents from neighborhoods and their communities. Their presence changes the character of a neighborhood from being residential to vacation home or de-facto resort. Many Hawaii residents chose their residential-zoned neighborhood because they want to live in a neighborhood where they know their neighbors or there are neighborhood families with children that their kids can play with. Allowing visitor lodging businesses in their neighborhoods is a taking of their rights to enjoy a residential neighborhood environment. Furthermore, pushing mini-hotels into residential areas can also create resident resentment that could cause conflict with visitors and mar future tourism sustainability.

Jeopardizes the Hotel Industry and its Employees
Visitor lodging businesses in residential zoning have unfair competitive advantages that could lead to reduction in existing hotel rooms and their employees. The owners of residential visitor lodging businesses do not pay resort-zoned property tax rates, employ union employees or carry commercial liability insurance as required for most Oahu hotels[7].

Compromises Neighbors' Safety and Security
Visitor lodging businesses bring in a constant stream of strangers into a neighborhood, making it difficult for neighbors to know who belongs in the neighborhood and who does not. In addition, visitor lodging guests do not need to comply with Hawaii's sexual predator laws and register their stays with authorities since their visits will be short term. Neighbors could be living next to convicted sexual predators without being informed. In contrast, long-term renters who are convicted sexual predators are required to register their residence with authorities who will post their name and addresses on the internet.

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[5] According to the US Census Bureau (2000).
[6] A September 23, 2008 Honolulu Advertiser article reported census data showed Hawaii had the highest rent for residential properties in the US.
[7] Hotel employee unions ILWU Local 142 and Unite Here Local 5 AFL-CIO publicly testified their opposition to allowing additional B&B hotels in residential zoning and expressed their belief that illegal B&B hotels and vacation rentals are negatively impacting their members' hotels financial performance and their members' ability to afford residential housing.

SUMMARY
Illegal vacation rentals have plagued Oahu for many years. These illegal businesses reduce our residential housing supply and negatively alters the social fabric of our neighborhoods and our residential communities. In recent years, tourism numbers have exploded to over 10 million per year, but no new hotels were built. Numerous reports have documented a substantial number of tourists are now staying in illegal vacation rentals in "residential-only" zoned neighborhoods and are overwhelming our beaches, parks, trails, and roads to a point that it's harming residents' quality of life.

Keep It Kailua

Preserving Kailua's Character

Keep It Kailua *is a grassroots community group founded in 2004 whose purpose is to retain Kailua's family-oriented residential character and quality of life.*

Keep It Kailua's *goals are to:*

- *Protect residential zoning and promote permanent residency in our neighborhoods*
- *Preserve and enhance scenic, civic, recreational and cultural features that define Kailua's sense of place*
- *Protect water resources essential to the health of the environment*
- *Preserve trees and maintain open green space*
- *Promote walking and the use of non-motorized bicycles as alternatives to automobile transportation within and around the town*
- *Promote businesses that serve the residential community*
- *Support other community groups with similar goals*

Paul and Libby Tomar
779 Kahoa Drive
Kailua, Hawaii 96734
E-mail: tomarlaw@gmail.com
Ph. (808) 284-4787 cell
(808) 262-2800 work

August 31, 2021

Department of Planning and Permitting
Planning Commission

Re: Proposed Revisions of Section 8-7.1 Revised Ordinances of Honolulu

Aloha:

My name is LibbyTomar and my husband and I own a small one bedroom leasehold unit at 2947 Kalakaua, in the building called the Diamond Head Beach Hotel And Residences. It was built in the 1960's as a hotel, it turned into a condominium hotel around 2000, approved by the Building Department and has continuously operated as a hotel We have approximately 62 units, and 20 parking stalls This was all legal when it was built. About four owners live in their units full time. Many owners live on the Mainland and elsewhere and rent out their unit through a hotel pool or a property manager for income, and many rent it part time and also come to stay in their unit during the winter.

****

First, under this new bill, thank you for allowing our Gold Coast apartment, which was changed to A-2 without notice to any of the owners, to continue to be operated as a hotel.

Please find attached comments from one of our owners which I agree with. I have attached it and incorporate it herein.

Very truly yours,

Libby Tomar

LIBBY ELLETT TOMAR

Questions re. DPP_s Bill Short-Term Rentals 08.13.21.pdf

~~Aug 20 2021~~

Page 10

(h) (1) Nothwithstanding the provisions of Subsection (c) (2) properties operating as transient vacation units must be classified as hotel and resort.

Page 11

Sec. 21.1.40 Appeals

Appeals from the actions of the director in the administration of provisions of the LUO shall be to the zoning board of appeals as provided by Section 6-1516 of the charter. Appeals shall be filed within 30 days of the mailing or service of the director's decision.

So noted.

Page 23

Sec. 21-5.360 Hotels and Hotel Units

(a) "Hotel Units must be booked by guests through a centralized hotel booking system that is managed by the hotel operator or through the hotel front desk, provided that this section will not prohibit the booking of hotel units through third party services or technologies that make bookings through the central hotel operated booking system or hotel front desk."

Comment/Question: *What's the actual difference between AirBnB or VRBO and a centralized booking system? When you book a hotel online, you're going through the exact same steps as booking via VRBO. As for "front desk" there are dozens of hotels in Waikiki and US Mainland and beyond that have* ***eliminated a manned front desk altogether, especially in the Select-Serve hotel category****. Why use an antiquated definition of hotel?*

(b) Rental rates for all hotel units must be determined by the hotel operator or the manager of the hotel's centralized booking service. **Hotels and third party booking services may not provide discounted rental rates to the owners of condominium hotel units unless the same discounted rates are available to members of the general public that are not condominium owners or guests of condominium hotel unit owners.** "

Comment/Question: *Why does the City care whether a condo owner gets a discount to stay in a unit he or she owns? How is that a zoning or a land use issue? Why and how will DPP monitor discounts? Is this even constitutional? Does this not violate anti-trust laws?*

Page 23

Sec. 21-5.360.1 Condominium hotels

(a) "Units in a condominium-hotel must be part of the hotel's room inventory, available for rent to the general public. The use of a condominium-hotel unit as a primary residence or usual place of abode is not allowed"

Comment/Question: *Why can't a condo owner choose to live in his unit instead of renting it? If she buys it knowing she is surrounded by hotel guests, that is her choice. A number of our condo owners choose to live in their units for months at a time, and then rent it out the rest of the time. Why not? Why this draconian measure? The owner should have the choice to live or to rent as she sees fit.*

Page 25

Sec. 21-5.730.2 Registration, eligibility, application, renewal, and revocation

(a) "... Each natural person may own no more than one dwelling or lodging unit that is registered as a bed and breakfast or TVU"

Comment/Question: *How can DPP limit how many units a person can own? In our building one person owns 9 units. That's his retirement – because he believes in real estate and not the stock market. Why would DPP prohibit her from owning multiple units if they can afford it? And if so, why not limit it to a number that would allow someone to live off their income property – such as say 4 or 5 units?*

Page 28

Sec. 21.5.730.3

(b) Onsite Parking required...

Comment/Question: *Wasn't the City just pushing to reduce the parking requirements in the development standards of buildings? Isn't the concept of on-site parking the antithesis of pedestrian-friendly development that encourages the use of public transit? Aren't parking lots becoming obsolete with self-driving cars, ride-sharing services, etc?* And our building was built before the zoning required more parking spaces.

Page 32

(b) (2) "This property may not be rented for less than 180 consecutive days."

Comment/Question: *Why change the minimum rental period from 30 days to 180 days? Not everyone can commit to staying at the same residence for 6 months at a time. Why was 30 days a problem? These measures seem more than draconian changes to the way our island currently operates.*

(b) (2) "...Rental prices will not be reduced or adjusted based on the number of days the rental is used or occupied".

Comment/Question: *This goes counter to any and all business practices. If I buy case of beer for $100, and want to drink all 24 beers, ok. If Costco wants to sell me a case of beer for $5, and I drink one beer and throw away or give away the rest of the beer, that's my business. The City is trying to tell Costco they have to sell beer for $100 and the person buying it has to drink all 24 of them. Is that even legal?*

Honolulu Board of REALTORS®
1136 12th Avenue, Suite 200 • Honolulu, HI 96816-3796 • TEL: 808.732.3000 • FAX: 808.732.8732 • www.hicentral.com

Testimony by Suzanne Young, CEO
Honolulu Board of Realtors®

Comments on Proposed Bill Relating to Transient Accommodations
Honolulu Planning Commission
Wednesday, September 1, 2021
Remote Meeting

Aloha Chair Lee and Commissioners,

Thank you for the opportunity to provide testimony on this matter. The Honolulu Board of REALTORS® (HBR) and its over 6,000 members wishes to provide comments on the proposed draft bill. We appreciate the time and effort that DPP Director Uchida and his colleagues put into crafting this legislation related to short-term rentals.

We firmly believe that all Hawaii residents have a right to access affordable, safe, and sustainable housing options and that these options are in short supply. We are glad to see amendments were made to clarify areas that are allowed to legally operate B&Bs and TVUs such as the Kuilima, Gold Coast, and other areas in the resort mixed use precinct. HBR also believes that properties should be taxed based upon their best and highest use and are glad to see timeshares will be taxed at hotel and resort rates.

With that being said, **HBR and majority of our members are opposed to amending the definition of Bed & Breakfast Home and Transient Vacation Unit from 30 days to 180 days** (page 36, section 24). While we understand it may be difficult to carry out enforcement on the bad actors that take advantage of the current "Short-Term Rental" (STR) definition and advertise illegally, enforcement should still be the focus. This new legislation makes amendments to enforcement capabilities, advertising rules, and creates a department to oversee STRs enforcement. This can assist in regulating the current definition of B&B and TVU rentals, to allow legitimate 30-day rentals to continue. We recommend that the current definition of B&B and TVU rentals of a 30-day minimum remain unchanged and focus on enforcing the 30-day minimum.

Increasing STRs to 180-days will have unintended consequences as there are many legitimate uses for less than 180-day rentals that are not related tourism. HBR's recent survey of its members shows that 58% of the Realtor respondents have clients who rent out properties for less than 180 days for a variety of uses. These uses include (see the attached survey for additional details):

- Home sellers who need to rent until they find a new property (62.5%)
- Waiting for new home to complete construction or renovations (58.5%)
- Residents who prefer month to month (56.5%)
- Military PCS while looking for a home to buy (50.7%)
- Traveling nurses (48%)
- Families from out of State that are taking care of loved ones (45%)
- Government and other contract workers (44.7%)
- College students for the semester (39.5%)

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Additionally, HBR is concerned with other provisions in the proposed bill which negatively impacts private property rights. This includes Section 21-5.730.2, where it indicates that each natural person may own no more than one dwelling unit that is registered as a B&B or TVU, and Section 21-5.360.1, which requires owners of units in a Condominium Hotel to both use the front desk for the management of their unit and include their unit in the hotel's room inventory, as well as mandating owners to pay full rate for the personal use of their own private real property.

HBR is committed to be a part of the solution and promote a model that creates opportunities for local families and investors, while preserving and protecting our limited resources of accessible housing and livable communities. We look forward to working with the DPP, City Council, administration, and the community to continue this dialogue.

Mahalo for the opportunity to testify on this matter.

Honolulu Board of REALTORS®
The source for Hawaii's real estate

Short-Term Rentals Survey

August 2021

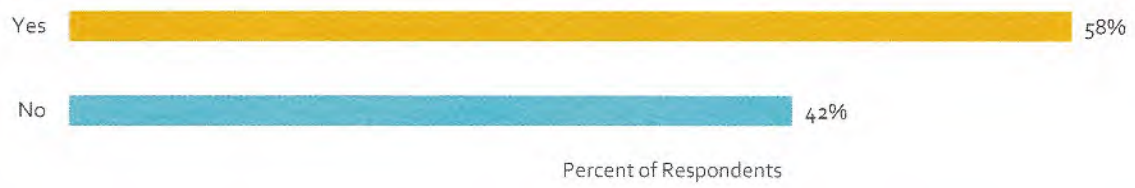
Responses and insights provided by Honolulu Board of REALTORS® members

Do you have clients that rent out properties for less than 180 days? (Not including short-term rentals less than 30 days).

Fifty-eight percent of REALTOR® respondents indicated that they have clients that rent out properties for less than 180 days. Forty-two percent of respondents indicated that they do not have clients who rent out their properties for less than 180 days. The properties do not include short-term rentals of less than 30 days.

Have Clients That Rent Out Properties for Less Than 180 Days

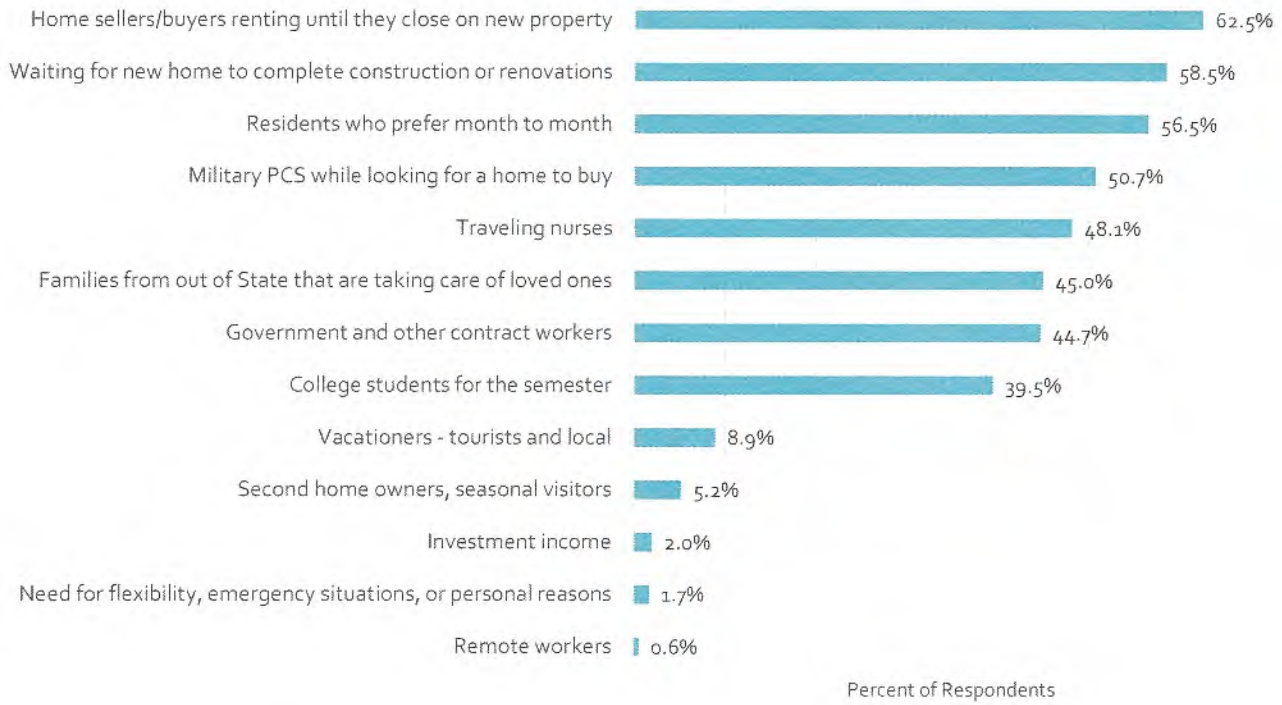
(excluding short-term rentals less than 30 days)



For what reason(s) are these units rented out for less than 180 days?

The top cited reason for units being rented out for less than 180 days was to home sellers and buyers who need to rent short-term during the transaction process. More than fifty percent of respondents also cited reasons such as residents waiting for new home construction or renovations, preference for month-to-month tenancy, and Mililtary PCS while looking for a home to purchase.

Reasons Units Are Rented Out For Less Than 180 Days



This survey was conducted from 8/27/21 - 8/30/21. Results are based on a total of 376 useable responses.

What do you think homeowners will do if they can only rent out their residential-zoned properties for more than 180 days, rather than for a shorter time period?

REALTOR® respondents were asked for their input on the proposed change to the minimum rental period for residential-zoned properties. Respondents were divided on the possibile impact, with 37% of respondents thinking that owners would sell their property, 29% thinking that owners would rent to long-term renters, and 22% thinking that owners would let the property sit vacant. Twelve percent of respondents believe there would be no impact as homeowners could continue with their current rentals.

Impact of a Minimum Rental Period of 180 Days for Residential-Zoned Properties

Honolulu Board of REALTORS®

The source for Hawaii's real estate

Established in 1922, the Honolulu Board of REALTORS® is one of the largest of 1,200 boards of REALTORS® in the nation, and, with more than 6,500 members, is one of the largest trade organizations on Oahu. Membership is available to licensed real estate brokers, agents, property managers, appraisers, counselors and others engaged in all aspects of the real estate industry who pledge to adhere to a strict Code of Ethics and Standards of Practice.

For more information, call (808) 732-3000 or visit www.hicentral.com.

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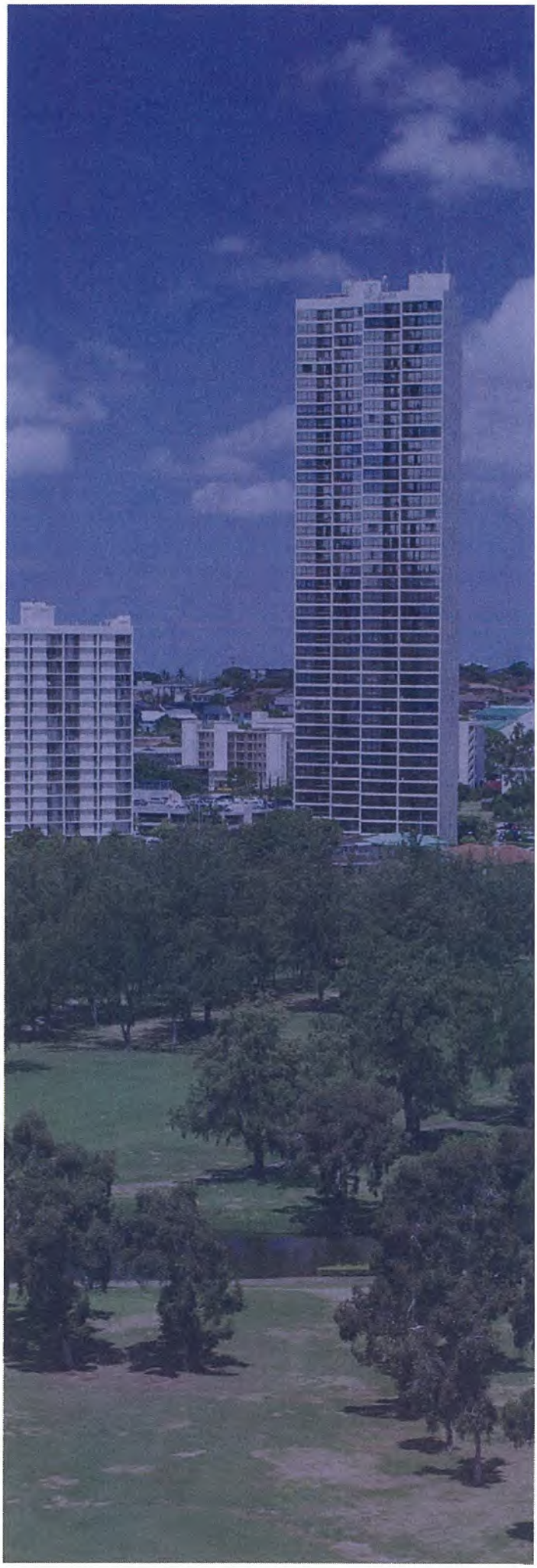
Short-term Rental Survey
August 27-30, 2021



From: Les Moy [mailto:les3611@gmail.com]
Sent: Tuesday, August 31, 2021 3:38 PM
To: info@honoluludpp.org
Subject: Written Testimony for Proposed Amendment to Bill 89 (Ordinance 19-18)

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

This is my written testimony for the September 1, 2021 public hearing for the proposed amendments to Ordinance 19-18 (Bill 89).

- Bill 89 has severely affected the short-term rental category. We have had no income for our short-term rental since August 2019 or two years.
- While we are pleased that our building will be included in the extended Waikiki district to operate short-term rentals, we do not agree to the proposed limit of just ONE short term rental in all of Oahu. This is unfair.
- The proposed application fee of $5000 and the annual renewal fee of $2500 is too high.
- The proposed amendment to limit the registration of a short-term rental to a natural person may be illegal. Legal entities like trusts, corporations and limited liability corporations exist in the law for many valid reasons.
- We have a condominium hotel unit with a full kitchen and a small swimming pool. It is not equivalent to a hotel with no kitchen and many amenities like restaurants and bars. It is unfair to charge us the hotel/resort tax rate of 1.39%. We are more like a bed and breakfast and should be taxed at a much lower rate.

We have been compliant for many years, paid the TA/GE and property taxes on time because we have been running it as a short-term rental until August 2019 when Bill 89 went into effect. We never received government notification that we were doing something wrong. This was accepted practice by the government that accepted our TA/GE and property taxes over that time. We have many years of tax returns and proof of payment to document our understanding of compliance government compliance. Our non-NUC property should be grandfathered.

Les Moy

From: Amanda Dutcher [mailto:amanda@revereandassociates.com]
Sent: Tuesday, August 31, 2021 3:34 PM
To: info@honoluludpp.org
Subject: Opposition to Proposed Amendments to Chapter 21 (Land use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

I am emailing to oppose the Proposed Amendments to Chapter 21 (Land use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations.

It is without a doubt that short-term rentals represent economic benefits to the island in terms of jobs, tax revenues, and diversification of the visitor accommodations industry. For many, short-term rentals are an important part of their livelihood, providing an important source of income that allow us to continue to own our homes. Short term rental homes also provide income for landscapers, realtors, cleaners and numerous others. Even before the Coronavirus pandemic, our economy was at a standstill facing serious headwinds due in part to the uncertainty created by overly punitive short-term rental regulations. As we are now just now starting to recover form the unprecedented blow to the economy from the Coronavirus pandemic, we cannot afford to take another blow.

There is a better path forward. The current attempts to whittle away at homeowner's rights is not the way to move our state forward. It only benefits the large corporations that run the hotel industry. This proposal by the County only lends to the suspicion that the Planning Department is completely beholden to special interest groups and its own personal agenda. If the County forces this drastic change to these regulations despite strident local opposition, there will be no way for the County to profess that it has the interest of Hawaii at heart.

Indeed, the written submissions to date are overwhelmly opposed to these changes. Our County should be working to uplift resident owners, instead, these changes will destroy property values and are the worst example of an unconstitutional attempt to take away vested property rights attempted yet.

Amanda Dutcher

amandadutcher@gmail.com

Homeowner, Honolulu

From: Grant Newcombe [mailto:grant.newcombe@elitepacific.com]
Sent: Tuesday, August 31, 2021 3:34 PM
To: info@honoluludpp.org
Subject: Opposing Short Term Rental

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Aloha DPP,

My name is Grant Newcombe and I am a Property Manager with Elite Pacific, LLC.

We fully support enforcement actions against illegal Short-Term Rental operators. There is no need to change the definition from 30 days to 180 days. We just need to properly enforce the 30 day rule.

As licensed real estate professionals, we frequently encounter people on Oahu who need rentals of less than 180 days. These uses include:

a. Families from out of State that are taking care of loved ones
b. People moving to Oahu and looking to buy a home
c. Families who are waiting for their new home to complete construction
d. Government contract workers
e. Traveling nurses
f. Military PCS while looking for a home to buy
g. Home Sellers who need to rent until they find a new property
h. Film and TV crews while on a shoot

It is overly broad to include all rentals 30 days or greater as Short-Term Rentals and will harm many local property owners as well as the Tenants that stay in their homes

Oahu is a central business location and their rules should not be stricter than Maui or Kuaui where they are able to attain permits etc.

This is very sad to see as many family's who come to Punahau for summer school who stay for extended periods of time will be unable to do so.

I hope you reconsider this amendment that is being presented.

Thank you,

Grant

--

Grant Newcombe, 83299
REALTOR-Associate, Property Manager, Elite Pacific, LLC
714.928.8420grant.newcombe@elitepacific.comevrhi.com

ELITE PACIFIC
PROPERTY MANAGEMENT

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ATTORNEYS AT LAW
DURRETT LANG MORSE, LLLP

KALANI A. MORSE, ESQ.
Direct: 808.792.1213
kmorse@dlmhawaii.com

(Via email to: info@honoluludpp.org; CC: lee@code-studio.com)

City and County of Honolulu Planning Commission
c/o Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners,

Proposed changes to article five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. Our office represents Dallas Tokoro. Mrs. Tokoro owns the parcel identified as TMK number 86011004 (the "Parcel), which is presently zoned for agricultural use. Mrs. Tokoro is anxious with worry about losing the right to live in their own homes due to the stricter occupancy restrictions looming in article five of the proposed revisions to the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are free to live in their homes on agricultural land if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1] The proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming. This suggested revision to the LUO specifically articulates that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3]

These new occupancy restrictions appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural land.[4] Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, these occupancy restrictions will have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities.

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[1] Quoted text is taken from HRS 205-4.5

[2] The proposed changes to the LUO can be viewed in their entirety on the Department of Planning and Permitting's own website homepage (http://www.honoluludpp.org) under the "News" heading

[3] See Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

The disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes. Indeed, implementing this new occupancy standard will amount to a de facto eviction for the Tokoro family and other families residing on agricultural land who are unable to actively farm their lands, either due to health conditions, advanced age, retirement, finances, caregiving responsibilities, or other personal circumstance that may preclude active farming.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, to dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if the new provisions are allowed to proceed.

Even if no immediate enforcement actions are taken against Mrs. Tokoro in connection with the LUO revision. the new occupancy restrictions will continually be a source of stress and concern for Mrs. Tokoro and any future landowners or occupants of the Parcel. The passage of the revised LUO will create a threatening uncertainty which will loom over Mrs. Tokoro's genuine hope of peacefully living out their days on their own property and passing that property down to their heirs without the threat of eviction and foreclosure looming.

Mrs. Tokoro strongly objects to the proposed changes to the LUO. Should the LUO revision proceed, the Trust would request a contested case hearing to ensure due protection of their interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations.

Mrs. Tokoro also trusts that the Planning commission will cautiously approach any actions or decisions that would harm disproportionately harm those disabled and elderly members living in Oahu's agricultural communities. Indeed, Mrs. Tokoro trusts that the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting people like the Tokoro family from their longtime home. Mrs. Tokoro implores the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

Kalani A. Morse

KAM

DANIEL M. MARTINO

Telephone (818) 472-0374

EMAIL: danmartino@verizon.net

Dean Uchida

Director

Department of Planning and Permitting

650 South King Street, 7th Floor

Honolulu, Hawaii 96813

Fax Number: 808.768.6743

WRITTEN TESTIMONY OF DANIEL MARTINO

Owner: Waikiki Banyan

Reference Bill 89-CD1

Date of Submission: August 31, 2021

Purpose:

I am writing in favor of fair and reasonable regulations for the vacation rental industry. The current version of Bill 89, CD1 does not provide reasonable regulations and only limits my ability to provide affordable accommodations to those wishing to visit Honolulu. I also rely on my vacation rental to supplement my income to allow me to continue living in Oahu. This is why I strongly oppose Bill 89.

The actions of the DPP regarding Short Term Rentals during this pandemic are inexcusable, arbitrary and definitely detrimental to individuals owning income property in Hawaii. The initial Bill in 2019 was solely to the benefit of Hoteliers and Unions who wanted to control tourism in Hawaii to benefit themselves. The revised amendments submitted by the current Mayor echo his reluctance to be fair and impartial. The maps relating to the tourism in this STR Bill clearly define the Local Government's deliberate intention to" imprison" tourists in designated areas.

Hawaii will never achieve economic sustainability or success without tourism. The DPP has ingratiated themselves to the Will of outside influences to the detriment of hard working people who have invested substantially in the Hawaiian economy.

The Pandemic has highlighted the lack of vision, the uncooperative behavior of the DPP and those people who have invested their hard earned money into Hawaii. Honolulu is becoming a Socialist Society through ill-advised actions. This Bill is without fairness and will cause hardship to many hard working people.

The actions of the DPP thus far have been shameful. Several of your employees have been indicted for Federal Offenses. The DPP should address internal issues and the flagrant failure pof ther Rail System before addressing STR Legislation during this Pandemic.

Vacation rentals are a valuable and needed part of Honolulu's tourism economy. Not only do vacation rentals provide affordable accommodations, they add needed dollars to our local economy and provide a social distancing lodging option that travelers are seeking today. Our visitors who stay in vacation rentals patronize local shops and restaurants and often make return trips to these same neighborhoods and share their experiences with friends and family.

Please do not limit our ability to use our private property in a reasonable and responsible manner. Please reconsider Bill 89, CD1 and work towards a goal that allows all local stakeholders a voice in our decision-making process.

Waikiki Banyan- Personal Historical Perspective:

During approximately 1980, I was employed with the Federal Government and was transferred from the Mainland to Oahu. My late wife, Virginia (Ginnie), and I resided at the Diamond Head Vista (DHV) Building located 2600 Pualani Way, Honolulu, Hawaii 96815 which is in close proximity to the Waikiki Banyan, 201 Ohua Street, Honolulu, Hawaii 96815.

We were aware that the Banyan was a frequent destination of tourists primarily from Canada and facilitated by Ward Air who operated a large and vibrant front desk to include tour operations. In fact, A Ward Air Executive was on the Board of Directors at the Banyan.

My wife Ginnie was interested in opening a Snack Bar on the 6th Floor Recreation Deck. She subsequently approached the AOAO Banyan Board of Directors with her business proposal.

The Board indicated that she would need to gain approval from City and County of Honolulu prior to allowing her to operate a business at the Banyan. After numerous meetings with city and county officials, Ginnie was able to secure a business license to operate a Commercial Business known as Ginnie's Waikiki Banyan Snack Bar which serviced residents, staff and visitors. We dutifully paid our taxes as required.

In 1984, I was transferred to the Mainland and we decided to sell the Business. An escrow was opened and appropriate taxes were paid. Since our departure in 1984, several commercial entities have been granted permission to operate at the Banyan.

Waikiki Banyan- Ownership Introduction:

In 1997, Ginnie and I purchased my Waikiki Banyan (Banyan) condominium through Real Estate Salesperson Ed Blottenberger of First Hawaiian Realty (Current Employment). Prior to purchasing, I was in dialogue with Mr. Blottenberger for several months. During these contacts, Mr. Blottenberger provided me with glowing reports of hotel operations of Aston at the twin story Family Resort indicating that the building and accommodations were ideal for tourists and residents seeking a safe, relaxed and inviting atmosphere for all of the occupants. I do not recollect that a NUC Requirement was ever disclosed personally with Ginnie or myself. Upon closing escrow, we immediately engaged Aston to assist in the renovation of the property which was previously owned by a Japanese based company. Aston continued to manage and rent the property as a Short Term Rental until approximately 2016 (ie. 19 years) when I personally decided to change Management Operations of my Condominium.

Economic Benefit to Hawaii:

As stated above, several Banyan based business entities have obtained commercial business licenses and have contributed much needed funds into the Oahu Economy to include but not limited to Taxes and Employment Opportunities.

Short Term Rentals:

With respect to the Banyan, Aston and its known variations and other Resort Entities have been operating in the building for years. From my understanding, they have met GET and TAT Requirements. I had no Idea that there was a NUC requirement from my Real Estate Broker or Management Entities until the Passage of Bill 89 in 2018. Prior to that time, it appears that no one to include the City & County of Honolulu cared to enforce the issue for over 30 years. Aston and it various name variations and entities routinely advertised the Banyan as a **"resort"** in various written publications and on the internet as a family resort destination.

Bill 89 is not fair or equitable for private property ownership. It's ironic that a hotel industry member, Aston, would support Bill 89 to adversely affect Short Term Rentals but still manage units at the Banyan which may or may not have NUCs for several years. There is something wrong with this picture.

The property location of the Banyan is within 50 feet of the Hilton Hotel and Marriot Hotel. The Banyan has a large parking structure which facilitates full and part time residents, guests, nearby hotel guests, island residents and workers in the area. I wonder if anyone from the Regulatory Agencies etc. has ever witnessed or analyzed the pedestrian and vehicle traffic in the area.

It is in fact a tourist area contributing significantly to the local economy. Tour buses, delivery trucks, etc. drive routinely on Ohua Street, Kuhio Avenue and Paokalani Street which surround the perimeter of the Banyan complex. The same transport vehicles that appear in front of Kalakaua and Kuhio Hotels and Business travel on these streets.

Recommendations:

1. Designate Waikiki as a Mixed Used and /or Tourism Zone.
2. Private Property Ownership Real Estate Property is a right. Rental Units should adhere to House Rules regarding the preservation of individual privacy and property rights.
3. Requirement that all Condominium Short Term Rentals pay GET and TAT (ie.Taxes).
4. Modify NUC Requirements on a case by case basis if deemed appropriate.
5. Fair and Equitable Coordination with Local Stakeholders.

Conclusion:

In addition to my individual condo being used partially as a short term rental to defray escalating expenses, it is my home. I am semi -retired and have invested a significant amount of money and resources to maintain my property. I believe that my property ownership is being threatened by unreasonable regulations and outside interests without any regard to my individual rights. I am responsible for ensuring that my on island representative, mandated by State Law, maintains my property appropriately.

From: christine otto zaa [mailto:ottozaa@gmail.com]
Sent: Tuesday, August 31, 2021 3:27 PM
To: info@honoluludpp.org
Cc: Waters, Tommy; Say, Calvin
Subject: Support - DPP's updates on vacation rentals

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Aloha Planning Commission,

You will likely receive overwhelming testimony against the DPP's proposed changes.
Please know that these folks represent a small minority of our residents. They don't care about our people, our communities or our state. These people are motivated by money and have the most to lose or gain, depending on what is passed by the Planning Commission and eventually the City Council.

The need for housing is greater than ever. Please do not allow for any more vacation rentals in our residential neighborhoods. Stop these greedy folks from operating their illegal vacation homes. They have no regard for our laws and continue to violate and skirt our laws. Enough is enough.

Additionally, while I cannot speak for the other areas, I do hope you will not allow for additional vacation rentals in Waikiki as that also takes away housing from our residents. Do we even know how many residents may be displaced with this proposed change to Waikiki? Where will they go? Let's stop catering to tourists and the greedy. Please protect local residents who need the housing.

Mahalo,
Christine Otto Zaa

HAWAI'I LODGING & TOURISM
ASSOCIATION

Testimony of
Mufi Hannemann
President & CEO
Hawai'i Lodging & Tourism Association

City & County of Honolulu
Planning Commission
September 1, 2021

Chair Lee and members of the Commission, mahalo for the opportunity to submit testimony on behalf of the Hawai'i Lodging & Tourism Association, the state's largest private sector visitor industry organization.

The Hawai'i Lodging & Tourism Association—nearly 700 members strong, representing more than 50,000 hotel rooms and nearly 40,000 lodging workers — have been outspoken advocates for the regulation of short-term rental units on O'ahu. This is an issue that our association has worked closely with our elected leaders to address in myriad ways including through proper collection of real property taxes and the Transient Accommodations Tax as well as pushing for STRs to be relegated to appropriate zones where they would be required to operate under the same rules as the rest of the hospitality industry.

As noted in the background summary of the proposed rules, the pandemic laid bare the unregulated nature of the app-based, crowd-sharing market for STRs. In the earliest days of the COVID-19 pandemic, illegal units continued to operate and ensured that unscrupulous travelers had a means of skirting the mandatory quarantine period. The lack of oversight was astonishing and made it EASIER for COVID-19 to spread around our state.

Even in more normal times, we are all well-aware of the negative impacts that the proliferation of short-term rental units has on local neighborhoods. These include:

- Decreased inventory of affordable rental units for local families with many of these units being bought and operated by out-of-state owners.
- Increased rental prices that have effectively priced many Honolulu residents out of the market.
- Artificial increase to the supply of transient accommodations that has led to greater numbers of travelers coming to our county, fueling conversations about responsible travel and overtourism.
- Increased strain on roadways and utilities like our sewer and water treatment systems.

We appreciate the strides that DPP and the current administration has taken to amend the previous regulations and strongly support these intended effects of the proposed changes to the Revised Ordinances of Honolulu:

Hawai'i Lodging & Tourism Association
2270 Kalakaua Avenue, Suite 1702, Honolulu, Hawai'i 96815 · Phone: (808) 923-0407 · Fax: (808) 924-3843
info@hawaiilodging.org · www.hawaiilodging.org

HAWAI'I LODGING & TOURISM
ASSOCIATION

- Removal of all illegal TVRs and bed and breakfasts while not leaving any available gray area for illegal operators to manipulate and skirt the system.
- The generation of significant amounts of funds for the City budget through registration fees, violation fines, and appropriate RPT rates.
- The establishment of an enforcement branch within DPP to continue to monitor and address illegal STRs.

For these reasons, HLTA supports the proposed changes to Chapters 8 and 21 of the Revised Ordinances of Honolulu.

We look forward to working with the administration, the City Council, and DPP to ensure that we keep illegal STRs out of our communities.

Thank you for the opportunity to offer this testimony.

Hawai'i Lodging & Tourism Association
2270 Kalakaua Avenue, Suite 1702, Honolulu, Hawai'i 96815 · Phone: (808) 923-0407 · Fax: (808) 924-3843
info@hawaiilodging.org · www.hawaiilodging.org

From: Diane Mu [mailto:dianemu3@gmail.com]
Sent: Tuesday, August 31, 2021 1:29 PM
To: info@honoluludpp.org
Subject: Legal vacation home in Hawaii

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I would like to support the Airbnb business in Hawaii.

Diane Mu

From: Alex Naumov [mailto:alexcommon@gmail.com]
Sent: Tuesday, August 31, 2021 1:17 PM
To: info@honoluludpp.org
Subject: Short-Term Vacation Rental Proposed Bill | Public Comment

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To whom it may concern,

Regarding the proposed Amendments to Chapter 21 (Land Use Ordinance), Revised Ordinances of Honolulu (ROH)1990, as Amended, Relating to Transient Accommodations, I hereby submit my comments and testimony in opposition.

The draft Bill plans to ban the legal 30-day minimum vacation rentals in Apartment Precincts in Waikiki. I oppose this Bill for the following reasons:

1. There are people on Oahu who need rentals of less than 180-days. These uses include:
   - Families from out of State that are taking care of loved ones
   - People moving to Oahu and looking to buy a home
   - Families who are waiting for their new home to complete construction
   - Government contract workers
   - Traveling nurses
   - Military PCS while looking for a home to buy
   - Home Sellers who need to rent until they find a new property
   - Film and TV crews while on a shoot

Those people don't need or want to stay at ocean front hotels paying expensive accommodation fees. There should be an option for them to stay at condos less than 180 days with affordable rates. This also benefits Hawaii's economy.

2. Some buildings in Apartment Precincts in Waikiki ban 30-day vacation rentals in their Building Bylaws, while there are some buildings that allow 30-day vacation rentals. If the purpose of this Bill is to protect neighbors, why not let Owners Associations decide by allowing their input? I do not believe the DPP should override those owners' rights and implement such a one-sided standardized rule ignoring each building's owners' opinion and right to decide.

While it is understandable banning illegal vacation rentals in more quiet "residential" neighborhoods such as Kailua or Hawaii Kai, it makes no sense for Waikiki. Waikiki is unique as a successful tourism destination, with many local businesses, restaurants, and shops, that depend on tourists. Healthy successful tourism needs a variety of accommodations that provide options to visitors. With this proposed Bill it is narrowing accommodations to only local residents with long term 180-day leases, who will not contribute to the special businesses aimed at tourism and income for business owners and the state of Hawaii.

It is obvious that this Bill is aimed to help the Hotel Industry in Waikiki. It does not benefit Oahu by providing healthy competition as it only promotes the vested interest of the Hotel industry and its revenue.

I also oppose this Bill for the following reasons:

1. **Condo-Hotel properties MUST be operated by the Hotel: There are no illegal vacation rentals in condo-hotels. They are zoned as Hotel/Resort and many privately owned. I'm not a lawyer, but I think it may violate antitrust laws (In the United States, antitrust laws are a collection of federal and state government laws that regulate the conduct and organization of business corporations and are generally intended to promote competition and prevent monopolies). I cannot see any rationale in this move other than monopolizing the tourism market by protecting the hotel industry's interest and destroying legal property management companies.**

   Competition in this industry is vitally important to keep improving Hawaii's accommodation services and attracting visitors to Hawaii. Competition results in better service, better property management with increased tax income to the State that benefits all local residents.

2. **At the City and County level, this bill will affect the market value of many properties. Affecting these values will affect tax revenues and their ultimate use.**

3. **The previous ban on vacation rentals had literally altered lives, as many families were no longer able to provide supplemental income for themselves to afford living in the state and had to resort to other means of making income, often sending elderly back to work. I har the stories, it's painful.**

4. **Neither this nor previous bill is solving any housing crisis issues. All we saw is continued housing shortages and price growth faster than ever.**

5. **All we see is more high rises coming up, hotels capitalizing on the market with less competition from short -term vacation rentals. AGAIN, CORPORATIONS WIN, AND WE LOOSE. This is a highly unfair arrangement we see concocted in front of our very eyes.**

There should be other ways to stop illegal vacation rentals or solve the issue of the shortage of housing for local residents.

Letting the Hotel Industry monopolize the Oahu's accommodation options will result in a ruined economy. **STOP THIS BILL AND REVERT A BAN ON VACATION RENTALS. THIS IS UNFAIR TO US THE PUBLIC!**

Name Alex Naumov

Date 08.30.21

Signature AlexNaumov

-----Original Message-----
From: Crystal Ferguson Young [mailto:alohadiva@yahoo.com]
Sent: Tuesday, August 31, 2021 1:10 PM
To: info@honoluludpp.org
Subject: Testimony, RE: Transient Accommodations Ch. 21 LUO

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Attn. DPP
RE: Amendments to Chapter 21 - LUO Regarding Transient Accommodations

Aloha,
I'm writing in SUPPORT of this Bill. There are some key aspects to this topic that need to be addressed. This Bill does that.

I have a college degree, a great local union job for the last 25 years, I also work and/or volunteer with a few non profit groups and our schools. My children are Hawaiian, I take care of my elderly mother...and we have family and friends. Meaning, we are a small, honest, community minded family with somewhat of a support system.

YET, I have no hope of ever being able to buy a home in Hawaii- I can't even RENT a regular house in Hawaii at this point. We have been displaced at times, and now WE LIVE IN A GARAGE. I have found this is primarily due to a lack of inventory, falsely driving up the prices.

Where do we draw the line? At what point do local people who contribute to our communities matter?

One would assume loyalty would lie with residents/voters/tax payers- not the out of state investors (of which most short term vacation rental owners are.)

The vacation rentals (TVU's) have taken over everywhere, created a ton of displacement and quality of life issues for many.

They've created a domino effect of problems: homeless encampments (some rely on family/advocates- but if we can't make it here, then what?), homes turned into hotels type gentrification, sewage/septics are overflowing more than you know (there are small homes with 40 BEDS!), strangers, an over abundance of cars, now we also have to worry about them bringing us COVID...the list goes on.

Please look at the sites like AIRBNB, VRBO etc and see for yourself how many there are.
It's time to stop looking the other way and do something about this.
Mahalo,
C. Young

From: romeofoxtrot [mailto:kailua@icloud.com]
Sent: Tuesday, August 31, 2021 1:01 PM
To: info@honoluludpp.org
Subject: DPP draft bill limiting rentals for 180 day on Oahu crosses the red line

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DPP,

The first thing that jumped out at everyone on rents is now the 180 min day rental. Countless local tenants cannot and do not wish to commit to leases that at more than 6 months especially during these uncertain times. No tenant is going to pay 6 months in advance and no landlord is going to leave their rentals vacant for month in the very likely case the tenant leaves prematurely. From my experience 9 out of 10 tenants break the 6 month or 1 year rental lease.

Sincerely,
RF

From: Sean Roberts [mailto:seanrobe@hawaii.edu]
Sent: Tuesday, August 31, 2021 12:48 PM
To: info@honoluludpp.org
Subject: Opposing DPP STR bill

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The goal of the bill is to reduce the impact on residential neighborhoods, and crack down on illegal TVUs. But The bill added massive provisions restricting legal TVUs in Waikiki resort zone that take away vested property rights from existing owners of legal TVUs, that does nothing to achieve the two stated goals. Why is DPP spending additional resources in attempting to restrict legal TVUs in Waikiki resort zone where TVUs belong?

TVU has been the permitted principal use in Waikiki resort zone since LUO's inception, just like hotels. We ,the existing legal TVU owners in Waikiki resort zone, we bought and own them because of their permitted TVU use. But under this bill:

a. If my property is owned by LLC or any legal entity that is not a natural person, my vested right to TVU use will be taken away by you.
b. If I currently own more than one TVU, I am only allowed to keep one, and you will take away the rest of them from me.
c. If my TVU is in a condo hotel, i will have to give it to hotel to manage.

I am a local resident. I operate legal TVUs in the Waikiki resort zone. Over years i have dedicated my efforts to operate a legal TVU business to support my family. There is no justification for you to destroy my livelihood by arbitrarily taking away my vested property rights.

I am sure DPP understands the concept of government cannot take away vested property rights.There are well written provisions in the bill to preserve legal rights of Non-conforming Use TVU. But you totally ignore the fact that existing legal conforming TVUs in Waikiki resort zone should have at least the same vested property rights, as non-conforming use TVU. Not only that, you put more restrictions on legal Conforming TVUs in resort zone, than the Non-Conforming Use TVUs that are in outside of resort zone in residential areas.

In your draft bill, None of these ownership restrictions apply to hotel owners, none of the ownership restrictions apply to NUC owners.

Existing legal TVUs in resort zone of Waikiki are also subject to registration requirements and application and approval process with DPP. Some of the requirements are: $5000 registration fees, and $2500 annual renewal fees. Occupancy limit and sleeping arrangement limit, and a number of other operation requirements. None of these requirements apply to hotels rooms.

The bill also contains expansion of hotel use into Waikiki apartment and apartment mix use zone, and expansion of TVU use into A1/A2 zone in gold coast. Are there objective and measurable criteria for making these expansions that you can share with public?

From: james@stuffsf.com [mailto:james@stuffsf.com]
Sent: Tuesday, August 31, 2021 1:01 PM
To: info@honoluludpp.org
Subject: I Oppose changes to DPP STR like 180 days living in unit or being forced into hotel program

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Please submit my attached letter opposing changes to STR like min 180 days or not being able to live in my unit when not rented out without being forced to pay resort taxes for paying in my unit or being forced into the hotel program.

Thanks

James Spinello
San Francisco, CA 94103
james@stuffsf.com
c 415-710-4288

To whom it may concern,

Regarding the proposed Amendments to Chapter 21 (Land Use Ordinance), Revised Ordinances of Honolulu (ROH)1990, as Amended, Relating to Transient Accommodations, I hereby submit my comments and testimony in opposition.

We recently got married in Hawaii and we are excited to make Hawaii our retirement future. Therefore, this past year we were able to purchase our retirement home and a rental in Waikiki proper. We bought them both to rent out until we can actually retire in Waikiki. One unit is in the resort area being rented out with 30 day minimum while the other we carefully paid attention to purchasing with a non-conforming certificate in place. However now it seems like DPP is planning to change the rules right from under our feet to benefit the hotel industry.

I fully support enforcement actions against illegal Short-Term Rental operators, primarily outside of the the Waikiki area like private residential areas. There is no need to change the definition from 30-days to 180-days, and I support every effort to properly enforce the 30-day minimum.

The draft Bill plans to ban the legal 30-day minimum vacation rentals in Apartment Precincts in Waikiki. **I oppose this Bill for the following reasons:**

1. There are people on Oahu who need rentals of less than 180-days. These uses include:
   - Families from out of State that are taking care of loved ones
   - People moving to Oahu and looking to buy a home or needing extended time off, however less then 180 days more likely 30 days without hotel prices.
   - Families who are waiting for their new home to complete construction
   - Government contract workers
   - Traveling nurses
   - Military PCS while looking for a home to buy
   - Home Sellers who need to rent until they find a new property
   - Film and TV crews while on a shoot

   Those people don't need or want to stay at ocean front hotels paying expensive accommodation fees. There should be an option for them to stay at condos less than 180 days with affordable rates. This also benefits Hawaii's economy.

2. Some buildings in Apartment Precincts in Waikiki ban 30-day vacation rentals in their Building Bylaws, while there are some buildings that allow 30-day vacation rentals. If the purpose of this Bill is to protect neighbors, why not let Owners Associations decide by allowing their input? I do not believe the DPP should override those owners' rights and implement such a one-sided standardized rule ignoring each building's owners' opinion and right to decide.

   While it is understandable banning illegal vacation rentals in more quiet "residential" neighborhoods such as Kailua or Hawaii Kai, it makes no sense for Waikiki. Waikiki is unique as a successful tourism destination, with many local businesses, restaurants, and shops, that depend on tourists. Healthy successful tourism needs a variety of accommodations that provide options to visitors. With this proposed Bill it is narrowing accommodations to only local residents with

long term 180-day leases, who will not contribute to the special businesses aimed at tourism and income for business owners and the state of Hawaii.

It is obvious that this Bill is aimed to help the Hotel Industry in Waikiki. It does not benefit Oahu by providing healthy competition as it only promotes the vested interest of the Hotel industry and its revenue.

I also oppose this Bill for the following reasons:

1. I should be able to stay in my unit when it's not rented without having to pay resort taxes.
2. I should be able to use a professional management service instead of being forced into the hotel pool. My unit is very nice and I paid for it to stand out. Condo-Hotel properties MUST be operated by the Hotel: There are no illegal vacation rentals in condo- hotels. They are zoned as Hotel/Resort and many privately owned. I'm not a lawyer, but I think it may violate antitrust laws (In the United States, antitrust laws are a collection of federal and state government laws that regulate the conduct and organization of business corporations and are generally intended to promote competition and prevent monopolies). I cannot see any rationale in this move other than monopolizing the tourism market by protecting the hotel industry's interest and destroying legal property management companies.

   Competition in this industry is vitally important to keep improving Hawaii's accommodation services and attracting visitors to Hawaii. Competition results in better service, better property management with increased tax income to the State that benefits all local residents.

3. At the City and County level, this bill will affect the market value of many properties. Affecting these values will bring many lawsuits since many such as myself did everything right when purchasing our place.

There should be other ways to stop illegal vacation rentals.

Letting the Hotel Industry monopolize the Oahu's accommodation options will result in a ruined economy.

James Spinello

8/31/2021

From: Rod Salm [mailto:resilientreefs@gmail.com]
Sent: Tuesday, August 31, 2021 12:57 PM
To: info@honoluludpp.org
Subject: Proposed Amendments to Chapter 21

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Poorly regulated, illegal, and proliferation of B&Bs and other transient vacation units have diminished the character and community of our cherished residential neighborhoods. Trails, beaches and shopping centers are overcrowded and parking is increasing difficult and even inaccessible to local residents. For these reasons I strongly support the amendments and provision as outlined ion the:
Proposed Amendments to Chapter 21 (Land use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations.
In particular I support increasing the management of any such legal units and enforcement of the provision as outlined in this document. I also urge diligent revocation of any non compliance based on the two violations stipulation listed in the document.
In addition, and as a means to get the unreasonable number of units in residential neighborhoods reduced, I would strongly advocate that a licence to operate any TVU or B&B be non-transferrable on sale of the unit.
Thank you for taking the best interests of long term local resident communities as a priority, and for restricting tourism development to areas designated as resort zones.

Rodney V. Salm, PhD
223 Pauahilani Place, Kailua, HI 96734

From: April Pluss [mailto:aprilpluss@yahoo.com]
Sent: Tuesday, August 31, 2021 12:50 PM
To: info@honoluludpp.org
Subject: Opposing Short term rental to 180 days

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I strongly oppose changing the legal short term rental requirement. It would be detrimental to many locals and families of locals. We not only count on the revenue, but short term (30 day minimum) rentals allow for many different needs that hotels cannot accommodate for. Visiting nurses, grieving family neighbors, temporary housing. By changing the requirement to 180 days owners will not allow anyone to stay in the property. Owners do not want the risk of lousy tenants staying and not paying rent.. as we have experienced this past year.
Please take this ridiculous amendment off the table!!

The city needs to go after the current illegal rentles that are renting out for less than 30 days first!!

Best,
April Perreira Pluss
808-859-6195

-----Original Message-----
From: carol J elias [mailto:cjeliashomes@gmail.com]
Sent: Tuesday, August 31, 2021 12:49 PM
To: info@honoluludpp.org
Cc: Monte Elias
Subject: Written submission regarding proposed amendments to chapter 21 relating to transient accommodations

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To all concerned parties,

My name is Carol Elias and I am an owner at BV 0-206 from Dec2017 I am also a realtor who has helped other owners purchased second homes in the building.
All have used the BV in different capacities and I plan to retire into my own villa this January.

I am asking you to read attached testimony from Jim Tree because we Concur with same .

Sincerely ,
Monte and Carol Elias
0-206

To: City and County of Honolulu Planning Commission August 31, 2021

From: Jim Tree owner at Beach Villas at Ko Olina

Re: Written submission regarding Proposed Amendments to Chapter 21, Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations.

I. Introduction:

In 2010 I purchased a condominium at the Beach Villas at Ko Olina, a condominium organized under HRS 514B and located in a Resort zone. I serve as the chair of the Rental Committee, a committee that makes recommendations to the HOA Board of Directors regarding Short Term Rentals ("STRs").

My path to ownership at the Beach Villas will help you understand why I am so passionate about the Planning Commission getting this Proposed Ordinance change right. My parents lived on Oahu in the early 1940's, my dad was working at Pearl Harbor in December of 1941. My parents returned to the mainland, but they instilled in me a love for Hawaii and its people. It was this early love for Hawaii that drew me to Hawaii for college. One of my roommates was a graduate of Kamehameha High School and nephew of Alex Apo, an early beachboy who ran the Outrigger Waikiki Beach Concession for many years. We would often rake the beach in front of the Waikiki Outrigger and Alex would 'tell stories' and let us take the outrigger canoes and surfboards out. It was here I first learned of the importance of Aloha 'Aina and having a kuleana for the land. I witnessed firsthand what it meant to be an ambassador for Hawaii, and this deeply impacted me. I returned to the mainland after college and raised a family.

As a result of my family and college experience I had a strong desire to purchase a second home in Hawaii. I knew I would need to rent it out to make this financially feasible. Finally, by 2008 I was able to do so. I wanted to demonstrate my respect for the land and the laws of Hawaii so I researched where I could purchase property where it would be legal to have short term rentals. Everyone told me that would be in a Resort zone. I looked at the Ocean Villas at Turtle Bay and the Beach Villas at Ko Olina, both condominiums in a Resort zone and both having HOA rules allowing short term rentals. To this day there is widespread consensus that "Condos in Resort zones on Oahu allow owners to run a short-term vacation

rental business, assuming the condo association does not prohibit short-term rentals." Hawaiiliving.com/blog

II. <u>The impact of the Proposed Ordinance on STRs in a Resort zone.</u>

My discussion and requests will only be concerned with properties located in a Resort zone. As I have talked to real estate experts on Oahu there is a great deal of confusion regarding the potential impact of the Proposed Ordinance on short term rentals in a Resort zone. Some saying there will be no impact on hotels, condominium hotels, and condominiums with HOA rules that allow short-term rentals and that are located in a Resort zone, with others saying there will be a tremendous impact.

A. **Transient Vacation Units ("TVUs") in a Resort zone.**

Recently DPP revised the Proposed Ordinance by adding Transient Vacation Units ("TVUs") back into Table 21-3, Mixed Use Table, as a permitted use in a Resort zone, however, there was no corresponding change made to the text of the Proposed Ordinance. This is significant because a note to Table 21-3 states, "In the event of any conflict between the text of this Chapter and the following table, the text of the Chapter shall control." Without a corresponding change to Sec. 21-5.730.1, etc. this recent revision to Table 21-3 will have no effect.

The fact that DPP had originally not included TVUs as a permitted use in a Resort zone vividly demonstrates that DPP was not considering hotels, condominium hotels, and condominiums in a Resort zone as TVUs. If they are considered TVUs then under DPP's original proposal there could be no hotel, condominium hotel, or condominium operating with STRs in a Resort zone as TVUs were not a permissible use in a Resort zone. (The change to only the Table and not to the text continues to prohibit TVUs in Resort zones.)

Whether TVUs are going to be a permitted use in a Resort zone and what effect that will have on STRs in a Resort zone should be of considerable concern to the Planning Commission. If TVU's are a permitted use in a Resort zone how will this impact hotels, condominium hotels, and condominiums in a resort zone? TVU's are defined in the Proposed Ordinance as "a dwelling unit or lodging unit that is advertised, solicited, offered, or provided to transient occupants, for compensation, for periods of less than 180 consecutive days, other than a bed and breakfast home." This broad definition includes hotels, condominium hotels, and condominiums. Since TVU's are defined so broadly and currently TVU's are not a

permitted use in Resort zones (until the text of the chapter is revised) hotels, condominium hotels, and condominiums cannot offer lodgings of less than 180 days inside the Resort zone. Surely this is not the intended consequence of the Proposed Ordinance. The definition of TVUs should explicitly exclude all hotels, all condominium hotels, and condominiums in a resort zone. If the text of the chapter is revised to be consistent with the recent change to Table 21-3 the exclusion still needs to be written into the definition for TVUs, otherwise, hotels will need to meet the occupancy, permitting, and other compliance issues surrounding TVUs.

Examination of the purpose of this Proposed Ordinance and the purpose of the Resort zone also leads to the conclusion that the definition of TVUs need to be modified to exclude all hotels, all condominium hotels, and condominiums in a resort zone. Both the August 13, 2021 staff report ("The purpose of this Ordinance is to better protect **the City's residential neighborhoods** and housing stock from the negative impacts of STRs…") and the Proposed Bill itself ("Short-term rentals are disruptive to the character and fabric **of our residential neighborhoods**; they are inconsistent with the land uses that are intended **for our residential zoned areas**…The purpose of this Ordinance is to **protect the City's residential neighborhoods**…") clearly explain the purpose of this Proposed Bill is to protect the residential neighborhoods. The City and County has a clear nexus in regulating STRs in residential neighborhoods but there is no nexus in regulating TVUs in resort zones. In fact, to do so goes against the history and purpose of the Resort Zone. "The purpose of the resort district is to provide areas for visitor-oriented destination centers. Primary uses are lodging units and hotels and multifamily dwellings…**This district is intended primarily to serve the visitor population**…" ROH Sec. 21-3.100.

In short there is no valid reason to further regulate STRs inside a Resort zone. Accordingly, the definition of TVUs should explicitly exclude a dwelling unit or a lodging unit inside a Resort zone.

B. The Beach Villas at Ko Olina and the Proposed Ordinance.

Although the Beach Villas meets the definition of hotel under the existing and Proposed Ordinance, ""Hotel" means a building or group of buildings containing lodging and/or dwelling units [offering] that are used to offer transient accommodations to guests.[,]. A hotel building or group of buildings must contain [and] a lobby, clerk's desk or counter with 24 hour clerk service, and facilities for

registration and keeping of records relating to hotel guests. A hotel may also include accessory uses and services intended primarily for the convenience and benefit of the hotel's guests, such as restaurants, shops, meeting rooms, and/or recreational and entertainment facilities." Section 24. Chapter 21, Article 10.

The Beach Villas is beachfront in the Resort zone of the Ko Olina Resort. The Beach Villas is only one of four beachfront properties developed at Ko Olina, the other three are the Four Seasons, the Aulani, and the Marriot Beach Club.

The Beach Villas was built as a luxury resort condominium with approved uses for transient vacation rentals and long-term residencies. Accordingly, it was built with a beautiful and spacious Hawaiian themed front desk that is operated 24 hours per day. The property also has a beach bar, meeting room, and recreational facilities. In every aspect it meets the definition of hotel under the Proposed Ordinance. However, because the 247 two and three bedroom condominiums are individually owned it is not possible to meet the new requirements under the Proposed Ordinance that require a hotel to have consistent hotel rental rates set by the hotel operator. Owners at Beach Villas have been advised that owners getting together and setting rates between owners would be a violation of rate fixing laws. Therefore, when the Planning Commission revises the definition of TVU to exclude hotels they should also explicitly include condominium hotels and condominiums in a resort zone as properties that should be excluded from the definition of TVUs. Hotels, condominium hotels, and condominiums in a resort zone should be explicitly given the power to participate in short term rentals. This is consistent with current practice, the purpose of the Proposed Ordinance, and the Purpose of the Resort zone.

Chapter 8 (Real Property Tax). The Beach Villas is already regulated by Chapter 8 and owners that have short term rentals in this Resort zone already are classified as Hotel and Resort and pay this rate for property taxes. The same is true for other condominiums in resort zones on Oahu. See, Section 8.71, 8.75. There is no reason to not exempt condominiums in a Resort zone from the definition of TVU and permit them to have short term rentals by virtue of the Resort zone.

The Beach Villas was subject to design and building requirements of a condominium property built in a Resort zone. Accordingly, there is amble onsite parking provided for owners and guests. Although there is a nexus to occupancy rules for TVUs in residential neighborhoods there is no nexus for properties in the Resort zone. These occupancy restrictions should not be imposed on hotels,

condominium hotels, or condominiums in a Resort zone. Although there is a valid reason for imposing the use and development standards on TVUs in residential neighborhoods there is no valid reason to impose those standards inside the Resort zone. See, Proposed Sec. 21-5.730.3.

III. Preserve the right for short term rentals in a Resort zone.

The Proposed Ordinance should be revised to explicitly allow for STRs by all hotels, all condominium hotels, and condominiums that are located in a Resort zone and that do not have HOA restrictions against STRs. These properties should be excluded from the definition of TVUs. To do so preserves existing laws and rules, is not contrary to the stated purpose of the Proposed Ordinance, and is consistent with the purpose of the Resort zone.

Mahalo for your consideration.

Jim Tree

To whom it may concern,
Regarding the proposed Amendments to Chapter 21 (Land Use Ordinance), Revised Ordinances of Honolulu (ROH)1990, as Amended, Relating to Transient Accommodations, I hereby submit my comments and testimony in opposition.
I fully support enforcement actions against illegal Short-Term Rental operators. There is no need to change the definition from 30-days to 180-days, and I support every effort to properly enforce the 30-day minimum.
The draft Bill plans to ban the legal 30-day minimum vacation rentals in Apartment Precincts in Waikiki. I oppose this Bill for the following reasons:

1. There are people on Oahu who need rentals of less than 180-days. These uses include:
   - Families from out of State that are taking care of loved ones
   - People moving to Oahu and looking to buy a home
   - Families who are waiting for their new home to complete construction
   - Government contract workers
   - Traveling nurses
   - Military PCS while looking for a home to buy
   - Home Sellers who need to rent until they find a new property
   - Film and TV crews while on a shoot

   Those people don't need or want to stay at ocean front hotels paying expensive accommodation fees. There should be an option for them to stay at condos less than 180 days with affordable rates. This also benefits Hawaii's economy.

2. Some buildings in Apartment Precincts in Waikiki ban 30-day vacation rentals in their Building Bylaws, while there are some buildings that allow 30-day vacation rentals. If the purpose of this Bill is to protect neighbors, why not let Owners Associations decide by allowing their input? I do not believe the DPP should override those owners' rights and implement such a one-sided standardized rule ignoring each building's owners' opinion and right to decide.

   While it is understandable banning illegal vacation rentals in more quiet "residential" neighborhoods such as Kailua or

Hawaii Kai, it makes no sense for Waikiki. Waikiki is unique as a successful tourism destination, with many local businesses, restaurants, and shops, that depend on tourists. Healthy successful tourism needs a variety of accommodations that provide options to visitors. With this proposed Bill it is narrowing accommodations to only local residents with long term 180-day leases, who will not contribute to the special businesses aimed at tourism and income for business owners and the state of Hawaii.

It is obvious that this Bill is aimed to help the Hotel Industry in Waikiki. It does not benefit Oahu by providing healthy competition as it only promotes the vested interest of the Hotel industry and its revenue.

I also oppose this Bill for the following reasons:

1. Condo-Hotel properties MUST be operated by the Hotel: There are no illegal vacation rentals in condo- hotels. They are zoned as Hotel/Resort and many privately owned. I'm not a lawyer, but I think it may violate antitrust laws (In the United States, antitrust laws are a collection of federal and state government laws that regulate the conduct and organization of business corporations and are generally intended to promote competition and prevent monopolies). I cannot see any rationale in this move other than monopolizing the tourism market by protecting the hotel industry's interest and destroying legal property management companies.

   Competition in this industry is vitally important to keep improving Hawaii's accommodation services and attracting visitors to Hawaii. Competition results in better service, better property management with increased tax income to the State that benefits all local residents.

2. At the City and County level, this bill will affect the market value of many properties. Affecting these values will affect tax revenues and their ultimate use.

There should be other ways to stop illegal vacation rentals or solve the issue of the shortage of housing for local residents.

Letting the Hotel Industry monopolize the Oahu's accommodation options will result in a ruined economy.

Name Tsuyoshi Irie

Date 9/1/2021

Signature 入江剛

ATTORNEYS AT LAW
DURRETT LANG MORSE, LLLP

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(Via email to: info@honoluludpp.org; CC: lee@code-studio.com)

City and County of Honolulu Planning Commission
c/o Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to article five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. We write on behalf of Ms. Lisa Cooper. Through her trust, Mrs. Cooper owns a 1.98-acre parcel identified as Tax Map Key No. (1)68013057. The parcel is presently zoned as agricultural land. Mrs. Cooper is urgently worried about losing the right to live in her own home due to the stricter occupancy restrictions looming in article five of the proposed revisions to the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are free to live in their homes on agricultural land if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1] The proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming. This suggested revision to the LUO specifically articulates that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3]

These new occupancy restrictions appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural land.[4] Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, these occupancy restrictions will have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities.

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[1] Quoted text is taken from HRS 205-4.5

[2] The proposed changes to the LUO can be viewed in their entirety on the Department of Planning and Permitting's own website homepage (http://www.honoluludpp.org) under the "News" heading

[3] See Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

The disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes. Indeed, implementing this new occupancy standard will amount to a de facto eviction for the Cooper family and other families residing on agricultural land who are unable to actively farm their lands, either due to health conditions, advanced age, retirement, finances, caregiving responsibilities, or other personal circumstance that may preclude active farming.

Mrs. Lisa Cooper's land faces adverse conditions which render largescale agricultural production exceedingly difficult. Firstly, the small size of the parcel means that even under ideal conditions only modest agricultural yields can be drawn from Mrs. Cooper's land. Additionally, only a very small portion of the parcel is currently utilized for any form of agriculture. It is our understanding that soil quality issues preclude agricultural activity on the rest of parcel. While there are some fruit trees planted on the parcel, the poor soil quality creates an extremely long growing period for any type of crop making it extremely difficult to produce a substantial crop that would yield sufficient production income to sustain Mrs. Cooper and her family. As Mrs. Cooper's parcel is small and largely unsuitable for agriculture, it would be nonsensical to apply a new occupancy standard to her land which would require her to farm in order to maintain residence in her home.

In addition to the challenges posed by the small size of the parcel, the occupants themselves are not well suited to agricultural work. Mrs. Lisa Cooper and Mr. Jon Green are the only full-time residents living on the parcel. Lisa and Jon are both elderly, and Jon's mobility is additionally limited by an injured leg. It is our understanding that neither occupant is physically able to engage in agricultural production on the parcel. Therefore, if the occupancy restrictions for agricultural land contained within the proposed revisions to the LUO are codified it would render Mrs. Cooper's occupancy of his own land illegitimate and amount to a de facto eviction of Mrs. Cooper from a property that she has developed and in which she has extensively invested.

Even if no immediate enforcement actions are taken against the Mrs. Lisa Cooper in connection with the LUO revision, the new occupancy restrictions will continually be a source of stress and concern for Mrs. Cooper and any future landowners or occupants of the parcel. The passage of the revised LUO will create a threatening uncertainty which will loom over Mrs. Cooper's genuine hope of peacefully living out their days on their own property and passing that property down to their heirs without the threat of eviction and foreclosure. Allowing such serious harm to come to Mrs. Cooper simply because she is not physically able to operate a substantial farm on her property would be remarkably unjust and blatantly discriminatory. Additionally, applying the new occupancy standard to Mrs. Cooper's land will not meaningfully protect O'ahu's agricultural industry

Mrs. Lisa Cooper strongly objects to the proposed changes to the LUO. Should the LUO revision proceed, the Mrs. Cooper would request a contested case hearing to ensure due protection of her interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions

across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations.

Mrs. Cooper trusts that the Planning Commission will cautiously approach any actions or decisions that would disproportionately harm those disabled and elderly members living in Oahu's agricultural communities. Indeed, Mrs. Cooper hopes the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting people like Mrs. Cooper from their longtime homes. Mrs. Cooper implores the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

Kalani A. Morse

KAM
Enclosure

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Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to article five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. We write on behalf of Mrs. Cheri-Ann Guerrero. Through her trust, Mrs. Guerrero owns the parcel identified as Tax Map Key No. (1)86003190. The parcel is zoned as agricultural land. Mrs. Guerrero is deeply worried that she will lose the right to live in her own home due to the stricter occupancy restrictions looming in article five of the proposed revisions to the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are free to live in their homes on agricultural land if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1] The proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming. This suggested revision to the LUO specifically articulates that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3]

These new occupancy restrictions appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural land.[4] Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, these occupancy restrictions will have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities.

The disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right

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[1] Quoted text is taken from HRS 205-4.5

[2] The proposed changes to the LUO can be viewed in their entirety on the Department of Planning and Permitting's own website homepage (http://www.honoluludpp.org) under the "News" heading

[3] See Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

to live in their own homes. Indeed, implementing this new occupancy standard will amount to a de facto eviction for the Guerrero family and families residing on agricultural land who are unable to actively farm their lands, either due to health conditions, advanced age, retirement, finances, caregiving responsibilities, or other personal circumstance that may preclude active farming.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, to dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if the new provisions are allowed to proceed.

Despite the history of agricultural production on Mrs. Guerrero's parcel, it is currently not suited to these purposes. The entirety of the parcel is currently unplanted. It is our understanding that high levels of soil acidity have made it impossible to cultivate crops on the land for the past two years. While work is currently being done to reestablish soil pH levels suitable for farming, the acidic conditions are likely to persist for at least the next six months to a year. Additionally, the parcel does not currently enjoy access to the quantities of water necessary to support largescale agricultural activity. The Board of Water Supply is in the process of replacing outdated mains that have serviced the area on which the Guerrero parcel is situated. Until the replacement project is complete, lack of water will continue to hinder agricultural operations in the area. For the foreseeable future Mrs. Guerrero's land will not be capable of producing any significant agricultural yield. As such, imposing a new standard on Mrs. Guerrero's land which allows her to continue occupying her home only is she is actively farming would be unreasonable and cause serious harm to Mrs. Guerrero.

Even if no immediate enforcement actions are taken against the Mrs. Guerrero in connection with the LUO revision, the new occupancy restrictions will continually be a source of stress and concern for the Guerrero family and any future landowners or occupants of their parcel. The passage of the revised LUO will create a threatening uncertainty which will loom over Mrs. Guerrero's sincere hope of peacefully living out their days on their own property and passing that property down to their heirs without the threat of eviction and foreclosure. Furthermore, application of the new occupancy standard to Mrs. Guerrero's land will fail to meaningfully protect O'ahu's agricultural industry or in any way discourage the establishment of gentlemen farms.

Mrs. Guerrero strongly objects to the proposed changes to the LUO. Should the LUO revision proceed, Mrs. Guerrero would request a contested case hearing to ensure due protection of his interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations.

Mrs. Guerrero trusts that the Planning Commission will cautiously approach any actions or decisions that would disproportionately harm those disabled and elderly members living in Oahu's agricultural communities. Indeed, Mrs. Guerrero hopes the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting people like Mrs. Guerrero and her relatives from their longtime homes. Mrs. Guerrero

implores the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

Kalani A. Morse

KAM
Enclosure

From: Craig Stevens [mailto:shores1404@gmail.com]
Sent: Tuesday, August 31, 2021 2:16 PM
To: info@honoluludpp.org
Subject: Public Testimony Submission for September 1st 2021, Planning Commission Meeting

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

TO: Brian Lee, Chair and Members of The Planning Commission

HEARING DATE: September 1, 2021

SUBJECT: Proposed Amendments to Chapter 21 Revised Ordinances of Honolulu, Relating to Transient Accommodations

FROM: Craig Stevens, Honolulu, Hawaii

You will, no doubt, receive many letters with a point-by-point rebuttal of many of the revised provisions drafted by the Department of Planning and Permitting (DPP) regarding short term vacation rentals including the ones that will face legal challenge. This will not be one of them.

Instead, I would like to talk about the overall goals and practical outcome of this proposed legislation.

The stated primary goals of this legislation are to protect residential neighborhoods from negative impacts of short-term vacation rentals in residential neighborhoods and raise reasonable funds for the enforcement of vacation rental laws.

These are goals that, I believe, a vast majority of legal vacation rental owners in non-residential areas would consider reasonable and could fully endorse.

Why, then, does most of this legislation impose a series of regulations and restrictions on legal vacation rentals – vacation rentals that positively contribute to the State's tax base (through sales and property taxes), including vacation rentals, whether less than 30 days, or more, in tourist areas of Oahu, and most notably in all parts of Waikiki?

Instead, it is abundantly transparent that the real goal of this legislation is to put sufficient road blocks in front of vacation rentals, to provide financial advantages to the hotel industry ensuring a major contraction of legal vacation rentals island wide. Not content with this, the DPP has not been too embarrassed to add market blocks by limiting how and where guests can be welcomed and owners' ability to set pricing which reflects the unique features of each rental. Furthermore, provisions to change the 30 days minimum to 180 days, even in areas of Waikiki, transparently show this bill is here to establish new restrictions that have little, or nothing to do with its stated goals.

Vacation rentals have never been based on a "standard offer" and the DPP knows it. - Success in vacation renting has been based on personal relationships with visitors, unique marketing and customer service, competitive pricing and home-from-home features including items like kitchens, washer/dryers, adequate space, superior furnishings etc - in other words, the attributes tourists increasingly seek the world over.

The DPP knows if it can impose a standard offering, so characteristic of hotels, on a vacation rental market, it can cause immense damage to the latter. That is why this legislation limits owner/manager flexibility in condo pricing, how guests can be met, restricts owner/guest options, while adding as much paperwork administration and overhead as possible for guests, owners alike.

Does anyone believe that with DPP's obvious hostility toward vacation rentals and their owners, that they will not create day to day barriers through their administration of the new complex burdensome registration process?

So instead of legislation targeting illegal rentals in residential areas, together simple mechanisms to raise revenue, this bill has become an excuse for imposing a red tape laden administrative monstrosity on all vacation rentals, restricted owner rights, less

competition and choice and thereby successfully handed over the vacation market to inflexible, high priced, hoteliers island wide.

In putting together this draft, the DPP has demonstrated a clear inability to develop a **balanced policy** toward this matter, which focuses on, and addresses the disadvantages (while yes, also acknowledging the positive attributes) of vacation rentals to the State of Hawaii. Only by taking account of the latter too, will the DPP be in a position to develop legislation that can benefit all Hawaiians.

This legislation should be sent back to the DPP to be re-drafted so as to meet its stated goals and nothing more.

Mahalo for your time,

Craig Stevens

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Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to Article Five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. Our office represents Mr. Mark Harris and his company Harris Ranch, LLC (the "Ranch"). The Ranch recently acquired two parcels identified as Tax Map Key No. (1)41024060 and Tax Map Key No. (1)41024061. Both parcels are presently zoned for agricultural use. Mr. Harris is anxious with worry about losing rights to ever live in his own home on the parcels, due to the stricter occupancy restrictions looming in the proposed revisions to Article Five of the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are currently free to live in their homes on agricultural lands if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1]

The recently proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for those living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming.

More specifically, the suggested revision to the LUO asserts that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3] When applied in the context of HRS 205-4.5 and other provisions in the LUO governing the occupancy of farm dwellings, these new occupancy restrictions in the proposed LUO changes appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural lands.[4]

Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, the occupancy restrictions used to achieve those goals will have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities. The

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[1] HRS § 205-4.5

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[3] *See* Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes.

Indeed, implementing this new occupancy standard will stand as a de facto eviction for Mr. Harris and other individuals and families who either reside on agricultural land or hope to one day make a home on their agricultural lands, but are otherwise precluded from actively farming their lands. Many are now or soon will be unable to do so due to their health conditions, advancing age, retirement, finances, caregiving responsibilities, or other personal circumstance that may prevent a landowner from farming in "actively" enough to avoid breaking the law simply by living on their land. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if these proposed revisions are approved.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, too dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival. It remains to be seen whether Mr. Mark Harris' parcels are conducive to agriculture. As the parcels were recently acquired, Mr. Harris remains unsure of their suitability to agricultural production. He is aware that unforeseen barriers to agricultural production are likely to become apparent in the near future based on reports and representations from other landowners in the area. Should the land prove to be of poor quality for crop cultivation or become unsuitable for farming in the future by any change to the character of the land, the occupancy restrictions proposed in the revised LUO would jeopardize Mr. Harris' right to ever live on his land.

Furthermore, the occupancy restrictions would degrade Mr. Mark Harris' occupancy rights in the event that Mr. Harris himself were ever to become physically unable to farm due to illness, disability, or old age. Therefore, codifying stricter occupancy restrictions for dwellings situated on agricultural lands will potentially render any occupancy of the Harris Ranch land illegitimate and will likely force abandonment of a property that Mr. Mark Harris has developed and invested in extensively.

Even if no immediate enforcement actions are taken against Mr. Harris in connection with the LUO revisions, the new occupancy restrictions will continually be a source of distress and concern for Mr. Harris and any future landowners or occupants of the parcels. Passage of the revised LUO will create a threatening uncertainty which will loom ominously over their genuine hope of ever living peacefully on their own property or passing that property down to their heirs without the threat of eviction and foreclosure.

As such, Mr. Harris strongly objects to these proposed changes to the LUO. Should the LUO revisions proceed, Mr. Harris and Harris Ranch, LLC must request a contested case hearing to ensure due process protection of their interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations. Surely

there are better, less harmful, and non-discriminatory means of disincentivizing and preventing luxury developments on agricultural lands.

Mr. Mark Harris also trusts that the Planning Commission will cautiously approach any actions or decisions that would harm disproportionately those disabled and elderly members living in Oahu's agricultural communities. Indeed, Mr. Mark Harris trusts that the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting good people from their homes. Mr. Harris implores the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

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Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to article five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. Our office represents Mrs. Kolea F. Chong, and her husband, Simon T. Chong. Simon and Kolea Chong own the parcel identified as Tax Map Key Number (1)480050030 (the "Parcel), which is presently zoned for agricultural use. Mr. and Mrs. Chong are anxious with worry about losing the right to live in their own homes due to the stricter occupancy restrictions looming in article five of the proposed revisions to the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are free to live in their homes on agricultural land if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1] The proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming. This suggested revision to the LUO specifically articulates that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3]

These new occupancy restrictions appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural land.[4] Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, these occupancy restrictions will have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities.

The disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions

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[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes. Indeed, implementing this new occupancy standard will amount to a de facto eviction for the Chong family and other families residing on agricultural land who are unable to actively farm their lands, either due to health conditions, advanced age, retirement, finances, caregiving responsibilities, or other personal circumstance that may preclude active farming.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, to dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if the new provisions are allowed to proceed.

The Chong's Parcel faces many challenges which complicate active agricultural production on the land. Most notably, the Parcel is only 2.12 acres in size. This is barely larger than the two acres the Hawai'i Department of Agriculture recently identified as the minimum size for agricultural operations to be viable. Additionally, several sections of the land are unusable for agricultural purposes either due to the presence of structures erected long ago or because of rocky soil. The agricultural yields on such a small plot of land could never feasibly provide a livelihood for the Chong family. As such, it would be unreasonable to enact a standard which mandates that Simon and Kolea Chong farm the parcel in order to maintain a legal right to occupy their home, which is situated on the land.

The Chong's personal circumstances are also not suited to agricultural production. Both Mrs. Chong and her husband are engaged in full time non-agricultural work.[5] The Chong's also share a responsibility to care for their three children as well as Simon Chong's grandmother, who lives with them on the property. Additionally, Mr. and Mrs. Chong also do not possess any of the knowledge or skills necessary to maintain profitable agricultural production on the land. As no member of the Chong family is presently able to farm on the Parcel, codifying stricter occupancy restrictions in the LUO will render the Chong family's occupancy of their own land illegitimate and will likely force the family to abandon a property they have developed and invested in extensively. Allowing such serious harm to be inflicted upon the Chong family simply because Simon and Kolea Chong face circumstances which preclude them from farming would be cruel and would not in any way serve to encourage agricultural production on O'ahu.

Simon and Kolea Chong initially purchased their parcel to ensure that a property which has historically belonged to the Chong family remained in the family's possession. They did so with the understanding that they would be able to live in the family home. Four generations of Chong family members currently live on the property. As such, the fact that restrictions applied to all agricultural land regardless of circumstance could deprive the Chong family of continued occupancy rights is of profound concern to the Simon and Kolea Chong.

Even if no immediate enforcement actions are taken against the Chong family in connection with the LUO revision, the new occupancy restrictions will continually be a source of stress and concern for Simon and Kolea Chong and any future landowners or occupants of the

[5] Mrs. Chong works as a Charge Nurse in pediatric intensive care and her husband is a machinery mechanic at Peral Harbor Shipyard

Parcel. The passage of the revised LUO will create a threatening uncertainty which will loom over the Mr. and Mrs. Chong's genuine hope of peacefully living out their days on their own property and passing that property down to their heirs without the threat of eviction and foreclosure.

Simon and Kolea Chong strongly object to the proposed changes to the LUO. Should the LUO revision proceed, they would request a contested case hearing to ensure due protection of their interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations.

The Chong family trusts that the Planning commission will cautiously approach any actions or decisions that would disproportionately harm those disabled and elderly members living in Oahu's agricultural community. Indeed, Simon and Kolea Chong trust that the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting people like the Chong family from their longtime home. Mr. and Mrs. Chong implore the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

Kalani A. Morse

KAM
Enclosure

From: Brett Hulme [mailto:Brett.Hulme@pigottnet.com]
Sent: Tuesday, August 31, 2021 2:32 PM
To: Takara, Gloria C
Cc: bhulme87@gmail.com
Subject: Proposed STR Regulations

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Aloha,

I am writing in favor of fair and reasonable regulations for the vacation rental industry. While I fully support the DPP's goals to 1) reduce impacts on residential neighborhoods; and 2) regulate STRs [short-term rentals] that are permitted only in or adjacent to existing resort areas, I believe that the proposed bill and implementation is problematic as the items listed below have no bearing on the above main goals.

- This bill seeks to take away long-established property rights from condotel owners does nothing to reduce impact on residential neighborhoods. Those who have chosen to operate short-term rentals in or adjacent to existing resort areas have done so in a good-faith effort to comply with existing laws and related tax payments to the city, county and/or state of Hawaii.
- This bill drastically expands hotels interests while choking out individual property rights. The bill imposes ownership, operations, and financial hurdles and restrictions on TVU operators while at the same time giving corporate hotels unfettered right to operate without the same restrictions and siphon tourism revenue outside the state of Hawaii.
- Owners of the short-term rentals provide employment and financial opportunities for local Property Management companies, cleaning, maintenance, and repair staff, and related services like laundry services, etc.
- Short-term rentals not only offer accommodations for visitors, but also provide decent and affordable opportunities to others such as traveling medical staff, families arriving to care for their loved ones, contract workers, relocated military families, local residents in need of temporary housing, and others, etc.
- In order to come up with effective and fair solutions for our entire community, we ask DPP to sit down with vacation rental owners and operators, who can help provide insights and solutions it may not otherwise uncover.

While the intentions of the proposed bill makes great strides in meeting the main goals, please do not limit our ability to use our private property in a reasonable and responsible manner. Please reconsider some of the proposed language and work towards a goal that allows all local stakeholders a voice in the decision-making process.

Mahalo,

Brett

Brett Hulme

Waikiki Banyan

201 Ohua Avenue

Mauka Tower 2, 1602

Honolulu, HI 96185

From: kamakani souza [mailto:kamasouza@gmail.com]
Sent: Tuesday, August 31, 2021 2:52 PM
To: Takara, Gloria C
Subject: DPP STR Proposal

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Aloha Ms. Takara,

The STR proposal is an attack on my property rights. As an owner of a lodging condo unit in a condo-hotel building in Waikiki, most of my tenants are travelling healthcare workers that are here to help us with this pandemic. They stay for an average of 45 days.

Prior to the pandemic, my unit was in a contract with the building's hotel operator. The hotel was robbing us with fees that were not justified. One of the fees was a 5% royalty on a fictitious monthly income even if my unit was not rented. They based it on the potential income and not the actual income.

I cancelled the contract and have been personally renting the unit out long-term, 30 or more-day stays. This has allowed me to finally make ends meet.

If the short-term rules change from 30 to 180 days, my tenants would not be able to afford coming to Oahu to help us. They would also not be able to even find accommodations for less than 180-day stays.

Please do not subject me to be forced into a contract with the hotel operator.

Please do not extend the minimum 30-day stay rule.

Both changes would be destructive to all small businesses on Oahu.

Mahalo Nui, Malama Pono,

Garwin Kamakani Souza
Hawaii State and US Citizen

From: mschreiber718@gmail.com [mailto:mschreiber718@gmail.com]
Sent: Tuesday, August 31, 2021 2:58 PM
To: Takara, Gloria C
Cc: Mo Schreiber
Subject: Honolulu/Waikiki - Proposed STR Regulations

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Aloha,

I am writing in favor of fair and reasonable regulations for the vacation rental industry. While I fully support the DPP's goals to 1) reduce impacts on residential neighborhoods; and 2) regulate STRs [short-term rentals] that are permitted only in or adjacent to existing resort areas, I believe that the proposed bill and implementation is problematic as the items listed below have no bearing on the above main goals.

- This bill seeks to take away long-established property rights from condotel owners does nothing to reduce impact on residential neighborhoods. Those who have chosen to operate short-term rentals in or adjacent to existing resort areas have done so in a good-faith effort to comply with existing laws and related tax payments to the city, county and/or state of Hawaii.
- This bill drastically expands hotels interests while choking out individual property rights. The bill imposes ownership, operations, and financial hurdles and restrictions on TVU operators while at the same time giving corporate hotels unfettered right to operate without the same restrictions and siphon tourism revenue outside the state of Hawaii.
- Owners of the short-term rentals provide employment and financial opportunities for local Property Management companies, cleaning, maintenance, and repair staff, and related services like laundry services, etc.
- Short-term rentals not only offer accommodations for visitors, but also provide decent and affordable opportunities to others such as traveling medical staff, families arriving to care for their loved ones, contract workers, relocated military families, local residents in need of temporary housing, and others, etc.
- In order to come up with effective and fair solutions for our entire community, we ask DPP to sit down with vacation rental owners and operators, who can help provide insights and solutions it may not otherwise uncover.

While the intentions of the proposed bill makes great strides in meeting the main goals, please do not limit our ability to use our private property in a reasonable and responsible manner. Please reconsider some of the proposed language and work towards a goal that allows all local stakeholders a voice in the decision-making process.

Mahalo,

Mo Schreiber

Waikiki Banyan

201 Ohua Avenue

Mauka Tower 1, 1703

Honolulu, HI 96185

From: Jason Bitzer [mailto:bitzer.jason@gmail.com]
Sent: Tuesday, August 31, 2021 3:01 PM
To: Takara, Gloria C; Tsuneyoshi, Heidi
Subject: Bill 19-8 Sec. 21-5.730.2 , 3 , 4, (Opposition) Deadline tonight

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Aloha,

I have reviewed the issues with the bill.

Some of the requirements make total sense. Commercial insurance binding etc.

The issues are,

- Hotels do not get charged per room so their cost per average rental is less. Our insurance will be way hight

- They do not get a license of $5,000 initial and $2,500 per room so their cost is amortized at a lower rate.

- They have amenities for a fee that makes up the cost of room revenue slippage, Food and Bev, Liquour, gold, horseback rides, and amenities that a TVU can no gain a benefit to make up revenue.

- We are taxed the same for City Property tax at 13.25 however their footprint has many units in what we can rent 1 and they charge higher prices for Lobby, Activities, and general marketing elements they can charge for. Of which an owner of a TVU has no outlet.

This is a case of corporate capture of the middle-class operator. You are treating an owner as if he is a large operator but non hold the diversified staying/selling power of a hotel that runs multiple streams of revenue not just rooms for rent.

It is not fiscally reasonable to put this one a single unit operator. There should be a dollar-cost average to break down a hotel's room base vs cost of operating to apply this to an operator. It is not apples to apples and there is no justification for the below costings. There should be a report drafted to the adjacent properties to make it fair for both parties.

Aloha

JB

- New section applying to all B&Bs and TVUs
- (a) registration required

○ Provides that each natural person may only own 1 bed and breakfast or transient vacation rental unit, and legal entities other than natural person are not eligible to register a bed and breakfast home or transient vacation unit.

  - Note – we think that if this is enforced against an individual owning multiple Kuilima units, it may be an illegal taking of private property rights.

- (b) duration of registration and registration fees

○ 1 year term

○ $5,000 initial application and $2,500 annual renewal registration fee

- (c) sets forth application requirements
  - (1) GET and TAT license numbers
  - (2) title report
  - (3) certificate of insurance
  - (4) for B&B, evidence that homeowner has obtained a homeowner exemption
  - (5) informational binder
- (d) certificate of registration

--

JASON BITZER
61-163 Ikuwai Pl
Haleiwa HI, 96712
(808) 255-8671

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From: KAREN TURNER [mailto:karenturnr@aol.com]
Sent: Tuesday, August 31, 2021 3:26 PM
To: Takara, Gloria C; Tsuneyoshi, Heidi
Subject: DPP's proposal for amendments concerning TVUs

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Aloha,
As a long-time owner and resident of Kuilima Estates West, **I am writing in enthusiastic support of the proposed new amendments concerning Short Term Vacation Rentals.**
Kuilima, East and West are zoned residential, and for years was a community of ordinary people living on the North Shore. As VRBO and AirBnB became popular older residents sold to mainly out of state investors who bought them at very high prices to short term rent even though it was illegal. Several years ago, with the help and encouragement of local politicians, this investor group hired an attorney and succeeded in having Kuilima designated resort. Now they could short term rent legally. The residential community has been ruined, overrun by tourists. These same owners are now protesting any efforts to have them pay business fees. They are running hotels and should pay hotel fees. This revenue is needed to offset the damage this over tourism creates.

Sincerely,
Karen Turner
Kuilima West

DATE: 01 September 2021
TO: Members of the Planning Commission
FROM: Richard Kemmer 57-101 Kuilima Drive, Unit 151, Kahuku, Hi

SUBJECT: Public Comment Regarding Bill Relating to Transient Accommodations

Dear Honorable Members,

I strongly oppose the proposed transient accommodations bill. As stated, "The purpose of this Ordinance is to better protect the City's residential neighborhoods and housing stock from the negative impacts of short-term rentals...". It also states that currently 10 million visitors come to the island every year. More than 95% of those visitors, however, stay in the high-rise hotels and more of these towers continue to be built and are the core of our overcrowding issue, not the short-term rentals (TVU). In reality, much of this bill is just an attack on individual property owners in order to create a competition-free environment for the corporate hotel owners. This bill drastically expands hotel interests while choking out individual property owners' rights. Below are some specific sections that are very concerning and do not work towards achieving your stated purpose.

1). Sec. 21-5.730-2 (b): "The application cost for an initial registration is $5,000.00 and the application cost for renewing a registration is $2,500.00".

These fees are excessive, not reasonable, and do nothing to achieve the stated purpose of this ordinance, which is to protect residential neighborhoods. These fees apparently would not apply to corporate hotel owners that own thousands of TVUs, so applying them only to individual owners is unjust discrimination.

2) Occupancy limits of 2 persons/bedroom is also absurd. Like hotels it is very common to have 4 people/bedroom. This is another example of over regulation.

It is completely obvious that many sections of this bill were written for the sole purpose of benefiting the corporate hotel owners and it would create a windfall for them. Since when is that the role of government? This bill imposes ownership, operations, and financial hardships, hurdles and restrictions on individual TVU owners and operators while at the same time giving corporate hotel owners the unfettered right to operate without the same restrictions. This bill seeks to take away long-established property owners' rights in the resort zone that explicitly allow owners to own and operate TVUs. This bill may also be a violation of the Fourteenth Amendment which guarantees the protection of equal rights.

Thank-you for your attention and deliberation on this matter.

Best Regards,
Rich Kemmer

From: Helena VON SYDOW [mailto:lenasydow@icloud.com]
Sent: Tuesday, August 31, 2021 3:46 PM
To: Takara, Gloria C
Subject: Proposed Amendments to LUO relating to Transient Accommodations

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Dear Gloria Takara

Please submit the enclosed comment to Mr. Brian Lee and members of the Planning Committee
Thank you.

Helena von Sydow
808-349-9166
lenasydow@icloud.com

To the Planning Commission
Att Gloria Takara.

Re: Proposed Amendments to LUO relating to Transient Accommodations

I agree that ten million visitors annually has become too much, however disagree that attacking and penalizing the TVU and B&B who are by far the smallest receiver of the tourist population, will not solve the problem. It will only feed the Hotels and time share with more greed since they are not owned by locals.
The hotels are corporations who's only goal is to make profit.

TVU properties with NUC license, according to the DPP website are 759 units

The census of 2019 published that Oahu had 166 properties (Hotels) with **46,980** rooms.

TVU's and B&B's accommodate 0.08% of tourists

Making the math versus DPP's intent to abolish short term rentals, going after less than 0.08% of the problem will not solve the influx of tourism in Hawaii

Again DPP's and the City's plans and measurements are very disappointing.

If there should be any action from the City and the DPP, it is obvious that the reduction of Hotel rooms and Time shares would be more effective than eliminating short term rentals

Ordinance 19-18 generated nothing more than confusion, which I believe was purely a rotten intent to benefit the Hotel industry due to lobby from the Hotels. There is even a new hotel "Hui" called The Hawaii Hotel Alliance lead by Mr Gerry Gibson.

The hotels are the biggest beneficiary of the Ordinance 19-18
The verbiage says the ordinance is to protect the residential neighborhoods, when in truth it hurt thousands of local residents who lost their income.
In turn the real estate market never dropped nor did the price of long term rentals.

the hotels, the city and the people have to work together to achieve a balance, where the residents and people of Hawaii (not foreign or mainland corporations) should inform the city of inconveniences of neighbors that rent and stress the areas. We all know that "monster houses" are a bigger problem in most neighborhoods, than short term rentals

Increasing fine to up to $25,000.00 per day will not solve the problem.

From: Harald von Sydow [mailto:nztrendshi@gmail.com]
Sent: Tuesday, August 31, 2021 3:42 PM
To: Takara, Gloria C
Subject: Re: Proposed Amendments to LUO relating to Transient Accommodations

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Dear Gloria Takara

Please submit the enclosed comment to Mr. Brian Lee and members of the Planning Committee
Thank you.

Harald von Sydow
808-224-0002
nztrendshi@gmail.com

To the Planning Commission
Attn Gloria Takara.
Attn Dean Uchida

Re: Proposed Amendments to LUO relating to Transient Accommodations

My name is Harald von Sydow, I am 61 years old and have been living in Hawaii most of my life.

I can agree the Ten million visitors annually is a lot of visitor specially if Oahu does not offer enough infrastructure for the visitors to spend their time in tourist attraction areas, and activities to do, hence they all move around with no destination.

If you take the island of Palma De Mallorca in Spain, for example, they have 30,000 visitors a year in a much smaller island. Their small air port is very organized and fast, with affordable and plentiful taxis as well as public transport, causing almost no need to rent a car.
Regardless of where on the island you choose to stay there are short term rentals and hotels available in designated areas
Plenty of tourist attractions in these same areas, therefore the visitors don't interfere with the local population, who on the other hand benefit from the visitors.

The bottom line is that Hawaii can manage the demand much better, just needs to be creative and competent. The Hawaii Tourism Authority should be the organization that acts on behalf of the people of Hawaii and of the tourists, not only benefiting Hotels and large corporations.

Hawaii should see Tourism, which is our number 1 industry, as a benefit for the Islands making laws to favor all communities, and not to stress the system, favoring the hotels and the time shares.

With regards to Ordinance 18-19 and the the current Bill for an Ordinance relating to Transient Accommodations; there are some good intents to fix bad planing from the past, now is trying to fix a problem that could have been avoided and the Hotels are leveraging their interests to take the monopoly of the tourist industry.
It is unfortunate that Hotels export all their profits since none are locally owned and there is no tax incentive for that to happen.

I personally own a property in the Turtle Bay (Kuilima) , which I bought specifically to do short term rental (as permitted), as an investment for my retirement. 100% of what I make stays in Hawaii.
Accordantly to this new amendment I will be penalized with additional regulations and restrictions overly burdensome and costly

If the DPP will like to charge a fee, then be reasonable! DLNR for example charges $20.00 to registered a boat and not $5,000.00! Their annual fee remains at $20 and not $2,500 ever year to renew this permit.
What DPP is proposing seems more like a penalty not a fee.

Another disgrace is the property taxes passed by bill 55 penalizing local TVU operators to pay Hotel property taxes. Hotels are built in a fashion to be money machines, with service 24/7. TVU's are homes that families can stay in while visiting and does not have full time service.

If there is a extra fee, that should be applied to properties that are not locally owned. Such as the hotels! every room can afford to pay the $2,500.00 per year for not keeping the profits in Hawaii.

The intent of Ordinance 18-19 and this new Bill for an Ordinance relating to Transient Accommodations, states its necessity to maintain the integrity of the neighborhoods and to provide the local residents with additional houses to rent at a more affordable price
Well in order for the owner to be able to sustain the property, likely purchased based on higher revenue needs, and not have the property go into bank foreclosure, the owners and investors will have to increase their long-term rental amounts, again making it unaffordable to most locals. The bottom line needs to remain the same, so long term rental rate will skyrocket.

Housing in Hawaii has never been cheap and will never be cheap. These bills you DPP's proposal is a shameful excuse to favor Hotels.

To the Planning Commission
Att Gloria Takara.

Re: Proposed Amendments to LUO relating to Transient Accommodations

I have followed Bill 89 / Ordinance 18-19
With the understanding of its process and the intent to save the integrity of residential neighborhoods.

I feel the ordinance passed was very flawed and continue to think that the amendments being proposed by DPP are also very flawed favoring solely to benefit the hotels

Many landlords across Oahu depend on rental income. With the withdrawal of the 30 day rentals in the residential market, not only housing values will drop across the board causing landlords, who are by the way the Hawaii people who depend on that income, and renters to be put out of a place.
These are affordable housing that accommodate doctors from the mainland, traveling nurses, military families relocating, regular folks between housing, and the like.

The new bill proposes to wipe out those all together

I disagree with most of the facts proposed but specially not having a small limit of short term rental houses in residential areas so the neighborhood can have the option of renting a house close by for families, and loved ones while on the islands for a memorial, renovating, moving and looking for housing, when transitioning, etc

with the proposed bill of a minimum of 180 days rental, For example Families who have a flood, or need to remodel their home, and have kids that are enrolled in the neighborhood school, will not be able to rent a house for 30 or 60 days while their house is being renovated, to allow their kids to continue going to the same school. The disruption is huge

The DPP will be hurting the local people that depend on these rentals.

The bill proposes not only a monopolistic rule over all tourism for the hotels, but it is also one of the biggest heists in real estate history, whereby the operations and decisions are taken out of the hands of the actual owners and put, for free, into the hands of the hotel reservation systems – a large, mandated transfer of income with no consideration given in return. Not to mention ALL hotel chains operating in Hawaii have Headquarters outside of Hawaii, meaning their revenue does NOT stay in the state of Hawaii or the City and County of Honolulu

The bill introduces itself or rather cloaks itself, blaming tourists for late party noises in the neighborhoods. If we are honest, most tourists that go to a nice residential neighborhood do not know anyone in Hawaii to party with (they are on holiday, i.e., away from home and friends and colleagues), and they are usually sleeping by 9pm for the first week of their trip, due to jet lag having flown in from vast distances in order to reach the islands). Meanwhile we locals have our friends and family over to watch the sports on the TV in the open garage or carport, drinking and eating with relatives, and having a great time. We locals build Monster Houses (approved by the DPP) and rental out rooms year round which take all the street parking – to blame these issues in residential areas on the tourists is a bit of a stretch.

Thank you for listening and for your time

Harald von Sydow

-----Original Message-----
From: Bill Kraynek [mailto:billkraynek@gmail.com]
Sent: Tuesday, August 31, 2021 3:53 PM
To: Takara, Gloria C
Subject: DPP's proposal for TVUs amendment

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Aloha,

I am an owner and resident at Kuilima on the North Shore. About 70% of the condos at Kuilima are occupied by short term renters. This indicates that short term renting is becoming a lucrative business opportunity. As a result the taxes on short term rentals should be as if they are hotels (which they effectively are) as proposed by the DPP in a new amendment. I strongly support that amendment.

Bill Kraynek
Home phone: 808-293-5432

From: CLK Council Info
Sent: Tuesday, August 31, 2021 3:54 PM
To: Yamane, Joy <jyamane1@honolulu.gov>
Cc: meylysa@gmail.com; Chung, Vicki K. N. <vchung@honolulu.gov>; Otto, Pearlene <potto1@honolulu.gov>; Limos, Irene <irene.limos@honolulu.gov>
Subject: Council Testimony

Written Testimony

Name	Meylysa Duldulao
Phone	
Email	meylysa@gmail.com
Meeting Date	09-01-2021
Council/PH Committee	Council
Agenda Item	reversal from Bill 89 (Ordinance 19-18)
Your position on the matter	Oppose
Representing	Self
Organization	

Written Testimony

Aloha, my name is Meylysa Duldulao and I am opposing the Proposed Amendments to the Short-Term Rental Ordinance Bill 89 which is being discussed in the September 1, 2021 hearing.

My husband Jomel Duldulao and myself purchased 1911 Kalakaua Apt 608 in 2018. It was an existing AirBnB unit when we bought it. We continued using it as an AirBnB unit (https://www.airbnb.com/rooms/27395129). It is in a resort/mixed use district in Waikiki, and we have paid the property taxes in this higher bracket.

When we purchased the unit for an investment, we only looked at properties that had the proper zoning, as we wanted to follow existing laws.

Before purchasing the unit, we discussed with my mother, Theresa Tseng, if managing and cleaning the unit would be a good occupation for her. My mother just turned 70 years old this year, and has told me that over the past 10 years she has applied to many part time jobs and hadn't found consistent work.

We pay her the cleaning fees for the unit, and she enjoys talking to the visitors who stay in our unit. She is also a Super Host, which is the highest status you can get on the AirBnB platform.

Our $3,500 average monthly income from the unit pays for cleaning fees ($628/mo average), transient and GE taxes ($523.67/mo), the mortgage, property taxes and mortgage insurance ($1,244.92), supplies and equipment ($156.74/mo

for July), repairs and upkeep ($100/mo average), the maintenance fee ($614.29), and a management fee ($140/mo), short term renters insurance ($21.91/mo), and a loan payment for our start-up costs ($0-$500/month, balance as of end of July remaining is $2,292.98).

Income - $3,500/mo estimated average ($3,533.81 to be exact for July 2021)
Expenses - $3.500/mo estimated average

Expenses Breakdown:

$628/mo average - cleaning fees
$358.75/mo - Transient Tax
$164.92/mo - GE taxes
$1,244.92 - the mortgage, property taxes and mortgage insurance
$156.74/mo (for July) - supplies and equipment
$100/mo average, repairs and upkeep
$614.29 - maintenance fee
$140/mo management fee
$21.91/mo short term home owners insurance
$0-$500/month - loan payment for our start-up costs, balance as of end of July is $2,292.98.

According to the new revisions, 1911 Kalakaua is zoned Resort/Mixed Use (https://honolulu.gov/rep/site/dpp/str/News_and_Updates/STR_Waikiki_2021.pdf), but does not have a front desk, so are we now a TVU?
According to Section 22, the revised version, TVUs are allowed in Waikiki in the Resort/Mixed Use zone.

"SECTION 22. Table 21-9.6(A), Revised Ordinances of Honolulu 1990, as amended, is amended by amending the entries for "bed and breakfast home," "hotel," and "transient vacation unit" as follows:

SECTION 17. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-5.730.1 to read as follows: "Sec. 21-5.730.1 Bed and breakfast homes and transient vacation units. (a) Bed and breakfast homes and transient vacation units are permitted in the portions of the A-2 medium-density apartment zoning district located in the Gold Coast area of the Waikiki Special District shown in Exhibit A and in the portions of the A-1 low-density apartment zoning district, and A-2 medium-density apartment zoning district located in the Kuilima and Ko'olina Resort areas shown in Exhibits C and - B, respectively, and the Resort Mixed Use Precinct in the Waikiki Special District, subject to the restrictions and requirements in Article 5 of this chapter."

What is the purpose of a TVU designation? If it is to make sure that the TVU is paying the correct property tax? Is it to ensure that AirBnBs do not operate in Waikiki are monitored like hotels?

Are TVUs banned in Waikiki in the sections with resort/mixed use zoning? If so, why would TVUs be banned in Waikiki in the sections with resort/mixed use

zoning, but allowed in Gold Coast area of Diamond Head Special district, Ko'Olina and Kuilima resort areas?

"New B&Bs and TVUs will only be allowed in areas adjacent to and associated with existing Resort zoned property, specifically in the A-2 medium-density apartment zoning district located in the Gold Coast area of the Diamond Head Special district and in the A-1 low-density and A-2 medium density apartment zoning districts located adjacent to the Ko'Olina and Kuilima resort areas."

From reading the bill, it seems it does not acknowledge buildings such as ours and buildings such as Hawaiian Monarch, which have independent owners, in a building that is zoned properly for vacation rental use, that have owners that live in the building as residents (like my mother) and owners that are operating an AirBnB business or similar vacation rental.

According to Section 10, if you are a TVU then you can continue being a TVU as long as you have the nonconforming use certificates for transient vacation units.

"SECTION 10. Section 21-4.110-1, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows: "Sec. 21-4.110-1. Nonconforming use certificates for transient vacation units. (a) The purpose of this section is to permit certain transient vacation units that have been in operation since prior to October 22, 1986, to continue to operate as nonconforming uses subject to obtaining a nonconforming use certificate as provided by this section. This section applies to any owner, operator, or proprietor of a transient vacation unit who holds a valid nonconforming use certificate issued pursuant to this section on the effective date of this ordinance."

However, since we are operating legally in the correct zoning, we do not need or have a certificate. There is no provision for our types of units to continue our business. There is no reason for us to apply for a certificate as we conform.

We are not a hotel, hotel unit or condominium hotel per definitions below:

"Sec. 21-5.360 Hotels and Hotels Units.
(a) Hotel units must be used or offered to provide dwelling or lodging accommodations to transient guests. Hotel units may not be used as transient vacation units or bed and breakfast homes.
(b) Hotel units must be booked by guests through a centralized hotel booking system that is managed by the hotel operator or through the hotel front desk, provided that this section will not prohibit the booking of hotel units through third party services or technologies that make bookings though the central hotel operated booking system or hotel front desk.
(c) Rental rates for all hotel units must be determined by the hotel operator or the manager of the hotel's centralized booking service. Hotels and third party booking services may not provide discounted rental rates to the owners of condominium hotel units or hotel guests arranged for by the owners of condominium hotel units unless the same discounted rates are available to members of the general public that are not condominium hotel unit owners or guests of condominium hotel unit owners. This section does not apply to bookings for hotel units that are part of a

legally established time-share program.
(d) Hotels and hotel units that have existing certificates of occupancy for hotel uses shall comply with subsections (b) and (c) within two years of the effective date of this ordinance. Hotels and hotel units that obtain certificates of occupancy for hotel uses after the effective date of this ordinance must comply with the subsections (b) and (c) immediately."

"SECTION 14. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-5.360.1 to read as follows: "Sec. 21-5.360.1 Condominium hotels. Units in a condominium-hotel must be part of the hotel's room inventory, available for rent to the general public. Hotels and third party booking services may not provide discounted rental rates to the owners of condominium hotel units or hotel guests arranged for by the owners of condominium hotel units unless the same discounted rates are available to members of the general public that are not condominium hotel unit owners or guests of condominium hotel unit owners. The use of a condominium-hotel unit as a primary residence or usual place of abode is not allowed."

If this bill is passed as is, we will be banned from operating and forced to close down and sell our property. Hotels will be allowed to operate, but small business owners such as ourselves will be forced out of business.

If there is a provision made for us to continue, the regulations placed on TVUs are also too restrictive.

In section 21-5.730.3, it states that number of guests cannot exceed 2 x the number of bedrooms and all guests have to sleep in bedrooms. Why?

"Sec. 21-5.730.3 Use and development standards for bed and breakfast homes and transient vacation units. All bed and breakfast homes and transient vacation units except those that are allowed to operate in accordance with a nonconforming use certificate issued under Sections 21-4.110-1 or 21-4.110-2 must comply with the following standards and requirements.

(a) Occupancy limits and sleeping arrangements. All overnight guests at the bed and breakfast home or transient vacation unit must be registered with the owner or operator of the bed and breakfast home or transient vacation unit. Sleeping accommodations for all guests must be provided in bedrooms, and no more than two adults may use any bedroom in the bed and breakfast home or transient vacation unit for sleeping purposes. The total number of adult overnight guests at a bed and breakfast home or transient vacation unit shall not exceed twice the number of bedrooms provided to guests for sleeping accommodations."

We currently have a bedroom and 2 sofa beds in the living room. Is it my understanding that sofa beds in living rooms are not allowed, or that the living room counts as a bedroom?

In addition, it states we need to have commercial general liability insurance of

$1,000,000 minimum at all times. What is the rationale for this requirement? It seems very excessive, considering we bought our unit for $205,000 in 2018. Our current insurance short term renters insurance covers personal liability limit of $500,000 per occurrence.

"Sec. 21-5.730.3 Use and development standards for bed and breakfast homes and transient vacation units. All bed and breakfast homes and transient vacation units except those that are allowed to operate in accordance with a nonconforming use certificate issued under Sections 21-4.110-1 or 21-4.110-2 must comply with the following standards and requirements.

(f) Insurance coverage required.
The owner of a bed and breakfast home or transient vacation unit must maintain a minimum of $1,000,000.00 in commercial general liability insurance at all times. In addition to any supplemental insurance coverage selected by the owner, such insurance coverage must include coverage for:
(1) Bodily injury and property damage arising out of the condition of the premises or the negligent acts of the business and persons providing services to the business. For the purposes of this subsection, bodily injury shall include mental injuries and emotional distress whether or not such harm is accompanied by other physical or bodily harm;
(2) Personal and advertising injury arising out of liability for libel, malicious prosecution, wrongful eviction, wrongful entry, public disclosure of private facts, and invasion of privacy; and
(3) Necessary and reasonable medical, surgical, ambulance, hospital, professional nursing and funeral expenses for a person injured or killed in an accident taking place on the insured's premises."

Also, the bill states that we will need to register our unit and the cost is $5,000 initially and $2,500 every year after. This is very high for us, as we are not yielding a profit as of yet.

In addition, we already pay $358.75/mo average in transient tax and $164.92 in GE taxes. Why is the cost of registration so high? What is this number based on? Why can't the high transient tax we already pay cover the excessive cost of registration?

What about the up to $3,125,000.00 in real property taxes collected annually, that we have been paying since 2018, cover the cost of part or all this registration fee?

"Notwithstanding any ordinance to the contrary, beginning in the 2022 tax year and in all tax years thereafter, up to $3,125,000.00 in real property taxes collected annually by the city for the bed and breakfast tax classification and the hotel and resort tax classification shall be placed into the special fund identified in subsection (a) and used by the Department of Planning and Permitting for the administration and enforcement of the provisions of this chapter relating to bed and breakfast homes and transient vacation units."

What is the proposed budget for the use of the up to $3,125,000.00 in real property taxes collected annually?

Also, it states that the unit must be registered and owned by a natural person. Our unit is in an LLC for liability purposes. We can show that we are members of the LLC. Why should we have to have our property in our own names for registration purposes?

"Sec. 21-5.730.2 Registration, eligibility, application, renewal and revocation.
(a) Registration required. Bed and breakfast homes and transient vacation units must be registered with the department. Each natural person, as distinguished from legal persons and legal entities, may own no more than one dwelling or lodging unit that is registered as a bed and breakfast home or transient vacation unit. Bed and breakfast homes and transient vacation units that have a valid nonconforming use certificate issued under Sections 21-4.110-1 or 21-4.110-2 will be counted as registered dwelling units for the purposes of this section. Legal entities other than natural persons are not eligible to register a bed and breakfast home or transient vacation unit with the department."

Section 24 of the bill says rentals of less than 180 days are not considered to be transient rentals, unless it is a month to month continuation of a 180 day or longer lease.

"SECTION 24. Chapter 21, Article 10, Revised Ordinances of Honolulu 1990, as amended, is amended by amending the definitions of "bed and breakfast home", "hotel", and "transient vacation unit" to read as follows:

""Transient vacation unit" means a dwelling unit or lodging unit that is advertised, solicited, offered, or provided[, or a combination of any of the foregoing, for compensation] to transient occupants, for compensation, for periods of less than [30] 180 consecutive days, other than a bed and breakfast home. For purposes of this definition,
(1) [C]compensation includes, but is not limited to, monetary payment, services, or labor of guests;
(2) Accommodations are advertised, solicited, offered or provided to guests for the number of days that are used to determine the price for the rental; and
(3) Month to month holdover tenancies resulting from the expiration of longterm leases of more than 180 days are excluded."

Right now, in our personal residence located in 303 Liliuokalani, a residentially zoned building, we are renting one of the bedrooms in our apartment to a long term renter. However, if he leaves and I find a renter for a month or up to 5 months, now am I considered to be an illegal TVU? Now you are punishing homeowners who have student or part time renters who actually reside in Hawaii. What is the purpose of this?

Finally, the bill states that AirBnBs and TVUs hurt the community and increase

traffic. Was there a study done to confirm this? There is so much traffic from commuters to work and school that ceased during COVID-19.

"Neighborhoods began to see what life was like before the proliferation of STRs throughout their neighborhoods. Traffic, crowding, tourists invading residential neighborhoods, and noise at all hours of the day that were typical issues created in part by STRs, disappeared during the pandemic lock down.

In addition, residents across the state realized what life was like before millions of visitors started coming to Hawaii. No or very little traffic, wide open beaches and trails, and less people in general were "benefits" of the shut-down. While the visitor industry is a main driver of Hawaii's economy, discussions have begun on how we might limit the number of visitors to Hawaii. Ten million (10,000,000) visitors annually has become too much."

Also, how is this argument relevant to banning TVUs in Waikiki, which is a tourist neighborhood?

In our personal experience, having an AirBnB has enhanced the community we live in. They have given my Mom, a senior citizen, a job that she not only enjoys but excels at. Our AirBnB guests are given our house rules and are monitored by my Mom, our neighbors and AirBnB. We register all guests with our building management.

We have also recently helped a resident in the building, by having her daughter and son-in-law book our unit at a discounted price for their upcoming visit in February.

Guests who violate house rules are banned from using AirBnB in the future. It is a highly efficient system that weeds out trouble makers. Guests rate us and we rate the guests on cleanliness, communication, check-in, accuracy, location and value.

I understand that the City and Council are looking for ways to properly manage the AirBnB and transient vacation unit market. I am open to legislation that is fair to all parties. However, I believe that the revisions in this bill hurt our family and us as business owners, and respectfully oppose it's adoption.

Testimony Attachment

Accept Terms and Agreement 1

IP: 192.168.200.67

From: Tanaka Kazuo <tnk3@mua.biglobe.ne.jp>
Sent: Tuesday, August 31, 2021 1:46 AM
To: info@honoluludpp.org
Subject:

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

To whom it may concern,

Regarding the proposed Amendments to Chapter 21 (Land Use Ordinance), Revised Ordinances of Honolulu (ROH)1990, as Amended, Relating to Transient Accommodations, I hereby submit my comments and testimony in opposition.
I fully support enforcement actions against illegal Short-Term Rental operators. There is no need to change the definition from 30-days to 180-days, and I support every effort to properly enforce the 30-day minimum.
The draft Bill plans to ban the legal 30-day minimum vacation rentals in Apartment Precincts in Waikiki. I oppose this Bill for the following reasons:

1. There are people on Oahu who need rentals of less than 180-days. These uses include:
   - Families from out of State that are taking care of loved ones
   - People moving to Oahu and looking to buy a home
   - Families who are waiting for their new home to complete construction
   - Government contract workers
   - Traveling nurses
   - Military PCS while looking for a home to buy
   - Home Sellers who need to rent until they find a new property
   - Film and TV crews while on a shoot

   Those people don't need or want to stay at ocean front hotels paying expensive accommodation fees. There should be an option for them to stay at condos less than 180 days with affordable rates. This also benefits Hawaii's economy.

2. Some buildings in Apartment Precincts in Waikiki ban 30-day vacation rentals in their Building Bylaws, while there are some buildings that allow 30-day vacation rentals. If the purpose of this Bill is to protect neighbors, why not let Owners Associations decide by allowing their input? I do not believe the DPP should override those owners' rights and implement such a one-sided standardized rule ignoring each building's owners' opinion and right to decide.

   While it is understandable banning illegal vacation rentals in more quiet "residential" neighborhoods such as Kailua or Hawaii Kai, it makes no sense for Waikiki. Waikiki is unique as a successful tourism destination, with many local businesses, restaurants, and shops, that depend on tourists. Healthy successful tourism needs a variety of accommodations that provide options to visitors. With this proposed Bill it is narrowing accommodations to only local residents with long term 180-day leases, who will not

contribute to the special businesses aimed at tourism and income for business owners and the state of Hawaii.

It is obvious that this Bill is aimed to help the Hotel Industry in Waikiki. It does not benefit Oahu by providing healthy competition as it only promotes the vested interest of the Hotel industry and its revenue.

I also oppose this Bill for the following reasons:

1. Condo-Hotel properties MUST be operated by the Hotel: There are no illegal vacation rentals in condo- hotels. They are zoned as Hotel/Resort and many privately owned. I'm not a lawyer, but I think it may violate antitrust laws (In the United States, antitrust laws are a collection of federal and state government laws that regulate the conduct and organization of business corporations and are generally intended to promote competition and prevent monopolies). I cannot see any rationale in this move other than monopolizing the tourism market by protecting the hotel industry's interest and destroying legal property management companies.

   Competition in this industry is vitally important to keep improving Hawaii's accommodation services and attracting visitors to Hawaii. Competition results in better service, better property management with increased tax income to the State that benefits all local residents.

2. At the City and County level, this bill will affect the market value of many properties. Affecting these values will affect tax revenues and their ultimate use.

There should be other ways to stop illegal vacation rentals or solve the issue of the shortage of housing for local residents.

Letting the Hotel Industry monopolize the Oahu's accommodation options will result in a ruined economy.

Name Kazuo Tanaka .
Date 8/31/2021 .
Signature Kazuo Tanaka .

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Letting the Hotel Industry monopolize the Oahu's accommodation options will result in a ruined economy.

Name Mamiko Nakamura

Date 31 AUG 2021

Signature Mamiko Nakamura

From: David Millstein [mailto:dmillstein@millstein-law.com]
Sent: Tuesday, August 31, 2021 4:07 PM
To: Takara, Gloria C
Subject: <no subject>

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Hi Gloria,

My comments regarding the STR issue before the commission tomorrow are below:

Dear Commissioners,

I signed up to speak but if is not possible I wanted to summarize my opposition.

The expansion of the 30-day bar to 180 days has no rational relationship to stated objective of better compliance with a 30-day rule—it is a rejection of that moderate approach and it takes an unreasonable approach of eliminating the practice.
Realistically, it is designed to effectively eliminate an owner's ability to effect short term rentals. The length of the ban is extreme and unreasonably restricts property owners rights, and does so in a manner that affects vested and acquired rights and is confiscatory.

Is a 5x increase from 30 to 180 days warranted? The staff I saw provides no facts or data suggesting that the "fabric and character" of neighborhoods is being destroyed…or that available affordable housing will be increased by this measure. The report of staff states conclusions, not facts. We all know affordable housing is huge problem—all of the nation. It is crushing the middle class, what is left of it. But it is a symptom, not the cause of the issue, which is a massive concentration of wealth, loss of good jobs, and loss of a middle class.

In my case, I am a 68-year-old man who bought a 68-year-old house I intend to retire hopefully soon, because I have visited and loved Hawaii for decades and decided it is where I want to end up. To transition into retirement here, we did hope to have short term rentals of 30 days—with the cost of property in Hawaii we could not figure out another was to do it. I can't afford, like many my age today, to retire yet, but when that is possible which I hope is soon, I wanted to do that here.

I am not a predatory landlord hoping to profit…just gain a home here until I can afford to retire. Btw, the home we bought in Oahu was dilapidated all our neighbors tell us they are happy we renovated—to it is original style—they actually stop by and tell us that. I love this place.

There are probably a million stories like mine for allowing the law to stay as it is. 30 days strikes a good balance between avoiding to many transient visitors, but allowing for reasonable use of property to accommodate people.

Mahalo,
David Millstein

MILLSTEIN
& ASSOCIATES
100 The Embarcadero, Penthouse Suite
San Francisco, CA 94105
(415) 348-0348 Ext. 103 (415) 348-0336 fax

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From: Paisley Cipres [mailto:paisley.cipres@corcoranpacific.com]
Sent: Tuesday, August 31, 2021 4:00 PM
To: info@honoluludpp.org
Subject: Fwd: Oral Testimony Registration for Sept 1 meeting

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RESENDING-SEE BELOW

Aloha I would like to register for oral testimony at the Sept 1st meeting in opposition of the proposed change to make any rental under 180 days a short term rental or transient vacation unit.

My name is Paisley Cipres Lenharr and my phone number is 808-295-4994

My testimony is as follows:

1. I am a property manager for Elite Pacific Properties, we see many different types of tenants in our properties with various lengths of lease terms. How can a property be a month-to-month rental under the proposed change? Month to month rentals are crucial to both tenants and landlords. It offers flexibility to everyone involved to not be tied down to a home for a lengthy period of time if not needed. We have tenants who are waiting on buying a property, extending their lease each month before they can find a suitable home to buy, while we also have tenants who are in a home that is FOR SALE on a month to month basis.

2. We fully support the enforcement of actions against short term rentals and think there should be proper enforcement of the 30 day rule. THIS IS WHAT IS NEEDED.

3. It is far too reaching to include all 30 day rentals under "short term" rentals and will devastate local property owners and tenants.

--

corcoran
PACIFIC PROPERTIES

Paisley K. Cipres
RA | Corcoran Pacific Properties
808.295.4994 | paisley.cipres@corcoranpacific.com
www.corcoranpacific.com

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Takara, Gloria C

From: Gina Olsen <liottagina@gmail.com>
Sent: Tuesday, August 31, 2021 3:23 PM
To: info@honoluludpp.org
Subject: Registering to Speak for the 9/1 Hearing

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Gina Olsen
808-779-5315
Opposing amendments especially where only hotels can operate in resort zones and the set up fees.

From: Rebecca S. Fagasa [mailto:paradisehomesbyrebecca@gmail.com]
Sent: Tuesday, August 31, 2021 3:16 PM
To: info@honoluludpp.org
Cc: paradisehomesbyrebecca@gmail.com
Subject: The proposed STR amendments Transient accomidations

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Aloha,

My name is Rebecca S. Fagasa (RS) 61756, I am a licensed Real Estate Agent in the Waikiki area with Hawaii Dream Realty LLC. I sell property and am also Licensed to do property management . I manage long term and short term vacation rentals.

I do not agree and oppose with changing the 30 to 180 days or less as short term transient accommodations.

The proposed STR amendments of Transient accommodations is not acceptable.

I do not agree units in a Condominium hotel , having to be part of the hotel room inventory and losing their rights to stay in their Condo Hotel when they would like or letting their family and friends stay at their home and hiring a licensed Real Estate Management Company to take care of their home/investment.

People that own these properties should not be penalized for offering their second home to guests throughout the year.

I am very concerned about the new proposal amendments for My STR Owners with NCUC and Condo Hotel Owners that purchased properties over the years as a second home/vacation rental. These properties are in Waikiki and have hotel front desks and have allowed for property managers to manage the properties for the owners. These owners have GET and TAT licenses and have paid their taxes in full. I feel that the Honolulu Department of Planning and Permitting is taking away our property rights.

Creating a new registration process and allowing additional permits & then charging these owners a horrific amount of money to register their property is ridiculous. Initial $5000.00 and then $2500.00 every other year. On top of raising the property taxes triple what they are now. They are already Registered with the DPP & the C&C of Honolulu and have already paid their registration for their renewals.

This bill will severely hurt our economy, We the people that are residents of Honolulu and have been out of work for months are trying to catch up for the loss of income, we are Aloha and need our guests to our Islands to survive as we rely and most of us here work in the travel industry.

Have a beautiful day!

Making you money & memories

Rebecca S. Fagasa (RA) (S) CHMS 61756
Aloha Aina Nominee 2013, 2014 & 2015
Making You Money & Memories
Hawaii Dream Realty LLC Sales & Property Management
Vacation Rentals Web: www.waikikistay.com
Long Term Rentals Web: www.oahurentalservices.com
2463 Kuhio Avenue C-1
Honolulu, HI 96815
Cellular: (808) 221-2123
Office: (808) 735-2221
e-Fax: (866) 405-4274

paradisehomesbyrebecca@gmail.com
I treat ALL referrals with professional Aloha and appreciate your confidence in me. Mahalo for all your referrals!

Should not

this affecting Demand owners the AOAO Hotel

To: City and County of Honolulu Planning Commission August 31, 2021

From: Blaine MacMillan - owner at Beach Villas at Ko Olina

Re: Written submission regarding Proposed Amendments to Chapter 21, Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations.

I. Introduction:

In 2008 I purchased a condominium at the Beach Villas at Ko Olina, a condominium organized under HRS 514B and located in a Resort zone. I currently serve on our AOAO's Board of Directors.

II. The impact of the Proposed Ordinance on STRs in a Resort zone.

My discussion and requests will only be concerned with properties located in a Resort zone. As I have talked to real estate experts on Oahu there is a great deal of confusion regarding the potential impact of the Proposed Ordinance on short term rentals in a Resort zone. Some saying there will be no impact on hotels, condominium hotels, and condominiums with HOA rules that allow short-term rentals and that are located in a Resort zone, with others saying there will be a tremendous impact.

A. Transient Vacation Units ("TVUs") in a Resort zone.

Recently DPP revised the Proposed Ordinance by adding Transient Vacation Units ("TVUs") back into Table 21-3, Mixed Use Table, as a permitted use in a Resort zone, however, there was no corresponding change made to the text of the Proposed Ordinance. This is significant because a note to Table 21-3 states, "In the event of any conflict between the text of this Chapter and the following table, the text of the Chapter shall control." Without a corresponding change to Sec. 21-5.730.1, etc. this recent revision to Table 21-3 will have no effect.

The fact that DPP had originally not included TVUs as a permitted use in a Resort zone vividly demonstrates that DPP was not considering hotels, condominium hotels, and condominiums in a Resort zone as TVUs. If they are considered TVUs then under DPP's original proposal there could be no hotel, condominium hotel, or condominium operating with STRs in a Resort zone as TVUs were not a permissible use in a Resort zone. (The change to only the Table and not to the text continues to prohibit TVUs in Resort zones.)

Whether TVUs are going to be a permitted use in a Resort zone and what effect that will have on STRs in a Resort zone should be of considerable concern to the Planning Commission. If TVU's are a permitted use in a Resort zone how will this impact hotels, condominium hotels, and condominiums in a resort zone? TVU's are defined in the Proposed Ordinance as "a dwelling unit or lodging unit that is advertised, solicited, offered, or provided to transient occupants, for compensation, for periods of less than 180 consecutive days, other than a bed and breakfast home." This broad definition includes hotels, condominium hotels, and condominiums. Since TVU's are defined so broadly and currently TVU's are not a permitted use in Resort zones (until the text of the chapter is revised) hotels, condominium hotels, and condominiums cannot offer lodgings of less than 180 days inside the Resort zone. Surely this is not the intended consequence of the Proposed Ordinance. The definition of TVUs should explicitly exclude all hotels, all condominium hotels, and condominiums in a resort zone. If the

text of the chapter is revised to be consistent with the recent change to Table 21-3 the exclusion still needs to be written into the definition for TVUs, otherwise, hotels will need to meet the occupancy, permitting, and other compliance issues surrounding TVUs.

Examination of the purpose of this Proposed Ordinance and the purpose of the Resort zone also leads to the conclusion that the definition of TVUs need to be modified to exclude all hotels, all condominium hotels, and condominiums in a resort zone. Both the August 13, 2021 staff report ("The purpose of this Ordinance is to better protect **the City's residential neighborhoods** and housing stock from the negative impacts of STRs...") and the Proposed Bill itself ("Short-term rentals are disruptive to the character and fabric **of our residential neighborhoods**; they are inconsistent with the land uses that are intended **for our residential zoned areas**...The purpose of this Ordinance is to **protect the City's residential neighborhoods**...") clearly explain the purpose of this Proposed Bill is to protect the residential neighborhoods. The City and County has a clear nexus in regulating STRs in residential neighborhoods but there is no nexus in regulating TVUs in resort zones. In fact, to do so goes against the history and purpose of the Resort Zone. "The purpose of the resort district is to provide areas for visitor-oriented destination centers. Primary uses are lodging units and hotels and multifamily dwellings...**This district is intended primarily to serve the visitor population**..." ROH Sec. 21-3.100.

In short there is no valid reason to further regulate STRs inside a Resort zone. Accordingly, the definition of TVUs should explicitly exclude a dwelling unit or a lodging unit inside a Resort zone.

B. The Beach Villas at Ko Olina and the Proposed Ordinance.

Although the Beach Villas meets the definition of hotel under the existing and Proposed Ordinance, ""Hotel" means a building or group of buildings containing lodging and/or dwelling units [offering] that are used to offer transient accommodations to guests.[,]. A hotel building or group of buildings must contain [and] a lobby, clerk's desk or counter with 24 hour clerk service, and facilities for registration and keeping of records relating to hotel guests. A hotel may also include accessory uses and services intended primarily for the convenience and benefit of the hotel's guests, such as restaurants, shops, meeting rooms, and/or recreational and entertainment facilities." Section 24. Chapter 21, Article 10.

The Beach Villas is beachfront in the Resort zone of the Ko Olina Resort. The Beach Villas is only one of four beachfront properties developed at Ko Olina, the other three are the Four Seasons, the Aulani, and the Marriot Beach Club.

The Beach Villas was built as a luxury resort condominium with approved uses for transient vacation rentals and long-term residencies. Accordingly, it was built with a beautiful and spacious Hawaiian themed front desk that is operated 24 hours per day. The property also has a beach bar, meeting room, and recreational facilities. In every aspect it meets the definition of hotel under the Proposed Ordinance. However, because the 247 two and three bedroom condominiums are individually owned it is not possible to meet the new requirements under the Proposed Ordinance that require a hotel to have consistent hotel rental rates set by the hotel operator. Owners at Beach Villas have been advised that owners getting together and setting rates between owners would be a violation of rate fixing laws. Therefore, when the Planning Commission revises the definition of TVU to exclude hotels they should also explicitly include condominium hotels and condominiums in a resort zone as properties that should be excluded

from the definition of TVUs. Hotels, condominium hotels, and condominiums in a resort zone should be explicitly given the power to participate in short term rentals. This is consistent with current practice, the purpose of the Proposed Ordinance, and the Purpose of the Resort zone.

Chapter 8 (Real Property Tax). The Beach Villas is already regulated by Chapter 8 and owners that have short term rentals in this Resort zone already are classified as Hotel and Resort and pay this rate for property taxes. The same is true for other condominiums in resort zones on Oahu. See, Section 8.71, 8.75. There is no reason to not exempt condominiums in a Resort zone from the definition of TVU and permit them to have short term rentals by virtue of the Resort zone.

The Beach Villas was subject to design and building requirements of a condominium property built in a Resort zone. Accordingly, there is amble onsite parking provided for owners and guests. Although there is a nexus to occupancy rules for TVUs in residential neighborhoods there is no nexus for properties in the Resort zone. These occupancy restrictions should not be imposed on hotels, condominium hotels, or condominiums in a Resort zone. Although there is a valid reason for imposing the use and development standards on TVUs in residential neighborhoods there is no valid reason to impose those standards inside the Resort zone. See, Proposed Sec. 21-5.730.3.

III. Preserve the right for short term rentals in a Resort zone.

The Proposed Ordinance should be revised to explicitly allow for STRs by all hotels, all condominium hotels, and condominiums that are located in a Resort zone and that do not have HOA restrictions against STRs. These properties should be excluded from the definition of TVUs. To do so preserves existing laws and rules, is not contrary to the stated purpose of the Proposed Ordinance, and is consistent with the purpose of the Resort zone.

I am very proud to call Hawaii and more specifically Oahu my second home. We have had a number of opportunities to invest on Maui and were encouraged to do so over Oahu. We are very happy to have made the decision we did.

We understand the need to bring more control to the short term rental's challenge that is present on our island. Please confirm that we are not going to become part of this as we will then likely elect to divest and move elsewhere.

We would hate to have to take this direction. Please share with us that this ordinance is not applicable to our property.

Mahalo for your consideration.

Blaine and Claudine MacMillan

OT 202 Beach Villas,

KoOlina.

-----Original Message-----
From: Gerard [mailto:gerard@syflex.biz]
Sent: Tuesday, August 31, 2021 3:13 PM
To: info@honoluludpp.org
Subject: Testimony - DPP STR Draft Bill

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

To whom it may concern,

I own a property in a condominium hotel located in a resort/hotel zone, that I use for myself and my family, and rent to visitors when it is not occupied. I manage it myself.
The DPP's proposal is an attack on my property.
I have owned this property for 12 years, and specifically chose this building in a resort zone to be able to rent it as a short-term rental legally.
Forcing me to put my unit in the hotel pool will not be in the interest of the people of Hawaii:
- It will funnel some of the income generated to companies that are not located in Hawaii.
- I give work to many people in Hawaii (cleaning, maintenance and repair teams), at rates higher than the hotel provide. For example my cleaning rates are $50 per hour, and the level of cleaning I require takes at least 2.5 hours of work, sometimes up to 5 hours. A hotel doesn't provide that.
- I can choose who comes in my place, and refuse guests who have created issues in the past, like noise or illegal parties, making it a better experience for the community in Hawaii. A hotel cannot do that.
- I make the experience for my guests much more personal, sharing an Aloha spirit at a level that an hotel cannot provide. My guests in turn share this back at home, with their friends and family, bringing an incredibly favorable and enjoyable view on Hawaii. This is why we have lots of guests coming back, year after year, and family members or friends who come to our place after getting recommendations. A hotel cannot offer this kind of experience.
- The consequence of the previous point is that we have higher occupancy than an hotel. And this increased profit goes back to local people, here in Hawaii. A hotel cannot do that.
- As we manage our units ourselves, we are also more flexible. For example we don't give random discounts like a hotel, but we offer very specific discounts that benefit to the community: we've given discounts to temporary medical staff, to people from other islands (often the Big Island) visiting family here on Oahu, to students at UH Manoa and their families before the opening of the University, to persons from other islands who needed to go to a hospital on Oahu... A hotel doesn't provide that.
As many here in Hawaii, I struggle to make ends meet each month. A short term rental is an additional source of revenue that helps me meet this goal for me and my family.

For these reasons I urge you to allow people like me who own a 100% legal unit in a condominium located in a resort/hotel zone, to continue renting and managing their property as a short term rental, independently.

Gerard Banel
Owner in the Pacific Monarch - Waikiki

Takara, Gloria C

From: Caroline Miner <C_miner@outlook.com>
Sent: Tuesday, August 31, 2021 3:12 PM
To: info@honoluludpp.org
Cc: Caroline Miner
Subject: Public Participation and Testimony - City and County of Honolulu Planning Commission 9/1

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Name: Caroline Miner
Phone number: 808-600-9859
Subject Matter: Support for changing minimum rental period to 180 days. My condominium association is perfect example of the damage caused by 30 day and shorter vacation rentals.

Sent from Mail for Windows

AQUA-ASTON

HOSPITALITY

August 31, 2021

TO: Brian L. Lee, Chair
Ken Hayashida, Vice-Chair
Members of the City and County of Honolulu Planning Commission

FR: Aqua-Aston Hospitality

RE: Comments on the Proposed Revised Draft Bill Relating to Transient Accommodations

(Sent via e-mail info@honoluludpp.org)

Aloha Chair Lee, Vice Chair Hayashida, and members of the City and County of Honolulu Planning Commission,

We at Aqua-Aston Hospitality, LLC ("Aqua-Aston") are writing to offer Comments and provide Amendments to proposed amendments to Chapter 21 (Land Use Ordinance [LUO]) relating to transient accommodations (the "Proposed Bill"). Aqua-Aston has engaged in hotel and resort management in the state of Hawaii for over 75 years. On the island on Oahu, Aqua-Aston currently manages 14 hotels and condominium hotels

The City Council has determined that short-term rentals are disruptive to the character and fabric of our residential neighborhoods and has found that any economic benefits of opening-up our residential areas to tourism are far outweighed by the negative impacts to our neighborhoods and local residents. The purpose of the proposed measure is to better protect the City's residential neighborhoods and housing stock from the negative impacts of short-term rentals by providing a more comprehensive approach to the regulation of transient accommodations. Aqua-Aston supports the concerns raised by the Council, however, there are a few provisions within the Proposed Bill that create issues in the condominium hotel industry that warrant attention.

First, the proposed insertion of a new Section 21-5.360.2(b) regulating business travel hotels located in the BMX-3 district prohibits multifamily dwellings and hotel use on the same floor level. This prohibition is impractical for condominium hotels located in a BMX-3 district. The purpose of the business mixed use district is to recognize that certain areas of the city have historically been mixtures of commercial and residential uses, and to encourage the continuance and strengthening of this pattern. Given the stated purpose of the zoning district, the BMX-3 district is not a residential neighborhood requiring protection by the Proposed Bill.

Existing condominium projects in the BMX-3 district have units that can be used for business and/or residential use without any limitation on use to particular floors unless otherwise stated in the condominium documents. It is common for an existing condominium project in a

Office: 820 Mililani St, Ste. 600, Honolulu, HI 96813 T 808-931-1400
Mailing Address: 6649 Westwood Blvd., Orlando, FL 32821

BMX-3 district to have units which engage in business on the same floor as units which are used for residential purposes. Purchasers of condominium units in the BMX-3 district were fully aware at the time of purchase that they were purchasing a unit in a mixed-use condominium project located in a business mixed use district. Absent an express limitation in the condominium documents, purchasers have no expectation that all units on the same floor would be used for either residential or business purposes. Further, as ownership of units change hands from time to time, the use of a particular unit may change, particularly in a mixed-use condominium project. For these reasons, Aqua-Aston recommends that the Proposed Bill be amended to delete the limitation on the use of units on the same floor. Should the City Council not be inclined to remove the language that multifamily dwelling units and hotel use not be permitted on the same floor, Aqua-Aston recommends, at a minimum, that the Proposed Bill be amended to grandfather existing condominium projects located in a BMX-3 district.

Secondly, the restriction in Section 21-5.360.1 prohibiting hotels and third-party booking services from providing discounted rental rates to the owners of condominium hotel units or hotel guests arranged for by the owners of condominium hotel units unless the same discounted rates are available to members of the general public is problematic. Offering discounted rental rates at other properties managed by the hotel operator to owners of condominium hotel units is a benefit which condominium hotel operators generally offer owners of condominium hotel units as a token of their appreciation for allowing their unit to be used for transient rentals. Condominium hotel operators also allow the owners of condominium hotel units to offer discounts to transient guests for stays that the owner arranges through the condominium hotel operator in appreciation for the owner taking the initiative to find transient guests for the units in the condominium hotel on his own. Prohibiting discounted rental rates does nothing to further the goal of preserving residential neighborhoods. It only eliminates one of the methods used by condominium hotel operators to show appreciation to the owners of condominium hotel units for placing their units in the condominium hotel inventory. Aqua-Aston recommends that this prohibition on discounted rental rates be deleted.

Lastly, the proposed Section 21-5.360.1 states that units in condominium hotel must be part of the hotel's room inventory available for rent to the general public. However, it is unclear whether every unit in a condominium project must be part of the hotel's room inventory. Based on Aqua-Aston's experience, it is extremely rare for every unit in a condominium project to be a part of the hotel's room inventory. While a condominium hotel operator will make every effort to offer every owner in the condominium project the opportunity to place his or her unit in the hotel room inventory, there will always be owners who choose to use off-site rental managers to rent their unit as a transient vacation unit ("TVU"), to the extent legally permissible, or use their unit as a residence. Accordingly, Aqua-Aston recommends that the Proposed Bill be amended to require that all bookings and reservations for all units in the condominium project go through the centralized hotel booking system of the hotel operator or the 24-hour front desk, and such hotel operator or front desk operator may charge a fee for each reservation to the extent the booking is for a unit that is not a part of the hotel's room inventory. Such a requirement would centralize the room inventory in a condominium project under the hotel operator operating the 24-hour front desk. Additionally, the front desk will have a complete record of all transient guests registered at the property for safety and security purposes.

Furthermore, we are concerned that requiring all units in a condominium project operating as a condominium hotel to be included in the hotel's inventory and used exclusively as hotel units may trigger a federal securities law issue if the developer failed to register the property as a security.

Based upon the foregoing, Aqua-Aston recommends the following amendments to the Proposed Bill:

1. Amend Section 21-5.360.2(b) to remove the requirement that multifamily dwelling use and hotel use not be on the same floor. Alternatively, grandfather existing condominium projects in the BMX-3 district where multifamily dwelling use and hotel use already exist on the same floor;

2. Amend Section 21-5.360.1 to remove the prohibition on discounted rental rates to owners of condominium hotel units or hotel guests arranged for by the owners of condominium hotel units.

3. Amend Section 21-5.360.1 to require that "[A]ll units in a condominium hotel being used as a hotel unit or transient vacation unit shall be booked by guests through a centralized hotel booking system that is managed by the operator of the 24-hour front desk at the condominium project, provided that this section shall not prohibit the booking of hotel units through third party services or technologies that make bookings through the central hotel operated booking system managed by the hotel's front desk. For every reservation booked for a transient vacation unit, the operator of the 24-hour front desk may charge a fee".

We sincerely thank you for your time and consideration of Aqua-Aston's comments and recommended amendments. We look forward to working with the Council and members of this Commission to create language that preserves our local neighborhoods and protects the rights of condominium hotel unit owners.

Respectfully submitted,

Denis Ebrill
Aqua Aston Hospitality, LLC, Managing Director

Office: 820 Mililani St, Ste. 600, Honolulu, HI 96813 T 808-931-1400
Mailing Address: 6649 Westwood Blvd., Orlando, FL 32821

MARRIOTT
VACATIONS
WORLDWIDE
SM

August 31, 2021

TO: Brian L. Lee, Chair
Ken Hayashida, Vice- Chair
Members of the City and County of Honolulu Planning Commission

FR: Denis Ebrill, Marriott Vacations Worldwide Corporation
RE: Comments on the Proposed Draft Bill Relating to Transient Accommodations
(Sent via e-mail info@honoluludpp.org)

Aloha Chair Lee, Vice Chair Hayashida and members of the City and County of Honolulu Planning Commission,

Thank you for allowing me to submit testimony on behalf of Marriott Vacations Worldwide Corporation ("MVWC") **providing comments** to proposed amendments to Chapter 21 (Land Use Ordinance [**LUO**]) relating to transient accommodations. MVWC is a global leader in the timeshare industry with ten resort properties in Hawaii. Timeshare resorts are an important and stabilizing part of the tourism industry, and resort development provides thousands of construction jobs in Hawaii per year.

The City Council has determined that short-term rentals are disruptive to the character and fabric of our residential neighborhoods and have found that any economic benefits of opening-up our residential areas to tourism are far outweighed by the negative impacts to our neighborhoods and local residents. The purpose of the proposed measure is to better protect the City's residential neighborhoods and housing stock from the negative impacts of short-term rentals by providing a more comprehensive approach to the regulation of transient accommodations. MVWC understands the concerns raised by the Council, however, there are provisions within the proposed draft that should be addressed.

First, the proposed bill amends the definition of "Condominium Hotel" to mean "a hotel in which one or more hotel units are separate real property interests created by a declaration of condominium property regime." This could be interpreted to include timeshare units which would restrict timeshare operators' ability to operate under current contracts. Specifically, it would restrict the ability of owners from extending the use of their units at discounted rates, which is a typically an incentive when purchasing a timeshare unit.

Section 21-5.360.1 would also prevent discounted rental rates to owners of condominium hotel units and their guests, which is a key purpose for which condominium hotels are created. Prohibiting discounted rental rates for the owners of condominium hotel units restricts the owners' usage of the unit and does not further the goal of preserving residential neighborhoods since they are already properly zoned. This prohibition should be deleted.

Second, the proposed insertion of a new Section 21-5.360.2(b) regulating business travel hotels located in the BMX-3 district prohibits multifamily dwellings and hotel use on the same

floor level. This prohibition is impractical for condominium hotels located in a BMX-3 district. The design of the business mixed use district is to recognize mixtures of commercial and residential uses, and to encourage the continuance and strengthening of this pattern. Given the stated purpose of the zoning district, the BMX-3 district is not a residential neighborhood requiring protection by the Proposed Bill.

Additionally, it is common for an existing condominium project in a BMX-3 district to have units which engage in business on the same floor as units which are used for residential purposes. Purchasers of condominium units in the BMX-3 district were fully aware at the time of purchase that they were purchasing a unit in a mixed use condominium located in a business mixed use district. Absent an express limitation in the condominium documents, purchasers had no expectation that all units on the same floor would be used for either residential or business purposes. Further, as ownership of units change hands from time to time, the use of a particular unit may change, particularly in a mixed-use condominium. For these reasons, MVWC recommends that the Proposed Bill be amended to delete the limitation on the use of units on the same floor or allow existing condominium hotel projects located in a BMX-3 district to continue such uses.

Third, the proposed Section 21-5.360.1 states that units in condominium hotel must be part of the hotel's room inventory available for rent to the general public. However, it is unclear whether every unit in a condominium project must be part of the hotel's room inventory. It is rare for every unit in a condominium project to be a part of the hotel's room inventory as some owners use their unit as a residence. Accordingly, the Proposed Bill should be amended to require that all bookings for units in the condominium project utilize a central hotel booking system of the hotel operator or the 24-hour front desk. This requirement would centralize the room inventory and provide a complete record of all transient guests registered at the property for safety and security purposes.

Lastly, a timeshare unit as currently defined may be a either a hotel or transient vacation unit (TVU) subject to a time share plan. Accordingly, some timeshare units may be subject to restrictions on TVUs in the proposed amendments which include: 1) limitation on zoning districts which TVUs are permitted uses subject to Article 5; and 2) new required registration process of TVUs which also limits the amount of TVUs a natural person can register to one.

Based upon the foregoing, MVWC recommends the following amendments to the Proposed Bill:

1. Amend Section 21-5.360.2(b) to remove the requirement that multifamily dwelling use and hotel use not be on the same floor. Alternatively, grandfather existing condominium projects in the BMX-3 district where multifamily dwelling use and hotel use already exist on the same floor;

2. Amend Section 21-5.360.1 to remove the prohibition on discounted rental rates to owners of condominium hotel units or hotel guests arranged for by the owners of condominium hotel units.

3. Amend Section 21-5.360.1 to require "[A]ll units in a condominium hotel project being used as a hotel unit shall be booked by guests through a centralized hotel booking system that is managed by the operator of the 24-hour front desk at the condominium project, provided that this section shall not prohibit the booking of hotel units through third party services or technologies that make bookings through the central hotel operated booking system managed by the hotel's front desk.".

4. Amend the definition of TVUs to expressly exempt TVUs that are part of a legally established time-share program from registering under the newly added Sec. 21-5.730.2.

Mahalo for your consideration of these amendments.

Aloha,

Denis Ebrill
Senior Vice President
Marriott Vacations Worldwide Corporation

#1105, 435 Seaside Avenue
Honolulu, Hawaii 96815

August 31, 2021

Department of Planning and Permitting
City and County of Honolulu
650 South King Street, 7th Floor
Honolulu, Hawaii 96813
info@honoluludpp.org

To Members of the Planning Commission:

Re: Proposed Amendments to Chapter 21 (Land Use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations

We write regarding the proposed amendments to transient accommodations in Honolulu, which we understand is scheduled for public hearing on September 1, 2021.

We have owned a condominium in Waikiki for over forty years. We stay each year in Waikiki for several months and, when we are not in our unit, it is available for rent. The condominium by-laws require a minimum 30-day rental period.

For the last decade or so, we have mainly rented out our suite to nurses who come to Hawaii for short term contracts. These contracts initially are inevitably for less than six months, although on occasion nurses stay on and rent out our unit for six months or more. Our condominium has a home like feel – it is definitely not a hotel. Those that stay in our unit treat it like their home – not vacationers that are partying.

Waikiki is ideally suited for monthly short-term rentals. Such rentals are part of the neighbourhood. Continuing with rentals 30 days or longer in Waikiki meets the needs of those who come to Hawaii for a myriad of reasons, including to find accommodation for short-term work. Those that come to Honolulu for a few months are drawn to Waikiki as it is near the beach, close to downtown and with restaurants, shopping and entertainment nearby.

Waikiki is a resort area and continuing to allow 30 day or longer rentals is in keeping with the neighbourhood as it has existed for the last 40 years.

Sincerely,

Frederick Schipizky and Rosemarie Schipizky

Takara, Gloria C

From: Jenny Kono <jenny@elitepacific.com>
Sent: Tuesday, August 31, 2021 2:53 PM
To: info@honoluludpp.org
Subject: Register to Speak | Proposed Amendment to LUO | 9-1-21
Attachments: Testimony Opposed Jenny Kono - 9-1-21.pdf

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Aloha,

I would like to Register to Speak at the 9-1-21 Planning and Permitting Meeting regarding Proposed Amendment to the LUO

Jenny Kono
(808) 927-7399
jenny@elitepacific.com
Please register me to speak
OPPOSED

Please see my written testimony below (Also attached).

My name is Jenny Kono, a lifelong Oahu resident. I oppose the proposed amendment to the LUO, specifically changing the definition of a long-term rental from 30-days to 180-days.

The reason I oppose this change is because the people who rent for lengths of time between 30 - 180 days are NOT TOURISTS!! There are 101 reasons why someone who is not a tourist may need a month-to-month rental on Oahu.

A good friend of mine is currently renting a home for 3 months while he produces a movie here. He has done this almost every year for the last 10 years.

My brother and his family are currently looking for a home to rent for 3-4 months while they re-build their house on their property.

My aunt and uncle are flying in from California next month for an extended period to settle the estate of my late great-aunt who owned a home in Red Hill.

These are current examples from my immediate family and friends, but there are many reasons; medical, sports, education, business... where locals and non-tourists need month-to-month rentals.

The DPP's foreword specifically speaks of keeping TOURISTS out of neighborhoods. It does not speak of eliminating ALL month-to-month rental options. YET... that is what changing long-term rentals from 30-days to 180-days will do. It will eliminate all month-to-month rental options.

The current law, as it is written, prohibits STR's, TVU's, B&B's and any rental of less than 30-days in residential neighborhoods. With PROPER ENFORCEMENT, is that not enough??

Must we eliminate month-to-month rentals as well!?!?!?

I believe.... that with proper enforcement of the current law, the DPP can keep transient tourists out of residential neighborhoods without the need to eliminate month-to-month rental options altogether.

Thank you
Jenny
--

IMPORTANT NOTICE: Email scams and wire fraud are becoming increasingly common. Never wire any funds, or provide anyone wiring instructions, without first verifying it by phone with your real estate agent or escrow officer. This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. Please notify the sender immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

Aloha,

My name is Jenny Kono, a lifelong Oahu resident. I oppose the proposed amendment to the LUO, specifically changing the definition of a long-term rental from 30-days to 180-days.

The reason I oppose this change is because the people who rent for lengths of time between 30 - 180 days are NOT TOURISTS!! There are 101 reasons why someone who is not a tourist may need a month-to-month rental on Oahu.

A good friend of mine is currently renting a home for 3 months while he produces a movie here. He has done this almost every year for the last 10 years.

My brother and his family are currently looking for a home to rent for 3-4 months while they re-build their house on their property.

My aunt and uncle are flying in from California next month for an extended period to settle the estate of my late great-aunt who owned a home in Red Hill.

These are current examples from my immediate family and friends, but there are many reasons; medical, sports, education, business... where locals and non-tourists need month-to-month rentals.

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Must we eliminate month-to-month rentals as well!?!?!?

I believe.... that with proper enforcement of the current law, the DPP can keep transient tourists out of residential neighborhoods without the need to eliminate month-to-month rental options altogether.

Thank you

-----Original Message-----
From: Thomas Dalbert [mailto:thomas@dalbert.us]
Sent: Tuesday, August 31, 2021 2:50 PM
To: info@honoluludpp.org
Subject: Re: DPP's Draft Bill Short-Term Rentals

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Aloha,

I already registered to speak at tomorrow's Planning Commission Hearing but also wanted to submit my concerns regarding the DPP STR Draft Bill in writing.

My wife and I have raised our two sons here in Wai'anae. Now that they have left, we are sharing our home with visitors from the mainland. For the month of October, we have a person visiting his fiancé who lives and works in Waianae. For the month of January, we will be hosting a small family with a single kid who starts working at the Waianae Comprehensive Health Center and stays at our home to search for a permanent place to live.
We intended to share our home with other visitors. This helps us afford the housing cost and hold onto our home with our reduced retirement income. At the same time, it allows us to interact with people from around the world now that we can't travel that much anymore.
We don't understand how this is possibly hurting the local community and our neighborhood?

The originally proposed rules for B&Bs where specifically created for homeowners like us who live permanently in their only house and want to rent out 1-2 bedrooms to visitors. The rules defined that we would always have to be present and provide parking on property for the visitors. Again, we don't understand how our visitors could possibly have a negative impact in our community. They are shopping here, going out to dinner, and use local guides.

We don't fully understand the proposed fee structure. We are glad to carry our share in taxes and fees, but they need to be reasonable in proportion to our profits. The GE and TA are a perfect way to tie those taxes to the actual income from the rental.

It is true that the pandemic has shown us what life with less tourism would be like – the positive and the negative impact of it all! But those masses of tourists which crowd our beaches and hiking trails and feed a hungry industry are coming in through the tourist centers like Waikiki and are not caused by B&Bs. They are arriving in busloads at Makua and Aki's Beach from Ko Olina and Waikiki. Besides, those 2 bedrooms taken off the market wouldn't fix the housing crises. Instead, they just stay empty.

Thank you!
Thomas and Melissa Dalbert
Wai'anae

August 31, 2021

TO: Brian L. Lee, Chair
Ken Hayashida, Vice- Chair
Members of the City and County of Honolulu Planning Commission

FR: AMERICAN RESORT DEVELOPMENT ASSOCIATION OF HAWAII (ARDA-Hawaii)

RE: Comments on the Proposed Draft Bill Relating to Transient Accommodations

(Sent via e-mail **info@honoluludpp.org**)

Aloha Chair Lee, Vice Chair Hayashida and members of the City and County of Honolulu Planning Commission,

We are writing to offer, for your consideration, **COMMENTS AND PROPOSED AMENDMENTS** to the proposed amendments to Chapter 21 (Land Use Ordinance [**LUO**]) relating to transient accommodations.

The stated purpose of the proposed measure is to better protect the City's residential neighborhoods and housing stock from the negative impacts of short-term rentals by providing a more comprehensive approach to the regulation of transient accommodations within the City. The City Administration has determined that any economic benefits of opening up our residential areas to tourism are far outweighed by the negative impacts to our neighborhoods and local residents.

While ARDA-Hawaii understands and appreciates the Administration's concerns, our organization finds that there are specific provisions in the proposed draft that may have unintended consequences that could *bring the development and construction of condominium hotels and timeshare projects to a halt and have a negative impact on Hawaii's economy and the hospitality industry.*

First, a "timeshare unit," as currently defined in the proposed amendment, may either be a hotel or transient vacation unit (TVU) subject to a timeshare plan. Accordingly, some timeshare units may be subject to restrictions on TVUs in the proposed amendments, which include: 1) limitations on which zoning districts TVUs will be permitted in; and 2) a new required registration process for TVUs that also limits the number of TVUs a natural person can register, to one.

Secondly, timeshare and condominium hotel units appear to be included in the definition for "hotel." Under Section 24 of the proposed measure, the definition of "hotel" was amended to mean a building or group of buildings containing lodging and/or dwelling units that are used to offer transient accommodations to guests. A hotel building or group of buildings must contain a

lobby, clerk's desk or counter with 24-hour clerk service, and facilities for registration and keeping of records relating to hotel guests. "Hotel units" means a dwelling unit or a lodging unit located in a hotel building. It is unclear whether these definitions mean that any unit in a "hotel" is a hotel unit. The proposed amendments to the definition of "hotel" may be construed to include timeshare and condominium hotel units, thus creating confusion. Accordingly, this could subject timeshare and condominium hotel units to the new restrictions set forth in Sec.21-5.360 that: 1) prohibit hotel units from being used as a TVU; and 2) require that hotel units be booked by guests through a centralized hotel booking system that is managed by the hotel operator or through the hotel front desk.

Thirdly, timeshare may get swept up in the broader definition for "condo-hotel." Under Section 25 of the proposed bill "Condominium Hotel" has been amended to mean "a hotel in which one or more hotel units are separate real property interests created by a declaration of condominium property regime." If timeshares are deemed to fit within this definition, such as where a timeshare or other project may be submitted to a condominium property regime, the units will be subject to limitations set forth the newly-amended Sec.21-5.360.1. This provision prohibits condominium hotels and third-party booking services from providing discounted rental rates to the owners of condominium hotel units or hotel guests arranged for by the owners of condominium hotel units *unless the same discounted rates are available to members of the general public*. This provision may have the unintended consequences of: 1) preventing timeshare unit owners from renting out unused timeshare weeks at discounted rates; 2) requiring such owners to make their discounted rates available to the general public. Additionally, this proposed limitation may also impact developers of such projects who offer low rates as an incentive to potential buyers considering a purchase of a timeshare unit.

Fourthly, the ability for owners to use their condominium hotel units when they wish, subject to prior reservations, is one of the key aspects of condominium hotel ownership. This capability is what attracts the majority of condominium hotel purchasers who stay in the unit for part of the year and rent it out for the remaining times. The new provision Sec.21-5.360.1 would prevent condominium hotel owners from utilizing an integral aspect of their ownership. ARDA Hawaii understands the purpose and intention of the bill, however, it is unclear how limiting an owner's ability to utilize their own unit furthers the stated policy goals of the proposed measure. There appears to be little justification for impairing these owners' rights.

Lastly, in Sec. 21-5.360.1, units in condominium hotel <u>must</u> be part of the hotel's room inventory available for rent to the general public. The provision also allows for a condominium hotel unit to be used as a primary residence or usual place of abode. These two statements contradict each other and may require an owner utilizing their unit as a primary residence to include their unit in the hotel's room inventory. Accordingly, this discrepancy should be resolved.

Due consideration should be given to the broader impacts of the proposed measure. There are many considerations that should be vetted and addressed. Respectfully, ARDA-Hawaii asks this Commission to consider at least the following recommended amendments to address the aforementioned concerns. There may be others that surface.

1. Amend the definition of "hotel" and "hotel units" to distinguish the definitions from condominium hotel and timeshare to eliminate confusion and unintended consequences.

2. Amend the definition of "Condominium Hotels" to expressly exempt timeshare.

3. Amend Sec. 21-5.360.1 to expressly create an exception to the discounted rental rates requirements for timeshare. For example, language should be added to the end of the new Sec. 21-5.360.1 to include "This section does not apply to bookings for condominium hotel units that are part of a legally established time-share program." This amendment replicates the exception in Sec. 21-5.360(c) for hotel units.

4. Remove the restriction on discounted rates for condominium hotel unit owners from Sec. 21-5.360.1.

5. Amend Sec. 21-5.360.1 to remove condominium hotel units being utilized as primary residences from being required to be part of the hotel's room inventory. For example, language could include "Units in a condominium hotel not used as a primary residence or place of abode of an owner must be part of the hotel's room inventory, available for rent to the general public."

6. Amend the definition of TVUs to expressly exempt TVUs that are part of a legally established time-share program from the registering under the newly-added Sec. 21-5.730.2.

7. Include resort zoned property in Hoakalei in Sec. 21-5.730.1(a), thus permitting transient use at that property.

We look forward to working with the members of the Commission to create language that preserves our local neighborhoods, protects the rights of unit owners, does not result in stopping the development of worthy projects in properly-zoned areas of Oahu, and clearly regulates transient accommodations. Thank you for your consideration.

Respectfully submitted,

Mitchell Imanaka
Chair
American Resort Development Association of Hawaii

ATTORNEYS AT LAW

DURRETT LANG MORSE, LLLP

KALANI A. MORSE, ESQ.
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kmorse@dlmhawaii.com

(Via email to: info@honoluludpp.org; CC: lee@code-studio.com)

City and County of Honolulu Planning Commission
c/o Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to article five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. Our office represents Mrs. Sandra Van. Through her trust, Mrs. Van owns two small parcels identified as Tax Map Key No. (1)86008024 and Tax Map Key No. (1)86008023. Both parcels are presently zoned for agricultural use. Mrs. Van is deeply worried that she will lose the right to live in her own home due to the stricter occupancy restrictions looming in article five of the proposed revisions to the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are free to live in their homes on agricultural land if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1] The proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming. This suggested revision to the LUO specifically articulates that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3]

These new occupancy restrictions appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural land.[4] Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, these occupancy restrictions will have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities.

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[1] Quoted text is taken from HRS 205-4.5

[2] The proposed changes to the LUO can be viewed in their entirety on the Department of Planning and Permitting's own website homepage (http://www.honoluludpp.org) under the "News" heading

[3] See Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

The disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes. Indeed, implementing this new occupancy standard will amount to a de facto eviction for Mrs. Van and other individuals and families residing on agricultural land who are unable to actively farm their lands, either due to health conditions, advanced age, retirement, finances, caregiving responsibilities, or other personal circumstance that may preclude active farming.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, to dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if the new provisions are allowed to proceed.

Mrs. Sandra Van's parcels face several adverse conditions which would complicate any substantial agricultural production on the land. Firstly, the parcels are very small, measuring just 1.56 and 1.8 acres in total land area. Largescale production of crops is exceedingly difficult on lots that small. Additionally, it is our understanding that the parcels do not currently enjoy sufficient water access to support substantial agricultural production. Furthermore, both parcels are situated within an old river bottom and characterized by thin, sediment-filled soil. There are large rocks present throughout the soil which would hinder any tilling of the soil necessary to facilitate the planting and cultivation of crops. Adverse conditions innate to Mrs. Van's parcels significantly complicate agricultural production on the land. Therefore, it would be unreasonable to apply a new occupancy standard to Mrs. Van's land which preserves her ability to live on the land only when she actively farms.

In addition to the environmental and challenges and size constraints on the Trust's parcels, the members of the Van family currently occupying the parcels are not prepared to farm. Mrs. Sandra Van is nearly 65 years old. She has asthma as well as heart issues severe enough to necessitate an implanted heart monitor. Mrs. Van does not have the strength or stamina to engage in agricultural production. Mrs. Van's son and daughter-in-law also reside on the parcels. However, both are engaged with non-agricultural work and other responsibilities necessary to sustain their families. As no member of the Van family presently living on the parcels can reasonably be expected to farm the land, the proposed new occupancy restrictions for agricultural land would render the family's occupancy of their own land illegitimate and amount to a de facto eviction of Ms. Sandra Van and her relatives from a property that they have developed and invested in extensively. This potentiality is of profound concern to Mrs. Van.

Even if no immediate enforcement actions are taken against the Mrs. Van in connection with the LUO revision, the new occupancy restrictions will continually be a source of stress and concern for the Van family and any future landowners or occupants of the Parcel. The passage of the revised LUO will create a threatening uncertainty which will loom over Mrs. Van's sincere hope of peacefully living out their days on their own property and passing that property down to their heirs without the threat of eviction and foreclosure. Degrading Mrs. Van's occupancy rights

and disrupting her life in this manner simply because she is not physically able to operate a substantial farm on her parcel would be unjust, blatantly discriminatory, and senseless. Furthermore, application of the new occupancy standard to Mrs. Van's land will fail to meaningfully protect O'ahu's agricultural industry or in any way discourage the establishment of gentlemen farms.

Mrs. Van strongly objects to the proposed changes to the LUO. Should the LUO revision proceed, Mrs. Van would request a contested case hearing to ensure due protection of his interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations.

Mrs. Van trusts that the Planning Commission will cautiously approach any actions or decisions that would disproportionately harm those disabled and elderly members living in Oahu's agricultural communities. Indeed, Mrs. Van hopes the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting people like Mrs. Van and her relatives from their longtime homes. Mrs. Van implores the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

Kalani A. Morse

KAM
Enclosure

ATTORNEYS AT LAW
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City and County of Honolulu Planning Commission
c/o Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to article five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. Our office represents Mrs. Yvonne Watari, trustee of the "YVONNE Y. WATARAI TRUST" (the "Trust") The Trust owns the parcel identified as Tax Map Key Number (1)870180230 (the "Parcel"). which is presently zoned for agricultural use. Mrs. Yvonne Watarai and her family members are exceedingly worried about losing the right to live in their own home due to the stricter occupancy restrictions looming in article five of the proposed revisions to the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are free to live in their homes on agricultural land if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1] The proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming. This suggested revision to the LUO specifically articulates that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3]

These new occupancy restrictions appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural land.[4] Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, these occupancy restrictions will

[1] Quoted text is taken from HRS 205-4.5

[2] The proposed changes to the LUO can be viewed in their entirety on the Department of Planning and Permitting's own website homepage (http://www.honoluludpp.org) under the "News" heading

[3] See Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities.

The disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes. Indeed, implementing this new occupancy standard will amount to a de facto eviction for the Watarai family and other families residing on agricultural land who are unable to actively farm their lands, either due to health conditions, advanced age, retirement, finances, caregiving responsibilities, or other personal circumstance that may preclude active farming.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, to dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if the new provisions are allowed to proceed.

While Mrs. Watarai's Parcel has historically been used for agriculture it is currently unplanted and not suited to agricultural production. The parcel does not currently enjoy access to the quantities of water necessary to support largescale agricultural activity. There is a well producing water on the property, however the water is too salty to be used for in connection with any farming operation. As such, viable agricultural production would require installation of a water line. Mrs. Watarai would need to seek loans to finance any installation project. As Mrs. Watarai is 72 years old, it would be unreasonable to expect her to take on debt in an attempt to establish a new agricultural operation on her lands. Given the adverse conditions faced by Mrs. Watarai's land, requiring her to actively farm the land in order to continue occupying the land would be wholly unreasonable.

The considerable issues with water access are not the only obstacles to farming operations on the parcel. The current occupants of the land are themselves not able to farm. As previously mentioned, Mrs. Yvonne Watarai is 72 years old and cannot be expected to farm. Mrs. Watarai rents out two homes on the property to families that have been in place for decades. One house is rented by Mr. and Mrs. Myron Hamasaki while the other is rented by Mr. and Mrs. Clarence Laybon. The children and grandchildren of the Hamasaki and Laybon families occasionally occupy the homes. However, the only permanent occupants on the land are elderly and unfit to the work of agricultural production. For any agricultural production to occur on the land, Mrs. Watarai would first have to find a new tenant who was willing and able to farm. Furthermore, the proposed revisions to the LUO would allow only those who "actively and currently farm" *and their families* can live on agricultural land. As such, even if she was able to find a farmer willing to establish agricultural production on the land, application of the new occupancy restrictions to Mrs. Watarai's Parcel could still render the Mrs. Yvonne Watarai's occupancy of her own land illegitimate and amount to a de facto eviction of Ms. Watarai from a property that she has developed and invested in extensively. Additionally, codifying the new occupancy standard might unjustly force Mrs. Watarai to disrupt the lives of her longstanding tenants. The potential that her

occupancy rights could be degraded by changes to the LUO is of profound concern to Mrs. Yvonne Watarai.

Even if no immediate enforcement actions are taken against the Watarai family in connection with the LUO revision, the new occupancy restrictions will continually be a source of stress and concern for Mrs. Watarai and any future landowners or occupants of the Parcel. The passage of the revised LUO will create a threatening uncertainty which will loom over Mrs. Watarai's genuine hope of peacefully living out their days on their own property and passing that property down to their heirs without the threat of eviction and foreclosure. Allowing such grievous harm to come to Mrs. Watarai and her tenants because they are not physically able to farm would be show a remarkable lack of consideration for the needs and conditions of those living in O'ahu's agricultural communities. Such action would also be blatantly discriminatory and would fail to meaningfully advance the goal of protecting and maintaining agricultural production in the State of Hawai'i.

Mrs. Yvonne Watarai and her Trust strongly object to the proposed changes to the LUO. Should the LUO revision proceed, the Trust would request a contested case hearing to ensure due protection of its interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations.

Mrs. Watarai trusts that the Planning Commission will cautiously approach any actions or decisions that would disproportionately harm those disabled and elderly members living in Oahu's agricultural communities. Indeed, Mrs. Watarai hopes the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting people like Mrs. Watarai and her tenants from their longtime homes. Mrs. Watarai implores the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

Kalani A. Morse

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City and County of Honolulu Planning Commission
c/o Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to article five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. Our office represents Mr. Alekisio Vakauta. Mr. Vakauta is the owner of the parcel identified as Tax Map Key No. (1)86003004 (the "Parcel"), which is presently zoned for agricultural use. Mr. Vakauta and his family members are urgently concerned about losing the right to live in their own home due to the stricter occupancy restrictions for dwellings situated on agricultural land looming in article five of the proposed revisions to the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are free to live in their homes on agricultural land if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1] The proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming. This suggested revision to the LUO specifically articulates that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3]

These new occupancy restrictions appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural land.[4] Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, these occupancy restrictions will

[1] Quoted text is taken from HRS 205-4.5

[2] The proposed changes to the LUO can be viewed in their entirety on the Department of Planning and Permitting's own website homepage (http://www.honoluludpp.org) under the "News" heading

[3] See Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities.

The disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes. Indeed, implementing this new occupancy standard will amount to a de facto eviction for the Vakauta family and other families residing on agricultural land who are unable to actively farm their lands, either due to health conditions, advanced age, retirement, finances, caregiving responsibilities, or other personal circumstance that may preclude active farming.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, to dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if the new provisions are allowed to proceed.

Mr. Vakauta's Parcel faces several challenges which would complicate any effort to farm on the land. The Parcel's total size is arguably sufficient for agricultural production. However, much of the land is not suitable for that purpose. To our knowledge, a section of land approximately 5 acres in size situated at the back of the property features soil dominated by gravel. No planting is possible on that portion of the property. Additionally, since no irrigation currently exists on the property, preparing the rest of the land for agricultural production would require significant effort by the landowner. While some agricultural production may be possible in the future, at present the parcel cannot support production.

While concerns related to land quality do constitute a barrier to agricultural production on the Parcel, the Client's personal circumstances are a more significant concern. Mr. Vakauta is 65 years old. Mr. Vakauta is also disabled as the result of an injury. He requires family member assistance to accomplish daily tasks. Preparing the parcel for agricultural production is far beyond Mr. Vakauta's physical ability. Continually farming the land would also be impossible for Mr. Vakauta.

Given the unfavorable condition of the land and the fact that Mr. Vakauta's disability precludes him from performing agricultural work, applying the strict occupancy standard contained within the proposed revisions to the LUO to Mr. Vakauta's parcel could render his occupancy of his own land illegitimate and amount to a de facto eviction of Mr. Vakauta from a property that he has developed and invested in significantly.[5] Enforcing the proposed occupancy standard without regard for Mr. Vakauta's personal circumstances would constitute a blatant and

[5] While other members of the Vakauta family do live on the parcel, they are also not suited to farm.
Mr. Vakauta lives with his 12-year-old daughter, Jane Seymour.
Four other members of the Vakauta family live on the parcel in a separate lodging. However, these individuals are engaged with their own nonagricultural responsibilities including helping Alekisio with daily tasks and assisting in caring for Alekisio and Jane. As such, no member of the family could feasibly farm on the land.

intensely harmful instance of discrimination against a disabled land owner. Such action is particularly unjustifiable as it would not meaningfully discourage the establishment of gentleman farms or in any way help to maintain local agricultural production.

Even if no immediate enforcement actions are taken against the Vakauta family in connection with the LUO revision, the new occupancy restrictions will continually be a source of stress and concern for the Mr. Alekisio Vakauta and any future landowners or occupants of the Parcel. The passage of the revised LUO will create a threatening uncertainty which will loom over the Mr. Vakauta genuine hope of peacefully living out his days on his own property and passing that property down to his heirs without the threat of eviction and foreclosure.

Mr. Vakauta strongly objects to the proposed changes to the LUO. Should the LUO revision proceed, the Trust would request a contested case hearing to ensure due protection of its interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations.

Mr. Vakauta trusts that the Planning Commission will cautiously approach any actions or decisions that would disproportionately harm those disabled and elderly members living in Oahu's agricultural communities. Indeed, Mr. Vakauta hopes the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting people like Mr. Vakauta. Mr. Vakauta implores the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

Kalani A. Morse

KAM
Enclosure

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City and County of Honolulu Planning Commission
c/o Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to article five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. Our office represents Mrs. Diana Young. Mrs. Young owns the parcel identified as Tax Map Key No. (1)41018022, which is presently zoned for agricultural use. Mrs. Young is urgently worried about losing the right to live in her own home due to the stricter occupancy restrictions looming in article five of the proposed revisions to the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are free to live in their homes on agricultural land if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1] The proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming. This suggested revision to the LUO specifically articulates that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3]

These new occupancy restrictions appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural land.[4] Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, these occupancy restrictions will have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities.

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[2] The proposed changes to the LUO can be viewed in their entirety on the Department of Planning and Permitting's own website homepage (http://www.honoluludpp.org) under the "News" heading

[3] See Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

The disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes. Indeed, implementing this new occupancy standard will amount to a de facto eviction for the Young family and other families residing on agricultural land who are unable to actively farm their lands, either due to health conditions, advanced age, retirement, finances, caregiving responsibilities, or other personal circumstance that may preclude active farming.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, to dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if the new provisions are allowed to proceed.

Mrs. Diana Young's Parcel faces several conditions which significantly complicate agricultural production. The primary source of water on the property is a creek which is contaminated with leptospirosis. Additionally, rocks and sand are present throughout the soil on the property. These conditions render large portions of the parcel virtually unusable for agricultural purposes in their current state. For most types of crops, if planted on the parcel, heat will also diminish or wipe out any anticipated yields.

Some agricultural production is currently being accomplished on the property. The owners have laid down ground cover and constructed a system of PVC piping to bring water to the existing crops. The small-scale agricultural activity that does exist on the parcel is a testament to the commitment of the operators to meet existing challenges stemming from the nature of the Parcel. However, as explained above, those challenges preclude viable agricultural production of any significant yields.

The condition of the land is not the only barrier to agricultural production on Mrs. Young's parcel. Mrs. Young is herself not able to engage in substantial agricultural production. Mrs. Young is 65 years of age. As noted above, she presently cares for a number of potted plants. However, it is our understanding that any more extensive agricultural activity would present an impossible physical challenge for Mrs. Young. Under the occupancy standard contained within the proposed revision to the LUO Mrs. Young's occupancy rights would be made worryingly tenuous. If Mrs. Young is ever unable to farm due to progressing age or any other circumstance her occupancy of her own land would be rendered illegitimate. That eventuality would amount to a de facto eviction of Mrs. Young and her family from a property that they have developed, made habitable and productive, and invested their life's savings into. This potentiality is particularly concerning to Mrs. Young because the conditions of the Trust's ownership of the Parcel forbid Mrs. Young from selling the property during her lifetime. Given that, if Mrs. Young's occupancy of the parcel was to be jeopardized as a consequence LUO revision, she would be left with little recourse and no feasible options for relocation.

Even if no immediate enforcement actions are taken against the Mrs. Diana Young in connection with the LUO revision, the new occupancy restrictions will continually be a source of stress and concern for Mrs. Young and any future landowners or occupants of the Parcel. The passage of the revised LUO will create a threatening uncertainty which will loom over Mrs. Young's genuine hope of peacefully living out their days on their own property and passing that property down to their heirs without the threat of eviction and foreclosure. Allowing such serious harm to come to Mrs. Young simply because she is not physically able to operate a substantial farm on her property would be remarkably unjust. Additionally, applying the new occupancy standard to Mrs. Young's land not meaningfully protect O'ahu's agricultural industry

Mrs. Diana Young strongly objects to the proposed changes to the LUO. Should the LUO revision proceed, the Mrs. Young would request a contested case hearing to ensure due protection of her interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations.

Mrs. Young trusts that the Planning Commission will cautiously approach any actions or decisions that would disproportionately harm those disabled and elderly members living in Oahu's agricultural communities. Indeed, Mrs. Young hopes the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting people like Mrs. Young from their longtime homes. Mrs. Young implores the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

Kalani A. Morse

KAM
Enclosure

From: Shark boss [mailto:jasonleif@gmail.com]
Sent: Tuesday, August 31, 2021 2:38 PM
To: info@honoluludpp.org
Subject: Chapter 21 hearing

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Aloha
As a tax paying full time resident of oahu and property owner on the North shore of oahu i do not see the reason to make a minimum rental period of 6 months or more. I have a mix of long term, short term and monthly tenants stay in my rental units. I have tennants that have been staying for 6 years but i also regularly have people stay for 2-4 months while they are visiting family or trying to find their roots when they are trying to build a life here.

I have also had military service men who are deployed for 1-2 months, family or wives of military who are deployed here. I have had remote workers and travel nurses stay. Some of my most frequent quests are the ohana, of my neighbors, they love being able to stay close to their families, and like being in the quiet neighborhood away from the resort.

Why should the city and county restrict my rights and the rights of my guests to stay 1-6 months in a residential neighborhood. This flexibility helps everyone, me to pay my mortgage and provide for my family, the ability of temporary workers to find price accessible accommodation and friends and family to stay close to loved ones.

This bill unequivocally favors the hotels that operate here and their max pofit/max tourism mentality.
The city and county should allow property owners to rent their property out as they please, short or long term focusing on management rather than banishment of any type of short or medium term rental.

Kind regards
Jason Healey
8082184379
67139 komo st waialua
HI 96791

From: Yvonne Copeland [mailto:yvonne.mcopeland@gmail.com]
Sent: Tuesday, August 31, 2021 2:35 PM
To: info@honoluludpp.org
Cc: Dorothea Preus
Subject: STR Regulations meeting...my thoughts on these proposed amendments

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

To whom it may concern:

My family bought units in Sans Souci in 1955 off the drawing board before the building was even finished.

My great grandmother, my grandmother, my mother and then myself have all lived there and have rented the units when off island. If you start allowing tenants to stay longer terms they start feeling at home. It's our home not theirs!!

We are able to take more time off and want to be able to use our home more often and can't do that with a longer term tenants in place. Our building is a Co-op and we don't allow nightly rentals and nothing under 30 days. That has worked well for all the owners in the building for many years.

I can't believe Hawaii would even consider doing this and lose all the GET Taxes they get paid for the shorter term rentals. It doesn't change the number of people on island, it just changes how long they stay. If you have 100 rooms and they are full, it still has 100 people on island to fill those rooms.

My family and I are 100% opposed to the idea of a minimum of 6 month rentals.

Sincerely,

Yvonne Copeland
San Souci #1106 and #1107

ATTORNEYS AT LAW
DURRETT LANG MORSE, LLLP

KALANI A. MORSE, ESQ.
Direct: 808.792.1213
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(Via email to: info@honoluludpp.org; CC: lee@code-studio.com)

City and County of Honolulu Planning Commission
c/o Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to article five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. We write on behalf of Mrs. Bonnie C. Grossi. Mrs. Grossi is owner and registered agent of "Triple G Stables, LTD" ("Triple G") Triple G owns the parcel identified as Tax Map Key No. (1)87019023, which is presently zoned for agricultural use. Mrs. Grossi is urgently worried about losing the right to live in her own home due to the stricter occupancy restrictions looming in article five of the proposed revisions to the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are free to live in their homes on agricultural land if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1] The proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming. This suggested revision to the LUO specifically articulates that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3]

These new occupancy restrictions appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural land.[4] Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, these occupancy restrictions will have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities.

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[3] See Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

The disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes. Indeed, implementing this new occupancy standard will amount to a de facto eviction for the Grossi family and other families residing on agricultural land who are unable to actively farm their lands, either due to health conditions, advanced age, retirement, finances, caregiving responsibilities, or other personal circumstance that may preclude active farming.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, to dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if the new provisions are allowed to proceed.

The nature of Mrs. Grossi's parcel presents many challenges to agriculture. The land is primarily utilized to raise and care for horses. The property has long been used as a stable and the operation of the stable is essential for the livelihood of Mrs. Grossi and her family. It is our understanding that the current layout of the parcel is ideal for the horses housed on the land. While very limited agriculture is possible on the property, growing crops or raising other livestock in significant numbers would deny the horses the living space they need and make it impossible for Triple G stables to run their business on their owned land. The existence of the stable precludes any substantial farming

Additionally, the Parcel supports several existing structures, including the personal home of Mrs. Grossi and her husband as well buildings necessary to Triple G Stables business operations. It would be wholly unreasonable to expect Mrs. Grossi and Triple G stables to alter their land to the extent of removing those structures to establish extensive agricultural operations, especially when their land is only five acres in size and factors critical to the assessing the potential agricultural productivity of the land, such as soil quality and water supply, have yet to be determined. Given the significant portion of the total land area taken up by these structures and the relatively small size of Triple G's land, applying a new occupancy standard to the land which would require Mrs. Bonnie Grossi and her husband to actively farm to maintain residence in their home would be unreasonable.

The condition of the land is not the only barrier to agricultural production on the parcel owned by Triple G. The current occupants of the land are themselves not able to actively engage in agricultural production. Mrs. Grossi and her husband are the only permanent residents living on the parcel. Both Mrs. Grossi and her husband are engaged full time with the operations of Triple G's business. While the Grossi family may be able to raise small numbers of livestock not on the property, they do possess the extensive knowledge and skills necessary to establish continued production of crops. The Grossi family cannot be expected to develop new expertise and embrace agricultural production on their land to the detriment of their existing business simply to comply with unexpected changes to the LUO.

As Mrs. Grossi are her husband are not able to farm the land, enactment of the new occupancy restrictions contained within the revised LUO could render the Grossi family's occupancy of their own land illegitimate and amount to a de facto eviction of Mrs. Grossi and her family from a property that they have developed and invested in extensively. This potentiality is of profound concern to Mrs. Bonnie C. Grossi and Triple G Stables.

Even if no immediate enforcement actions are taken against the Mrs. Grossi in connection with the LUO revision, the new occupancy restrictions will continually be a source of stress and concern for Mrs. Grossi and any future landowners or occupants of the Parcel. The passage of the revised LUO will create a threatening uncertainty which will loom over Mrs. Grossi's sincere desire of peacefully living out her days on her own property and passing that property down to her heirs without the threat of eviction and foreclosure. Allowing such serious harm to come to Mrs. Grossi simply because she is not able to operate a substantial farm on her property would be remarkably unjust. Additionally, applying the new occupancy standard to Mrs. Grossi's land will not meaningfully protect O'ahu's agricultural industry

Mrs. Bonnie Grossi strongly objects to the proposed changes to the LUO. Should the LUO revision proceed, the Mrs. Grossi and Triple G Stables LTD would request a contested case hearing to ensure due protection of their interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations.

Mrs. Grossi trusts that the Planning Commission will cautiously approach any actions or decisions that would disproportionately harm those disabled and elderly members living in Oahu's agricultural communities. Indeed, Mrs. Grossi hopes the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting people like Mrs. Grossi from their longtime homes. Mrs. Gorssi implores the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours.

DURRETT LANG MORSE, LLLP

Kalani A. Morse

KAM
Enclosure

Kathleen M. Pahinui
67-237 Kaui St
Waialua, HI 96791

August 31, 2021

Aloha Planning Commission:

I am writing in very strong support of DPP's bill to amend ordinance 19-18 for the following reasons:

- The North Shore has one of the island's highest concentrations of vacation rentals.
- Nearly 700 were still being advertised in March 2020 despite passage of Ordinance 19-18 and the COVID-19 shut down.
- This bill will protect our communities while allowing vacation rentals in appropriate areas.
- It will prevent proliferation of illegal vacation rentals.
- Provides mechanisms for compliance for vacation rentals.
- Provides a level playing field with other visitor accommodation options.

You will be inundated with testimony from illegal owners stating how this will hurt their ability to make money to stay in their home. Many of these owners do not live on Oahu and are not members of our community.

They will claim they support the local ecomony – yes a landscaper and a house cleaner – probably under the table who do not pay taxes. Many who stay in vacation rentals cook their own meals and do not spend a great deal of money in our stores.

You will hear that hotel money goes off-shore. Yes some of it does but what about all of the employees that work for a hotel? Their paychecks stay here on our island and they buy food and other goods, eat out at local restaurants. What about all the vendors that hotels purchase from and their employees? Many of these are local companies. By comparison, the vacation rental industry does far less to support our local economy than hotels and their employees do.

Since the island has re-opened travel, we have heard stories from friends who have leases not being renewed because the owner wants to turn the home into a vacation rental. These types of accommodations put a huge dent in our long-term rental units as well as pushing local residents out of the housing market – they cannot compete with someone who plans on renting it out as a vacation rental and can afford to pay too much.

Please support and pass this bill on to the city council. Please support our local communities and allow us to have a community to pass on to our keiki.

Mālama 'āina,

Kahtleen M. Pahinui
Waialua Resident

ATTORNEYS AT LAW

DURRETT LANG MORSE, LLLP

KALANI A. MORSE, ESQ.
Direct: 808.792.1213
kmorse@dlmhawaii.com

(Via email to: info@honoluludpp.org; CC: lee@code-studio.com)

City and County of Honolulu Planning Commission
c/o Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to article five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. Our office represents Mr. Ronald Okabe. Through his trust, Mr. Okabe owns two parcels as Tax Map Key No. (1)86003054 and (1)86003055. Both of Mr. Okabe's parcels are presently zoned for agricultural use. Mr. Okabe is urgently concerned that he will lose the right to live in his own home due to the stricter occupancy restrictions looming in article five of the proposed revisions to the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are free to live in their homes on agricultural land if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1] The proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming. This suggested revision to the LUO specifically articulates that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3]

These new occupancy restrictions appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural land.[4] Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, these occupancy restrictions will have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities.

---

[1] Quoted text is taken from HRS 205-4.5

[2] The proposed changes to the LUO can be viewed in their entirety on the Department of Planning and Permitting's own website homepage (http://www.honoluludpp.org) under the "News" heading

[3] See Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

The disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes. Indeed, implementing this new occupancy standard will amount to a de facto eviction for Mr. Okabe and other individuals and families residing on agricultural land who are unable to actively farm their lands, either due to health conditions, advanced age, retirement, finances, caregiving responsibilities, or other personal circumstance that may preclude active farming.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, to dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if the new provisions are allowed to proceed.

The nature of Mr. Okabe's parcels is such that agricultural production on the land is exceedingly challenging. The combined land area of the parcels is arguably sufficient for agricultural operations. However, much of the land is not suitable for that purpose. Both parcels are "flag lots" situated at the end of a long road. The total acreage of the parcels includes the length of this road and the necessary clearances on each side. Agricultural production on this part of the land is obviously not possible. Several structures also exist on the land. These structures include Mr. Okabe's home and garage. No planting can take place where these structures are located. To our knowledge, approximately 1.5 acres of land across both parcels cannot support any crop raising. Due to the small size of the parcels and the unique barriers to agricultural production faced on them it is unlikely that agricultural yields from the land could ever provide a livelihood for Mr. Okabe. As such, the occupancy standard put forth in the proposed revisions to the LUO, which would mandate Mr. Okabe continually farm in order to maintain a legal right to occupy his home is unreasonable.

The small size of the land is not the only barrier to agricultural production on Mr. Okabe's land. The occupant's personal circumstances preclude him from engaging in substantial agricultural production on the parcels. Mr. Ronald Okabe is the only occupant living on the parcels. Mr. Okabe is disabled. He has been on disability assistance for the past twelve years. Despite this, Mr. Okabe currently cares for a heard of sixteen goats. He is physically able to let the goats out to graze a few times a day. However, it is our understanding that any more extensive agricultural production on the parcels would be physically impossible for Mr. Okabe. Making alterations to the land necessary to prepare it for a higher level of production would also present an unreasonable challenge for Mr. Okabe.

In the near future Mr. Okabe's disability may render him completely unable to be actively involved in even limited agricultural operations. Given that, codifying a stricter occupancy standard for agricultural lands would render Mr. Okabe's occupancy of his own land illegitimate and amount to a de facto eviction of Mr. Okabe from a property that he has developed and in which he has extensively invested. This potentiality is of profound concern to Mr. Okabe.

Even if no immediate enforcement actions are taken against the Mr. Okabe in connection with the LUO revision, the new occupancy restrictions will continually be a source of stress and concern for Mr. Okabe and any future landowners or occupants of the Parcel. The passage of the revised LUO will create a threatening uncertainty which will loom over Mr. Okabe's sincere hope of peacefully living out their days on their own property and passing that property down to their heirs without the threat of eviction and foreclosure. Allowing Mr. Okabe's occupancy rights to be degraded because he is not physically able to operate a substantial farm on his property would be unjust, blatantly discriminatory, and senseless. Applying the new occupancy standard to Mr. Okabe's land will not meaningfully protect O'ahu's agricultural industry or discourage the establishment of gentlemen farms. Instead, the occupancy restriction would seriously harm Mr. Okabe and small farmers like him, the very people our land use laws should serve.

Mr. Okabe strongly objects to the proposed changes to the LUO. Should the LUO revision proceed, Mr. Okabe would request a contested case hearing to ensure due protection of his interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations.

Mr. Okabe trusts that the Planning Commission will cautiously approach any actions or decisions that would disproportionately harm those disabled and elderly members living in Oahu's agricultural communities. Indeed, Mr. Okabe trusts that the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting people like Mr. Okabe from their longtime homes. Mr. Okabe implores the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

Kalani A. Morse

KAM
Enclosure

ATTORNEYS AT LAW

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(Via email to: info@honoluludpp.org; CC: lee@code-studio.com)

City and County of Honolulu Planning Commission
c/o Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to article five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. Our office represents Mr. Raynald Cooper. Mr. Cooper is a registered owner of the parcel identified as Tax Map Key No. (1)87018018, which is presently zoned for agricultural use. Mr. Cooper is intensely worried that he will lose the right to live in his own home due to the stricter occupancy restrictions looming in article five of the proposed revisions to the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are free to live in their homes on agricultural land if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1] The proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming. This suggested revision to the LUO specifically articulates that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3]

These new occupancy restrictions appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural land.[4] Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, these occupancy restrictions will have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities.

---

[1] Quoted text is taken from HRS 205-4.5

[2] The proposed changes to the LUO can be viewed in their entirety on the Department of Planning and Permitting's own website homepage (http://www.honoluludpp.org) under the "News" heading

[3] See Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

The disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes. Indeed, implementing this new occupancy standard will amount to a de facto eviction for Mr. Cooper and other individuals and families residing on agricultural land who are unable to actively farm their lands, either due to health conditions, advanced age, retirement, finances, caregiving responsibilities, or other personal circumstance that may preclude active farming.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, to dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if the new provisions are allowed to proceed.

The nature of large portions of Mr. Cooper's parcel hinders any reasonable form of agricultural production. For example, it is our understanding that water service to the property comes via a ¾" portable water meter. The parcel does not currently enjoy direct access to sufficient quantities of usable water to support meaningful agricultural production. Additionally, the vast majority of Mr. Cooper's parcel does not feature soil quality and growing conditions suitable for the production crops.

Mr. Cooper's parcel is only 2.5 acres in size. The small total size places a limit on the potential agricultural yields which can be drawn from Mr. Cooper's land. The water access and soil quality issues further compound this issue. As Mr. Cooper's land is unlikely to support largescale agricultural production, it would be unreasonable to impose a new occupancy standard on Mr. Cooper's parcel which required him to be actively farming the land in order to continue living in his home on the property.

The nature of the land is not the only barrier to agricultural production on Mr. Cooper's parcel. The current occupants also face personal circumstances that limit their ability to engage in significant agricultural production. Mr. Cooper and his wife are both of advanced age. Mr. Cooper is 70 years old and experiences persistent pain in his feet, knees and back. This pain makes it very difficult for Mr. Cooper to remain standing for long periods or bend down. As such, any extensive agricultural production would be beyond Mr. Cooper's physical abilities. As the Coopers are not capable of farming the land, passage of the revised LUO will render the Cooper family's occupancy of their own land illegitimate and amount to a de facto eviction of Mr. Cooper and his family from a property that they have developed, made suitable for limited agricultural activity, and invested their life's savings into. This potentiality is of profound concern to the Coopers.

Even if no immediate enforcement actions are taken against the Mr. Cooper in connection with the LUO revision, the new occupancy restrictions will continually be a source of stress and concern for Mr. Cooper and any future landowners or occupants of the Parcel. The passage of the revised LUO will create a threatening uncertainty which will loom over Mr. Cooper's sincere hope of peacefully living out their days on their own property and passing that property down to their

heirs without the threat of eviction and foreclosure. Allowing Mr. Cooper's occupancy rights to be degraded because he is not physically able to operate a substantial farm on his property would be unjust, blatantly discriminatory, and senseless. Applying the new occupancy standard to Mr. Cooper's land will also fail to meaningfully protect O'ahu's agricultural industry or discourage the establishment of gentlemen farms. Instead, the occupancy restriction would seriously harm Mr. Cooper and others living in agricultural communities, the very people land use laws should be designed to serve.

Mr. Cooper strongly objects to the proposed changes to the LUO. Should the LUO revision proceed, Mr. Cooper would request a contested case hearing to ensure due protection of his interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations.

Mr. Cooper trusts that the Planning Commission will cautiously approach any actions or decisions that would disproportionately harm those disabled and elderly members living in Oahu's agricultural communities. Indeed, Mr. Cooper trusts that the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting people like Mr. Cooper from their longtime homes. Mr. Cooper implores the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

Kalani A. Morse

KAM
Enclosure

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City and County of Honolulu Planning Commission
c/o Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to article five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. This office represents Mr. Allen M. Nakata and Mrs. Barbara J. Nakata (the "Nakatas"). Allen and Barbara Nakata own a parcel identified as Tax Map Key No. (1)86019040, which is presently zoned for agricultural use. The Nakatas are urgently worried about losing the right to live in their own home due to the stricter occupancy restrictions looming in article five of the proposed revisions to the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are free to live in their homes on agricultural land if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1] The proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming. This suggested revision to the LUO specifically articulates that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3]

These new occupancy restrictions appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural land.[4] Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, these occupancy restrictions will have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities.

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[1] Quoted text is taken from HRS 205-4.5

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[3] See Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

The disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes. Indeed, implementing this new occupancy standard will amount to a de facto eviction for the Nakata family and other families residing on agricultural land who are unable to actively farm their lands, either due to health conditions, advanced age, retirement, finances, caregiving responsibilities, or other personal circumstance that may preclude active farming.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, to dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if the new provisions are allowed to proceed.

The Nakatas parcel faces several conditions which significantly complicate agricultural production. To our knowledge, the vast majority of the land is not currently utilized for agricultural production. In the past the agricultural yields on the land have been exceedingly small due to poor soil quality. This soil quality issue has made crop production on the property economically inviable for the Allen and Barbara Nakata. Furthermore, the parcel does not have access to sufficient quantities of water to support agricultural production. While a portion of the parcel is currently hosting agricultural activity, this portion is quite small.

In addition to the challenges associated with agricultural production on the parcel due to soil quality and water access issues, the current occupants of the parcel are not able to farm. There are two homes on the Nakatas parcel. The first is occupied by Mr. Allen Nakata's parents. It is our understanding that Mr. Nakata's parents previously farmed on the land. However, they are now of advanced age and continuing to farm is far beyond their physical capabilities. The second home on the property is occupied by Allen and Barbara and their two children. Allen and Barbara are both engaged in non-agricultural work that is vital to the economic security of the Nakata family. Allen and Barbara also have a responsibility to care not only for their children, but for Allen's parents. No member of the Nakata family can reasonably be expected to farm on their parcel. Therefore, codifying the proposed new restrictions for dwellings on agricultural land could render the Nakata family's occupancy of their own land illegitimate and amount to a de facto eviction of the family from a property that they have developed and invested in for their whole lives. This potentiality is of profound concern to Allen and Barbara Nakata.

Even if no immediate enforcement actions are taken against the Nakata family in connection with the LUO revision, the new occupancy restrictions will continually be a source of stress and concern for the Nakatas and any future landowners or occupants of the parcel. The passage of the revised LUO will create a threatening uncertainty which will loom over Allen and Barbara Nakata's genuine hope of peacefully living out their days on their own property and passing that property down to their heirs without the threat of eviction and foreclosure. Allowing such serious harm to come to the Nakata family simply because the family members are not able

to farm due to old age and unavoidable personal circumstance would be remarkably unjust. Additionally, applying the new occupancy standard to the Nakatas land not meaningfully protect O'ahu's agricultural industry

Allen and Barbara Nakata strongly object to the proposed changes to the LUO. Should the LUO revision proceed, the Nakatas would request a contested case hearing to ensure due protection of their interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations.

The Nakata family trusts that the Planning Commission will cautiously approach any actions or decisions that would disproportionately harm those disabled and elderly members living in Oahu's agricultural communities. Indeed, the Nakatas hope the planning commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting people like the Nakatas from their longtime homes. Allen and Barbara Nakata implore the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

Kalani A. Morse

KAM
Enclosure

From: Joan Parsons <jparsons250@gmail.com>
Sent: Tuesday, August 31, 2021 4:22 PM
To: info@honoluludpp.org
Subject: Additional information regarding Beach Villas at Ko Olina Objections to Proposed Law regarding Short Term Rentals

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Please see the attached legal opinion...

Joan Parsons

CHRISTOPHER SHEA GOODWIN

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August 31, 2021

Via email: info@honoluludpp.org and telefax: (808) 768-6743

City and County of Honolulu
Department of Planning & Permitting
Planning Commission

RE: Public Hearing Date and Time: Wednesday, September 1, 2021, 11:30 a.m. (via WebEx)

Testimony in Opposition to Select Provisions of the Planning Commission's Proposed Bill to Amend Chapter 21 (Land use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations Affecting the Association of Apartment Owners of Beach Villas at Ko Olina

Dear Planning Commission:

This firm serves as general legal counsel to the Association of Apartment Owners of Beach Villas at Ko Olina ("Association"), a condominium association, organized and existing pursuant to Hawaii Revised Statutes, Chapter 514B (the "Condominium Property Act") and presents this testimony on behalf of the Association in opposition to the Planning Commission's Proposed Bill to Amend Chapter 21 (Land Use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations (referred to hereinafter as the "Proposed Bill to Amend Chapter 21 Re Transient Accommodations" or the "Proposed Bill").

As discussed below, the Association's Board of Directors ("Board") is concerned regarding the proposed amendments set forth in the Proposed Bill to add new Sections 21-5.730.1, 21-5.730.2, 21-5.730.3, 21-5.730.4 to the LUO, and to amend the definition of "transient vacation unit" set forth in ROH, Chapter 21, Article 10.

1. Current Law

Absent possession of a Non-Conforming Use Certificate ("NUC"), rental of a unit for any period less than thirty (30) consecutive days in areas <u>not</u> zoned for "Resort" use, is prohibited under the LUO wherein Section 21-5.730(d) currently provides, in pertinent part, as follows:

> (d) . . . **"Unpermitted transient vacation unit" means a transient vacation unit that is <u>not</u>: (A) Located in the resort district**, resort mixed use precinct of the Waikiki special district, or A-1 low-density apartment district or A-2 medium-density apartment district pursuant to subsection (a); **or (B) Operating under a valid nonconforming use certificate** pursuant to Section 21-4.110-1.
>
> (2) It is unlawful for any owner or operator of an unpermitted bed and breakfast home or unpermitted transient vacation unit, or the

> owner or operator's agent or representative to: (A) Rent, offer to rent, or enter into a rental agreement to rent an unpermitted bed and breakfast home or unpermitted transient vacation unit for fewer than 30 consecutive days

See, ROH, Ch. 21, Sec. 21-5.730(d), emphasis added.

ROH, Article 10, defines a "transient vacation unit" as "a dwelling unit or lodging unit that is advertised, solicited, offered, or provided, or a combination of any of the foregoing, for compensation to transient occupants for less than 30 days, other than a bed and breakfast home. For purposes of this definition, compensation includes, but is not limited to, monetary payment, services, or labor of transient occupants."

Conversely, in *areas which are zoned for "Resort" use*, there is no minimum required rental period, and rentals for periods less than 30 days are permitted. See, ROH, Sec. 21-3.100-1: ("Resort uses and development standards. (a) Within the resort district, permitted uses and structures shall be as enumerated in Table 21-3.") The Master Use Table, Table 21-3, currently indicates that "Transient Vacation Units" are a "**permitted use subject to the standards in Article 5**" on properties located within the Resort Zoning District, **regardless of the classification of the property as an apartment, hotel or hotel-condominium**.

The City and County of Honolulu, Department of Planning and Permitting (DPP) Property Information Report describes the Beach Villas at Ko Olina Condominium Project located at 92-102 Waialii Place, Kapolei Hawaii 96707, Tax Map Key No. 91057009:0000 as located within the Resort Zoning District. As such, the Beach Villas at Ko Olina is not subject to the conforming use certificate requirements of ROH, Chapter 21 and its unit owners lawfully may rent their units for periods of less than 30 days under the current provisions of ROH, Chapter 21.

Accordingly, Beach Villas at Ko Olina's Declaration, as amended and restated, provides that all hotel or transient vacation uses shall be for periods not less than six (6) consecutive nights. Under the amendments to ROH, Chapter 21, proposed by the Planning Commission, it is unclear whether owners of units at Beach Villas at Ko Olina may continue to lawfully advertise and rent transient vacation units, should the Proposed Bill be enacted into law.

2. **Proposed New Section 21-5.730.1 should be revised to clarify that transient vacation units are also permitted in the Resort Zoning District without a non-conforming use certificate**

Unlike the first draft of the Proposed Bill, Table 21-3 Master Use Table of the Revised Draft of the Planning Commission's Proposed Bill to Amend Chapter 21 Re Transient Accommodations, now includes "Transient Vacation Units" as a "permitted use subject to the standards in Article 5" on properties located within the Resort Zoning District (see, Proposed Bill, Revised Draft at pg. 19). However, at the time the Planning Commission implemented the latest change to the Table 21-3 Master Use Table, corresponding changes were not made to the text of the other proposed amendments in the Proposed Bill. Table 21-3 Master Use Table provides, in

pertinent part, that, "In the event of any conflict between the text of this Chapter and the following table, the text of the Chapter shall control." See, Id. at pg. 19.

Therefore, it is requested the Planning Commission also revise the other proposed amendments as necessary to ensure they are consistent with the revised Master Use Table of the Revised Draft of the Proposed Bill. Currently, the other proposed amendments to add new Sections 21-5.730.1, 21-5.730.2, 21-5.730.3, 21-5.730.4 to the LUO, and to amend the definition of "transient vacation unit" are ambiguous, to the extent it is unclear, despite the revision to Table 21-3 Master Use Table adding transient vacation units back to the list of permitted uses of property in the resort district, whether, under these proposed amendments, short-term rentals of units for less than 30 days (or less than 180 days) may continue at properties located in the Resort Zoning District without a non-conforming use certificate, if the Proposed Bill is enacted.

The Proposed Bill provides, in pertinent part:

> SECTION 17. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-5.730.1 to read as follows:
>
> "Sec. 21-5.730.1 Bed and breakfast homes and transient vacation units.
>
> (a) Bed and breakfast homes and transient vacation units are permitted in the portions of the A-2 medium-density apartment zoning district located in the Gold Coast area of the Waikiki Special District shown in Exhibit A and in the portions of the A-1 low-density apartment zoning district, A-2 medium-density apartment zoning district located in the Kuilima and Ko'olina Resort areas shown in Exhibits C and -B, respectively, and the Resort Mixed Use Precinct in the Waikiki Special District, subject to the restrictions and requirements in Article 5 of this chapter.
>
> See, Proposed Bill, Revised Draft, pg. 26.

It is also unclear whether the Planning Commission's proposed amendment adding Section 21-5.730.1 to the LUO continues to permit transient vacation units ("TVUs") in the Resort Zoning District, as Sec. 21-5.730.1(a) only references the A-2 medium-density apartment zoning district located in the Gold Coast area of the Waikiki Special District; portions of the A-1 low-density apartment zoning district and A-2 medium-density apartment zoning district located in the Kuilima and Ko'olina Resort areas shown in Exhibits C and B, respectively, and the Resort Mixed Use Precinct in the Waikiki Special District.

Exhibit "B" to the Proposed Bill entitled "Short-Term Rental Permitted Areas – Ko Olina Resort," referenced in proposed Sec. 21-5.730.1(a), does not show the area zoned "Resort" as an area where TVUs are permitted, which is contrary to the current ROH, Sec. 21-5.730(d) and Table 21-3 Master Use Table which permit TVUs in the Resort Zoning District.

To be consistent with current ROH, Sec. 21-5.730(d) and current Table 21-3 Master Use Table, proposed Sec. 21-5.730.1(a) should be further revised to **clearly state that transient vacation units are permitted in the resort district, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district, and A-2 medium-density apartment district, without a non-conforming use certificate**.

One of the stated purposes of the Proposed Bill "is to better protect the City's **residential** neighborhoods and housing stock from the negative impacts of short-term rentals by providing a more comprehensive approach to the regulation of transient accommodations within the City." See, Proposed Bill, Revised Draft, Section 1., pg. 1, emphasis added. In addition, ROH, Chapter 21, Sec. 21-3.100 provides that, "[t]he **purpose of the resort district** is **to provide areas for visitor-oriented destination centers. Primary uses are lodging units and hotels and multifamily dwellings**. Retail and business uses that service visitors are also permitted. **This district is intended primarily to serve the visitor population**, and should promote a Hawaiian sense of place." See, ROH, Chapter 21, Sec. 21-3.100, emphasis added. It is recommended the Planning Commission revise proposed new Section 21-5.730.1, as well as proposed new Sections 21-5.730.2, 21-5.730.3, 21-5.730.4 and the proposed new definition of "transient vacation unit" to clearly exempt properties within the Resort Zoning District from these proposed amendments. As discussed below, if the Proposed Bill, is enacted in its current form, it will conflict not only with the expressly stated purposes of the Proposed Bill, but the purposes and intended uses for the Resort Zoning District.

3. **Under the proposed new definition of "transient vacation unit," it is unclear whether properties such as the Beach Villas at Ko Olina may continue to allow short-term rentals for periods less than 30 days and/or 180 days**

The Proposed Bill provides, in pertinent part:

> SECTION 24. Chapter 21, Article 10, Revised Ordinances of Honolulu 1990, as amended, is amended by amending the definitions of "bed and breakfast home", "hotel", and "transient vacation unit" to read as follows:
>
> . . .
>
> ""Transient vacation unit" means a dwelling unit or lodging unit that is advertised, solicited, offered, or provided[~~, or a combination of any of the foregoing, for compensation~~] to transient occupants, for compensation, for periods of less than [~~30~~] 180 consecutive days, other than a bed and breakfast home. For purposes of this definition,
>
> (1) [~~C~~]compensation includes, but is not limited to, monetary payment, services, or labor of guests;
>
> (2) Accommodations are advertised, solicited, offered or provided to guests for the number of days that are used to determine the price for the rental; and
>
> (3) Month to month holdover tenancies resulting from the expiration of long-term leases of more than 180 days are excluded.

See, Proposed Bill, Revised Draft, pgs. 36-37.

The above proposed amendment is ambiguous as to whether the proposed new definition of "transient vacation unit" applies to properties located in the Resort Zoning District, such as the Beach Villas at Ko Olina, and whether the Beach Villas at Ko Olina owners may lawfully continue to rent their units for periods not less than six consecutive nights, as provided under the Association's Declaration should the proposed amendment become law.

As stated above, in *areas which are zoned for "Resort" use*, there is no minimum required rental period, and rentals for periods less than 30 days (or any period) are permitted. See, ROH, Sec. 21-3.100-1. **The Planning Committee's proposed new definition of "transient vacation unit" should be revised to make it clear that it does not amend the definition of "unpermitted transient vacation unit" under ROH, Chapter 21, Sec. 21-5.730(d), and the minimum rental period restriction of 180 consecutive days does not apply, to transient vacation units located in the resort district**, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district, or A-2 medium-density apartment district.

In addition, the proposed amendment to the definition of "transient vacation unit" is inconsistent with, ROH, Chapter 21, Sec. 21-5.730(d)(2) which currently provides it is unlawful to rent an *unpermitted transient vacation unit* **for fewer than 30** consecutive days. See, ROH, Sec. 21-5.730(d)(2), Supra, emphasis added. To ensure consistency between the various sections of ROH, Chapter 21, it is requested the Planning Committee propose an amendment to ROH, Sec. 21-5.730(d)(2) to change the clause therein providing, "for fewer than 30 consecutive days" to "for fewer than 180 consecutive days."

4. **Proposed new Section 21-5.730.2 should be further revised to clarify that properties located within the Resort District are exempt from the registration requirements**

The Proposed Bill provides, in pertinent part:

> SECTION 18. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-5.730.2 to read as follows:
>
> "Sec. 21-5.730.2 Registration, eligibility, application, renewal and revocation.
>
> (a) Registration required. Bed and breakfast homes and **transient vacation units must be registered with the department** . . .

See, Proposed Bill, Revised Draft, pgs. 26-29.

Currently, under ROH, Chapter 21, Section 21-5.730(d), it is lawful to rent a transient vacation unit on property located within the following zoning districts: the **resort district**, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district or A-2 medium-density apartment district, **and neither a non-**

conforming use certificate nor registration with the DPP is needed, since transient vacation units are a conforming use in the foregoing zoning districts.

Therefore, the Planning Commission should revise proposed new Section 21-5.730.2 to make it clear properties located within the resort district, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district, and A-2 medium-density apartment district which rent or offer units for rent for a term of less than 180 consecutive days **are exempt from registration with the department**.

5. **Proposed new Section 21-5.730.3 should be further revised to expressly state that properties located within the Resort District are exempt from the standards and requirements of this Section.**

The Proposed Bill proposes to add a new Section 21-5.730.3 to ROH, Chapter 21 regarding use and development standards for transient vacation units. See, Proposed Bill, Revised Draft at pgs. 29-32. These standards include occupancy limits and sleeping requirements, parking, smoke and carbon monoxide detectors, noise restrictions, gathering restrictions, et seq. that may reasonably apply to residential zoning districts, but not to the Resort Zoning District. Given that one of the stated purposes of the Proposed Bill "is to better protect the City's **residential** neighborhoods and housing stock from the negative impacts of short-term rentals by providing a more comprehensive approach to the regulation of transient accommodations within the City" (see, Proposed Bill, Revised Draft, Section 1., pg. 1, emphasis added), it would appear the Planning Commission did not intend the Proposed Bill to impose these new regulations on properties located in the **Resort Zoning District** which may lawfully rent and advertise transient vacation units under the current LUO. Subjecting properties located within the Resort Zoning District to the use and development standards proposed in new Section 21-5.730.3, would be in direct contradiction to the stated purposes of the Proposed Bill and the purposes of the Resort Zoning District stated in ROH, Chapter 21, Sec. 21-3.100 and discussed at length under Section 2., Supra.

Therefore, it is requested that the Planning Commission should revise proposed new Section 21-5.730.3 to clarify that this section and the use and development standards and requirements stated therein do not apply to properties located in the resort district, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district, and A-2 medium-density apartment district which rent or offer transient vacation units for rent. **As transient vacation units are already a permitted use in the Resort District, proposed new Section 21-5.730.3 should be revised to expressly state that the Beach Villas at Ko Olina and properties located in the Resort Zoning District and other above stated districts are exempt from Section 21-5.730.3.**

6. **Proposed new Section 21-5.730.4 should be further revised to clarify that properties located within the Resort District operating a transient vacation unit are exempt from Section 21-5.730.4.**

The Proposed Bill proposes to add a new Section 21-5.730.4 regarding "Advertisements, regulation, and prohibitions" which makes it unlawful for any person to advertise a dwelling unit that is not a registered transient vacation unit pursuant to Section 21-5.730.2 or operating pursuant to a nonconforming use certificate for a term of less than 180 consecutive days. The following are exemptions to Section 21-5.730.4:

> Exemptions. The following are exempt from the provisions of this Section:
> (1) Legally established hotels,
> (2) Legally established time-sharing units, as provided in Section 21-5.640; and
> (3) Publishing companies and internet service providers will not be held responsible for the content of advertisements that are created by third parties."

See, Proposed Bill, Revised Draft, pgs. 32-34.

The Planning Commission should further revise proposed new Section 21-5.730.4 to provide that the following are also exempt from the provisions of Section 21-5.730.4: transient vacation units operated and located in the resort district, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district, and A-2 medium-density apartment district.

Thank you for your consideration of this testimony and recommended revisions to the Proposed Bill which will have an adverse impact on owners of units at the Beach Villas at Ko Olina and other condominiums located within the Resort Zoning District, if enacted without the above recommended clarifications and revisions.

Very truly yours,

/s/ Christopher Shea Goodwin
/s/Ann E. McIntire

Christopher Shea Goodwin
Robert S. Alcorn
Ann E. McIntire

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City and County of Honolulu Planning Commission
c/o Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to article five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. We write on behalf of Mr. Maximo Maafala. Mr. Maafala is a registered owner of a 1-acre parcel identified as Tax Map Key No. (1)86007006. The parcel is presently zoned for agricultural use. Mr. Maafala is exceedingly worried that he will lose the right to live in his own home due to the stricter occupancy restrictions looming in article five of the proposed revisions to the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are free to live in their homes on agricultural land if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1] The proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming. This suggested revision to the LUO specifically articulates that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3]

These new occupancy restrictions appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural land.[4] Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, these occupancy restrictions will have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities.

---

[1] Quoted text is taken from HRS 205-4.5

[2] The proposed changes to the LUO can be viewed in their entirety on the Department of Planning and Permitting's own website homepage (http://www.honoluludpp.org) under the "News" heading

[3] See Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

The disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes. Indeed, implementing this new occupancy standard will amount to a de facto eviction for Mr. Maafala and other individuals and families residing on agricultural land who are unable to actively farm their lands, either due to health conditions, advanced age, retirement, finances, caregiving responsibilities, or other personal circumstance that may preclude active farming.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, to dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if the new provisions are allowed to proceed.

Mr. Maafala's land faces conditions which render it ill-suited to substantial agricultural production. Most notably, the parcel is exceedingly small and built structures cover much of the already severely limited land area It is our understanding that Mr. Maafala currently cultivates a limited number of coconut and mango trees on the land. However, due to its size, the parcel cannot possibly support any more extensive agricultural production. Furthermore, to our knowledge the soil is excessively dry and the supply of water to the parcel is not sufficient for agricultural activity. Given these conditions, it is not possible for agricultural yields drawn from the parcel to substantially support Mr. Maafala. Therefore, conditioning Mr. Maafala's continued occupancy of his lands on his active engagement in farming, as proposed in the LUO revisions, would be unreasonable.

Mr. Maafala's personal circumstances also present a barrier to any substantial agricultural production taking place on his property. Mr. Maafala is 54 years old with no previous experience in farm work. It is our understanding that Mr. Maafala is presently receiving disability benefits because of physical limitations that would make it impossible for him to establish and sustain any agricultural production on his lands even if the size and nature of his parcel made such action otherwise feasible. Since Mr. Maafala is not physically able to extensively farm his lands, codification of this new occupancy restriction for agricultural land could render the Maafala family's continued residence on their own land illegitimate and amount to a de facto eviction of Mr. Maafala and his family from a property that they have developed and invested in extensively. This potentiality is of profound concern to Mr. Maafala.

Even if no immediate enforcement actions are taken against the Mr. Maafala in connection with the LUO revision, the new occupancy restrictions will continually be a source of stress and concern for Mr. Maafala and any future landowners or occupants of the parcel. The passage of the revised LUO will create a threatening uncertainty which will loom over Mr. Maafala's genuine hope of peacefully living out their days on their own property and passing that property down to their heirs without the threat of eviction and foreclosure. Allowing Mr. Maafala's occupancy rights to be degraded because he is not physically able to operate a substantial farm on his property would be unjust, blatantly discriminatory, and senseless. Applying the new occupancy standard

to Mr. Maafala's land will not meaningfully protect O'ahu's agricultural industry or discourage the establishment of gentlemen farms. Instead, the occupancy restriction would seriously harm Mr. Maafala and others like him, the very people our land use laws should serve.

Mr. Maafala strongly objects to the proposed changes to the LUO. Should the LUO revision proceed, Mr. Maafala would request a contested case hearing to ensure due protection of his interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations.

Mr. Maafala trusts that the Planning Commission will cautiously approach any actions or decisions that would disproportionately harm those disabled and elderly members living in Oahu's agricultural communities. Indeed, Mr. Maafala trusts that the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting people like Mr. Maafala from their longtime homes. Mr. Maafala implores the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

Kalani A. Morse

KAM
Enclosure

ATTORNEYS AT LAW

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City and County of Honolulu Planning Commission
c/o Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to article five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. Our office represents Mrs. Hazel Kealoha. Through her trust, Mrs. Kealoha owns a one-acre parcel identified as Tax Map Key No. (1)41010056, which is presently zoned for agricultural use. Mrs. Kealoha is deeply worried that she will lose the right to live in her own home due to the stricter occupancy restrictions looming in article five of the proposed revisions to the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are free to live in their homes on agricultural land if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1] The proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming. This suggested revision to the LUO specifically articulates that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3]

These new occupancy restrictions appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural land.[4] Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, these occupancy restrictions will have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities.

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[3] See Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

The disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes. Indeed, implementing this new occupancy standard will amount to a de facto eviction for Mrs. Kealoha and other individuals and families residing on agricultural land who are unable to actively farm their lands, either due to health conditions, advanced age, retirement, finances, caregiving responsibilities, or other personal circumstance that may preclude active farming.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, to dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if the new provisions are allowed to proceed.

Mrs. Kealoha's parcel is ill-suited to largescale, sustained agricultural production. As mentioned above, the parcel is only 1.01 acres in size. In addition to the size concern, the parcel faces significant barriers to agricultural production related to soil quality and water access. Red and gray clay is present in large quantities throughout the soil on the parcel. This makes the soil extremely dense and not conducive to agricultural production of food or other crops. The parcel can produce taro and ti, but only in very small quantities. The primary source of water on the property is a small stream which may contain pollutants from upstream and lacks any stones that would naturally filter debris. This source is insufficient to provide water for agricultural use.

Due to these disadvantageous circumstances and the small size of the parcel, any agricultural yields drawn from the parcel would be wholly insufficient to support the Kealoha family. Additionally, Mrs. Hazel Kealoha and her family members are not able to farm, Mrs. Hazel Kealoha is 96 years old and cannot physically farm. Mrs. Stacey Kealoha Utu is 66 years and faces her own physical limitations. She also has the responsibility of being Hazel Kealoha's primary caregiver. Finally, Mr. Robert Kealoha is 63 years old. He is engaged full time in non-agricultural work to support his family and cannot be expected to farm. Considering the disadvantageous conditions on the Kealoha's parcel and the physical inability of Kealoha family members to farm, applying a new standard to the Kealoha family's land that requires them to farm to continue living on their land is unreasonable and needlessly harmful. The proposed new occupancy restrictions could render the Kealoha family's occupancy of their land illegitimate and amount to a de facto eviction of Mrs. Hazel Kealoha and her relatives from a property that they have developed and invested in extensively. This potentiality is of profound concern to Mrs. Kealoha.

Even if no immediate enforcement actions are taken against the Mrs. Hazel Kealoha in connection with the LUO revision, the new occupancy restrictions will continually be a source of stress and concern for the Kealoha family and any future landowners or occupants of the parcel. The passage of the revised LUO will create a threatening uncertainty which will loom over Mrs. Kealoha's sincere hope of peacefully living out their days on their own property and passing that property down to their heirs without the threat of eviction and foreclosure. Degrading Hazel Kealoha's occupancy rights and disrupting her life in this manner simply because she is not

physically able to operate a substantial farm on her parcel would be unjust, blatantly discriminatory, and senseless. Furthermore, application of the new occupancy standard to Mrs. Kealoha's land will fail to meaningfully protect O'ahu's agricultural industry or in any way discourage the establishment of gentlemen farms.

Mrs. Kealoha strongly objects to the proposed changes to the LUO. Should the LUO revision proceed, Mrs. Kealoha would request a contested case hearing to ensure due protection of his interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations.

Mrs. Kealoha trusts that the Planning Commission will cautiously approach any actions or decisions that would disproportionately harm those disabled and elderly members living in Oahu's agricultural communities. Indeed, Mrs. Kealoha hopes the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting people like Mrs. Kealoha and her relatives from their longtime homes. Mrs. Kealoha implores the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

Kalani A. Morse

KAM
Enclosure

From: craig stevens [mailto:crstevens1020@live.com]
Sent: Tuesday, August 31, 2021 2:30 PM
To: info@honoluludpp.org
Subject: Public Testimony Submission for September 1st 2021, Planning Commission Meeting

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

TO: Brian Lee, Chair and Members of The Planning Commission

HEARING DATE: September 1, 2021

SUBJECT: Proposed Amendments to Chapter 21 Revised Ordinances of Honolulu, Relating to Transient Accommodations

FROM: Craig Stevens, Honolulu, Hawaii

You will, no doubt, receive many letters with a point-by-point rebuttal of many of the revised provisions drafted by the Department of Planning and Permitting (DPP) regarding short term vacation rentals including the ones that will face legal challenge. This will not be one of them.

Instead, I would like to talk about the overall goals and practical outcome of this proposed legislation.

The stated primary goals of this legislation are to protect residential neighborhoods from negative impacts of short-term vacation rentals in residential neighborhoods and raise reasonable funds for the enforcement of vacation rental laws.

These are goals that, I believe, a vast majority of legal vacation rental owners in non-residential areas would consider reasonable and could fully endorse.

Why, then, does most of this legislation impose a series of regulations and restrictions on legal vacation rentals – vacation rentals that positively contribute to the State's tax base (through sales and property taxes), including vacation rentals, whether less than 30 days, or more, in tourist areas of Oahu, and most notably in all parts of Waikiki?

Instead, it is abundantly transparent that the real goal of this legislation is to put sufficient road blocks in front of vacation rentals, to provide financial advantages to the hotel industry ensuring a major contraction of legal vacation rentals island wide. Not content with this, the DPP has not been too embarrassed to add market blocks by limiting how and where guests can be welcomed and owners' ability to set pricing which reflects the unique features of each rental. Furthermore, provisions to change the 30 days minimum to 180 days, even in areas of Waikiki, transparently show this bill is here to establish new restrictions that have little, or nothing to do with its stated goals.

Vacation rentals have never been based on a "standard offer" and the DPP knows it. - Success in vacation renting has been based on personal relationships with visitors, unique marketing and customer service, competitive pricing and home-from-home features including items like kitchens, washer/dryers, adequate space, superior furnishings etc - in other words, the attributes tourists increasingly seek the world over.

The DPP knows if it can impose a standard offering, so characteristic of hotels, on a vacation rental market, it can cause immense damage to the latter. That is why this legislation limits owner/manager flexibility in condo pricing, how guests can be met, restricts owner/guest options, while adding as much paperwork administration and overhead as possible for guests, owners alike.

Does anyone believe that with DPP's obvious hostility toward vacation rentals and their owners, that they will not create day to day barriers through their administration of the new complex burdensome registration process?

So instead of legislation targeting illegal rentals in residential areas, together simple mechanisms to raise revenue, this bill has become an excuse for imposing a red tape laden administrative monstrosity on all vacation rentals, restricted owner rights, less competition and choice and thereby successfully handed over the vacation market to inflexible, high priced, hoteliers island wide.

In putting together this draft, the DPP has demonstrated a clear inability to develop a **balanced policy** toward this matter, which focuses on, and addresses the disadvantages (while yes, also acknowledging the positive attributes) of vacation rentals to the State of Hawaii. Only by taking account of the latter too, will the DPP be in a position to develop legislation that can benefit all Hawaiians.

This legislation should be sent back to the DPP to be re-drafted so as to meet its stated goals and nothing more.

Mahalo for your time,

Craig Stevens

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650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to article five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. We write on behalf of Arnold K. and Jerri A. Lum. Through their trust, Arnold and Jerri Lum own two parcels identified as Tax Map Key No. (1)41035020 and Tax Map Key No. (1)41035018. Both parcels are presently zoned for agricultural use. The Lums are urgently concerned that they will lose the right to live in their own home due to the stricter occupancy restrictions looming in article five of the proposed revisions to the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are free to live in their homes on agricultural land if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1] The proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming. This suggested revision to the LUO specifically articulates that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3]

These new occupancy restrictions appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural land.[4] Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, these occupancy restrictions will have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities.

The disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions

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[1] Quoted text is taken from HRS 205-4.5

[2] The proposed changes to the LUO can be viewed in their entirety on the Department of Planning and Permitting's own website homepage (http://www.honoluludpp.org) under the "News" heading

[3] See Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes. Indeed, implementing this new occupancy standard will amount to a de facto eviction for the Lum family and other families residing on agricultural land who are unable to actively farm their lands, either due to health conditions, advanced age, retirement, finances, caregiving responsibilities, or other personal circumstance that may preclude active farming.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, to dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if the new provisions are allowed to proceed.

Both of the Lum's parcels face conditions adverse to sustained agricultural production. The first of the parcels has a total land area of only .38 acres. Additionally, it is our understanding that roughly 10% of the parcel faces growing conditions unsuitable to farming and as much as half is not currently engaged in agricultural production. The parcels incredibly small size makes agricultural production financially and logistically infeasible. The second parcel is roughly 2.6 acres. Approximately one (1) acre of that land is not in agricultural production. This is because a portion of the land is prone to flooding and another segment features soil that is of undesirable quality. These portions of the parcel cannot be reliably utilized in the production of crops.

It is our understanding that both of the Lum's parcels are partially abutted by an agriculture park established by the State of Hawaii in the 1980s. Extensive erosion and ponding has occurred on the Lum's parcels as a result of that park's development. This issue further complicates agricultural activity on the land. The Lum's report that the State is aware of the issue and has proposed a redirection of the runoff from the park. However, the State has yet to take any corrective action to restore the productive capacity of the Lum's land. Given the challenges to crop production on the Lum's land it would be unreasonable to codify a new occupancy standard which would require Arnold and Jerri Lum to continually farm in order to live on their land.

The condition of the land is not the only barrier to agricultural production on the Lum's parcels. The current occupants of the land face health conditions which limit their ability to cultivate crops. Mr. Arnold Lum is 64 years old. It is our understanding that Arnold experienced a heart attack in 2019 and underwent heart by-pass surgery. He also lives with diabetes and hypertension. Farm work is beyond his physical ability. Jerri Lum is 63 years old and is occupied full time with the responsibilities of caring for her mother who also resides on the parcels and requires constant assistance. As a result of these factors, Arnold and Jerri Lum are not able to farm. The Lums have two adult children, Blaine and Jasmine, that also reside on the parcels owned by the Trust. Both Blaine and Jasmine are single parents, each raising and providing for three small children. It would be unreasonable to expect either Blaine or Jasmine to abandon these responsibilities to facilitate agricultural production on the parcels. As no member of the Lum family currently occupying the parcels is able to farm the land, the proposed new standard could render the Lum family's occupancy of their own land illegitimate and amount to a de facto eviction of the family from a property that they have developed and invested their life's savings into. This potentiality is of profound concern to Arnold and Jerri Lum.

Even if no immediate enforcement actions are taken against the Lums in connection with the LUO revision, the new occupancy restrictions will continually be a source of stress and concern for the Lum family and any future landowners or occupants of the parcel. The passage of the revised LUO will create a threatening uncertainty which will loom over the Lum's sincere hope of peacefully living out their days on their own property and passing that property down to their heirs without the threat of eviction and foreclosure. Allowing Arnold and Jerri Lum's occupancy rights to be degraded simply because they are not physically able to operate a substantial farm would be unjust, blatantly discriminatory, and senseless. Applying the new occupancy standard to the Lum's parcels will not meaningfully protect O'ahu's agricultural industry or discourage the establishment of gentlemen farms.

Arnold and Jerri Lum strongly object to the proposed changes to the LUO. Should the LUO revision proceed, the Lums would request a contested case hearing to ensure due protection of his interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations.

The Lums trust that the Planning Commission will cautiously approach any actions or decisions that would disproportionately harm those disabled and elderly members living in Oahu's agricultural communities. Indeed, the Lum family hopes that the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting people like Arnold and Jerri Lum from their longtime homes. The Lums implore the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

Kalani A. Morse

KAM
Enclosure

From: M. EVA STEELE [mailto:aloha.mesteele@gmail.com]
Sent: Tuesday, August 31, 2021 2:23 PM
To: info@honoluludpp.org
Cc: Nate Steele
Subject: Fwd: DPP war on Transient Units

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WAKE UP NOW! SCAMDEMIC*HEAR THIS LOUD AND CLEAR!

FINAL WARNING AND NOTICE !!! NUREMBERG 2.0

COVID Not Isolated, Cannot Be Located, Does Not EXIST! FOIA Response Reveals Worldwide HOAX!

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https://rumble.com/vlx2v2-mayo-clinic-doctor-wishes-death-suffocation-on-trump-voters.html

1B-MUST WATCH*FDA & PFIZER: SOMETHING WICKED THIS WAY COMES -- DR. ANDREW KAUFMAN**
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https://www.banned.video/watch?id=611d5a728473755afd29782b

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9-MUST WATCH*ATTORNEY THOMAS RENZ WHISTLEBLOWER 45,000 DEAD WITH JAB 72HRS**
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9A- DR THOMAS COWAN - PCR TESTS ARE ENDING
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https://www.bitchute.com/video/i9MxgJtwhtpI/

ATTORNEYS AT LAW

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kmorse@dlmhawaii.com

(Via email to: info@honoluludpp.org; CC: lee@code-studio.com)

City and County of Honolulu Planning Commission
c/o Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to article five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. We write on behalf of Mr. Lawrence Ito ("The Client"). Mr. Ito is a registered owner of three parcels identified as Tax Map Key No. (1)41024012, (1)41024013, and (1)41024014. All three parcels are currently zoned for agricultural use. Mr. Ito is urgently concerned that he will lose the right to live in his own home due to the stricter occupancy restrictions looming in article five of the proposed revisions to the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are free to live in their homes on agricultural land if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1] The proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming. This suggested revision to the LUO specifically articulates that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3]

These new occupancy restrictions appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural land.[4] Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, these occupancy restrictions will have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities.

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[1] Quoted text is taken from HRS 205-4.5

[2] The proposed changes to the LUO can be viewed in their entirety on the Department of Planning and Permitting's own website homepage (http://www.honoluludpp.org) under the "News" heading

[3] See Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

The disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes. Indeed, implementing this new occupancy standard will amount to a de facto eviction for Mr. Ito and other individuals and families residing on agricultural land who are unable to actively farm their lands, either due to health conditions, advanced age, retirement, finances, caregiving responsibilities, or other personal circumstance that may preclude active farming.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, to dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if the new provisions are allowed to proceed.

All parcels belonging to the Ito family face difficulties which significantly complicate agricultural production. The first parcel has a total land area of only 0.59 acres, much too small for agriculture. In addition to the specific size constraints on this parcel, challenges to agricultural production exist across all of the Ito family's parcels. At present, the Ito family grows small crops of soybean, papaya, avocado, ginger, and ornamental plants. However, it is our understanding that more than half of the Ito's lands lack soil qualities sufficient to support ground crops.

Mr. Lawrence Ito, his wife Carole, and his brother Paul are all elderly. The physical demands of agricultural work are now beyond their abilities. Rochelle and Grant Ito, Lawrence's children, also reside on the Ito family's parcels. However, they engaged with other responsibilities and unable to actively farm. Additionally, both are getting busier with caring for their aged parents. Despite these challenges, the Ito family has thus far been able to encourage and sustain limited agricultural activity on their parcels. Still, imposing a new standard occupancy to the Ito's land which requires them to actively farm in order to maintain residence could render the Ito family's occupancy of their own homes illegitimate and amount to a de facto eviction of the Ito family from a property that they have developed, heavily invested in, and preserved for limited agricultural use. This potentiality is of profound concern for the Ito family.

Even if no immediate enforcement actions are taken against the Ito family in connection with the LUO revision, the new occupancy restrictions will continually be a source of stress and concern for the Ito family and any future landowners or occupants of the parcels. The passage of the revised LUO will create a threatening uncertainty which will loom over Mr. Lawrence Ito's sincere hope of peacefully living out his days on his own property and passing that property down to his heirs without the threat of eviction and foreclosure. Allowing the occupancy rights of the Ito family to be degraded simply because the family members are aged and not physically able to operate a substantial farm would be unjust, blatantly discriminatory, and senseless. Furthermore, applying the new occupancy standard to the Ito family's land will not meaningfully protect O'ahu's agricultural industry or discourage the establishment of gentlemen farms. Instead, the

occupancy restriction would seriously harm Mr. Lawrence Ito and small farmers like him, the very people our land use laws should serve.

Mr. Ito strongly objects to the proposed changes to the LUO. Should the LUO revision proceed, Mr. Ito would request a contested case hearing to ensure due protection of his interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations.

Mr. Ito trusts that the Planning Commission will cautiously approach any actions or decisions that would disproportionately harm those disabled and elderly members living in Oahu's agricultural communities. Indeed, Mr. Ito trusts that the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting people like Mr. Ito from their longtime homes. Mr. Ito implores the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

Kalani A. Morse

KAM
Enclosure

ATTORNEYS AT LAW

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KALANI A. MORSE, ESQ.
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kmorse@dlmhawaii.com

(Via email to: info@honoluludpp.org; CC: lee@code-studio.com)

City and County of Honolulu Planning Commission
c/o Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, HI 96813

Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to Article Five of the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. Our office represents Mr. James Kobatake and his company Jamlin, LLC. Jamlin, LLC owns the parcel identified as Tax Map Key No. (1)94005095, which is presently zoned for agricultural use. Mr. Kobatake is anxious with worry about losing rights to ever live in his own home on the Parcel, due to the stricter occupancy restrictions looming in the proposed revisions to Article Five of the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are currently free to live in their homes on agricultural lands if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1]

The recently proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for those living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming.

More specifically, the suggested revision to the LUO asserts that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3] When applied in the context of HRS 205-4.5 and other provisions in the LUO governing the occupancy of farm dwellings, these new occupancy restrictions in the proposed LUO changes appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural lands.[4]

Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, the occupancy restrictions used to achieve those goals will have a discriminatory

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[3] *See* Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

impact that will dramatically harm the most vulnerable in our agricultural communities. The disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes.

Indeed, implementing this new occupancy standard will stand as a de facto eviction for Mr. Kobatake and other individuals and families who either reside on agricultural land or hope to one day make a home on their agricultural lands, but are otherwise precluded from actively farming their lands. Many are now or soon will be unable to do so due to their health conditions, advancing age, retirement, finances, caregiving responsibilities, or other personal circumstance that may prevent a landowner from farming in "actively" enough to avoid breaking the law simply by living on their land. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if these proposed revisions are approved.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, too dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival.

The nature of large portions of Mr. Kobatake's parcel is likely to hinder any reasonable form of agricultural production. The parcel does not currently enjoy direct access to sufficient quantities of usable water in order to support meaningful agricultural production. As we understand, Mr. Kobatake must truck in portable water vessels to undertake any kind of agricultural irrigation activity on the parcel.

Additionally, while the land is large, steep topography dominates the parcel. This steeply sloped land may be suitable for some type of agricultural production. However, it is not possible for the types of crops Mr. Kobatake typically grows to survive on this land. Establishing production in these areas would require significant effort from Mr. Kobatake and may prove to be impossible. Considering the logistical challenges and environmental barriers which complicate crop cultivation on Mr. Kobatake's land it would be unreasonable to enforce a new occupancy standard in the revised LUO which requires anyone who wishes to live on the land to actively and continually farm. Furthermore, the proposed occupancy restrictions will degrade Mr. Kobatake's occupancy rights in the inevitable event that Mr. Kobatake eventually becomes physically unable to farm due to illness, disability, or old age. Therefore, codifying stricter occupancy restrictions for dwellings situated on agricultural lands could potentially render any occupancy of Mr. Kobatake's land illegitimate and will likely force abandonment of a property that Mr. Kobatake has developed and invested in extensively.

Even if no immediate enforcement actions are taken against Mr. Kobatake in connection with the LUO revisions, the new occupancy restrictions will continually be a source of distress and concern for Mr. Kobatake and any future landowners or occupants of Mr. Kobatake's parcel. Passage of the revised LUO will create a threatening uncertainty which will loom ominously over their genuine hope of ever living peacefully on their own property or passing that property down to their heirs without the threat of eviction and foreclosure ever looming.

As such, Mr. Kobatake strongly objects to these proposed changes to the LUO. Should the LUO revisions proceed, Mr. Kobetake and his company, Jamlin, LLC. must request a contested case hearing to ensure due process protection of their interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations. Surely there are better, less harmful, and non-discriminatory means of disincentivizing and preventing luxury developments on agricultural lands.

Mr. James Kobatake also trusts that the Planning commission will cautiously approach any actions or decisions that would harm disproportionately those disabled and elderly members living in Oahu's agricultural communities. Indeed, Mr. Kobatake trusts that the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting goo people from their homes. Mr. Kobatake implores the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

Kalani A. Morse

KAM
Enclosure

ATTORNEYS AT LAW

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Re: Proposed Revisions to the Land Use Ordinance

Dear Chair Brian Lee and Commissioners:

Proposed changes to article five the City and County of Honolulu's Land Use Ordinance ("LUO") will soon be put before the Planning Commission and possibly the City Council. Our office represents Mr. David Bybee. Mr. Bybee and his wife, Juanita are owners of a .61-acre parcel identified as Tax Map Key No. (1)530040360 and presently zoned for agricultural use. Mr. Bybee is urgently concerned that he will lose the right to live in his own home due to the stricter occupancy restrictions looming in article five of the proposed revisions to the LUO.

Under the standard set by HRS § 205-4.5, individuals and their families are free to live in their homes on agricultural land if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land.[1] The proposed revisions for article five of the LUO threaten to codify a much harsher and discriminatory restriction for living on agricultural lands.[2] Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming. This suggested revision to the LUO specifically articulates that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity."[3]

These new occupancy restrictions appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural land.[4] Despite this laudable intent to protect Oahu's agricultural lands from luxury housing developments, these occupancy restrictions will have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities.

The disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise protections for agricultural lands that do not strip disadvantaged homeowners of the right

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[3] See Section 21-5.40(d) of the proposed draft article five

[4] A summary of the proposed changes provided by the Department of Planning and Permitting for the benefit of neighborhood boards specifically identifies the new restrictions as being targeted at gentleman farms.

to live in their own homes. Indeed, implementing this new occupancy standard will amount to a de facto eviction for Mr. Bybee and other individuals and families residing on agricultural land who are unable to actively farm their lands, either due to health conditions, advanced age, retirement, finances, caregiving responsibilities, or other personal circumstance that may preclude active farming.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, to dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if the new provisions are allowed to proceed.

Mr. Bybee's parcel are faces a number of conditions which make extensive agricultural production exceedingly challenging. At less than an acre the parcel is simply too small for the agricultural yields drawn from it to substantially provide for Mr. Bybee and his family. It is our understanding that approximately half of the parcel (.3 acres) does not currently feature growing conditions suitable for any agricultural activity, further compounding the small lot size issue.

It is important to note that Mr. Bybee's personal circumstances are also not suited to agricultural production. Mr. Bybee is engaged in full time non-agricultural work that is critical to his family's livelihood. He and his wife also share a responsibility to care for their four children. As no member of the Bybee family currently occupying the parcel can feasibly farm the land, codification of the harsh occupancy restriction contained within the proposed revisions to the LUO could render the Bybee family's occupancy of their own land illegitimate and amount to a de facto eviction of Mr. David Bybee and his family from a property that they have developed and invested in extensively.

This potentiality is of profound concern to the Bybee family. Allowing the Bybee family's occupancy rights to be imperiled under a revised LUO would be unreasonable and unjust, especially considering that applying the new occupancy standard to such a small parcel will not meaningfully protect local agricultural production.

Even if no immediate enforcement actions are taken against the Mr. Bybee in connection with the LUO revision, the new occupancy restrictions will continually be a source of stress and concern for the Bybee family and any future landowners or occupants of the parcel. The passage of the revised LUO will create a threatening uncertainty which will loom over Mr. Bybee's sincere hope of peacefully living out his days on his own property and passing that property down to his heirs without the threat of eviction and foreclosure.

Mr. Bybee strongly objects to the proposed changes to the LUO. Should the LUO revision proceed, Mr. Bybee and his family would request a contested case hearing to ensure due protection of their interests in the face of unreasonable harm. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations.

Mr. Bybee trusts that the Planning Commission will cautiously approach any actions or decisions that would disproportionately harm those disabled and elderly members living in Oahu's agricultural communities. Indeed, Mr. Bybee trusts that the Planning Commission will require agency officials to work on devising mechanisms that can help safeguard agricultural lands and production on O'ahu without stripping agricultural landowners of their basic property rights and evicting people like Mr. Bybee from their longtime homes. Mr. Bybee implores the planning commission to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.

Very truly yours,

DURRETT LANG MORSE, LLLP

Kalani A. Morse

KAM
Enclosure

From: Stephanie Fitzpatrick [mailto:slfmakiki@gmail.com]
Sent: Tuesday, August 31, 2021 4:09 PM
To: Department of Planning and Permitting
Cc: Christina Chase; Ms. Stephanie Fitzpatrick
Subject: Testimony for DPP/Honolulu City Council - for Sept. 1, 2021, on Short Term Rentals

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Aloha,

I oppose the DPP and Honolulu City Council considering the increased required minimum time of short term vacation rentals in Honolulu County from 30 days to 180 days.

My aunt, Stephanie Fitzpatrick, currently owns a beachfront property in Mokuleia. She is now the third generation owner. I have been visiting this beach house since I was a little baby and would love to see it remain in the family. Unfortunately with a drastic change to the required minimum time, the home will no longer be financially manageable for my aunt, which ultimately means that she will be forced to sell. I would hate to see such a beloved property go to another mainland investor. I am in support of keeping things local, and this change would make it impossible to do that.

Mahalo for your consideration,

Christina Chase

TO: Members of the Planning Commission

SUBJECT: Proposed Amendments to Chapter 21 (Land Use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations.

Dear Planning Commission Members,

I am very concerned about the proposed amendment to Chapter 21 which is related to Transient Accommodations.

- According to this bill, the purpose of this ordinance is "to better protect the City's residential neighborhoods and housing stock..."

- According to this bill, short term rentals are:
  - "Disruptive to the character and fabric of our residential neighborhoods"
  - "They decrease the supply of long-term housing for local residents"
  - "They increase the prices of rent and housing".

I don't disagree with the above purpose and facts.

I believe the best way to protect residential areas, housing stock and avoid the negative effects of STR in residential neighborhoods, is by simply enforcing Ordinance 19-18 (Bill 89).

However, I have a few questions and concerns about the proposed amendment.

<u>1: Sec 21-5.360 Condominium Hotels: "Units in a condominium-hotel must be part of the hotel's room inventory"</u>

- I don't see how this Section is related to the original purpose of this ordinance, which is to protect residential neighborhoods. Condominium-hotels are in Waikiki, in resort zones or adjacent to resort zones, hence not in residential neighborhoods. Furthermore, how does forcing property owners of units in Condominium-hotels into being part of the hotel pool enforce the original purpose of this proposed amendment?

- This Section does not offer any benefit to the local community, but only to the hotel industry. This Section eliminates any possible competition through legal property management companies and creates a monopolistic market.

I am an owner of a legal STR (TVU) in the Waikiki resort zone, in a Condominium-Hotel. After ten (10) years of being in the hotel pool, I opted to have my unit managed by a professional short-term management company. The decision to move to a professional short term management company was the result of many issues:

1. The income received was inconsistent and inequitable.
2. Because of the updated nature of my unit, it became highly requested, and because of higher use I had to deal with more damages to my property. However, despite the high use of my unit my income never increased. At the end of the month, I received the same as all the other units.

3. Payouts to management are extremely high, and as a result owners lose income that should be given to them.

Since leaving the hotel pool I have been able to bring in a steady income that has allowed me to keep my unit updated and in good condition. Additionally, my income has also allowed me to build a small savings that became essential during Covid when no rental income was coming in, and it made it possible for me to pay for monthly condo fees that were doubled during covid due to extensive building maintenance projects.

The company that manages my unit is a licensed and bonded company. They have approximately 25 employees (all living and working on the island) and provide a very reliable and professional service to me as an owner as well as to our guests. Dictating that I need to go back to the hotel pool if I want to continue with STR's is unjustified and unreasonable. Not only will it be putting many locals out of work, but you are creating a monopolistic market for the hotel industry. It is obvious that this type of condition has only negative effects for the public (high prices and low-quality service), and only benefits the hotel industry. In a purely monopolistic model, the monopoly firm can restrict output, raise prices, and enjoy super-normal profits in the long run.

This amendment appears to be unjustly targeting and punishing owners that have units in condominium-hotels. The Planning Commission Members should note that we are owners that pay taxes based on our rentals, and we also help to pay the wages of the local third-party management companies we have hired. We contribute to the local economy in a meaningful way, which is currently made possible by the fact that units in condominium-hotels can be managed by either the hotel pool or by third-party management companies which creates a healthy and competitive market. Imposing that only the hotel pool is allowed to manage all units in condominium-hotels, would mean that hotels could charge very high management fees to the owners without fearing of losing clients, because this amendment has taken away our options as owners.

Some condominium-hotels have up to 1,000 hotel-units, and I know from my own experience in the hotel-pool that having one hotel operator drastically reduces the dedicated, responsive, and reliable service a third-party management company can offer to both the owners and the guests. Taking away the option for third party management could even quickly turn the owner's investments into a loss, and force many they may be forced to sell their units.

While I strongly agree that the number of tourists coming to the islands needs to be limited. A healthy tourism industry would be highly beneficial for this island. But it is important for the tourism industry as well to support a healthy, professional, and competitive market. This is the only way to ensure that the supply of vacation units is kept in good condition and the quality of services remains high.

2: Sec. 21-5.730.1: To allow TVUs in the Gold Coast;

It doesn't seem obvious how this section can be in accordance with the original purpose of this amendment, to:

- Stop decreasing the supply of long-term housing for local residents

- Stop the disruption to the character and fabric of our residential neighborhoods
- Stop the increase of rental prices.

3: Sec. 21-5.730-2: "Each natural person may own no more than one unit that is registered as a B&B or TVU.

This section does not have any positive impact on the local housing market! Since the number of legal TVUs and B&B will not increase, why does it matter how many units a person owns? Aren't we living in a free market, where people can invest, own, purchase whatever is legal? What would come next? Limiting the number of houses someone can own, or the number of cars someone can own? I don't believe such drastic regulations and limitation of ownership can protect the city's residential neighborhoods and housing stock. I think what would protect the housing stock is the reduction of the STR's in the residential areas – which has already been alluded to. However, for my personal unit, which is located in the Waikiki resort zone, imposing restrictions on ownership will not aid in the housing stock.

August 31, 2021

Dear Ladies and Gentlemen of the DPP and the Honolulu Planning Commision,

Thank you for the opportunity to comment on the amendments to Ordinance 19-18 that was sent to the Honolulu Planning Commission for consideration.

By way of introduction, I am Maye-Lynn Gon-Soneda. I was raised in Honolulu and although I now reside on the Mainland, I and my family have visited Honolulu at least three times a year since I moved to the West Coast. Those trips were expensive but *Hawai'i no ka oi*. In search of more local and economic alternatives, we discovered condominiums. The condos allowed us to visit and shop locally instead of being limited to hotel-affliliated businesses. Fifteen years ago, I was able to buy my own property in Honolulu; my own home in Hawai'i. I identified a reputable property manager to manage my condo between visits. I am providing my input as an interested party and as a homeowner.

I would like to raise concerns about the revised draft of Ordinance 19-18. This draft contains several fundamental flaws, which were not dealt with after the first review. The issues follow:

- Individual Property Rights. A foundational belief of American rights is to paraphrase, "a woman's home is her castle." This bill drastically expands hotels' interests while eliminating my ability to reside in and manage my household. Additionally, the bill requires that I may pay additional taxes or fees while hotels do not. I pay my Hawai'i income and property taxes, GET, TAT, HOA, etc., diligently. That this bill would require that I pay additional taxes while hotels do not is an unfair business practice. It should also be noted that I have invested several thousands of dollars to upgrade my home with amenities that can compete with higher tier hotels. If I must cede my right to manage my property what are the standards that hotels must comply with in order to safeguard my investment? My rights as a homeowner are not taken into account and must be considered in any new draft.

- Suppression of owner's ability to manage their unit: This bill stipulates that condo-hotel properties must be operated by the hotel; even though a majority of units may not be owned by the hotel. I may be forced to cede my property rights to a corporation that has no other interest than to fill their own rooms first. This represents a huge conflict of interest. Additionally, the hotel has no vested interest maintaining my or other owners' homes as effectively and efficiently as mine is being maintained now. I engage an excellent property manager who can quickly repair, paint, clean and maintain my unit at standards probably higher than currently followed a hotel. I also pay an additional fee to have my home cleaned and disinfected using CDC prescribed protocols. There is no guarantee that the hotel will continue to do this for my condo.

- Favoritism towards the hotel industry: The 30-day minimum stay will be adjusted to 180-minimum stay. Interestingly, this was kept from the prior draft. Few hotels are held to this minimum. Owners may be assessed additional fees. For what purposes? In support of which programs? This appears to be an example of taxation without representation. Limiting the number of rooms one may rent, or requiring that condo owners cede their right to manage their property to hotels will create a monopoly solely controlled by the corporate hotel industry. They will be able to fill their own rooms first with no incentive to "spread the wealth" to others outside their corporate sphere. This bill imposes owners additional operational and financial hurdles and restrictions while at the same time

give corporate hotels unfettered rights to operate with the same restriction. The dollars gained by the hotel chains do not go the local government but go to the Mainland corporations.

- Economic Impact: Healthy economic competition requires the ability to evolve and provide services that attract clientele and generate income. This bill does nothing for local businesses or homeowners.. My guests are individuals who wish to avoid the large and commercial hotel environment and hotel-sponsored "Hawaiian events". They want local experiences, to visit local activities and to enjoy the local restaurants. They are generally willing spend more to do so but do not want to do it from a generic hotel room. Their dollars go to local service and event providers. My property management company hires its own cleaning and maintenance workforce at a higher pay rate than hotels. This, in turn, infuses more dollars into the local economy as opposed to going to a corporation on the Mainland. My property manager's responsibilities are to look after my home, identify quality guests and to ensure my guests needs are fulfilled quickly and seamlessly so that they will want to return to Honolulu over and over again. What hotel is incented to do this for me and local businesses?

Summation:

One of the concerns that is brought up is how local homeowners do not want "party houses" or additional traffic in their neighborhood. This ordinance is not the way to manage this problem. Laws and ordinances have already been passed. Enforce these existing rules. This ordinance attempts to solve a problem with a sledgehammer instead of following through with current laws. There is no need to create yet another bureaucracy and more red tape. The City and County already have the laws, enforce them.

Millennials and Gen Zers, many of whom are "remote workers" do not gravitate towards the tourist hotel experience. They want to be able to have a comfortable place to "come home to", cook, socialize with and relax in something other than a generic hotel room. If hotels want their business, let them compete for it but NOT by lobbying for rules meant to suppress individual property rights.

I and others like me provide decent and affordable opportunities such as visiting friends and families, traveling medical staff, contract and remote workers, relocated military families and returning kamaaina. Instead of buttressing the Mainland-based hotel chains, please reconsider this ordinance and vote against it to preserve the unique local lifestyle that makes Honolulu and Hawai'i a unique and desirable tourist destination.

Thank you for your consideration.

Respectfully,

Maye-Lynn Gon-Soneda
Concord, California
Honolulu, Hawai'i

---------- Forwarded message ---------
From: **Doug Mcnee** <dougmcnee17@gmail.com>
Date: Tue, Aug 31, 2021 at 6:59 PM
Subject: DPP
To: kim mcnee <kimmcnee88@gmail.com>

TO: Members of the Planning Commission

SUBJECT: Proposed Amendments to Chapter 21 (Land Use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations.

Dear Planning Commission Members,

I am very concerned and upset about the proposed amendment to Chapter 21 which is related to Transient Accommodations.

- According to this bill, the purpose of this ordinance is "to better protect the City's residential neighborhoods and housing stock..."

- According to this bill, short term rentals are:

- "Disruptive to the character and fabric of our RESIDENTIAL neighborhoods" -
"They decrease the supply of long-term housing for local residents"
- "They increase the prices of rent and housing".

I don't disagree with the above purpose and facts. But hasnt Waikiki beach always been known as a vacation spot

I believe the best way to protect residential areas, housing stock and avoid the negative effects of STR in residential neighborhoods, is by simply enforcing Ordinance 19-18 (Bill 89).

However, I have a few questions and concerns about the proposed amendment.

1: Sec 21-5.360 Condominium Hotels: "Units in a condominium-hotel must be part of the hotel's room inventory"

- I don't see how this Section is related to the original purpose of this ordinance, which is to protect residential neighborhoods. Condominium-hotels are in Waikiki, in resort zones or adjacent to resort zones, hence not in residential neighborhoods. Furthermore, how does forcing property owners of units in Condominium-hotels into being part of the hotel pool enforce the original purpose of this proposed amendment?

- This Section does not offer any benefit to the local community, but only to the hotel industry. This Section eliminates any possible competition through legal property management companies and creates a monopolistic market.

I am an owner of a legal STR (TVU) in the Waikiki resort zone, in a Condominium-Hotel. Which I purchased in 2009 and had the Aston manage my unit what I soon learned was that it being mismanaged, items and they unit were being damaged income was split by floor which meant unfavourable units that were not getting booked as often as the more upscale unite were, which meant the lesser rented unit experienced less traffic and damage but the owner got the same revenu I was getting. I found dealing with the hotel operation very impersonal and their nonchalant attitude toward my concerns. So I decided to leave Aston and opted to have my unit managed by a professional short-term management company, instead of being managed by a hotel pool. The
company that manages my unit is a licensed and bonded company. They have about 25 employees (all living and working on the island) and provide a very reliable and professional service to me as an owner as well as to our guests.

The fact that units in Condominium-Hotels can be managed by either the hotel pool or by third-party management companies creates a healthy and competitive market. Imposing that only the hotel pool is allowed to manage all units in Condominium-Hotels creates a monopolistic market for the hotel industry. It is obvious that this type of condition has only negative effects for the public (high prices and low-quality service), and only benefits the hotel industry. In a purely monopolistic model, the monopoly firm can restrict output, raise prices, and enjoy super-normal profits in the long run.

The hotels would be able to charge very high management fees to the owners of hotel-units without fearing to lose clients, since the owners wouldn't have any other choice anymore. The same would apply if the owners wouldn't be satisfied with the offered service.

Some Condominium-Hotels have up to 1,000 hotel-units. One hotel operator can easily be overwhelmed by having to manage all the units and can't offer the dedicated, very responsive and reliable service a management company can for both the owners and the guests. This could even quickly turn the owner's investments into a loss and force many to sell their units.

Isn't tourism important to Hawaii anymore, If it weren't for tourism the economy would plummet. My unit is in the Waikiki Banyan which was built nearly 50 years ago and its main purpose was to serve as a short term rental for tourists or a vacation home for the owner. Yes it's true many units are owner occupied but the percentage is small.

This proposal doesn't even sound like a proposal, it sounds more like Dictatorship to me.

I'm sure if you owned a unit you would much rather have it in hands of a Property manager that you can deal with directly and personally, unlike dealing with a gigantic corporation that only worries

about the bottom line and shareholders, not to mention they have no capital invested in owner units they manage. They just reap the rewards of the owner's investment

2: Sec. 21-5.730.1: To allow TVUs in the Gold Coast;

It doesn't seem obvious how this section can be in accordance with the original purpose of this amendment, to:

- Stop decreasing the supply of long-term housing for local residents
- Stop the disruption to the character and fabric of our residential neighborhoods -
Stop the increase of rental prices.

Sincerely yours Kim McNee

Virus-free. www.avg.com

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August 31, 2021

Via email: info@honoluludpp.org and telefax: (808) 768-6743

City and County of Honolulu
Department of Planning & Permitting
Planning Commission

RE: Public Hearing Date and Time: Wednesday, September 1, 2021, 11:30 a.m. (via WebEx)

Testimony in Opposition to Select Provisions of the Planning Commission's Proposed Bill to Amend Chapter 21 (Land use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations Affecting the Association of Apartment Owners of Beach Villas at Ko Olina

Dear Planning Commission:

This firm serves as general legal counsel to the Association of Apartment Owners of Beach Villas at Ko Olina ("Association"), a condominium association, organized and existing pursuant to Hawaii Revised Statutes, Chapter 514B (the "Condominium Property Act") and presents this testimony on behalf of the Association in opposition to the Planning Commission's Proposed Bill to Amend Chapter 21 (Land Use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations (referred to hereinafter as the "Proposed Bill to Amend Chapter 21 Re Transient Accommodations" or the "Proposed Bill").

As discussed below, the Association's Board of Directors ("Board") is concerned regarding the proposed amendments set forth in the Proposed Bill to add new Sections 21-5.730.1, 21-5.730.2, 21-5.730.3, 21-5.730.4 to the LUO, and to amend the definition of "transient vacation unit" set forth in ROH, Chapter 21, Article 10.

1. Current Law

Absent possession of a Non-Conforming Use Certificate ("NUC"), rental of a unit for any period less than thirty (30) consecutive days in areas <u>not</u> zoned for "Resort" use, is prohibited under the LUO wherein Section 21-5.730(d) currently provides, in pertinent part, as follows:

> (d) . . . **"Unpermitted transient vacation unit" means a transient vacation unit that is <u>not</u>: (A) Located in the resort district**, resort mixed use precinct of the Waikiki special district, or A-1 low-density apartment district or A-2 medium-density apartment district pursuant to subsection (a); **or (B) Operating under a valid nonconforming use certificate** pursuant to Section 21-4.110-1.
>
> > (2) It is unlawful for any owner or operator of an unpermitted bed and breakfast home or unpermitted transient vacation unit, or the

> owner or operator's agent or representative to: (A) Rent, offer to rent, or enter into a rental agreement to rent an unpermitted bed and breakfast home or unpermitted transient vacation unit for fewer than 30 consecutive days

See, ROH, Ch. 21, Sec. 21-5.730(d), emphasis added.

ROH, Article 10, defines a "transient vacation unit" as "a dwelling unit or lodging unit that is advertised, solicited, offered, or provided, or a combination of any of the foregoing, for compensation to transient occupants for less than 30 days, other than a bed and breakfast home. For purposes of this definition, compensation includes, but is not limited to, monetary payment, services, or labor of transient occupants."

Conversely, in *areas which are zoned for "Resort" use*, there is no minimum required rental period, and rentals for periods less than 30 days are permitted. See, ROH, Sec. 21-3.100-1: ("Resort uses and development standards. (a) Within the resort district, permitted uses and structures shall be as enumerated in Table 21-3.") The Master Use Table, Table 21-3, currently indicates that "Transient Vacation Units" are a "**permitted use subject to the standards in Article 5**" on properties located within the Resort Zoning District, **regardless of the classification of the property as an apartment, hotel or hotel-condominium**.

The City and County of Honolulu, Department of Planning and Permitting (DPP) Property Information Report describes the Beach Villas at Ko Olina Condominium Project located at 92-102 Waialii Place, Kapolei Hawaii 96707, Tax Map Key No. 91057009:0000 as located within the Resort Zoning District. As such, the Beach Villas at Ko Olina is not subject to the conforming use certificate requirements of ROH, Chapter 21 and its unit owners lawfully may rent their units for periods of less than 30 days under the current provisions of ROH, Chapter 21.

Accordingly, Beach Villas at Ko Olina's Declaration, as amended and restated, provides that all hotel or transient vacation uses shall be for periods not less than six (6) consecutive nights. Under the amendments to ROH, Chapter 21, proposed by the Planning Commission, it is unclear whether owners of units at Beach Villas at Ko Olina may continue to lawfully advertise and rent transient vacation units, should the Proposed Bill be enacted into law.

2. **Proposed New Section 21-5.730.1 should be revised to clarify that transient vacation units are also permitted in the Resort Zoning District without a non-conforming use certificate**

Unlike the first draft of the Proposed Bill, Table 21-3 Master Use Table of the Revised Draft of the Planning Commission's Proposed Bill to Amend Chapter 21 Re Transient Accommodations, now includes "Transient Vacation Units" as a "permitted use subject to the standards in Article 5" on properties located within the Resort Zoning District (see, Proposed Bill, Revised Draft at pg. 19). However, at the time the Planning Commission implemented the latest change to the Table 21-3 Master Use Table, corresponding changes were not made to the text of the other proposed amendments in the Proposed Bill. Table 21-3 Master Use Table provides, in

pertinent part, that, "In the event of any conflict between the text of this Chapter and the following table, the text of the Chapter shall control." See, Id. at pg. 19.

Therefore, it is requested the Planning Commission also revise the other proposed amendments as necessary to ensure they are consistent with the revised Master Use Table of the Revised Draft of the Proposed Bill. Currently, the other proposed amendments to add new Sections 21-5.730.1, 21-5.730.2, 21-5.730.3, 21-5.730.4 to the LUO, and to amend the definition of "transient vacation unit" are ambiguous, to the extent it is unclear, despite the revision to Table 21-3 Master Use Table adding transient vacation units back to the list of permitted uses of property in the resort district, whether, under these proposed amendments, short-term rentals of units for less than 30 days (or less than 180 days) may continue at properties located in the Resort Zoning District without a non-conforming use certificate, if the Proposed Bill is enacted.

The Proposed Bill provides, in pertinent part:

> SECTION 17. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-5.730.1 to read as follows:
>
> "Sec. 21-5.730.1 Bed and breakfast homes and transient vacation units.
>
> (a) Bed and breakfast homes and transient vacation units are permitted in the portions of the A-2 medium-density apartment zoning district located in the Gold Coast area of the Waikiki Special District shown in Exhibit A and in the portions of the A-1 low-density apartment zoning district, A-2 medium-density apartment zoning district located in the Kuilima and Ko'olina Resort areas shown in Exhibits C and -B, respectively, and the Resort Mixed Use Precinct in the Waikiki Special District, subject to the restrictions and requirements in Article 5 of this chapter.
>
> See, Proposed Bill, Revised Draft, pg. 26.

It is also unclear whether the Planning Commission's proposed amendment adding Section 21-5.730.1 to the LUO continues to permit transient vacation units ("TVUs") in the Resort Zoning District, as Sec. 21-5.730.1(a) only references the A-2 medium-density apartment zoning district located in the Gold Coast area of the Waikiki Special District; portions of the A-1 low-density apartment zoning district and A-2 medium-density apartment zoning district located in the Kuilima and Ko'olina Resort areas shown in Exhibits C and B, respectively, and the Resort Mixed Use Precinct in the Waikiki Special District.

Exhibit "B" to the Proposed Bill entitled "Short-Term Rental Permitted Areas – Ko Olina Resort," referenced in proposed Sec. 21-5.730.1(a), does not show the area zoned "Resort" as an area where TVUs are permitted, which is contrary to the current ROH, Sec. 21-5.730(d) and Table 21-3 Master Use Table which permit TVUs in the Resort Zoning District.

To be consistent with current ROH, Sec. 21-5.730(d) and current Table 21-3 Master Use Table, proposed Sec. 21-5.730.1(a) should be further revised to **clearly state that transient vacation units are permitted in the resort district, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district, and A-2 medium-density apartment district, without a non-conforming use certificate**.

One of the stated purposes of the Proposed Bill "is to better protect the City's **residential** neighborhoods and housing stock from the negative impacts of short-term rentals by providing a more comprehensive approach to the regulation of transient accommodations within the City." See, Proposed Bill, Revised Draft, Section 1., pg. 1, emphasis added. In addition, ROH, Chapter 21, Sec. 21-3.100 provides that, "[t]he **purpose of the resort district** is **to provide areas for visitor-oriented destination centers. Primary uses are lodging units and hotels and multifamily dwellings**. Retail and business uses that service visitors are also permitted. **This district is intended primarily to serve the visitor population**, and should promote a Hawaiian sense of place." See, ROH, Chapter 21, Sec. 21-3.100, emphasis added. It is recommended the Planning Commission revise proposed new Section 21-5.730.1, as well as proposed new Sections 21-5.730.2, 21-5.730.3, 21-5.730.4 and the proposed new definition of "transient vacation unit" to clearly exempt properties within the Resort Zoning District from these proposed amendments. As discussed below, if the Proposed Bill, is enacted in its current form, it will conflict not only with the expressly stated purposes of the Proposed Bill, but the purposes and intended uses for the Resort Zoning District.

3. **Under the proposed new definition of "transient vacation unit," it is unclear whether properties such as the Beach Villas at Ko Olina may continue to allow short-term rentals for periods less than 30 days and/or 180 days**

The Proposed Bill provides, in pertinent part:

> SECTION 24. Chapter 21, Article 10, Revised Ordinances of Honolulu 1990, as amended, is amended by amending the definitions of "bed and breakfast home", "hotel", and "transient vacation unit" to read as follows:
>
> . . .
>
> ""Transient vacation unit" means a dwelling unit or lodging unit that is advertised, solicited, offered, or provided[~~, or a combination of any of the foregoing, for compensation~~] to transient occupants, for compensation, for periods of less than [~~30~~] 180 consecutive days, other than a bed and breakfast home. For purposes of this definition,
>
> (1) [~~C~~]compensation includes, but is not limited to, monetary payment, services, or labor of guests;
>
> (2) Accommodations are advertised, solicited, offered or provided to guests for the number of days that are used to determine the price for the rental; and
>
> (3) Month to month holdover tenancies resulting from the expiration of long-term leases of more than 180 days are excluded.

See, Proposed Bill, Revised Draft, pgs. 36-37.

The above proposed amendment is ambiguous as to whether the proposed new definition of "transient vacation unit" applies to properties located in the Resort Zoning District, such as the Beach Villas at Ko Olina, and whether the Beach Villas at Ko Olina owners may lawfully continue to rent their units for periods not less than six consecutive nights, as provided under the Association's Declaration should the proposed amendment become law.

As stated above, in *areas which are zoned for "Resort" use*, there is no minimum required rental period, and rentals for periods less than 30 days (or any period) are permitted. See, ROH, Sec. 21-3.100-1. **The Planning Committee's proposed new definition of "transient vacation unit" should be revised to make it clear that it does not amend the definition of "unpermitted transient vacation unit" under ROH, Chapter 21, Sec. 21-5.730(d), and the minimum rental period restriction of 180 consecutive days does not apply, to transient vacation units located in the resort district**, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district, or A-2 medium-density apartment district.

In addition, the proposed amendment to the definition of "transient vacation unit" is inconsistent with, ROH, Chapter 21, Sec. 21-5.730(d)(2) which currently provides it is unlawful to rent an *unpermitted transient vacation unit* **for fewer than 30** consecutive days. See, ROH, Sec. 21-5.730(d)(2), Supra, emphasis added. To ensure consistency between the various sections of ROH, Chapter 21, it is requested the Planning Committee propose an amendment to ROH, Sec. 21-5.730(d)(2) to change the clause therein providing, "for fewer than 30 consecutive days" to "for fewer than 180 consecutive days."

4. **Proposed new Section 21-5.730.2 should be further revised to clarify that properties located within the Resort District are exempt from the registration requirements**

The Proposed Bill provides, in pertinent part:

> SECTION 18. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-5.730.2 to read as follows:
>
> "Sec. 21-5.730.2 Registration, eligibility, application, renewal and revocation.
>
> (a) Registration required. Bed and breakfast homes and **transient vacation units must be registered with the department** . . .

See, Proposed Bill, Revised Draft, pgs. 26-29.

Currently, under ROH, Chapter 21, Section 21-5.730(d), it is lawful to rent a transient vacation unit on property located within the following zoning districts: the **resort district**, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district or A-2 medium-density apartment district, **and neither a non-**

conforming use certificate nor registration with the DPP is needed, since transient vacation units are a conforming use in the foregoing zoning districts.

Therefore, the Planning Commission should revise proposed new Section 21-5.730.2 to make it clear properties located within the resort district, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district, and A-2 medium-density apartment district which rent or offer units for rent for a term of less than 180 consecutive days **are exempt from registration with the department**.

5. **Proposed new Section 21-5.730.3 should be further revised to expressly state that properties located within the Resort District are exempt from the standards and requirements of this Section.**

The Proposed Bill proposes to add a new Section 21-5.730.3 to ROH, Chapter 21 regarding use and development standards for transient vacation units. See, Proposed Bill, Revised Draft at pgs. 29-32. These standards include occupancy limits and sleeping requirements, parking, smoke and carbon monoxide detectors, noise restrictions, gathering restrictions, et seq. that may reasonably apply to residential zoning districts, but not to the Resort Zoning District. Given that one of the stated purposes of the Proposed Bill "is to better protect the City's **residential** neighborhoods and housing stock from the negative impacts of short-term rentals by providing a more comprehensive approach to the regulation of transient accommodations within the City" (see, Proposed Bill, Revised Draft, Section 1., pg. 1, emphasis added), it would appear the Planning Commission did not intend the Proposed Bill to impose these new regulations on properties located in the **Resort Zoning District** which may lawfully rent and advertise transient vacation units under the current LUO. Subjecting properties located within the Resort Zoning District to the use and development standards proposed in new Section 21-5.730.3, would be in direct contradiction to the stated purposes of the Proposed Bill and the purposes of the Resort Zoning District stated in ROH, Chapter 21, Sec. 21-3.100 and discussed at length under Section 2., Supra.

Therefore, it is requested that the Planning Commission should revise proposed new Section 21-5.730.3 to clarify that this section and the use and development standards and requirements stated therein do not apply to properties located in the resort district, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district, and A-2 medium-density apartment district which rent or offer transient vacation units for rent. **As transient vacation units are already a permitted use in the Resort District, proposed new Section 21-5.730.3 should be revised to expressly state that the Beach Villas at Ko Olina and properties located in the Resort Zoning District and other above stated districts are exempt from Section 21-5.730.3.**

6. **Proposed new Section 21-5.730.4 should be further revised to clarify that properties located within the Resort District operating a transient vacation unit are exempt from Section 21-5.730.4.**

The Proposed Bill proposes to add a new Section 21-5.730.4 regarding "Advertisements, regulation, and prohibitions" which makes it unlawful for any person to advertise a dwelling unit that is not a registered transient vacation unit pursuant to Section 21-5.730.2 or operating pursuant to a nonconforming use certificate for a term of less than 180 consecutive days. The following are exemptions to Section 21-5.730.4:

> Exemptions. The following are exempt from the provisions of this Section:
> (1) Legally established hotels,
> (2) Legally established time-sharing units, as provided in Section 21-5.640; and
> (3) Publishing companies and internet service providers will not be held responsible for the content of advertisements that are created by third parties."

See, Proposed Bill, Revised Draft, pgs. 32-34.

The Planning Commission should further revise proposed new Section 21-5.730.4 to provide that the following are also exempt from the provisions of Section 21-5.730.4: transient vacation units operated and located in the resort district, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district, and A-2 medium-density apartment district.

Thank you for your consideration of this testimony and recommended revisions to the Proposed Bill which will have an adverse impact on owners of units at the Beach Villas at Ko Olina and other condominiums located within the Resort Zoning District, if enacted without the above recommended clarifications and revisions.

Very truly yours,

/s/ Christopher Shea Goodwin
/s/Ann E. McIntire

Christopher Shea Goodwin
Robert S. Alcorn
Ann E. McIntire

CSG:AEM:skuw

-----Original Message-----
From: Lexi Campbell [mailto:lexisoup1@gmail.com]
Sent: Tuesday, August 31, 2021 4:29 PM
To: info@honoluludpp.org
Subject: testimony for STR bill

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Aloha and thank you for this opportunity to testify.

I support the intent of the bill to crack down on illegal vacation rentals in residential neighborhoods, however, your bill is negatively affecting LEGAL TVUs in the Waikiki resort district. Please change the Master Use table back to "Permitted" for TVUs in the Resort Zone and Waikiki Special District where LEGAL TVUs belong.

TVUs in the Waikīkī Resort Zone are legal and permitted use. There were no prior restrictions in this area where it is legal to operate TVUs. This is why I bought my property in the resort zone, so that I could rent it out legally. I followed the law, paid my taxes and now you are taking away my right to rent it without restrictions.

DPP should be focused on enforcing rules in the residential neighborhoods where TVU's are illegal, not in the Resort Zones where hotels and TVUs belong. These newly proposed restrictions/requirements were created by DPP for newly permitted B&Bs and TVUs located in residential districts such as A1 and A2 zones where TVUs were previously not allowed to operate. If DPP wants to allow new STRs in areas outside of the resort zones they are free to place restrictions on them. However, this should have no impact to LEGAL CONFORMING USE in the resort zones.

In addition, under this bill "Non-Conforming Use" permitted TVUs are not subject to restrictions relating to registration requirements and use standards, which includes ownership restrictions, occupancy limits, and other operational requirements. How can conforming use be restricted and non-confirming use not be subject to restrictions? Both should not be restricted. Everything else should be restricted, that is the intent of your bill.

Again, These new restrictions/registration requirements should be used as condition for granting TVUs to those located outside of the resort zones. This whole bill should be focused on enforcement in residential neighborhoods. Allow resort zoned TVUs to continue to operate with no restrictions.

Mahalo,
Lexi Meinen

-----Original Message-----
From: Kirsten Krause [mailto:kirstenekrause@gmail.com]
Sent: Tuesday, August 31, 2021 4:29 PM
To: info@honoluludpp.org
Subject: Oral testimony requested

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Kirsten Krause
713-294-7846
Testimony regarding administrative amendment to Bill 89

Dear City Council:
I would like to begin by addressing the line items of the staff report submitted for the administration initiated amendment to Ordinance 19-18 (Bill No. 89, 2018, CD2) Relating to Short-Term Rentals(STR). The staff report is highlighted in blue, and the rebuttal in black.
"ADMINISTRATION INITIATED LAND USE ORDINANCE AMENDMENTS RELATING TO SHORT-TERM RENTALS AND TRANSIENT ACCOMMODATIONS, POST COVID-19 Staff Report August 13, 2021
I.BACKGROUND On June 25, 2019, Mayor Kirk Caldwell signed into law Ordinance 19-18 (Bill No. 89, 2018, CD2) Relating to Short-Term Rentals(STR), which would in part allow more bed and breakfast homes (B&Bs) throughout the Island, including residential neighborhoods.
Technically, Bill 89 would not allow "more" bed and breakfast homes throughout the island. It would establish a small number of legal, registered, and well- regulated bed and breakfast homes, while setting up the framework for enforcement and elimination of existing unregulated bed and breakfast homes.
Prior to full implementation of Ordinance 19-18, the City along with the rest of the world was disrupted by the shut-down of normal day-to-day activities due to the worldwide Covid-19 pandemic.
Neighborhoods began to see what life was like before the proliferation of STRs throughout their neighborhoods. Traffic, crowding, tourists invading residential neighborhoods, and noise at all hours of the day that were typical issues created in part by STRs, disappeared during the pandemic lock down.
Actually, residents had a glimpse into life in the absence of any tourism, the absence of 10 million visitors a year, and the absence of a thriving economy. The memo poorly concludes that the elimination of short term rentals would prevent visitors from traveling to the neighborhoods of Kailua and the North Shore to visit the beaches, or to Portlock and Kahala to hike the craters and cliffs of Diamondhead and Hanauma Bay, from the hotels and condominiums in Waikiki and Ko Olina.
A perfect example of the pre-pandemic invasion of local neighborhoods were tour buses dropping off hundreds of Japanese tourists at the local farmers' market at KCC, and the tourist rental car-packed parking lots at the Kaka'ako farmers' market. Each market required HPD traffic control every Saturday.

In addition, residents across the state realized what life was like before millions of visitors started coming to Hawaii. No or very little traffic, wide open beaches and trails, and less people in general were "benefits" of the shut-down.
Again, the "benefits of a shutdown" are a dystopian product of a tragedy and are not germane to determining the appropriateness of strict new regulations. The report attributes traffic and crowded beaches to short term rentals, when approximately 90% of visitors to Hawaii stayed in hotels, time-

shares, and condominiums or with friends or family in pre-pandemic 2019. (HTA 2019 Annual Visitor Research Report) The memo concludes that the 52,253 visitors who stay in bed and breakfast rentals, which is one half of one percent of total visitors to Hawaii (0.5%) each year are the major disruptor of the character and fabric of our residential neighborhoods. (HTA 2019 Annual Visitor Research Report). The memo also implies and never provides supporting data that the visitors who choose accommodations in hotels and resort condominiums never shop, dine or seek activities outside of their immediate surroundings.

While the visitor industry is a main driver of Hawaii's economy, discussions have begun on how we might limit the number of visitors to Hawaii. Ten million (10,000,000) visitors annually has become too much.The pandemic caused us to take a closer look at Ordinance 19-18, which would allow a limited number of new B&Bs and require compliance with registration requirements, development standards, and other regulations. However, some of the provisions in Ordinance 19-18 would be impractical to implement and have resulted in enforcement problems. To address these issues, we believe it is necessary to improve upon Ordinance 19-18 by simplifying the City's approach to regulating STRs and other transient accommodations.

The memo and new amendment provisions fail to answer the following questions:

How does this new ordinance improve enforcement of short term rentals? Which provisions of Bill 89 were impractical to implement and difficult to enforce.

Other than a new funding model, how are the enforcement difficulties overcome by amending the bill to specifically eliminate bed and breakfast units?

How will redefining the duration of a short-term rental to 180 days from 30 days make enforcement easier?

Additionally, accommodations for a job transfer are typically two to three months. (www.corporatehousing.com) Is it practical or reasonable that persons relocating to the island for work would be required to stay in a hotel in Waikiki or a resort

area for the duration of their stay, despite the fact that their work may be located downtown or that they might ultimately settle in Mililani or Kailua?

They are inconsistent with the land uses that are intended for our residential zoned areas, they decrease the supply of long-term housing for local residents throughout the City, and increase the prices and rents of housing, making living on Oahu less affordable for its resident population. Any economic benefits of opening-up our residential areas to tourism are far outweighed by the negative impacts on our neighborhoods and local residents.

First, the report fails to substantiate how renting a room in one's house to a visitor for the purposes of sleeping and bathing is somehow not consistent with the definition of residential use. The exchange of money for the use of a residence does not equate to non-residential use. For example, adult children who pay rent to their parents does not equate to non-residential use. Likewise, unrelated roommates sharing a home does not equate to non-residential use. Arbitrary time frames (two weeks versus ninety days or six months) do not establish residential use.

Second, the report does not cite any study supporting the claim that bed and breakfast homes increase the prices and rents of housing or make living on Oahu less affordable. To the contrary, a homeowner may be able to rent out a room a few days a month to supplement personal income, making Oahu homeownership affordable.

Despite COVID restrictions banning operation of all STRs for approximately six months of 2020, and the passage of Bill 89 imposing fines for advertising unregistered short term rentals housing prices skyrocketed.

Home prices across the country are at an all-time high, and are the result of low mortgage rates, low-inventory, and increasing materials prices, not bed and breakfast homes. ("The housing market stands at

a tipping point after a stunningly successful year during the pandemic," Diana Olick, CNBC, March 12, 2021) According to the Hawaii Tourism Authority, Hawaii hotels have experienced consistent year-over-year increase in revenue per available room (RevPAR), average daily rate (ADR) and occupancy. Statewide, RevPAR reached $229 in 2019, the highest in The United States, beating New York City and San Francisco. Hawaii also led the country with an average daily rate of $283. Hawaii's hotel occupancy reached 81.2 percent, following only New York City at 86.2 percent and San Francisco at 82.0 percent. Cities in high demand have high property values. Why should corporate-owned, non-local hotels and foreign investors be the sole beneficiaries of this demand?

Additionally, according to the Hawaii Tourism Authority, average length-of-stay for hotels in Hawaii is 7.13 days, and for bed and breakfasts it is 8.78 days (HTA 2019 Annual Visitor Research Report). With respect to environmental concerns, longer stays equate to a reduction in environmental impact. ("Global trends in length of stay: implications for destination management and climate change" Stefan Gossling, Daniel Scott & C. Michael Hall (2018) Journal of Sustainable Tourism
2 The purpose of this Ordinance is to better protect the City's residential neighborhoods and housing stock from the negative impacts of STRs by providing a more comprehensive and controlled approach to the regulation of STRs within the City and creating additional sources of funding for the administration and enforcement of the City's B&B and transient vacation unit (TVU) laws What protects residential neighborhoods is home ownership. Impeding on a homeowners right to privacy and supplemental income is not the solution. Enforcement of existing noise regulations and parking restrictions is a start to protecting residential neighborhoods.

Despite having the most popular beaches on the island, the North Shore and Kailua have been planned poorly for the daily influx of visitors, who are forced to park on residential streets. Many cities solve the problem of visitor parking with a convenient trolley systems, rail or revenue-generating underground parking facilities. With transient accommodation taxes and GET, how have these issues of infrastructure not been previously addressed?

Hypothetical scenario of eliminating one bed and breakfast home from
Kailua:
A family rents out a bed and breakfast unit to two visitors with a rental car and they park in the driveway (a provision of Bill 89). With the new provision, the family is no longer allowed to have short term renters and now they rent the same unit to a couple. Each member of the couple has a car, one parks in the driveway and the other on the street. The hypothetical two visitors now stay in Waikiki and order room service from the hotel, instead of a meal for two at Konos' in Kailua ($50). They also park their car on the residential street so they can go to the beach. This amendment as applied to one bed and breakfast home would now be responsible for two additional cars in Kailua and a loss of $18,250 per year of revenue supporting a local business.

The city has a population of one million and visitors of 10 million per year, and the strategy of relocating of 0.5% of tourist accommodations is somehow going to solve the problem of parking and noise? Eliminating owner-occupied bed and breakfasts in an attempt to reduce noise, traffic and parking congestion is the equivalent of brining a knife to a gun fight.

Sent from my iPhone

From: Boyd Ready [mailto:readyboyd@gmail.com]
Sent: Tuesday, August 31, 2021 4:27 PM
To: info@honoluludpp.org
Subject: TVU bill

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Dear People:

good bill but six months is too long ... need to amend so that shorter term construction worker or visiting nurses can stay without triggering a violation

Boyd Ready
59-661 Alapio Road
Haleiwa HI 96712
808-463-2936

From: Jon Gilbert [mailto:jgilbert572@yahoo.com]
Sent: Tuesday, August 31, 2021 4:30 PM
To: info@honoluludpp.org
Subject: Short Term Rental Amendments

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The DPP's August 13 "Proposed Amendments Relating to Transient Accommodations" begins with the commendable goal of better protecting Hawaii's residential neighborhoods from some of the negative effects of tourism: specifically traffic, noise, parking, crowding, and the resultant higher real estate prices when residential neighborhoods are turned into locations for small hotel businesses.

But the complicated draft ordinance quickly devolves into an exercise in government overreach, by trying to define and regulate the differences between condominiums, time share properties, condo hotels, and transient vacation units, even when they are located in traditional tourism zones such as Waikiki. *These portions of the draft ordinance do nothing to minimize the disruption from tourism to traditional residential neighborhoods.* At its worst, the draft ordinance veers into the realm of picking winners and losers in the tourism sector by exempting hotels from much of the regulatory and fee scheme being proposed to further burden private condominium owners. For example:

- Private condominium owners will only be allowed to own one resort-zoned condominium licensed as a transient vacation unit. Hotels can own hundreds or thousands of rooms without limitation - *on the same block*;
- In addition to TAT, GET and hotel/resort property taxes, a private TVU condominium must pay an initial fee of $5,000 plus an annual fee of $2,500; hotels *that may be located next door* are exempted from these fees;
- New occupancy limits are placed on TVU units in resort areas that essentially outlaw adults staying on a living room sofa bed; hotels *in the same zoning area* are exempt from these limits;
- Private owners in a "condo hotel" must have a single manager/operator despite condominium governing documents to the contrary;
- Condominium owners and their families staying in their privately owned condominium in a condo hotel may now have to pay the same rate as the general public to stay in their own property; hotel operators are free to extend complimentary or discounted stays to their executives or favored friends and customers without oversight or regulation.

All of the above accomplishes no legitimate public purpose. These proposed regulations that presumably will be fully applicable within the Waikiki hotel/resort zone will do nothing to control the impact of tourism in the neighborhoods where most of Oahu's residents live. Instead, these sections of the proposed ordinance seem designed to force people into more expensive and less flexible hotel rooms. What about families with young children or seniors on extended visits who prefer the convenience of a small kitchen or larger accommodations with adjacent bedrooms? What about military service personnel, students or their families on temporary

assignment? Should their choices be priced out of reach or over-regulated, even in Waikiki, so they have no viable option or availability other than to stay in a hotel?

In summary, I support any reasonable regulations designed to protect residential neighborhoods from the ill effects of entrepreneurs trying to run a hotel business in a residential neighborhood. But neither the effects of the Covid 19 pandemic, nor the wishful thinking about taking Hawaii back to the days before jet-age tourism, should be used as pretexts to prop up the hotel occupancy rates in Waikiki. Private condominium owners in legally-designated hotel zones pay precisely the same taxes, support the local economy, and deserve an even-handed approach from their government.

Respectfully Submitted,
Jon Gilbert

From: Sienna Akana [mailto:sakanawest808@gmail.com]
Sent: Tuesday, August 31, 2021 4:29 PM
To: info@honoluludpp.org
Subject: short-term rental (STR) regulations OPPOSED!

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I started cleaning vacation houses 5 years ago as a new mom. It gave me the flexibility to maintain my own schedule and bring my children to work with me. Vacation homes are empty so I don;t need to worry about bothering anyone.

Now with COVID and the lack of the city to start the permitting process, I have been unemployed. This caused us financial hardship as well as having to move in with family to help reduce expenses.

I would like to see the city take steps forward to allowing vacation rentals to apply and receive permits so I can rebuild my business to what it once was.

Amber
Working resident

From: Terry Yamanoha [mailto:ty2read@gmail.com]
Sent: Tuesday, August 31, 2021 4:27 PM
To: info@honoluludpp.org
Subject: Transient Accommodations - Proposed Amendments to Chapter 21 - Revised Ordinances of Honolulu (ROH) 1990

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Members of the Planning Commission:

I **strongly** support the proposed amendments to Ordinances of Honolulu relating to Transient Accommodations.

With the passage of the proposed amendments the City will finally have the necessary tools to enforce the laws and end the illegal rental activity currently destroying our neighborhoods. Illegal transient short-term rental properties will finally be returned to our limited inventory of residential properties. A sense of community will flourish when stability returns and homes are no longer occupied by an endless stream of short-term tenants.

The time is now to take back our neighborhoods. Please **support** the proposed amendments and help return a sense of community pride to Oahu.

Aloha,

Theresa Yamanoha

Sent from my iPad

-----Original Message-----
From: J Otto [mailto:ottobond808@gmail.com]
Sent: Tuesday, August 31, 2021 4:26 PM
To: info@honoluludpp.org
Subject: Support for DPP's crackdown on vacation rentals

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Aloha Planning Commission,

Clearly everyone is in agreement that Oahu has an affordable housing shortage, which is why I fully support the DPP's recommendation to block vacation rentals from our residential neighborhoods and for stricter enforcement.

But, I don't agree with increasing vacation rentals in the Waikiki area. What is the purpose if we need housing for locals? One can only imagine the driving force behind this is property owner's wanting MORE MONEY. There are thousands of locals who currently rent in the Waikiki district that will be forced to move as their homes are converted into high priced vacation rentals. "Pay top dollar or move" will be what they'll be told if this bill passes. Vacation rentals and luxury apartments are the root cause of the housing shortage we have, but no one seems to acknowledge this. PLEASE, LET'S BE HONEST! LET'S USE COMMON SENSE!

Mahalo,
John Otto (Kaimuki)

-----Original Message-----
From: Amanda H. [mailto:amandamaechel@gmail.com]
Sent: Tuesday, August 31, 2021 4:23 PM
To: info@honoluludpp.org
Subject: Potential changes for STR

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

To whom it may concern,

I am writing in regards to the proposal to change regulations for short term rentals. As someone who owns property in Honolulu I want to say that this is detrimental to many homeowners and locals/residents. We work extremely hard to have what we have and to have an opportunity to own real estate here. The city makes certain rules and regulations and we abide by those regulations. We do what is required to properly operate as homeowners. We pay our taxes and register our business's yet now you want to turn around and change the laws because you think this will help put a stop to illegal rentals? Or to reduce impact on residential neighborhoods? You don't think those individuals won't still be renting out there properties illegally? Why should we be the ones penalized for abiding by set regulations and laws when we are operating as directed. We aren't the ones illegally renting our homes out. Hotels want to have all of the control without being responsible. They want to be the only ones who can set rental rates? They won't be doing anything but sitting back and collecting income that doesn't even go back to our islands. Don't you think this will hurt tourism and our economy if the prices are so high at hotels tourist will be able to afford to fly over and stay but won't be able to afford any extra at restaurants, shopping, or on tours? As a resident if we are displaced from our homes for a month or two our only option is to pay $500 a night for a hotel? Or if someone had to travel to Oahu for medical reasons there only option is to stay at a hotel for the duration of time they are on island? Or what about laborers, or traveling nurses. If they are here less than 6 months a hotel is the only option. This is absurd . Please consider carefully. The impact this could have on our island and our economy isn't what you are hoping for. This is my families source of income to be able to provide food on our table and a roof over our head. As most know many of us have to work multiple jobs in order to take care of our families living here. Our rights as property owners are completely being taken away, and by who? Multi million dollar corporations who continue to take. So who is this really suppose to benefit? The general public or the Hotel industry?

Sincerely,
Amanda Hensley

Sent from my iPhone

BUILDING INDUSTRY ASSOCIATION Hawaii

Brian Lee, Chair
Planning Commission
Department of Planning and Permitting
City and County of Honolulu
650 South King St. 7th Floor
Honolulu, HI 96813

August 31, 2021

Re: Transient Accommodations

Dear Chairman Lee and Members of the Commission,

My name is Jessica Leorna, Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii is in support of the August 2021 proposed bill relating to transient accommodations. Oahu faces an ongoing housing affordability crisis due to a lack of a healthy housing market at all price points. We support all measures to help correct this situation that negatively affects the quality of life of our residents. Ensuring a healthy housing market is a core City responsibility and we support this bill to return housing inventory to residents rather than visitors.

The State of Hawaii is in a dire economic crisis which has been further exacerbated by the ongoing pandemic environment. BIA Hawaii supports the proposed bill to simplify regulation of transient accommodations and therefore streamline local enforcement resources.

Beyond this, we hope to work with the City to streamline the permitting and entitlement process, support incentives over mandates and work to adopt common sense building codes.

We appreciate the opportunity to provide our comments on this matter.

94-487 Akoki St. Ste 213
Waipahu, HI 96797

tel: 808.847.4666

www.biahawaii.org
info@biahawaii.org

From: Edward Jones [mailto:q@edjonesusa.com]
Sent: Tuesday, August 31, 2021 4:24 PM
To: info@honoluludpp.org
Subject: Criminalizing Kupuna - Testimony of Draft Vacation Rental Bill

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

For 9/1/21 11:30 AM

Criminalizes kupuna Mom & Pop room renting. Rewrites the state landlord tenant code. Is premature. We have not experienced Bill 89 for the first year post COVID-19.

NUCs and other special cases are playing favorites outside of Resort Zones is spot zoning. Where is the fairness in grandfathering some but not all including those who have been patiently complying with the provisions of Bill 89?

Owner here is disabled kupuna 25 years with Parkinson's on fixed income. Has been offering affordable rental housing (month to month leases) for 35 years. This bill will end his ability to end to rent a few rooms to offset the ever increasing cost of living. With this bill the DPP is being CRUEL to the most vulnerable.

Owner occupied supervised renting affordable rooms are not the problem. Regulations should be developed and enforced to save our communities from unsupervised party houses owned by speculative foriegn real estate investors.

Absent from the bill is the legal City Charter and state law compliant legal definition of a VACATION RENTAL TRANSACTION that would trigger a $25,000 per day excessive fine? How does it differ RENTAL TRANSACTION, someone complying with the state Landlord Tenant code?

Respectfully submitted

Edward Jones

From: Peggy [mailto:pegzaloha@yahoo.com]
Sent: Tuesday, August 31, 2021 4:22 PM
To: info@honoluludpp.org
Subject: Testimony against Ch. 8 Real Property Tax and Ch. 21 LUO/

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

I will be presenting the following orally tomorrow at the hearing.

Good morning, Director Uchida, Chairperson Lee and all here assembled:

I'm Margaret Aurand, Hawaii Kai, vacation rental host, fighting to be able to make a living.

We're all aware of the constitutional protections for due process of law and equal protection under the law, and the expense the City and County might incur if this bill is passed and judged a regulatory taking.

Reading the bill, I was stopped short by the phrase:

1. SECTION 1. Findings and Purpose. Short-term rentals are disruptive to the character and fabric of our residential neighborhoods; they are inconsistent with the land uses that are intended for our residential zoned areas and increase the price of housing for Oahu's resident population by removing housing stock from the for-sale and long-term rental markets. The City Council finds that any economic benefits of opening-up our residential areas to tourism are far outweighed by the negative impacts to our neighborhoods and local residents.

I can tell you one sure way to disrupt the character and fabric of a neighborhood: put in a beach park. **The parking is impossible. Cars trying to get down the street having to back up to let other cars use the one remaining traffic lane.** EMERGENCY VEHICLES, SIRENS, **blocked driveways, boom boxes, fights, domestic battery,** *naked trespassers*, **DRUG DEALS**, *illegal alcohol use*, **drunks yelling obscenities,** people all over the street, **police with loudspeakers**

trying to get them to use the sidewalk, vandalism (I'm on mailbox #4!) Garbage in your recycle bin. *bottles thrown into your yard,* **SCREAMING AND SHOUTING PEOPLE FROM 6 AM TO 2 AM. Some of these folks are tourists, but not very many.**

And my vacation rental right in the middle of it all.

You wouldn't even know it was there.

It's a beautiful place that begs to be shared.

All my parking is off-street.

My guests aren't noisy.

They're the kind of respectful, caring people who make a neighborhood a nice place to be.

We're not talking about affordable rentals—the house next door just sold for $4.1m.

And they spend lots of money in Hawaii. One recent guest: the former editor of the Christian Science Monitor, a Pulitzer Prize winner, and his family. Lovely people. That's the sort of folks I seek—and get--as guests. It's the opposite of somebody who advertises a studio in Waikiki that sleeps 15 people!!! What kind of people are you going to get with that kind of an arrangement? Lots of low-spending, care less, high footprint tourists. So shut me down and keep them. You'll have the same overtourism problem and a loss of good quality, low-footprint revenue.

I've written some legislation that will be fair to those who are good hosts and will regulate those who are not. It's simple, practical and do-able. There's $1,000 of my time tied up in it, but I'll give it to you. All I want is a seat at the table.

More food for thought: If the state is happily collecting TAT taxes from "illegal" vacation rentals, isn't it condoning them?

From: th@invest808.com [mailto:th@invest808.com]
Sent: Tuesday, August 31, 2021 4:18 PM
To: info@honoluludpp.org
Cc: th@invest808.com
Subject: Testimony OPPOSING Short Term Rental Revisions

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

The City and County can not take away property rights especially when the City and County has failed to implement Bill 89 and is now trying to undo the progress made with Bill 89 after decades of failing to regulate the Short Term Rental Industry. Seems as though the effort is to destroy the industry instead of making it work properly with Tourism as our only savior from the devastated economy which is still on the road to recovery and very fragile with many businesses only one shutdown away from bankruptcy and permanent layoffs.

I OPPOSE any ban or restrictions for the following reasons:

You can not legally suggest that any rental of less than 180 days is subject to TAT or is deemed a Short Term Rental as Residential Leases include terms for month to month, 6 months or 1 year leases.

Legal Short Term rentals that are zoned to permit renting 30 days or less and up to 180 days of Transient Accommodations SHOULD NOT BE REQUIRED ANY ADDITIONAL OR NEW REGISTRATION OR REGISTRATION FEE TO CONTINUE TO OPERATE IF THEY HAVE ALREADY LEGALLY COMPLIED with the TAT # & TMK # properly displayed in the advertisement and they're already paying the "RESORT ZONE" property tax rates giving them the right to conduct business legally. The permitting and registration process part of Bill 89 was for new permits that would have been allowed in small numbers within RESIDENTIAL ZONES and this new bill would eliminate new permits within the residential zones therefore permitting and registration beyond the TAT license & TMK# requirement is not necessary. It was supposed to be a permit structured where the license or permit could be removed if mismanagement occurred within a RESIDENTIAL AREA. If you are not going to allow more permits except the areas already allowed, then there is nothing to "manage" as the addition of the TAT# and TMK# will make enforcement easy. Additionally the legal, short-term rentals within the Resort zones were not required to register or to get a permit (NUC or future permit).

Individual unit owners should not be restricted on who they hire to manage their rental whether be an individual owner residing on island, a licensed property management company or a "hotel-pool operator" if one exists (many buildings built as hotels, not legal residential units with kitchens or ovens, do not have a hotel-pool operator). Only the Island Colony has an exclusive right stated within the Bylaws that the unit owners received at the time of purchase by state law condo doc disclosure requirements. Property owners or their representative should be allowed to use any platform they chose for the marketing of the rental property as this is a free market place not a dictatorship.

Individually Owned Unit Owners of legally zoned condo, hotel units, lodging units, accessory units built with separate rental with separate entrance under one TMK should all be coded as Short Term Rental since the classification of B&B and TVU states short term rentals are not allowed. Over the decades, the different phrases have caused confusion and a failure to be transparent. Public Record must reflect allowable use clearly, i.e. "Residential Rentals of 30 days or more" (month to month, 6 months or 1 year) if SHORT TERM OR TA IS NOT ALLOWED or "Short Term Up To 180 DAYS of Transient Accommodations" is allowed. In the months after Bill 89 went into effect, many Waikiki buildings (not owned by a HOTEL BRAND) who were previously zoned under H-1 or H-2 zoning and were "grandfathered" to allow less than 30 day rentals as a permitted use after the zoning changes in the 80's, DPP was unable to determine which where exempted. Additionally, DPP had a list of buildings known as " LEGAL NONCONFORMING USE" where as OWNERS were told they need not apply for the NUC permits as the building was exempt meaning the short term use was allowed. Because these special cases of GRANDFATHERED buildings were not coded as such, once the H-1, H-2 or Hotel classification was removed and replaced with Apartment Precedent or Apartment Mix Use Precedent, DPP and the City and County of Honolulu caused confusion and mislead the public and property owners. The result is that the map currently being submitted with boundary lines of legally permitted short term rental zoning is not correct or include these GRANDFATHERED buildings and many operating hotels within all orange shaded areas (Apartment or Apartment Mixed Use). This is a loss of property owner rights and this must be corrected or property owners will have the right to sue over the loss of use and or loss of value negatively affecting the unit. See Map and List of Waikiki buildings with the originally zoning showing the permitted use (H-1, H-2, Hotel, Hotel Apartment).

PRICE FIXING Hotels provide short term accommodations however PRICE FIXING should not be allowed or suggested as it is an illegal practice in Real Estate. If the HOTEL owns or controls the whole building (not individual property owners), then they have the right to do business as they are legally allowed however if the hotel building is privately or individually owned, the owners have individual rights which should not be restricted in any way especially by a hotel operator who is not working for the benefit and profit of the unit owner but instead the hotel operator / owner. HOTELS ALSO ARE ALLOWED TO BUILD AND SELL TIMESHARE HOWEVER IF HOTELS CAN "TAKE OVER" OWNER'S INDIVIDUAL PROPERTY RIGHTS for individually owned units (not part of their timeshare) then the HOTELS SHOULD NOT BE ALLOWED TO BUILD, SELL OR MANAGE TIMESHARES as they do now. Timeshares give HOTELS an unfair advantage to monopolize the industry and all recent new buildings in Waikiki are Hotel Timeshares. People have to right to own investment rental property without unfair restrictions.

Zoning Laws Conflicting with Condo Bylaws - there are a few buildings in Waikiki where zoning and bylaws have conflicting language. DPP has stated several times that the zoning laws do not take the condo documents (Bylaws, Amendments and or House Rules) into consideration or trump the zoning laws. However, when the zoning laws were changed in the 80's, there were several buildings which were grandfathered in as permitted use if the buildings were built as a hotel or operating as a hotel (these were referred to as LEGAL NON-CONFORMING USE). DPP has an "unofficial" list of buildings that were deemed exempted from the NUC permits of 1989.

Additionally, DPP's unofficial lists (internal list from 1994) shows the buildings that were exempted, the exemption was for the whole building (not just a few units). Today DPP is saying that it is case by case for each unit. The issue I have raised is buyers/owners were told the use was permitted but not on a conditional basis or only for certain units or conditional as the use required an active hotel operation with a 24-hour front desk. This is the result when you fail to create fair regulations.

Multiple Governing Authorities - there are multiple governing authorities in addition to the DPP such as LUO (Land Use Ordinance), HCDA (Hawaii Community Development Authority) and HTA (Hawaii Tourism Authority) which has different zoning rules and the DPP has never complied data per parcel and or per unit to clarify which zoning laws supersede the others. Waikiki is a special district and it is not clear what is legal for roughly a half dozen buildings.

Lodging units must be exempt from restricting Short Term use as they are LNU (Legal Nonconforming Use) aka legal TVU or Short Term Rental as they are not deemed a residential unit and are not allowed a permit to modify to add an oven. Some are called accessory units. Aloha Surf Hotel, Hawaiian Monarch, Island Colony, and Waikiki Park Heights are a few examples.

Legal Nonconforming Use must be exempt from restricting Short Term use as those buildings were grandfathered to permit the short-term use without an NUC as buildings were originally built as hotels and operating prior to the zoning charges of 1986. Owners bought with bylaws allowing less than 30 days use and zoning deemed Legal Nonconforming Use as exempted but there is nothing in writing given to the owner or annotated within the zoning code publicly. Kathy Sokugawa stated the list of exempted buildings is not current or official, and not all exempted buildings on the list are still operating a "hotel" with a 24-front desk. My unanswered question was "if the use was allowed without the NUC however qualifying factors were "conditional" (i.e. active hotel operation), were those zoning conditions "disclosed" to the individual owners who bought legal short-term transit rental units? Have owner's lost property rights if zoning negatively impacts the property owner? Most of these buildings have onsite security and several have a front desk operation just not 24-hour front desk and building or AOAO management such as Waikiki Park Heights with lodging units and one, two or three bedroom units.
Aloha Surf Hotel, Hawaiian King, Hawaiian Monarch, Inn on the Park, Waikiki Park Heights, Waikiki Townhouse are a few that were on this list. The fact that more and more buildings are being restricted is proof that these were allowed in the past and conditions for such uses were NOT disclosed to the private unit owners.

Condotel are condominium buildings where the units are individually owned (not by the hotel operator) and owners may elect to participate in the "hotel pool" or elect to have private management of the unit by a property manager (licensed), a caretaker or by the owner themselves. Not all Condotels have a hotel pool or hotel operators. All types are loosely defined and cause confusion and misunderstanding.

Condo Doc Disclosure – if buyers are given by law the governing documents of the condominium, those documents should state any zoning conflicts within any of the zoning

departments and it should be disclosed which rule supersedes the others. Detailing all zoning codes / rules affecting the building and or individual units should be clearly stated, and nothing left to interpretation or misinterpretation rather. The problem today is that a few Associations are saying the use is permitted however DPP will not confirm these facts.
DPP should be required to work with the Associations (within Special Districts first) to determine the permitted use of the whole building, not just one unit. Either way, both should be clearly stated and transparent adopted into public records.

Suggested Solutions – Bill 90 which was not passed was proposed to have DPP be required to issue a disclosure of permitted uses for each parcel / unit during a sale. The concern with the BILL was the added delays in the sale process for DPP to do the research across all zonings (DPP, LUO, master plans, sustainable community plans, special districts ordinances) in efforts to disclose the permitted use and detail what uses are not permitted. Nothing happened with this bill however DPP and the other authorities should have already done this work and added the "permitted uses" to the public records similar to the "OHANA" zoning, so that there is transparency and therefore no need to have an additional disclosure for a sale of a property (beyond the Condo Docs & Bylaws the DPP does not want to consider). The issue is that zoning is not transparent considering all restrictions and stipulations with DPP, LUO, master plans, sustainable community plans, special districts ordinances. This is still the problem for Waikiki and the other areas where exceptions were made in the past or permitted uses were grandfathered in.

The City and County and the DPP are failing AGAIN at a time when all efforts should be on rebuilding our Tourism industry not further destroying our economic recovery. The tax prayers of Hawaii can not make up the difference in tremendous TAT revenue losses. Balance must be restored. We need our Hotels and LEGAL SHORT TERM RENTALS working together to meet the needs and demands of our future recovery.

Theresa Harden, PB of Hawaii Dream Realty LLC
TH@Invest808.com
808-223-0429

PS – I requested to speak by a separate email also

Legend

SHORT-TERM RENTAL PERMITTED AREAS

ZONING

APT PRECINCT

APT MIXED USE SUBPRECINCT

RESORT MIXED USE PRECINCT

0 375 750

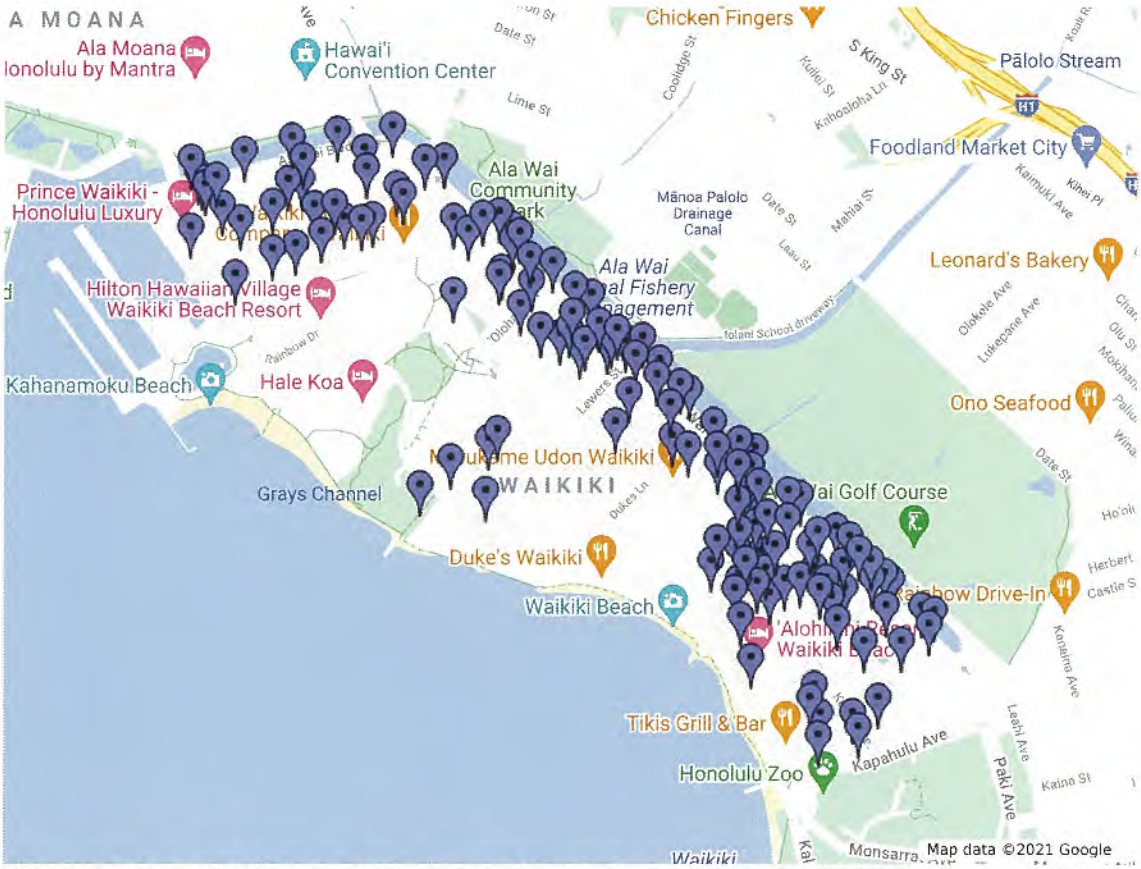
Scale: 1 In

Produced by:
Planning Division
Department of Planning and Permitting
City and County of Honolulu 5/07/2021

Waikiki Condos

Untitled layer

- 222 Kaiulani Apartments
- 250 OHUA, Honolulu, HI 96815
- 411 Kaiolu St, Honolulu, HI 96815
- 417 Namahana Street, Honolulu, HI 96815
- 441 LEWERS STREET, HONOLULU, HI 96815
- 444 Nahua Street, Honolulu, HI 96815
- 1717 Ala Wai Boulevard, Honolulu, HI 96815
- 2121 Ala Wai Boulevard, Honolulu, HI 96815
- 2233 Ala Wai Boulevard, Honolulu, HI 96815
- 2465 KUHIO Boulevard, Honolulu, HI 96815
- ALA WAI EAST
- ALA WAI MANSION



This map shows the location of every condo complex located in Waikiki as well as supplying links to more info on each complex and links to IDX Data / Available Units In Each Waikiki Condo Complex

- ALA WAI PALMS
- Kuhio Ebbtide Hotel, Inc.
- KUHIO PLAZA
- KUHIO VILLAGE I
- KUHIO VILLAGE II
- ALA WAI TERRACE
- ALA WAI TOWN HOUSE
- ALA WAILANI
- THE ALII, Inc.
- ALLURE WAIKIKI
- ALOHA LANI
- ALOHA SURF HOTEL
- ALOHA TOWERS INC
- BAMBOO
- BEACHSIDE APARTMENTS
- THE BEL-AIRE
- BIG SURF
- BOULEVARD TOWER
- CANAL HOUSE
- CANTERBURY PLACE
- CAPRI APARTMENTS
- CHATEAU WAIKIKI
- CORAL TERRACE APARTMENTS
- CRESCENT PARK
- DIAMOND HEAD VISTA INC
- DISCOVERY BAY
- Driftwood Hotel, Inc.
- FAIRWAY MANOR
- FAIRWAY VILLA

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FOSTER TOWER
FOUR PADDLE
THE GOVERNOR CLEGHORN
Hale Hui, Ltd
HALE MOANI INC
HALE O NAI'A (FKA ODE HACIENDA)
HALE WALINA
HARBOR VIEW PLAZA
HAWAIIAN COLONY
HAWAIIAN CROWN
Hawaiian Ebbtide Hotel, Inc.
HAWAIIAN KING
HAWAIIAN MONARCH
Hawaiian Prince Apts., Ltd.
ILIKAI APARTMENT BUILDING INC
ILIKAI MARINA APARTMENT BLDG
IMPERIAL HAWAII RESORT
INN ON THE PARK
ISLAND COLONY
THE KAILANI
KAIOLU SUNRISE
KAIOO TERRACE
THE KALAKAUAN
Kalia, Inc.
KEALANI
KEONI ANA

- KING KALANI
- KON TIKI 'ANO HOU
- LA CASA
- LANIAKEA APARTMENTS
- LANIKEA AT WAIKIKI
- LEISURE HERITAGE APARTMENTS
- LILIUOKALANI GDNS AT WAIKIKI
- LILIUOKALANI PLAZA
- LOFT @ WAIKIKI
- LUANA WAIKIKI
- MAILE SKY COURT
- MAKEE AILANA (FKA: THE SCANDIA)
- MARINA TOWERS
- MARINE SURF WAIKIKI
- MONTE VISTA
- NAMAHANA TERRACE
- OAHU SURF I
- OAHU SURF II
- OHUA GARDENS
- OHUALANI
- NIIHAU APARTMENTS INC
- PACIFIC ISLANDER HOTEL
- PACIFIC INTERNATIONAL HOTEL
- PACIFIC MONARCH

- THE PALMS INC
- PALMS AT WAIKIKI
- THE PARKVIEW INC
- THE PAVILION AT WAIKIKI
- POMAIKAI
- THE PROMENADE
- QUEEN EMMA APTS
- REGENCY ALA WAI
- THE REGENCY ON BEACH WALK
- THE ROSALEI
- ROYAL ALOHA
- ROYAL GARDEN AT WAIKIKI
- ROYAL KUHIO
- THE SEASHORE
- SCANDIA TOWERS
- SEASIDE SUITES
- SEASIDE TOWERS
- Tradewinds Hotel Inc.
- TRADEWINDS PLAZA
- TRUMP TOWER WAIKIKI
- THE TWIN-TOWERS
- VILLA ON EATON SQUARE
- WAIKIKI BANYAN
- WAIKIKI BEACHSIDE
- WAIKIKI BEACH TOWER
- WAIKIKI COVE
- WAIKIKI GRAND HOTEL
- WAIKIKI HOLIDAY

WAIKIKI IMPERIAL APARTMENTS

- WAIKIKI LANAIS
- WAIKIKI LANDMARK
-

WAIKIKI MARINA CONDOMINIUM

- WAIKIKI PARK HEIGHTS
- Waikiki Regent Apts
- WAIKIKI SHORE
- WAIKIKI SKYLINER
- WAIKIKI SKYTOWER
- WAIKIKI SUNSET
- WAIKIKI TOWNHOUSE
- WAILANA AT WAIKIKI
- WAIPUNA
- WALINA APARTMENTS
- THE WATERMARK
- THE WINDSOR

THEHAWAIISTATECONDOGUIDE.COM

OAHU

THE GATHERING PLACE

CITY & COUNTY OF HONOLULU

Contact Marty Sanders (RS) for assistance finding the right home that fits your needs and desires. Search the current listings for each condo complex, or search the entire Oahu MLS.

ZONE 1

ALIAMANU, CHINA TOWN, DILLINGHAM, IWILEI, KALIHI, KAPALAMA, KUAKINI, LILIHA, MOANALUA GARDENS, MOANALUA VALLEY, NUUANU, PALAMA, SALT LAKE

BUILDING	ZONING	# OF UNITS
ALIAMANU		
3388 SALT LAKE	A-1	16
LANI HALE	A-1	15
TOP OF THE HILL	A-1	23
CHINA TOWN		
HAWAII TIMES BUILDING	BMX-4	15
HONOLULU PARK PLACE	BMX-4	437
HONOLULU TOWER	B-4	396
DILLINGHAM		
215 NORTH KING ST	BMX-3	254
IWILEI		
CANNERY ROW	I-1	402
KALIHI		
1260 RICHARD LANE	A-2	164
BISHOP GARDENS	A-3	147
THE HOLIDAY APARTMENTS	APARTMENT	70
HOLIDAY GARDENS	APARTMENT	47
KAPALAMA MAKAI	A-1	53
KAPALAMA UKA	A-1	59
KAUMUALII PARK CONDOMINIUM	APARTMENT	81
KUPONO HALE	R-5	17
NIHI GARDENS	RES	19
PACIFIC GARDENS I	APARTMENT	66
PAUAHI GARDENS	A-3	60
KAM HEIGHTS		
KAM TOWERS	HOTEL-APT	32
KAPALAMA		
1555 POHAKU	A-2	126
HALE UMI	IMX-1	52
KALIHI GARDENS	I-1	54
KAPALAMA GARDENS	A-2	57
KOKEA GARDENS	A-1	144
K KAYA APARTMENTS	IMX-1	34
PUUHALE GARDENS	A-2	27
KUAKINI		
NUUANU PARK PLACE	A-2	122
LILIHA		
KUNAWAI TERRACE	A-2	97
LILIHA SQUARE	B-2/A-2	137
NALANUI APARTMENTS	APARTMENTS	24
NALANUI HALE	A-2	48
VINEYARD APARTMENTS	R-6	18
MOANALUA GARDENS		
MOANALUA ESTATES	R-6	13
MOANALUA VIEW ESTATES	R-5	6
MOANALUA VALLEY		
MOANALUA VILLAGE	A-2	132
NUUANU		
1634 NUUANU	A-2	78
2040 NUUANU	A-2	86
EDEN GARDENS	A-3	37
LYNWYD	A-2	44
NUUANU PALMS	R-5	8
NUUANU STREAMSIDE CONDO INC	A-1	18
NUUANU STREAMSIDE PHASE II	A-1	29
NUUANU TERRACE	A-2	36
PALAMA		
BANYAN GARDENS	A-3	48
HALE O KANOA	A-2	20
OLU HALE KANOA	A-2	28
SALT LAKE		
THE CANDLEWOOD CONDO	APARTMENT	24
CENTURY WEST	A-3	352
THE CHANDELIER	APT A-3	48
THE COUNTRY CLUB PLAZA	A-3	279
COUNTRY CLUB VILLAGE 1 & 2	A-2/A-3	673
COUNTRY CLUB VISTA	A-3	41
DYNASTY TOWER	A-1	48
EAST LAKE APARTMENTS	APT/HOTEL	42
FAIRWAY GARDENS	A-3	138
FIVE REGENTS INC	A-3	300
FRANKLIN TOWERS	A-3	156
THE GREENVIEW	A-3	126
THE GREENWAY	A-2	24
THE GREENWOOD	A-3	152
HARBOUR RIDGE	A-3	320
HILLSIDE VILLA	A-3	49
HOLIDAY LAKEVIEW	A-3	60
HORIZON VIEW TOWER	A-2	105
ILANIWAI	A-3	36
ILIMA GARDENS	A-3	22
ILIMA WEST APARTMENTS	A-3	91
KAI NANI	A-3	24
THE KAHANA KAI	HOTEL-APT	39
KAMAAINA HALE	A-3	24
THE LAKECREST	A-3	48
LAKESIDE CORONET	A-3	30
LAKESIDE HOLIDAY	APARTMENT	26
LAKESIDE MANOR	A-3	88
LAKESIDE WEST	APARTMENT	76
THE LAKESHORE TOWER	APARTMENT	96
LAKEVIEW GARDENS	A-2	73
LAKEVIEW PLAZA	A-3	40
LAKEVIEW ROYAL INC	APARTMENT	78
LAKEVIEW SANDS	A-3	44
LAKEVIEW TERRACE	A-3	28
LAKEWOOD	A-1	60
LEHUA MANOR	A-3	56
LIKINI GARDENS	A-3	23
LIKINI WEST	A-3	110
THE LILIKOI	A-3	75
MELELANI APARTMENTS	A-3	28
OCEAN VISTA	A-3	37
PARKSIDE TERRACE	A-2	14
PIKAKE MANOR	A-3	48
PLAZA LANDMARK	A-3	291
PUANA MALU	A-3	24
ROYAL TOWERS	A-2	100
SALT LAKE MANOR	A-2	70
SUNSET LAKEVIEW APTS	A-3	308
THREE REGENTS	A-1/A-3	78
TROPICANA MANOR-MOANALUA	APARTMENT	144
VISTA DEL MAR	APARTMENT	28

NUUANU WOODS	R-3	10

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ZONE 2

ALA MOANA, DIAMOND HEAD, DOWNTOWN, HOLIDAY MART, KAKAAKO, KALIHI, KAPAHULU, KAPIO / KINAU / WARD, KAPIOLANI, MAKIKI, MANOA, McCULLY, MOILIILI, NUUANU, PAUOA VALLEY, PAWAA, PUNAHOU, PUNCHBOWL, UNIVERSITY, WAIKIKI, WOODLAWN

BUILDING	ZONING	# OF UNITS
ALA MOANA		
ALA MOANA HOTEL CONDO	BMX-3	1177
ALA MOANA TOWER	BMX-3	137
ALDER VILLA	A-2	6
ATKINSON PLAZA	A-4	135
ATKINSON TOWER	A-2	111
BIRCH & ELM	A-2	16
CEDAR COURT	A-3	12
PIIKOI PLAZA	A-4	73
SIX TWENTY SHERIDAN	A-4	32
SUMMER PALACE	A-4	146
SUNSET TOWERS	A-2	82
TAN APARTMENTS	A-4	11
URAKU TOWER HAWAII	BMX-3	92
YACHT HARBOR TOWERS	APARTMENT	459
DOWNTOWN		
ALAKEA CORPORATE TOWER	BMX-4	53
CAPITOL PLACE	MIXED RES & COM	384
CENTURY SQUARE	B-4	367
EXECUTIVE CENTRE	BMX-4	1375
HARBOR COURT	BMX-4	149
HARBOR SQUARE	BMX-4	370
KUKUI PLAZA	H-2	1848
PINNACLE HONOLULU	BMX-4	50
QUEEN EMMA GARDENS	A-2	589
ROYAL QUEEN EMMA	B-4	24
THE VANGUARD LOFTS	MUZ-C	37
HOLIDAY MART		
COTY TOWER	B-2	61
HOLIDAY TERRACE	BMX-3	42
HOLIDAY VILLAGE	CMML	238
KAPIOLANI BEL-AIRE	BUSINESS	116
KAPIOLANI MANOR	CMML	416
PACIFIC GRAND	B-2	374
PRINCESS LEILANI	BUSINESS	136
THE WOODROSE	BUSINESS	143
KAKAAKO		
909 KAPIOLANI	MUZ (KAKAAKO)	
1133 WAIMANU ST	MUZ-R	282
1350 ALA MOANA	CMML	353
THE ELMS	A-3	63
HAWAIKI TOWER	MIX-RESIDENTIAL	427
HOKUA AT 1288 ALA MOANA	MIX USE/RESIDEN	253
HONUAKAHA	MUZ-C	96
THE IMPERIAL PLAZA	MUZ-C	256
KEOLA LAI		353
KO'OLANI	MUZ-R	372
MOANA PACIFIC	MUZ-R	1397
NAURU TOWER	MIXED RES & COM	314
ONE WATERFRONT TOWERS	MIXED USE	310
ROYAL CAPITOL PLAZA	MUZ-C	299
RYCROFT MANOR	A-3	28
KALIHI		
1412 KEWALO	A-4	19
KAPAHULU		
730 MAKALEKA	HOTEL-APT	31
855 OLOKELE	A-4	20
FAIRWAY HOUSE	A-4	186
HOLIDAY PARKWAY	BUSINESS	72
KAMUELA HALE	A-3	15
THE LUKEPANE COURT	A-4	17
LUKEPANE GARDENS	A-2	8
LUKEPANE HALE	A-4	15
MAILE APARTMENTS	A-2	12
PALANI HALE	HOTEL-APT	15
PALANI VISTA	A-2	8
PAN PACIFIC	CMML	24
THE SUMMER VILLA	A-4	84
SUN HALA	A-4	52
KAPIO / KINAU / WARD		
CROWN KINAU	A-4	30
KINAU VILLA	A-3	76
KING MANOR	BUSINESS	115
ONE ARCHER LANE	CMM	331
PACIFIC MANOR	A-4	48
ROYAL COURT	CMML	112
KAPIOLANI		
541 LAUIKI	A-3	8
2511 KAPIOLANI	A-2	11
2765 KAPIOLANI BLVD	A-2	21
ALA WAI COVE	APARTMENT	77
ALA WAI PLAZA INC	APARTMENT	349
ALA WAI PLAZA SKYRISE	APARTMENT	206
DIANA APARTMENTS	AMX-2	9
HALE LAAU I	A-1	8
HALE LAAU II	A-1	8

BUILDING	ZONING	# OF UNITS
NUUANU		
2033 NUUANU	HOTEL-APT	87
CRAIGSIDE	A-3	290
NUUANU BROOKSIDE	A-4	193
NUUANU PARKSIDE	A-3	77
NUUANU PLACE	A-1	20
NUUANU TOWERS	A-4	40
SAKURA	A-4	129
PAUOA VALLEY		
PACIFIC HEIGHTS PARK PLACE	R-5	11
THE PARKSIDE	A-2	31
PAWAA		
802 PUNAHOU	A-2	42
1723 KALAKAUA	BMX-3	121
THE BELVEDERE	A-4	22
BISHOP MANOR	A-3	27
THE CONTINENTAL APTS	HOTEL-APT	71
HALE KAHEKA	A-4	176
HOLIDAY MANOR	HOTEL-APT	226
KALAKAUA SANDS	HOTEL-APT/BUSIN	54
KAPIOLANI TOWN HOUSE	COMMERCIAL	89
KAPIOLANI TOWERS	CMML	101
SANDALWOOD	HOTEL-APT	95
WAIKIKI PARKWAY APTS	HOTEL-APT/BUS	31
PUNAHOU		
1425 PUNAHOU	A-4	18
THE ALEXANDER	A-4	72
ALEXANDER GARDENS	A-4	30
THE ALIKA	A-4	45
THE BANYAN TREE PLAZA	APARTMENT	242
CLARK STREET APARTMENTS	A-4	25
DOLE TERRACE APTS	A-3	12
HALE MAHIAI	A-2	20
JASON APARTMENTS	A-4	48
MANOALANI	HOTEL-APT	32
MJJ APARTMENTS	A-4	7
THE PALO ALTO	HOTEL-APT	29
PULELEHUA	A-4	54
PUNAHALA APARTMENTS	APARTMENT	49
PUNAHOU ARMS	A-3	12
PUNAHOU CHALET	A-4	82
PUNAHOU CLIFFS	A-4	80
PUNAHOU MANOR	HOTEL-APT	46
THE PUNAHOU REGENCY	A-4	33
PUNAHOU SUNSET	A-2	33
PUNAHOU SURF	A-4	7
PUNAHOU TOWER	A-4	96
PUNAHOU VISTA APTS	HOTEL-APT	25
PUNAHOU WILDER CONDO	HOTEL-APT	30
SPRECKLES ST WEST	A-4	30
TIARE APARTMENTS	A-4	30
PUNCHBOWL		
901 PROSPECT	A-2	27
949 PROSPECT	A-2	33
965 PROSPECT	A-3	66
968 SPENCER	A-2	18
999 WILDER	HOTEL-APT	82
1001 WILDER	HOTEL-APT	69
1011 PROSPECT	A-3	160
1015 WILDER	A-2	58
1515 PELE STREET	A-2	6
1617 MILLER ST	A-2	10
ACADEMY TOWER	HOTEL-APT	50
ALEO HALE	APARTMENT	44
ALOHALANI-TROPICANA	A-4	24
THE BARCLAY	APARTMENT	101
THE BEL-AIR PLAZA	A-3	56
CARLTON PLACE INCREMENT ONE	A-3	23
THE CONTINENTAL PLAZA	A-3	70
THE CORONET	HOTEL-APT	71
CROWN THURSTON	A-3	50
DOWSETT POINT	A-2	107
EMERSON COURT	A-2	28
EMERSON PLAZA	A-3	12
HALE O PUMEHANA	A-4	70
HUALI VISTA	A-2	12
IOLANI PALMS	A-2	31
KA HALE MOI	A-2	109
THE KAMAAINA	HOTEL-APT	56
KAMALIE HALE	A-2	18
KANEDA COURTS	A-2	12
KINAU LANAIS	A-4	183
THE LEILEHUA	A-2	64
LUNALILO TOWER	A-2	83
LUSITANA GARDENS	A-2	26
LUSITANA HALE	A-2	24

IOLANI BANYAN	A-1	48
THE IOLANI COURT PLAZA	A-4	347
IOLANI GARDENS	A-1	8
IOLANI REGENT	A-2	82
KAIMANA LANAIS	A-4	114
KAIMUKI PARKSIDE	A-2	18
KAIPUU	A- 2	6
KAPIOLANI GARDENS INC	A-4	73
LAAU GARDENS	A-1	36
LANI HOME	A-1	97
MAI HALE	A-4	8
MARCO POLO	A-3	572
PLAZA AT CENTURY COURT	A-4	96
REGENCY TOWER	A-4	238
ROYAL IOLANI	A-4	296
MAKIKI		
1010 WILDER	RESIDENTIAL	42
1040 KINAU	A-4	70
1073 KINAU	A-4	46
1111 WILDER	HOTEL-APT	38
1112 KINAU	A-2	100
1134 KINAU	A-4	70
1145 DAVENPORT	A-4	15
1242 MATLOCK	A-2	10
1251 HEULU	A-4	84
1329 DOMINIS	A-1	7
1330 WILDER	A-4	71
1402 PIIKOI	A-2	20
1426 KEEAUMOKU	A-2	24
1436 KEWALO	A-4	12
1448 YOUNG ST	BMX-3	202
1450 YOUNG STREET	BMX-3	247
1525 PENSACOLA	A-4	14
1541 DAVENPORT PLACE	A-4	12
1616 KEWALO	HOTEL-APT	30
1616 LIHOLIHO	HOTEL-APT	52
1650 PIIKOI	A-4	40
1718 ANAPUNI	A-4	28
1833 ANAPUNI	APARTMENT	12
ADMIRAL THOMAS APTS	A-4	149
ANAPUNI MANOR	A-4	16
ANAPUNI TERRACE	A-4	10
ANGA-ROA CONDOMINIUM	APARTMENT	40
BELLEVUE TOWER	HOTEL-APT	26
BERETANIA / PENSACOLA APT	BMX 3	19
CAMELOT	A-4	190
THE CONSULATE	HOTEL-APT	65
DOMINIS WEST	A-4	114
FOUNTAINS AT MAKIKI	A-2	72
THE HALE O KALANI TOWERS	HOTEL-APT	98
HALE POKI	A-4	18
THE HASSINGER	A-4	9
HASSINGER GARDENS	A-4	30
HEULU GARDENS	HOTEL-APT	24
HOKULANI APARTMENTS	A-4	30
INTERSTATE BUILDING	B-2	917
KAAHUMANU PLAZA	A-4	54
KAIHEE KAI	A-2	20
KEALOHA ARMS	HOTEL-APT	32
KEWALO GARDENS	A-2	30
KEWALO HALE	A-4	012
KINAU REGENT	A-2	20
KINAU TERRACE	A-4	12
THE LIHOLIHO TOWNHOUSES	A-2	20
LUNA-LIHO TOWERS	A-4	99
MAILE TERRACE	APARTMENT	88
MAKIKI APARTMENTS	APARTMENT	20
MAKIKI BEL AIRE	HOTEL-APT	40
MAKIKI CLIFFS	A-2	17
MAKIKI COLONY	A-4	56
MAKIKI CRESCENT	A-2	9
MAKIKI EAST	A-1	19
MAKIKI HILLSIDE	A-1	22
MAKIKI HOLIDAY	HOTEL-APT	32
MAKIKI KAI	A-2	9
MAKIKI MANOR	HOTEL-APT	38
MAKIKI PALMS	A-4	36
MAKIKI PARK PLACE	A-4	97
MAKIKI PARKSIDE	A-2	8
MAKIKI PLAZA	A-4	131
MAKIKI REGENT	A-2	18
MAKIKI ROYAL	HOTEL-APT	44
MAKIKI TOWERS	HOTEL-APT	136
MAKIKI VISTA	APARTMENT	25
MAKIKI WINDS APARTMENTS	HOTEL-APT	29
THE MAKIKIAN	A-2	32
MAKINI AT KINAU	A-2	97
MATLOCK HALE	A-4	66
MOKULANI APARTMENTS	HOTEL-APT	42
MOTT SMITH LANILOA	A-4	428
NEHOA PARK ESTATES	A-1	14
OAHUAN	A-2	46
THE MAGELLAN	HOTEL-APT	74
THE MAILE TOWER	HOTEL-APT	24
MAKIKILANI PLAZA	A-3	62
MAKIKI WEST	A-1	30
MAUNAIHI APARTMENTS	A-3	22
MAUNAIHI TERRACE	A-3	75
MILLER TERRACE	A-2	12
NANIHALA	APARTMENT	42
OCEAN VIEW	A-3	24
THE PARK TOWER	HOTEL-APT	24
PELE APARTMENTS	APARTMENT	10
POLYNESIAN SUNSET I	APARTMENT	18
PRINCE LUNALILO CONDOS	A-2	24
THE PROSPECT ESTATES	A-2	11
THE PROSPECT PARK	A-2	11
PROSPECT TOWER APARTMENTS	HOTEL-APT	76
PUNCHBOWL PLACE	A-2	32
PUNCHBOWL PLAZA	A-2	27
PUNCHBOWL VISTA	A-2	12
QUEEN'S VILLA	A-2	33
THE RESIDENCE AT PUNAHOU	A-3	23
THE ROSE AT LUSITANA	A-2	15
ROYAL VISTA	HOTEL-APT	60
SEA VIEW	A-3	33
SKY TOWER APARTMENTS	HOTEL-APT	89
SPENCER TERRACE	A-2	18
THE SURFVIEW	APARTMENT	48
TERRAZA	A-2	61
THE TOWN HOUSE	A-3	198
SPENCER COURT	A-2	6
VALLEY PARK PLACE	R-7	8
VICTORIA MANSIONS	HOTEL-APT	57
VICTORIA PLAZA CONDOMINIUM	APARTMENT	72
VICTORIA TOWERS	A-3	55
WARD KINAU	A-4	147
THE WARD LANAI	A-3	28
WARD VILLA	A-3	36
WESTVIEW PLAZA	A-2	56
UNIVERSITY		
KULANUI HALE	A-2	70
WAIKIKI		
click here to search Waikiki Condos in Google Map View		
222 KAIULANI APTS	APARTMENT	36
250 OHUA	HOTEL-APT	93
411 KAIOLU ST	APART	38
417 NAMAHANA	HOTEL-APT	16
441 LEWERS	H-2	40
444 NAHUA INC	H-2	192
1717 ALA WAI	APT	283
2121 ALA WAI INC	H-2	211
2233 ALA WAI	HOTEL-APT	52
2465 KUHIO AT WAIKIKI	HOTEL-APT	91
ALA WAI EAST	HOTEL-APT	19
ALA WAI MANSION	H-2	34
ALA WAI PALMS	HOTEL-APT	71
ALA WAI TERRACE	WAIKIKI SP DIST	44
ALA WAI TOWN HOUSE	HOTEL-APT	100
ALA WAILANI	HOTEL-APT	50
THE ALII	RES-MIX	17
ALLURE WAIKIKI	COMM/RESORT	301
ALOHA LANI	HOTEL-APT	359
ALOHA SURF HOTEL	HOTEL APTS	254
ALOHA TOWERS	H-2	198
BAMBOO (KUHIOLANI APTS)	RESORT/MIX USE	97
BEACHSIDE APARTMENTS	APART	30
THE BEL-AIRE	HOTEL	22
BIG SURF	B-5	32
BOULEVARD TOWER	APT-HOTEL	45
CANAL HOUSE	HOTEL-APT	144
CANTERBURY PLACE	B-5	151
CAPRI APARTMENTS	RES-MIX	15
CHATEAU WAIKIKI	H-2	459
CORAL TERRACE APARTMENTS	HOTEL-APT	36
CRESCENT PARK	HOTEL-APT	62
DIAMOND HEAD VISTA	H-2	173
DISCOVERY BAY	H-2/B-5	666
DRIFTWOOD HOTEL	APART	72
FAIRWAY MANOR	HOTEL-APT	50
FAIRWAY VILLA	H-2	364
FOSTER TOWER	B-5/H-2	141
FOUR PADDLE	HOTEL	250
THE GOVERNOR CLEGHORN	HOTEL-APT	90
HALE HUI	APART	15
HALE MOANI INC	HOTEL	69
HALE O NAI'A (FKA ODE HACIENDA)	HOTEL-APT	19
HALE WALINA	APT PRECINCT	21
HARBOR VIEW PLAZA	BUSINESS	140
HAWAIIAN COLONY	HOTEL	90
HAWAIIAN CROWN	H-2	36
HAWAIIAN EBBTIDE HOTEL	RES-MIX	40
HAWAIIAN KING	RESORT-COMM	70
HAWAIIAN MONARCH	APART	439
HAWAIIAN PRINCE APTS	APART	56
ILIKAI APARTMENT BUILDING	RES-MIX	1025

OAHUAN TOWER	A-2	57
ODE RANCHO	HOTEL APT	65
OHANA KEWALO	R-4	19
ONE KALAKAUA SENIOR LIVING	BMX-3	166
PAKALANA	A-4	108
THE PENSACOLA CHELSEA	A-2	44
PENSACOLA GARDENS CONDO	A-3	68
PENSACOLA VISTA	A-2	15
THE PIIKOI ATRIUM	A-4	60
PIIKOI HALE	A-2	32
THE PIIKOI TERRACE	A-2	36
PIIKOI TOWER INC	A-4	120
PIIKOI VILLA	A-4	41
THE PLEASANTON	HOTEL-APT	49
PRINCE DAVID APARTMENTS	HOTEL-APT	15
PRINCESS KEALOHA	APARTMENT	72
PUNAHOU GARDENS APTS	HOTEL-APT	189
PUNAHOU PALMS	A-4 & R-6	18
PUNAHOU PARK PLACE	A-2	22
PUNAHOU ROYALE	A-4	99
PUNAHOU TERRACE	A-2	45
QUEEN VICTORIA RESIDENCES	BMX-3	51
ROSE TERRACE	A-4	54
ROYAL GARDEN-MAKIKI	A-2	8
TANTALUS VISTA APARTMENTS	HOTEL-APT	25
THE VILLAGE MALUHIA	A-4	161
WILDER AT PIIKOI	A-4	166
WILDER HALE	A-3	18
WILDER HOUSE	A-4	59
WILDER-KEEAUMOKU APT	A-4	26
WILDER REGENT	APARTMENT	40
WILDER TERRACE	A-4	40
WILDER TOWER	HOTEL-APT	42
WILOLA APARTMENTS	A-4	28
MANOA		
HALE MANOA	R-4	9
THE KUAHINE	R-6	21
MANOA EAST	B-1	25
MANOA ESTATES	R-4 & CONSERVAT	52
MANOA TEI	R-4	7
MANOA VILLAGE	R-4	10
PUNAHOU MARQUIS	R-5	20
THE ROYAL MANOA	A-4	12
UNIVERSITY COURT	RES	42
McCULLY		
1808 WAIOLA	A-2	9
1906 FERN STREET	A-2	8
ALA WAI MANOR	HOTEL-APT	92
CENTURY CENTER	B-2/A-4	298
CITRON VILLA	A-4	60
FERN GARDEN	A-4	24
KAPIOLANI TERRACE	B-2	266
THE PUMEHANA	A-2	68
STARTS PLAZA	BMX-3	41
TAN APARTMENTS	A-4	11
MOILIILI		
727 UNIVERSITY	A-2	13
778 WILIWILI	A-2	20
1635 YOUNG	A-4	7
2024 WAIOLA	A-4	15
2341 DATE STREET	A-2	8
2638 NAKOO CONDO	A-4	10
2729 NAKOOKOO STREET	A-2	6
ALEXANDER ARMS	APARTMENT	78
ALEXANDER TOWERS	A-4	90
BERETANIA HALE	AMX-2	19
THE CLAIRMONT	A-2	18
COCO COURT	A-4	8
THE CONTESSA	HOTEL-APT	144
COOLIDGE APARTMENTS	A-2	19
COOLIDGE GARDENS	A-4	48
COOLIDGE VILLA	A-2	22
THE COURTYARDS AT PUNAHOU	A-2	35
CRYSTAL PARK	A-4	49
FERN TERRACE	A-2	15
HALE HOALOHA	A-4	35
HALE KULANUI	A-4	180
HALE LUANA	APARTMENT	96
THE HAUSTEN INC	A-4	52
HONO HALE TOWERS	A-4	201
THE IOLANI	APARTMENT	24
KAUALANA MANOR I INC	A-4	70
KAPIOLANI BANYAN	A-4	44
KAPIOLANI HOUSE	A-4	51
KAPIOLANI ROYALE	A-4	68
KINGS GATE	A-4	141
KUILEI GARDENS	APARTMENT	45
LIME TREE	A-4	48
MCCULLY VILLA	A-4	104
MOILIILI GARDENS	APT/BUSINESS	54
PARKLAND GARDENS	A-4	96
PARKSIDE TOWER	A-4	88
PAWAA GARDENS	HOTEL-APT	36
PLUMERIA HALE	A-4	66
ILIKAI MARINA	RES-MIX	261
IMPERIAL HAWAII RESORT	H-2	375
INN ON THE PARK	B-5	247
ISLAND COLONY	APT PRECINCT	745
THE KAILANI	HOTEL-APT	51
KAIOLU SUNRISE	A-1	89
KAIOO TERRACE	APARTMENT	40
THE KALAKAUAN	RESORT-COMMER	63
KALIA	APART	303
KEALANI	RESIDENTIAL	53
KEONI ANA	H-2	183
KING KALANI	HOTEL-APT	44
KON TIKI 'ANO HOU	HOTEL-APT	48
KUHIO EBBTIDE HOTEL	APART	24
KUHIO PLAZA	HOTEL-APT	40
KUHIO VILLAGE I	RESORT/HOTEL	112
KUHIO VILLAGE II	RESORT/HOTEL	113
LA CASA	H-2	102
LANIAKEA APARTMENTS	HOTEL-APT	28
LANIKEA AT WAIKIKI	WAIKIKI SP DIST	131
LEISURE HERITAGE APTS	H-2	69
LILIUOKALANI GDNS AT WAIKIKI	PRECINCT DISTR	385
LILIUOKALANI PLAZA	HOTEL-APT	48
LOFT @ WAIKIKI	A-2	36
LUANA WAIKIKI	WAIKIKI SD/RESO	225
MAILE SKY COURT	HOTEL-APT	584
MAKEE AILANA	HOTEL-APT	48
MARINA TOWERS	HOTEL-APT	108
MARINE SURF WAIKIKI	HOTEL-APT	232
MONTE VISTA	H-2	90
NAMAHANA TERRACE	APARTMENT	14
NIIHAU APARTMENTS INC	HOTEL-APT	44
OAHU SURF I	HOTEL-APT	58
OAHU SURF II	HOTEL-APT	58
OHUA GARDENS	HOTEL-APT	47
OHUALANI	HOTEL-APT	27
PACIFIC ISLANDER HOTEL	H-2	38
PACIFIC INTERNATIONAL HOTEL	H-2 RESORT HOT	54
PACIFIC MONARCH	H-2	218
THE PALMS INC	HOTEL-APT	140
PALMS AT WAIKIKI	APT MIX USE	268
THE PARKVIEW INC	HOTEL-APT	50
THE PAVILION AT WAIKIKI	B-5	154
POMAIKAI	BUSINESS	34
THE PROMENADE	APT PRECINCT	14
QUEEN EMMA APTS	APART	15
REGENCY ALA WAI	APARTMENT	29
THE REGENCY ON BEACH WALK	RESORT-HOTEL	75
THE ROSALEI	APT(WAIKIKI DIS)	160
ROYAL ALOHA	B-5	143
ROYAL GARDEN AT WAIKIKI	APT PRECINCT	212
ROYAL KUHIO	H-2	385
THE SEASHORE	SPECIAL DESIGN	56
SCANDIA TOWERS	HOTEL-APT	42
SEASIDE SUITES	A-3	62
SEASIDE TOWERS	HOTEL-APT	126
TRADEWINDS HOTEL	AMX-ALL	248
TRADEWINDS PLAZA	HOTEL RESORT	80
TRUMP TOWER WAIKIKI		462
THE TWIN-TOWERS	HOTEL-APT	72
VILLA ON EATON SQUARE	B-5/RST/CMML	458
WAIKIKI BANYAN	H-2	876
WAIKIKI BEACHSIDE	RESORT-HOTEL	32
WAIKIKI BEACH TOWER	H-2	142
WAIKIKI COVE	APT PRECINCT	23
WAIKIKI GRAND HOTEL	H-2	219
WAIKIKI HOLIDAY	APT PRECINCT	77
WAIKIKI IMPERIAL APTS	HOTEL-APT	40
WAIKIKI LANAIS	H-2	160
WAIKIKI LANDMARK	WAIKIKI SDD	353
WAIKIKI MARINA CONDOMINIUM	APT PRECINCT	149
WAIKIKI PARK HEIGHTS	H-2	269
WAIKIKI REGENT APTS	X2 - APARTMENT	9
WAIKIKI SHORE	HOTEL/RESORT	169
WAIKIKI SKYLINER	HOTEL-APT	122
WAIKIKI SKYTOWER	H-2	102
WAIKIKI SUNSET	APART	435
WAIKIKI TOWNHOUSE	H-2	109
WAILANA AT WAIKIKI	CMML	198
WAIPUNA	B-5	407
WALINA APARTMENTS	HOTEL-RESORT	42
THE WATERMARK	APART	212
THE WINDSOR	APT/WAIKIKI BUS	179
WOODLAWN		
BEAUMONT WOODS TERRACE	RESIDENTIAL	11

PRINCESS ANN APTS	A-2	8
RAINBOW PLACE	A-4	90
RAINBOW TERRACE	B-2 & A-4	33
SCENIC TOWERS	A-4	128
THE SOVEREIGN	A-4	48
SIXTEEN REGENTS	A-4	16
TERRACE APARTMENTS	APARTMENT	24
TERRACE TOWERS	APARTMENT	73
THE TWENTY ONE HUNDRED	A-4	168
UNION PLAZA	A-4	32
UNIVERSITY GARDENS	A-2	30
UNIVERSITY PLAZA	B-2	51
UNIVERSITY TOWERS	APT ZONE C	56
UNIVERSITY VILLA	A-3	80
VARSITY HOUSE	B-2	25
VARSITY VILLA	APARTMENT	53
WAIALAE PLACE	A-2	115
WILIWILI VISTA	A-2	60

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DIAMOND HEAD, HAHAIONE, HAWAII KAI, KAHALA, KAIMUKI, KALAMA VALLEY, KALANI IKI, KAPAHULU, KULIOUOU, PAIKO LAGOON, PALOLO, ST LOUIS, NAPUA POINT, WAIALAE, WAIALAE NUI VALLEY, WEST MARINA

BUILDING	ZONING	# OF UNITS
DIAMOND HEAD		
click here to search Diamond Head Condos in Google Map View		
2987 KALAKAUA	A-2	41
3003 KALAKAUA	HOTEL-APT	24
3019 KALAKAUA AVENUE	HOTEL-APT	12
3056 KALAKAUA	HOTEL-APT	16
CASTLE SURF APARTMENTS	HOTEL-APT	38
COLONY BEACH	HOTEL-APT	8
COLONY SURF, Ltd.	A-2	176
CORAL STRAND	A-2	47
DIAMOND HEAD ALII	A-2	54
DIAMOND HEAD AMBASSADOR	A-2	32
DIAMOND HEAD APTS	A-2	57
DIAMOND HEAD BEACH HOTEL	A-4	62
DIAMOND HEAD CONDOS PUALEI	A-2	105
DIAMOND HEAD GARDENS	RESIDENTIAL	42
DIAMOND HEAD HALE CORP	A-2	16
DIAMOND HEAD HILLSIDE	B-2 & R-2	32
DIAMOND HEAD PLAZA CONDO	APARTMENT	21
DIAMOND HEAD SANDS	A-1	116
DIAMOND HEAD SURF	A-2	40
DIAMOND HEAD TERRACE	A-2	19
THE GREGG APARTMENTS	APARTMENT	30
HALE PUA LEI	APARTMENT	27
ILIMA APARTMENTS	A-2	31
KAINALU APARTMENTS	A-2	59
LA PIETRA	RESIDENTIAL	38
OCEANSIDE MANOR	HOTEL-APT	18
PUA LEAHI APARTMENTS	APT/HOTEL-RST	30
SANS SOUCI	A-2	88
SEABREEZE APARTMENTS	A-2	10
TAHITIENNE	A-2	30
TROPIC SEAS	A-2	62
HAWAII KAI		
click here to search Hawaii Kai Condos in Google Map View		
COLONY MARINA	A-2	26
COMMODORE	A-3	114
THE ESPLANADE	A-3	250
GATEWAY PENINSULA	A-1	39
HERITAGE HOUSE HAWAII-KAI	A-3	135
KAIMALA MARINA	APARTMENT	90
KAI NUI COURT	R-5	11
KALELE KAI	A-2	229
KALUANUI	A-2	28
KAWAIHAE CRESCENT EAST	A-1	37
KAWAIHAE CRESCENT WEST	A-1	61
KOKO ISLE	A-2	124
KUAPA ISLE	RESIDENTIAL	234
LALEA AT HAWAII KAI	A-2	293
MARINA PALMS	A-1	54
MARINER'S VILLAGE	A-3	46
MARINER'S VILLAGE 2	A-3	28
MARINER'S VILLAGE 3	R-5	293
MAUNA LUAN	A-2	433
MAWAENA KAI LANDING O HII KAI	A-1	104
MOANA KAI	A-2	84
THE MOORINGS	APARTMENT	64
MT TERRACE	A-1/A-3	126
NANEA KAI	A-2	87
NANIWA GARDENS	A-3	112
PENINSULA AT HAWAII KAI	A-1/A-2	630
THE PLAZA HAWAII KAI	A-3	146
VILLA MARINA	A-2	19
THE VILLAGE GREEN	CMML	56

BUILDING	ZONING	# OF UNITS
KAHALA		
THE KAHALA BEACH	HOTEL-APT/RESRT	196
KAHALA GARDEN APTS	A-1	4
THE REGENCY AT KAHALA	CMML	88
KAIMUKI		
THE KAIMUKI JADE	B-1	72
KUHALE KAPAHULU	R-7	29
KALAMA VALLEY		
KALAMAKU'U	R-5 & A-1	81
KALANI IKI		
KAHALA PACIFICA	R-4 & R-6	25
KAHALA VIEW ESTATE	R-4	44
KALANI IKI ESTATE	A-1	95
KAPAHULU		
465 KAPAHULU	B-2	48
HALE HANA	B-2	21
KAPAHULU VISTA APARTMENTS	BUSINESS	24
KULIOUOU		
HALELOA	PD-H	51
HALELOA II	PD-H	36
NAPUA POINT		
NAPUA POINT	R-6	18
PAIKO LAGOON		
KULIOUOU KAI	PD-H	28
PALOLO		
HI-SIERRA	HOTEL-APT	40
KULEANA STREAMSIDE	R-5	8
PALOLO GARDEN	B-2	49
SIERRA GARDENS	A-2	24
ST LOUIS		
REGENCY PARK	A-1	272
WAIALAE NUI VALLEY		
KAHALA TOWERS	HOTEL-APT	234
TROPIC GARDENS I	APARTMENT	216
TROPICANA VILLAGE MAKAI	HOTEL-APT	68
WAIALAE GARDENS	APARTMENT	182

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ZONE 4

BLUE STONE, COUNTRY CLUB, ENCHANTED LAKE, GOVERNMENT, HAIKU VILLAGE / PLANTATION, HALE KOU, KAILUA TOWN, KOOLAUPOKU, LILIPUNA, MAHINUI,

PUOHALE VILLAGE, PARKWAY, PUUALII, TEMPLE VALLEY, WINDWARD ESTATES

BUILDING	ZONING	# OF UNITS
BLUE STONE		
BLUESTONE	PDH-R-34	136
COCONUT GROVE		
75 KIHAPAI	B-2/A-3	14
725 KIHAPAI PLACE	A-3	12
HALE MAKALEI	A-2	24
HAIKU VILLAGE / PLANTATION		
EDEN AT HAIKU WOODS	R-6/AG-1	87
HAIKU GARDENS	PD-H	115
COUNTRY CLUB		
YACHT CLUB KNOLLS	PD-H	86
YACHT CLUB TERRACE	R-3	168
ENCHANTED LAKE		
LAKEVIEW	R-6	58
GOVERNMENT		
KAUHALE BEACH COVE	R-38	40
HALE KOU		
MAHINUI GARDEN	R-5	20
NA PALI GARDENS	INDUSTRIAL LTD	132
KAALAEA		
THE WAILEHUA APTS	I-1	11
KAILUA TOWN		
AIKAHI GARDENS	PD-H	148
GARDENIA MANOR	A-3	96
HOKULANI IN KAILUA	A-2	144
KAILUAN	A-2	3
KAOPA PARK PLACE	R-5	40
KOOLUA VISTA	A-2	201
MERIDIAN EAST	COMMERCIAL	76
POINCIANA MANOR	A-3	180
WINDWARD COVE	A-3	88
WINDWARD HARBOUR	A-3	96
WINDWARD PASSAGE	A-2	204
KAWAILOA		
THE WINDSURFER	R-4	10
KOOLAUPOKU		
KAINUI ESTATES	R-5	16
LILIPUNA		
POHA KEA POINT	PD-H	255
SUMMIT AT KANEOHE BAY	R-10	31
MAHINUI		
HEALANI GARDENS	R-4 / PRESERV	74
SHANGRI-LA	R-7.5 & CONSERV	16
PARKWAY		
PARKWAY PHASE A	PD-H	61
PARKWAY PHASE C-1	R-3 & R-4	14
PARKWAY PHASE C-2	R-3 R-4 R-30	56
PUOHALE VILLAGE		
MANAI HALE	R-4	52
PUUALII		
LILIPUNA CONDOMINIUM	A-2	38
MAKANI KAI MARINA	PD-H	80
PUU ALII PHASE I	PD-H	185
PUU ALII PHASE II	PH-D DIST 45	100
PUU IKI	A-2	38
TEMPLE VALLEY		
AHUIMANU GARDENS UNIT I	A-1	118
CLIFF VIEW TERRACE	B-2	30
CLUB VIEW GARDENS II	PD-H	125
CLUB VIEW GARDENS III	PD-H	100
HOKULOA	A-3	362
KAHALEMANU	PD-H	86
KAHALUU GARDENS	A-1	45
KAHALUU HILLSIDE	R-3	21
TROPICANA VILLAGE-HAIKU	APARTMENT	108
VALLEY VIEW ESTATES	A-1	36
WINDWARD ESTATES		
HAIKU HALE	A-3	136
HAIKU POINT	A-1	200
HALE ANAOLE APARTMENTS	A-3	107
MOUNTAINVIEW TERRACE	A-3	98
NANI KOOLAU	A-2	66
WINDWARD ACRES	A-2	180
WINDWARD ESTATES	A-3	193

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ZONE 5

KAAAWA, KUILIMA, PUNALUU

BUILDING	ZONING	# OF UNITS
KAAAWA		
MAKAUA VILLAGE	P-2	85
KUILIMA		
KUILIMA ESTATES EAST	A-1	168
KUILIMA ESTATES WEST	A-1	200
OCEAN VILLAS AT TURTLE BAY	B-1	57
PUNALUU		
HANOHANO HALE	HOTEL	131
PATS AT PUNALUU	H-1	142

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ZONE 6

BEACH PARKS, MOKULEIA, WAIALUA

BUILDING	ZONING	# OF UNITS
BEACH PARKS		
HALEIWA SURF	H-1	51
MOKULEIA		
MOKULEIA BEACH COLONY	RURAL PROTECTIVE	52
WAIALUA		
KONANE KAI	A-2	45
MOKULEIA BEACH APARTMENTS	A-1	20
MOKULEIA COUNTRY HOMES	A-2	7
MOKULEIA HALE	A-2	18
WAIALUA		
MOKULEIA SANDS	A-2	70
MOKULEIA SURF	A-2	12
NAUPAKA	A-1	10
ONO VISTA	A-2	64
PUUIKI BEACH APTS	A-3	12
PUUIKI HALE	A-3	14
SUNSET PARADISE	A-2	10
SUNSET SHORES	A-2	32

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ZONE 7

WAHIAWA, WHITMORE VILLAGE, WILIKINA

BUILDING	ZONING	# OF UNITS
WAHIAWA		
LALAWAI HALE	A-2	96
GARDEN VIEW	A-2	9
HIDDEN VALLEY ESTATES	R-4 / P-2	161
RNR CONDOMINIUMS	A-2	8
RNR CONDOMINIUM II	A-2	36
WAHIAWA MEDICAL BLD	B-2 & A-3	20
WAIPEHE APARTMENTS	INDUSTRIAL	12
WHITMORE VILLAGE		
LALAWAI HALE	A-2	96
WILIKINA		
133 LAKEVIEW CIRCLE	A-2	8
KEMOO BY THE LAKE	A-3	88
WOODWINDS	PD-H	150

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ZONE 8

MAILI, MAKAHA, WAIANAE

click here to search Leeward Coast of Oahu Condos in Google Map View

BUILDING	ZONING	# OF UNITS
MAILI		
GARDEN GROVES	PD-H	46
KAHE KAI	PDH	156
HOLOMOANA AT SEA COUNTRY		100
MAILI COVE INC	A-1/R-6	61
PALM GROVE	R-6	60
MAKAHA		
HAWAIIAN PRINCESS@MAKAHA BCH	HOTEL APT	124
WAIANAE		
POKAI BAY BEACH CABANAS	HOTEL-APT	63
POKAI BAY MARINA	HOTEL-APT	35
ULU WEHI	R-5	347

MAKAHA BEACH CABANAS	HOTEL-APT	162
MAKAHA SHORES	RST-HOTEL	88
MAKAHA SURFSIDE	A-1	454
MAKAHA VALLEY PLANTATION	A-2	572
MAKAHA VALLEY TOWERS	APARTMENT	592
MAKAHA VILLAGE	R-6	16

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ZONE 9

AIEA, EWA, EWA GEN, HALAWA, KAPOLEI, KO'OLINA, MAKAKILO, MANANA, MILILANI, MILILANI MAUKA, MILITARY, OCEAN POINTE, PEARL CITY, PEARL RIDGE, ROYAL KUNIA, WAIAU, WAIKELE, WAILUNA, WAIMALU, WAIPAHU, WAPIO, WAIPIO GENTRY, WESTLOCH FAIRWAYS

BUILDING	ZONING	# OF UNITS
AIEA		
AIEA LANI ESTATES	PD-H	60
AIEA MEDICAL BUILDING	B-2	47
AIEA RIDGE	R-10	21
CHATEAU NEWTOWN I	A-1	74
HARBOR TERRACE	A-1	140
KAUHALE CONDOMINIUM	BUSINESS	69
KE KUMULANI	A-1	125
LAPA'OLU AIEA HEIGHTS	R-10	50
NEWTOWN MEADOWS	P-1 & A-1	152
NEWTOWN VILLA I	A-1	57
NEWTOWN VILLA II	A-1	35
TROPICANA VILLAGE-AIEA	APARTMENT	112
THE TOWNHOMES AT PEARL RDG	A-2	22
EWA		
THE ARBORS	A-1	289
EWA COLONY ESTATES	A-1	26
EWA OCEANSIDE	R-5	23
EWALANI VILLAGE	A-1	81
HU'ELANI PHASES 1 - 19	A-1	101
THE LOFTS BY GENTRY PHASE A	A-1	40
PALM VILLAS II	A-1	384
SUN RISE	A-1	408
EWA GEN		
ALII COVE/ALII COURT/LOFTS MDL	A-1	276
AVALON	A-1	46
CORONADO	A-1	156
CORTEBELLA	A-1	130
LAS BRISAS	A-1	184
LOMBARD WAY	A-1	158
MONTECITO / TUSCANY	A-1	356
PALM COURT	APARTMENT	400
PALM VILLAS	A-1	352
SUNCREST	A-1	64
TERRAZZA	A-1	167
TIBURON	A-1	134
HALAWA		
ALII PLANTATION	A-1	152
CENTRAL/HALAWA IND BLDG	I-1	14
THE CENTRE COURT	A-3/R-6	63
CROSSPOINTE	A-1	560
I-1	20	
KAPILI BUSINESS CENTER	I-2	10
KAPOLEI		
A'ELOA TERRACE	AG-1	96
KEKUILANI VILLAS	A-1	151
KULALANI VILLAGE	A-1	128
MALANAI IKI	A-1	88
PAE KO GARDENS	A-1	128
KO'OLINA		
click here to search Ko'olina Condos in Google Map View		
COCONUT PLANTATION KO OLINA	A-1	271
KAI LANI	A-1	116
KO OLINA FAIRWAYS	A-1	280
KO OLINA HILLSIDE VILLAS	A-1	174
KO OLINA KAI GOLF EST VILLAS	A-1	324
MAKAKILO		
ANUHEA AT MAKAKILO	A-1 & R-5	109
HO'OLU LANDING AT MAKAKILO	R-5 & P-2	47
KAI NANI AT MAKAKILO	A-1	96
MAKAKILO CLIFFS	A-2	240
MAKAKILO GARDENS INCR 1	A-1	66
MAKAKILO GARDENS INCR NO 2	A-1	75
MAKAKILO GARDENS INCR NO 3	A-1	53
MAKAKILO HALE I INC	A-1	93
MAKAKILO HALE II	PD-H	119
MAKAKILO MALA	A-1	96
OCEAN RIDGE AT MAKAKILO	A-1	68
PALEHUA GARDENS	PD-H	99
PALEHUA HALE	PD-H	87
PALEHUA HILLSIDE	PD-H/R-6	96
PALEHUA NANI	A-1	104
PALEHUA TOWNHOUSES	PD-H	91
PALEHUA VILLAS	A-1	138
SEASCAPE AT MAKAKILO	A-1/R-5	109
WATERCOLORS AT MAKAKILO	A-2	73
WESTVIEW @ MAKAKILO HGHTS	A-1	320
MANANA		
CENTURY PARK PLAZA	A-2 & P-2	607
HALE OLA	APARTMENT	150
MILILANI		
MILITARY / NAVY		
ACACIA PARK	A-1/P-1	89
EWA APARTMENTS	RESIDENTIAL	205
EWA BEACH TOWNHOUSE	A-3	20
EWA VILLA ESTATES	APARTMENT	84
FOSTER HEIGHTS VILLA	A-1	76
OCEAN POINTE		
KE 'AINA KAI TOWNHOMES 1-12	R-5	256
KE NOHO KAI TOWNHOMES 1-3	R-5 & A-1	97
MARINERS PLACE TOWNHOMES	R-5	126
SPINNAKER PL TOWNHOMES 1	A-1	173
TOWN HOMES AT FAIRWAY'S EDGE	A-1	252
PEARL CITY		
936 LEHUA	A-3	22
COLLEGE GARDENS	A-2	120
THE HEIGHTS AT WAILUNA	A-1	128
INDUSTRIAL PLAZA	I-1	14
LEHUA HALE	A-2	21
LEHUA NANI	A-3	49
PEARL KAI TERRACE	A-2	21
WAIHONA INDUSTRIAL CENTER	I-1	27
PEARL RIDGE		
click here to search Pearl Ridge Condos in Google Map View		
THE BOUGANVILLE	A-3/R-4	141
THE COLONNADE ON THE GREENS	A-2	274
HARBOR POINTE	A-1	87
HARBOR SHORES APARTMENTS	INDUSTRIAL	42
HARBOR VISTA APARTMENTS	INDUSTRIAL	27
THE HIGHLANDER	A-3	204
LELE PONO	A-3	300
NAHALEKEHA	R-4	29
PACIFIC VILLAGE	APARTMENT	88
PACIFIC VILLAGE ANNEX	APARTMENT	44
THE PARK@PEARLRIDGE INC	A-3	415
PEARL HORIZONS	A-1	222
PEARL MANOR APARTMENTS	INDUSTRIAL	40
THE PEARL NUMBER ONE INC	R-4	300
THE PEARL NUMBER TWO	A-3	316
PEARL REGENCY	A-3 & R-4	368
PEARL RIDGE GARDENS & TOWER	A-3	289
PEARLRIDGE SQUARE	A-3	282
PEARLRIDGE SUNSET	A-2	36
THE RIDGEWAY UNIT A	RESIDENTIAL	37
THE RIDGEWAY UNIT B PHASE II	A1	119
THE RIDGEWAY UNIT B PHASE III	A-1	91
THE RIDGEWAY UNIT C	APARTMENT	124
THE RIDGEWAY UNIT D	A1	94
VILLAGE WEST PHASE 1	APARTMENT	92
WHITE PEARL APARTMENTS	INDUSTRIAL	42
ROYAL KUNIA		
EXPRESSIONS AT ROYAL KUNIA	A-1	86
EXPRESSIONS III AT ROYAL KUNIA	A-1	61
KULANA KNOLLS	A-1	248
WAIAU		
WAIAU GARDEN COURT	A-1	176
WAIAU GARDENS KAI UNIT A	A-1	107
WAIAU GARDENS KAI UNIT B	A-1	113
WAIAU GARDENS KAI UNIT D	A-1	114
WAIAU GARDENS KAI UNIT E	A-1	94
WAIAU GARDENS KAI UNIT G-I	A-1	105
WAIAU GARDENS KAI UNIT G-II	A-1	105
WAIAU GARDEN VILLA	A-1	201
WAIKELE		
click here to search Waikele Condos in Google Map View		
FAIRWAY VILLAGE AT WAIKELE	A-1	208
THE GREENS AT WAIKELE	A-1	56
HALE LUMI	APARTMENT	51
HIGHLANDS AT WAIKELE	R-5	118
HO'OKUMU AT WAIKELE	A-1	136
HO'OMAKA VILLAGE	A-1	244
HO'OMALU AT WAIKELE	R-5	54
MAHI KO AT WAIKELE	A-1	228
PARKGLEN AT WAIKELE	R-5	204
PARKVIEW AT WAIKELE	A-1	80
THE TROPICS AT WAIKELE	R-5	195
VIEWPOINTE AT WAIKELE	R-5	144
VILLAGE ON THE GRN AT WAIKELE	R-5	282
WAILUNA		
THE CREST AT WAILUNA	A-1	170
THE CROWNE AT WAILUNA	A-1	158
HILLSIDE TERRACE I,II,III,IV	A-1	374

CATHEDRAL PT-MELEMANU	PUD	222
EVERGREEN TERRACE	R-5 WITH PD-H	130
THE GARDENS @ LAUNANI VALLEY	R-5 / P-2	238
HALE KALOAPAU	A-4	72
HOKUAHI APARTMENTS	A-1	018
HOKUALA HALE	A-1	92
HOLANIKU HALE	A-1	64
KUAHELANI APARTMENTS	A-2	99
KUMELEWAI GARDENS	A-1	160
MEHEULA HALE PATIO HOMES	A-1	62
MILILANI GRDN HOMES UNIT NO 1	HOTEL-APT/RST	52
MILILANI GRDN HOMES UNIT NO 2	APARTMENT	82
MILILANI MANOR	APT/HOTEL/RST	80
MILILANI PARKWAY	RESIDENTIAL	240
MILILANI PINNACLE	A-1	90
MILILANI POINT	A-1	40
MILILANI TERRACE	A-2	224
MILILANI TOWN HOUSES	APARTMENT	28
NAHOA APARTMENTS	A-2	232
NOB HILL	A-2	420
NORTHBROOK-MELEMANU	PUD	132
OPUA HALE PATIO HOMES	A-1	96
PINE KNOLL VILLAS	A-1	38
RIDGECREST-MELEMANU WDLNDS	PUD	132
SPRUCE RIDGE VILLAS	A-1	116
VALLEYVIEW-MELEMANU WDLDS	PUD	157
WAIKALANI WOODLANDS	PD-H	288
WAIPIO GARDENS APARTMENTS	HOTEL-APT	68
WAIPIOLANI	B-2 & R-4	41
WOODCREEK	R-5	102
WOODLAWN TR-MELEMANU WD	PUD	55

MILILANI MAUKA

click here to search Mililani Mauka Condos in Google Map View

CRESCENT LANE	A-1	164
DESTINY AT KAPANOE	A-1	102
DESTINY AT MILILANI	A-1	120
DESTINY AT MILILANI MAUKA	A-1	114
DESTINY II AT MILILANI MAUKA	A-1	160
DESTINY III AT MILILANI MAUKA	A-1	73
HAMPTON COURT	A-1	100
HAVENS OF I'I VISTAS	A-1	360
HILLSDALE	A-1	212
HOALOHA IKE	A-1	84
HOALOHA IKE II	A-1	70
KUMELEWAI COURT	A-1	152
KU'ULAKO	R-5	215
NOHONA AT MILILANI MAUKA	A-1	120
NORTHPOINTE	A-1	200
NORTHPOINTE AT MILILANI	A-1	80
OLALOA	R-5/A-1	360
THE RIDGE AT LAUNANI VALLEY	R-5	182
STREAMSIDE @ LAUNANI VLY PH I	R-5	84
THE TERRACES AT LAUNANI VLY	R-5	150

WAILUNA	A-1	329

WAIMALU

PEARL RIDGE TERRACES	B-2	108
WAIMALU PARK	A-1/R-6	60

WAIPAHU

1037 KAHUAMOKU	A-3	8
1041 KAHUAMOKU	A-2	12
LEOLUA GARDENS	A-2	41
LEOLUA REGENT	A-2	175
LEOLUA VISTA	A-2	41
KUNIA GARDENS	A-2	41
PARKVIEW VILLAGE CONDOMINIUM	A-1	120
PEARL HARBOR GARDENS	R-5	65
PEARL HARBOR VIEW	A-2	9
PLANTATION VIEW HALE	A-2	72
SU CASA	A-2	192
UKE'E INDUSTRIAL COURT	I-2	28

WAPIO

CLIFFSIDE VILLAGES AT WAIPIO	A-1	184
IHONA	A-1	132
KUNIA TERRACE	A-2	41
KUPONO	A-2	120
THE ROYAL PALM AT WAIPIO	A-1	376
WAIPIO BUSINESS CENTER	I-1	99

WAIPIO GENTRY

HIKINO	A-1	184
KUANI HILLSIDE	A-1	56
LIOLIO	A-1	88
PENAKII	A-1	107
PULUA	A-1	84
RAINBOW SERIES KAUHALE WAIPIO	A-1	127
RAINBOW SERIES KUOLA	A-1	63
THE VILLAGES AT WAIPIO	A-1	240

WESTLOCH FAIRWAYS

WEST LOCH FAIRWAYS TWN HMS	AG-1/P-2	136

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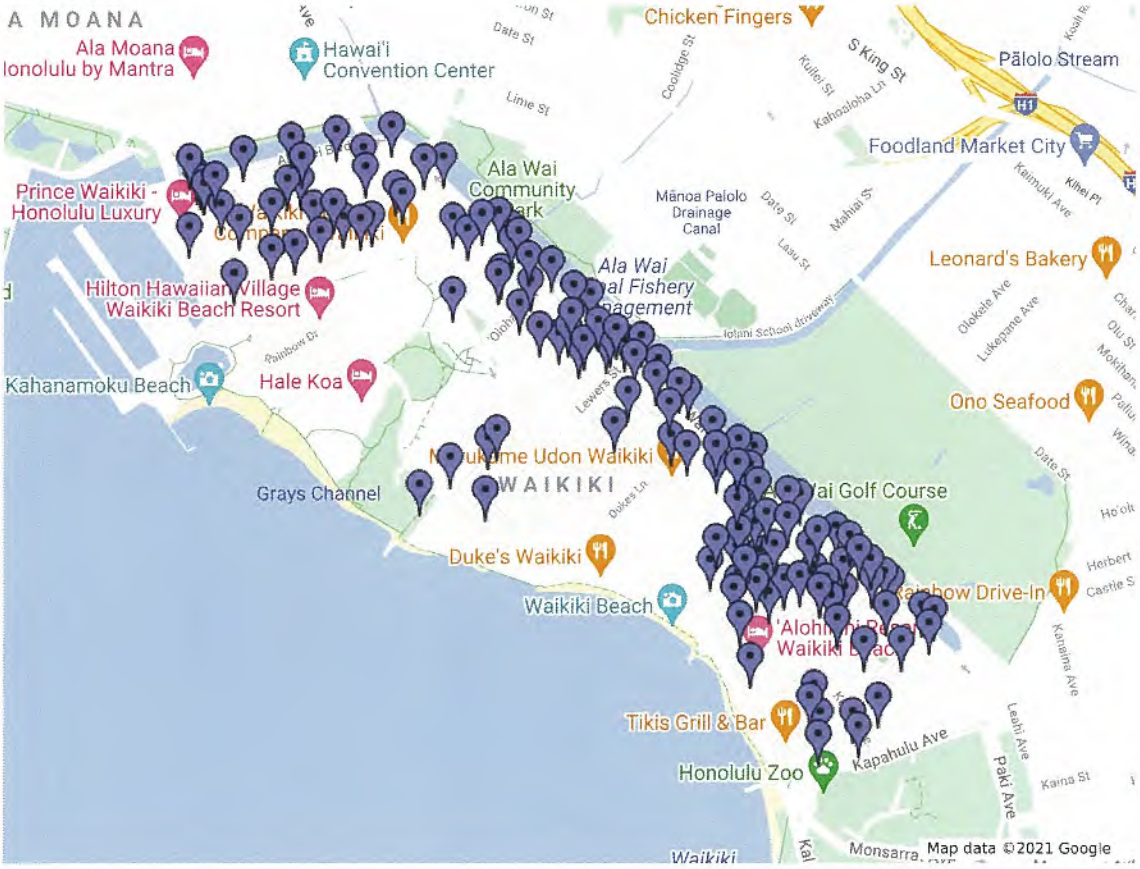
Waikiki Condos

Untitled layer

- 222 Kaiulani Apartments
- 250 OHUA, Honolulu, HI 96815
- 411 Kaiolu St, Honolulu, HI 96815
- 417 Namahana Street, Honolulu, HI 96815
- 441 LEWERS STREET, HONOLULU, HI 96815
- 444 Nahua Street, Honolulu, HI 96815
- 1717 Ala Wai Boulevard, Honolulu, HI 96815
- 2121 Ala Wai Boulevard, Honolulu, HI 96815
- 2233 Ala Wai Boulevard, Honolulu, HI 96815
- 2465 KUHIO Boulevard, Honolulu, HI 96815
- ALA WAI EAST
- ALA WAI MANSION



- ALA WAI PALMS
- Kuhio Ebbtide Hotel, Inc.
- KUHIO PLAZA
- KUHIO VILLAGE I
- KUHIO VILLAGE II
- ALA WAI TERRACE
- ALA WAI TOWN HOUSE
- ALA WAILANI
- THE ALII, Inc.
- ALLURE WAIKIKI
- ALOHA LANI
- ALOHA SURF HOTEL
- ALOHA TOWERS INC
- BAMBOO
- BEACHSIDE APARTMENTS
- THE BEL-AIRE
- BIG SURF
- BOULEVARD TOWER
- CANAL HOUSE
- CANTERBURY PLACE
- CAPRI APARTMENTS
- CHATEAU WAIKIKI
- CORAL TERRACE APARTMENTS
- CRESCENT PARK
- DIAMOND HEAD VISTA INC
- DISCOVERY BAY
- Driftwood Hotel, Inc.
- FAIRWAY MANOR
- FAIRWAY VILLA

This map shows the location of every condo complex located in Waikiki as well as supplying links to more info on each complex and links to IDX Data / Available Units In Each Waikiki Condo Complex

Call Marty Sanders (RA) with ERA Signature Homes today for expert representation
808-222-3804
martysanders808@gmail.com

FOSTER TOWER
FOUR PADDLE
THE GOVERNOR CLEGHORN
Hale Hui, Ltd
HALE MOANI INC
HALE O NAI'A (FKA ODE HACIENDA)
HALE WALINA
HARBOR VIEW PLAZA
HAWAIIAN COLONY
HAWAIIAN CROWN
Hawaiian Ebbtide Hotel, Inc.
HAWAIIAN KING
HAWAIIAN MONARCH
Hawaiian Prince Apts., Ltd.
ILIKAI APARTMENT BUILDING INC
ILIKAI MARINA APARTMENT BLDG
IMPERIAL HAWAII RESORT
INN ON THE PARK
ISLAND COLONY
THE KAILANI
KAIOLU SUNRISE
KAIOO TERRACE
THE KALAKAUAN
Kalia, Inc.
KEALANI
KEONI ANA

- KING KALANI
- KON TIKI 'ANO HOU
- LA CASA
- LANIAKEA APARTMENTS
- LANIKEA AT WAIKIKI
- LEISURE HERITAGE APARTMENTS
- LILIUOKALANI GDNS AT WAIKIKI
- LILIUOKALANI PLAZA
- LOFT @ WAIKIKI
- LUANA WAIKIKI
- MAILE SKY COURT
- MAKEE AILANA (FKA: THE SCANDIA)
- MARINA TOWERS
- MARINE SURF WAIKIKI
- MONTE VISTA
- NAMAHANA TERRACE
- OAHU SURF I
- OAHU SURF II
- OHUA GARDENS
- OHUALANI
- NIIHAU APARTMENTS INC
- PACIFIC ISLANDER HOTEL
- PACIFIC INTERNATIONAL HOTEL
- PACIFIC MONARCH

- THE PALMS INC
- PALMS AT WAIKIKI
- THE PARKVIEW INC
- THE PAVILION AT WAIKIKI
- POMAIKAI
- THE PROMENADE
- QUEEN EMMA APTS
- REGENCY ALA WAI
- THE REGENCY ON BEACH WALK
- THE ROSALEI
- ROYAL ALOHA
- ROYAL GARDEN AT WAIKIKI
- ROYAL KUHIO
- THE SEASHORE
- SCANDIA TOWERS
- SEASIDE SUITES
- SEASIDE TOWERS
- Tradewinds Hotel Inc.
- TRADEWINDS PLAZA
- TRUMP TOWER WAIKIKI
- THE TWIN-TOWERS
- VILLA ON EATON SQUARE
- WAIKIKI BANYAN
- WAIKIKI BEACHSIDE
- WAIKIKI BEACH TOWER
- WAIKIKI COVE
- WAIKIKI GRAND HOTEL
- WAIKIKI HOLIDAY

WAIKIKI IMPERIAL APARTMENTS

WAIKIKI LANAIS

WAIKIKI LANDMARK

WAIKIKI MARINA CONDOMINIUM

WAIKIKI PARK HEIGHTS

Waikiki Regent Apts

WAIKIKI SHORE

WAIKIKI SKYLINER

WAIKIKI SKYTOWER

WAIKIKI SUNSET

WAIKIKI TOWNHOUSE

WAILANA AT WAIKIKI

WAIPUNA

WALINA APARTMENTS

THE WATERMARK

THE WINDSOR

PMK

PORTER · McGUIRE · KIAKONA · LLP

August 31, 2021

VIA EMAIL

Planning Commission
c/o Brian Lee, Chair
650 South King Street
Honolulu, Hawaii 96813

Re: Department of Planning and Permitting Draft Bill re Short Term Rentals

Dear Mr. Lee:

This letter responds to the Department of Permitting and Planning's ("DPP") proposed bill, as revised (the "Proposal") regarding short term rentals (STRs) and on behalf of the Association of Apartment Owners of Waikiki Banyan (the "Association"). While the Association fully supports DPP's goals to 1) reduce impacts on residential neighborhoods; and 2) regulate STRs that are permitted only in or adjacent to existing resort areas, the Association believes that the proposed implementation is problematic.

The Association appreciates the fact that the Proposal recognizes the existence of condominium hotels and that such projects do not impact residential communities in a similar fashion as STRs operated in single family home neighborhoods. However, the Association finds many issues with the current Proposal as currently written.

As you may be aware, condominium associations are unique in that they are made up of many owners, all with personal opinions and beliefs. Thus, the Proposal's "all-or-nothing" approach is impractical and unacceptable. For example, the Proposal provides no guidance as to the process of up zoning a project to condominium hotel, should and association choose to do so. State law and most associations' governing documents also fail to provide any assistance in that regard.

The Proposal also gives an unjustifiable amount of power to hotel operators. It is incredulous that owners would have to pay the hotel operator, an amount that the hotel operator sets, to stay in their own units. The Proposal treats a condominium hotel akin to a traditional hotel and its shareholders. This is not an adequate comparison. While traditional hotels pay for the maintenance and operation of its building, a condominium hotel requires every owner to pay for the maintenance and operation of their building. Given this difference, and many others, it is infeasible for a condominium hotel to simply be considered a hotel with multiple owners.

Given the above issues, and many others, the Association recommends that the Proposal be redrafted with input from the various condominium associations that will be affected. The Association is more than willing to take an active role in providing input to DPP, the Planning Commission, and City Council.

Please direct any further questions or concerns regarding this matter to the undersigned. Thank you.

Very truly yours,

PORTER McGUIRE KIAKONA, LLP

Christian P. Porter
Christian L. Kamau

PMK

PORTER · McGUIRE · KIAKONA · LLP

August 31, 2021

VIA EMAIL

Planning Commission
c/o Brian Lee, Chair
650 South King Street
Honolulu, Hawaii 96813

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Dear Mr. Lee:

This letter responds to the Department of Permitting and Planning's ("DPP") proposed bill, as revised (the "Proposal") regarding short term rentals (STRs) and on behalf of the Association of Apartment Owners of Waikiki Shore (the "Association"). While the Association fully supports DPP's goals to 1) reduce impacts on residential neighborhoods; and 2) regulate STRs that are permitted only in or adjacent to existing resort areas, the Association believes that the proposed implementation is problematic.

In particular, the Association is concerned with the proposal to limit owners from owning more than one transient vacation unit ("TVU"). This is especially problematic considering there is no built-in grandfather clause or mechanism for those owners who already own multiple legal TVUs. In other words, some owners may be forced to sell units that they have been legally operating for years.

The Association is also concerned with the Proposal's "all-or-nothing" approach regarding condominium hotels and finds this recommendation impractical and unacceptable. If the Waikiki Shore is required to up zone to a condominium hotel, the Proposal contains no guidance on how to do so and will likely met with contention within the Association. These issues, among others, will also likely to trigger contention between the City and owners and lead to multiple lawsuits and challenges.

Given the above, and other concerns, the Association recommends that the Proposal be redrafted with input from the various condominium associations that will be affected. The Association is more than willing to take an active role in providing input to DPP, the Planning Commission, and City Council.

Porter McGuire Kiakona, LLP
841 Bishop Street, Suite 1500
Honolulu, Hawaii 96813
1189

www.HawaiiLegal.com
Phone: (808) 539-1100
Fax: (808) 539-

Please direct any further questions or concerns regarding this matter to the undersigned. Thank you.

Very truly yours,

PORTER McGUIRE KIAKONA, LLP

Christian P. Porter
Christian L. Kamau

PMK

PORTER · McGUIRE · KIAKONA · LLP

August 31 2021

VIA EMAIL

Planning Commission
c/o Brian Lee, Chair
650 South King Street
Honolulu, Hawaii 96813

Re: Department of Planning and Permitting Draft Bill re Short Term Rentals

Dear Mr. Lee:

This letter responds to the Department of Permitting and Planning's ("DPP") proposed bill, as revised (the "Proposal") regarding short term rentals (STRs) and on behalf of the Association of Apartment Owners of Inn on the Park (the "Association").

The Association appreciates the fact that the Proposal recognizes the existence of condominium hotels and that such projects do not impact residential communities in a similar fashion as STRs operated in single family home neighborhoods. However, the Association finds many issues with the current Proposal as written.

Condominium associations are unique in that they are made up of many owners, all with personal opinions and beliefs. Thus, the Proposal's "all-or-nothing" approach is impractical and unacceptable. For example, the Proposal provides no guidance as to the process of up zoning a project to condominium hotel.

Additionally, this approach gives an unjustifiable amount of power to hotel operators. It is incredulous that owners must pay a hotel operator, an amount that the hotel operator sets, to stay at their own units.

Given the above, and other concerns, the Association recommends that the Proposal be redrafted with input from the various condominium associations that will be affected. The Association is more than willing to take an active role in providing input to DPP, the Planning Commission, and City Council.

Please direct any further questions or concerns regarding this matter to the undersigned. Thank you.

Very truly yours,
PORTER McGUIRE KIAKONA, LLP

Christian P. Porter
Christian L. Kamau

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From: Sherrie Cumming [mailto:sherrie.beachvillas@gmail.com]
Sent: Tuesday, August 31, 2021 4:14 PM
To: info@honoluludpp.org
Subject: RE: Testimony for LUO Hearing

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Aloha,

Please see attached my position , per our legal counsel, regarding the proposed Land Use Ordinance amendments per the hearing scheduled for September 1st, 2021.

Mahalo,

Sherrie Cumming
President / Beach Villas at Ko Olina AOAO

CHRISTOPHER SHEA GOODWIN

ATTORNEY AT LAW LLLC
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August 31, 2021

Via email: info@honoluludpp.org and telefax: (808) 768-6743

City and County of Honolulu
Department of Planning & Permitting
Planning Commission

RE: Public Hearing Date and Time: Wednesday, September 1, 2021, 11:30 a.m. (via WebEx)

Testimony in Opposition to Select Provisions of the Planning Commission's Proposed Bill to Amend Chapter 21 (Land use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations Affecting the Association of Apartment Owners of Beach Villas at Ko Olina

Dear Planning Commission:

This firm serves as general legal counsel to the Association of Apartment Owners of Beach Villas at Ko Olina ("Association"), a condominium association, organized and existing pursuant to Hawaii Revised Statutes, Chapter 514B (the "Condominium Property Act") and presents this testimony on behalf of the Association in opposition to the Planning Commission's Proposed Bill to Amend Chapter 21 (Land Use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations (referred to hereinafter as the "Proposed Bill to Amend Chapter 21 Re Transient Accommodations" or the "Proposed Bill").

As discussed below, the Association's Board of Directors ("Board") is concerned regarding the proposed amendments set forth in the Proposed Bill to add new Sections 21-5.730.1, 21-5.730.2, 21-5.730.3, 21-5.730.4 to the LUO, and to amend the definition of "transient vacation unit" set forth in ROH, Chapter 21, Article 10.

1. Current Law

Absent possession of a Non-Conforming Use Certificate ("NUC"), rental of a unit for any period less than thirty (30) consecutive days in areas <u>not</u> zoned for "Resort" use, is prohibited under the LUO wherein Section 21-5.730(d) currently provides, in pertinent part, as follows:

> (d) . . . **"Unpermitted transient vacation unit" means a transient vacation unit that is <u>not</u>: (A) Located in the resort district**, resort mixed use precinct of the Waikiki special district, or A-1 low-density apartment district or A-2 medium-density apartment district pursuant to subsection (a); **or (B) Operating under a valid nonconforming use certificate** pursuant to Section 21-4.110-1.
>
> > (2) It is unlawful for any owner or operator of an unpermitted bed and breakfast home or unpermitted transient vacation unit, or the

> owner or operator's agent or representative to: (A) Rent, offer to rent, or enter into a rental agreement to rent an unpermitted bed and breakfast home or unpermitted transient vacation unit for fewer than 30 consecutive days

See, ROH, Ch. 21, Sec. 21-5.730(d), emphasis added.

ROH, Article 10, defines a "transient vacation unit" as "a dwelling unit or lodging unit that is advertised, solicited, offered, or provided, or a combination of any of the foregoing, for compensation to transient occupants for less than 30 days, other than a bed and breakfast home. For purposes of this definition, compensation includes, but is not limited to, monetary payment, services, or labor of transient occupants."

Conversely, in *areas which are zoned for "Resort" use*, there is no minimum required rental period, and rentals for periods less than 30 days are permitted. See, ROH, Sec. 21-3.100-1: ("Resort uses and development standards. (a) Within the resort district, permitted uses and structures shall be as enumerated in Table 21-3.") The Master Use Table, Table 21-3, currently indicates that "Transient Vacation Units" are a "**permitted use subject to the standards in Article 5**" on properties located within the Resort Zoning District, **regardless of the classification of the property as an apartment, hotel or hotel-condominium**.

The City and County of Honolulu, Department of Planning and Permitting (DPP) Property Information Report describes the Beach Villas at Ko Olina Condominium Project located at 92-102 Waialii Place, Kapolei Hawaii 96707, Tax Map Key No. 91057009:0000 as located within the Resort Zoning District. As such, the Beach Villas at Ko Olina is not subject to the conforming use certificate requirements of ROH, Chapter 21 and its unit owners lawfully may rent their units for periods of less than 30 days under the current provisions of ROH, Chapter 21.

Accordingly, Beach Villas at Ko Olina's Declaration, as amended and restated, provides that all hotel or transient vacation uses shall be for periods not less than six (6) consecutive nights. Under the amendments to ROH, Chapter 21, proposed by the Planning Commission, it is unclear whether owners of units at Beach Villas at Ko Olina may continue to lawfully advertise and rent transient vacation units, should the Proposed Bill be enacted into law.

2. **Proposed New Section 21-5.730.1 should be revised to clarify that transient vacation units are also permitted in the Resort Zoning District without a non-conforming use certificate**

Unlike the first draft of the Proposed Bill, Table 21-3 Master Use Table of the Revised Draft of the Planning Commission's Proposed Bill to Amend Chapter 21 Re Transient Accommodations, now includes "Transient Vacation Units" as a "permitted use subject to the standards in Article 5" on properties located within the Resort Zoning District (see, Proposed Bill, Revised Draft at pg. 19). However, at the time the Planning Commission implemented the latest change to the Table 21-3 Master Use Table, corresponding changes were not made to the text of the other proposed amendments in the Proposed Bill. Table 21-3 Master Use Table provides, in

pertinent part, that, "In the event of any conflict between the text of this Chapter and the following table, the text of the Chapter shall control." See, Id. at pg. 19.

Therefore, it is requested the Planning Commission also revise the other proposed amendments as necessary to ensure they are consistent with the revised Master Use Table of the Revised Draft of the Proposed Bill. Currently, the other proposed amendments to add new Sections 21-5.730.1, 21-5.730.2, 21-5.730.3, 21-5.730.4 to the LUO, and to amend the definition of "transient vacation unit" are ambiguous, to the extent it is unclear, despite the revision to Table 21-3 Master Use Table adding transient vacation units back to the list of permitted uses of property in the resort district, whether, under these proposed amendments, short-term rentals of units for less than 30 days (or less than 180 days) may continue at properties located in the Resort Zoning District without a non-conforming use certificate, if the Proposed Bill is enacted.

The Proposed Bill provides, in pertinent part:

> SECTION 17. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-5.730.1 to read as follows:
>
> "Sec. 21-5.730.1 Bed and breakfast homes and transient vacation units.
>
> (a) Bed and breakfast homes and transient vacation units are permitted in the portions of the A-2 medium-density apartment zoning district located in the Gold Coast area of the Waikiki Special District shown in Exhibit A and in the portions of the A-1 low-density apartment zoning district, A-2 medium-density apartment zoning district located in the Kuilima and Ko'olina Resort areas shown in Exhibits C and -B, respectively, and the Resort Mixed Use Precinct in the Waikiki Special District, subject to the restrictions and requirements in Article 5 of this chapter.
>
> See, Proposed Bill, Revised Draft, pg. 26.

It is also unclear whether the Planning Commission's proposed amendment adding Section 21-5.730.1 to the LUO continues to permit transient vacation units ("TVUs") in the Resort Zoning District, as Sec. 21-5.730.1(a) only references the A-2 medium-density apartment zoning district located in the Gold Coast area of the Waikiki Special District; portions of the A-1 low-density apartment zoning district and A-2 medium-density apartment zoning district located in the Kuilima and Ko'olina Resort areas shown in Exhibits C and B, respectively, and the Resort Mixed Use Precinct in the Waikiki Special District.

Exhibit "B" to the Proposed Bill entitled "Short-Term Rental Permitted Areas – Ko Olina Resort," referenced in proposed Sec. 21-5.730.1(a), does not show the area zoned "Resort" as an area where TVUs are permitted, which is contrary to the current ROH, Sec. 21-5.730(d) and Table 21-3 Master Use Table which permit TVUs in the Resort Zoning District.

To be consistent with current ROH, Sec. 21-5.730(d) and current Table 21-3 Master Use Table, proposed Sec. 21-5.730.1(a) should be further revised to **clearly state that transient vacation units are permitted in the resort district, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district, and A-2 medium-density apartment district, without a non-conforming use certificate**.

One of the stated purposes of the Proposed Bill "is to better protect the City's **residential** neighborhoods and housing stock from the negative impacts of short-term rentals by providing a more comprehensive approach to the regulation of transient accommodations within the City." See, Proposed Bill, Revised Draft, Section 1., pg. 1, emphasis added. In addition, ROH, Chapter 21, Sec. 21-3.100 provides that, "[t]he **purpose of the resort district** is **to provide areas for visitor-oriented destination centers. Primary uses are lodging units and hotels and multifamily dwellings**. Retail and business uses that service visitors are also permitted. **This district is intended primarily to serve the visitor population**, and should promote a Hawaiian sense of place." See, ROH, Chapter 21, Sec. 21-3.100, emphasis added. It is recommended the Planning Commission revise proposed new Section 21-5.730.1, as well as proposed new Sections 21-5.730.2, 21-5.730.3, 21-5.730.4 and the proposed new definition of "transient vacation unit" to clearly exempt properties within the Resort Zoning District from these proposed amendments. As discussed below, if the Proposed Bill, is enacted in its current form, it will conflict not only with the expressly stated purposes of the Proposed Bill, but the purposes and intended uses for the Resort Zoning District.

3. **Under the proposed new definition of "transient vacation unit," it is unclear whether properties such as the Beach Villas at Ko Olina may continue to allow short-term rentals for periods less than 30 days and/or 180 days**

The Proposed Bill provides, in pertinent part:

> SECTION 24. Chapter 21, Article 10, Revised Ordinances of Honolulu 1990, as amended, is amended by amending the definitions of "bed and breakfast home", "hotel", and "transient vacation unit" to read as follows:
>
> . . .
>
> """Transient vacation unit" means a dwelling unit or lodging unit that is advertised, solicited, offered, or provided[~~, or a combination of any of the foregoing, for compensation~~] to transient occupants, for compensation, for periods of less than [~~30~~] 180 consecutive days, other than a bed and breakfast home. For purposes of this definition,
>
> (1) [~~C~~]compensation includes, but is not limited to, monetary payment, services, or labor of guests;
>
> (2) Accommodations are advertised, solicited, offered or provided to guests for the number of days that are used to determine the price for the rental; and
>
> (3) Month to month holdover tenancies resulting from the expiration of long-term leases of more than 180 days are excluded.

See, Proposed Bill, Revised Draft, pgs. 36-37.

The above proposed amendment is ambiguous as to whether the proposed new definition of "transient vacation unit" applies to properties located in the Resort Zoning District, such as the Beach Villas at Ko Olina, and whether the Beach Villas at Ko Olina owners may lawfully continue to rent their units for periods not less than six consecutive nights, as provided under the Association's Declaration should the proposed amendment become law.

As stated above, in *areas which are zoned for "Resort" use*, there is no minimum required rental period, and rentals for periods less than 30 days (or any period) are permitted. See, ROH, Sec. 21-3.100-1. **The Planning Committee's proposed new definition of "transient vacation unit" should be revised to make it clear that it does not amend the definition of "unpermitted transient vacation unit" under ROH, Chapter 21, Sec. 21-5.730(d), and the minimum rental period restriction of 180 consecutive days does not apply, to transient vacation units located in the resort district**, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district, or A-2 medium-density apartment district.

In addition, the proposed amendment to the definition of "transient vacation unit" is inconsistent with, ROH, Chapter 21, Sec. 21-5.730(d)(2) which currently provides it is unlawful to rent an *unpermitted transient vacation unit* **for fewer than 30** consecutive days. See, ROH, Sec. 21-5.730(d)(2), Supra, emphasis added. To ensure consistency between the various sections of ROH, Chapter 21, it is requested the Planning Committee propose an amendment to ROH, Sec. 21-5.730(d)(2) to change the clause therein providing, "for fewer than 30 consecutive days" to "for fewer than 180 consecutive days."

4. **Proposed new Section 21-5.730.2 should be further revised to clarify that properties located within the Resort District are exempt from the registration requirements**

The Proposed Bill provides, in pertinent part:

> SECTION 18. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-5.730.2 to read as follows:
>
> "Sec. 21-5.730.2 Registration, eligibility, application, renewal and revocation.
>
> (a) Registration required. Bed and breakfast homes and **transient vacation units must be registered with the department** . . .

See, Proposed Bill, Revised Draft, pgs. 26-29.

Currently, under ROH, Chapter 21, Section 21-5.730(d), it is lawful to rent a transient vacation unit on property located within the following zoning districts: the **resort district**, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district or A-2 medium-density apartment district, **and neither a non-**

conforming use certificate nor registration with the DPP is needed, since transient vacation units are a conforming use in the foregoing zoning districts.

Therefore, the Planning Commission should revise proposed new Section 21-5.730.2 to make it clear properties located within the resort district, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district, and A-2 medium-density apartment district which rent or offer units for rent for a term of less than 180 consecutive days **are exempt from registration with the department**.

5. **Proposed new Section 21-5.730.3 should be further revised to expressly state that properties located within the Resort District are exempt from the standards and requirements of this Section.**

The Proposed Bill proposes to add a new Section 21-5.730.3 to ROH, Chapter 21 regarding use and development standards for transient vacation units. See, Proposed Bill, Revised Draft at pgs. 29-32. These standards include occupancy limits and sleeping requirements, parking, smoke and carbon monoxide detectors, noise restrictions, gathering restrictions, et seq. that may reasonably apply to residential zoning districts, but not to the Resort Zoning District. Given that one of the stated purposes of the Proposed Bill "is to better protect the City's **residential** neighborhoods and housing stock from the negative impacts of short-term rentals by providing a more comprehensive approach to the regulation of transient accommodations within the City" (see, Proposed Bill, Revised Draft, Section 1., pg. 1, emphasis added), it would appear the Planning Commission did not intend the Proposed Bill to impose these new regulations on properties located in the **Resort Zoning District** which may lawfully rent and advertise transient vacation units under the current LUO. Subjecting properties located within the Resort Zoning District to the use and development standards proposed in new Section 21-5.730.3, would be in direct contradiction to the stated purposes of the Proposed Bill and the purposes of the Resort Zoning District stated in ROH, Chapter 21, Sec. 21-3.100 and discussed at length under Section 2., Supra.

Therefore, it is requested that the Planning Commission should revise proposed new Section 21-5.730.3 to clarify that this section and the use and development standards and requirements stated therein do not apply to properties located in the resort district, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district, and A-2 medium-density apartment district which rent or offer transient vacation units for rent. **As transient vacation units are already a permitted use in the Resort District, proposed new Section 21-5.730.3 should be revised to expressly state that the Beach Villas at Ko Olina and properties located in the Resort Zoning District and other above stated districts are exempt from Section 21-5.730.3.**

6. **Proposed new Section 21-5.730.4 should be further revised to clarify that properties located within the Resort District operating a transient vacation unit are exempt from Section 21-5.730.4.**

The Proposed Bill proposes to add a new Section 21-5.730.4 regarding "Advertisements, regulation, and prohibitions" which makes it unlawful for any person to advertise a dwelling unit that is not a registered transient vacation unit pursuant to Section 21-5.730.2 or operating pursuant to a nonconforming use certificate for a term of less than 180 consecutive days. The following are exemptions to Section 21-5.730.4:

> Exemptions. The following are exempt from the provisions of this Section:
> (1) Legally established hotels,
> (2) Legally established time-sharing units, as provided in Section 21-5.640; and
> (3) Publishing companies and internet service providers will not be held responsible for the content of advertisements that are created by third parties."

See, Proposed Bill, Revised Draft, pgs. 32-34.

The Planning Commission should further revise proposed new Section 21-5.730.4 to provide that the following are also exempt from the provisions of Section 21-5.730.4: transient vacation units operated and located in the resort district, resort mixed use precinct of the Waikiki special district, A-1 low-density apartment district, and A-2 medium-density apartment district.

Thank you for your consideration of this testimony and recommended revisions to the Proposed Bill which will have an adverse impact on owners of units at the Beach Villas at Ko Olina and other condominiums located within the Resort Zoning District, if enacted without the above recommended clarifications and revisions.

Very truly yours,

/s/ Christopher Shea Goodwin
/s/Ann E. McIntire

Christopher Shea Goodwin
Robert S. Alcorn
Ann E. McIntire

CSG:AEM:skuw

From: Terry Taylor [mailto:terrytaylor@hotmail.com]
Sent: Tuesday, August 31, 2021 4:13 PM
To: info@honoluludpp.org
Subject: Proposed Amendments to the Short-Term Rental Ordinance

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

My Name is Terry Taylor, Phone number (808) 990-2707

I am opposed to the proposed changes in the bill

The bill seeks to force privately owned and managed legal units in the Waikiki resort zone to be managed by the "Hotel". This does not reduce the amount of tourists or create new housing for the locals. This simply puts the units under the control of the large corporate hotels and eliminates the local businesses, property owners, and numerous local contractors currently handling legal units within Waikiki. Property owners will make less money on their investments being managed by the hotel. Numerous local businesses and contractors will be out of a job. Those of us in the industry have just barely survived Bill 89, then COVID shutdowns, and have only recently been able to begin gaining traction again. This bill will decimate the industry entirely. **The only ones that stand to benefit from this portion of the bill are the HOTELS, and this type of monopoly should not be allowed**.

Please do not allow these changes to be put in effect

Thank You
Terry Taylor

From: J. Marie M. [mailto:sunsetyards@me.com]
Sent: Tuesday, August 31, 2021 4:01 PM
To: info@honoluludpp.org
Subject: Written testimony for Pro Vacation rentals / pro TVU/ pro B&B / Under 31 days / Under 180

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

Aloha Department of permitting and planning,

I have been an advocate for short term rentals since 2005. I have paid all my TAT & GE since then as well.

I tried longterm rentals. I could not afford to do so and I did not like to share space with full time residents. it was too busy. Too many people. I had no control of visitors, number of cars and more. I had no control of rules and noise either. With short term I have full control to take care of my property the way I like with also using the additional space when not rented. My house is one of the quietest around with the rules and regulations I can set for short term.
I limit my guests to one or two people maximum. I have paid hundreds of thousands of dollars to TAT & GE over these years in hopes of proper regulations and protections for my rentals. I have been supporting my family with my rentals.

My rentals support my family as I know they do many families. They also support the government, painters, cleaners, and local businesses.
It would be nice if the lawmakers would acknowledged how short term rentals are desired by most visitors these days , and with the pandemic increasingly so. People come to stay longer spend more, and enjoy Hawaii.
My rentals have always been very much for the surf community internationally , and also friends and family of residents, military, surf event competitors and organizers.

Short term income stays in Hawaii directly makes living in hawaii possible for many families and residents.

* I do feel vacation rentals need to be closely managed to be good neighbors with parking and onsite management and very limited numbers per rental.

It would be infringing on any property owners rights to have the government say rentals must be 180 days. I don't want any longterm or vacation renters on my property for more than a month and prefer less.
Longterm is month to month, as short term should be either : One stay per month, OR preferably 2 stays per month.

Please do the fact checks on short term rentals… see they they are supporting Hawaii families and taxes. This is a very expensive state to make ends meet.
We have property tax suddenly double, flood insurance triples, food prices and gas higher than most States.

Maybe lets focus on being better for visitors AND residents by focusing on our bad roads that are dangerous with huge pot holes, and the public bathrooms some of the worst in the world next to the most amazing beaches and surf. Let our TAT & GE go back into our infrastructure in the areas that paid these taxes for the community.

Lets not destroy this neighborhood Mom & Pop economy that is doing so much throughout Hawaii and Oahu.

Joy McDougall
59-014 Oopuola st. 96712
sunsetyards@mac.com
808 7813952

From: kim mcnee [mailto:kimmcnee88@gmail.com]
Sent: Tuesday, August 31, 2021 4:15 PM
To: info@honoluludpp.org
Subject: Fwd: DPP

CAUTION: Email received from an EXTERNAL sender. Please confirm the content is safe prior to opening attachments or links.

---------- Forwarded message ---------
From: **Doug Mcnee** <dougmcnee17@gmail.com>
Date: Tue, Aug 31, 2021 at 6:59 PM
Subject: DPP
To: kim mcnee <kimmcnee88@gmail.com>

TO: Members of the Planning Commission

SUBJECT: Proposed Amendments to Chapter 21 (Land Use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations.

Dear Planning Commission Members,

I am very concerned and upset about the proposed amendment to Chapter 21 which is related to Transient Accommodations.

- According to this bill, the purpose of this ordinance is "to better protect the City's residential neighborhoods and housing stock…"

- According to this bill, short term rentals are:

- "Disruptive to the character and fabric of our RESIDENTIAL neighborhoods" -
"They decrease the supply of long-term housing for local residents"
- "They increase the prices of rent and housing".

I don't disagree with the above purpose and facts. But hasnt Waikiki beach always been known as a vacation spot

I believe the best way to protect residential areas, housing stock and avoid the negative effects of STR in residential neighborhoods, is by simply enforcing Ordinance 19-18 (Bill 89).

However, I have a few questions and concerns about the proposed amendment.

1: Sec 21-5.360 Condominium Hotels: "Units in a condominium-hotel must be part of the hotel's room inventory"

- I don't see how this Section is related to the original purpose of this ordinance, which is to protect residential neighborhoods. Condominium-hotels are in Waikiki, in resort zones or adjacent to resort zones, hence not in residential neighborhoods. Furthermore, how does forcing property owners of units in Condominium-hotels into being part of the hotel pool enforce the original purpose of this proposed amendment?

- This Section does not offer any benefit to the local community, but only to the hotel industry. This Section eliminates any possible competition through legal property management companies and creates a monopolistic market.

I am an owner of a legal STR (TVU) in the Waikiki resort zone, in a Condominium-Hotel. Which I purchased in 2009 and had the Aston manage my unit what I soon learned was that it being mismanaged, items and they unit were being damaged income was split by floor which meant unfavourable units that were not getting booked as often as the more upscale unite were, which meant the lesser rented unit experienced less traffic and damage but the owner got the same revenu I was getting. I found dealing with the hotel operation very impersonal and their nonchalant attitude toward my concerns. So I decided to leave Aston and opted to have my unit managed by a professional short-term management company, instead of being managed by a hotel pool. The
company that manages my unit is a licensed and bonded company. They have about 25 employees (all living and working on the island) and provide a very reliable and professional service to me as an owner as well as to our guests.

The fact that units in Condominium-Hotels can be managed by either the hotel pool or by third-party management companies creates a healthy and competitive market. Imposing that only the hotel pool is allowed to manage all units in Condominium-Hotels creates a monopolistic market for the hotel industry. It is obvious that this type of condition has only negative effects for the public (high prices and low-quality service), and only benefits the hotel industry. In a purely monopolistic model, the monopoly firm can restrict output, raise prices, and enjoy super-normal profits in the long run.

The hotels would be able to charge very high management fees to the owners of hotel-units without fearing to lose clients, since the owners wouldn't have any other choice anymore. The same would apply if the owners wouldn't be satisfied with the offered service.

Some Condominium-Hotels have up to 1,000 hotel-units. One hotel operator can easily be overwhelmed by having to manage all the units and can't offer the dedicated, very responsive and reliable service a management company can for both the owners and the guests. This could even quickly turn the owner's investments into a loss and force many to sell their units.

Isn't tourism important to Hawaii anymore, If it weren't for tourism the economy would plummet. My unit is in the Waikiki Banyan which was built nearly 50 years ago and its main purpose was to

serve as a short term rental for tourists or a vacation home for the owner. Yes it's true many units are owner occupied but the percentage is small.

This proposal doesn't even sound like a proposal, it sounds more like Dictatorship to me.

I'm sure if you owned a unit you would much rather have it in hands of a Property manager that you can deal with directly and personally, unlike dealing with a gigantic corporation that only worries about the bottom line and shareholders, not to mention they have no capital invested in owner units they manage. They just reap the rewards of the owner's investment

2: Sec. 21-5.730.1: To allow TVUs in the Gold Coast;

It doesn't seem obvious how this section can be in accordance with the original purpose of this amendment, to:

- Stop decreasing the supply of long-term housing for local residents
- Stop the disruption to the character and fabric of our residential neighborhoods -
Stop the increase of rental prices.

Sincerely yours Kim McNee

Virus-free. www.avg.com

From: Diana Novoselic Ricciuti [mailto:diananovoselic@hawaiilife.com]
Sent: Tuesday, August 31, 2021 4:11 PM
To: info@honoluludpp.org
Cc: Rudy Ricciuti; Diana RIcciuti
Subject: DPP STR Draft Bill Testimony

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Aloha,

I am a realtor-broker who has been involved in property management and sales since 1999. This is my testimony as a licensed professional who depends on short-term rental (STR) income and works with a broad range of vendors and laborers, such as cleaners, handy people, and area trades people, who all depend on this income as a means to support themselves and/or their families from STR's island-wide.

The DPP Draft bill will KILL the source of income that I have personally worked years to cultivate, as well as the incomes of those who service these properties. Area businesses will feel the trickle down effect from the loss of income from guests and patrons to: restaurants, bars, retail shops, and other services in areas where STR's are located outside of resort-zones or designated Waikiki apartment zoning. This draft bill will effect thousands of homeowner's rights island-wide who pay a significant amount of property taxes to the state on an annual basis.

Serious considerations to those who need alternative, affordable housing options as follows:

*visiting sick/elderly relatives for extended periods
* relocation to or from Hawaii in between permanent housing
* home sales that request a "rent-back" option for short terms
* safe, close options for "stay-cations" during unsafe travel restrictions during the pandemic or other natural disasters
* military relocation
* travelling nurses, doctors
* construction crews needing short-term housing near rural area projects
* residents who suffer fire/flood and need temporary housing during insurance claim proceedings

These are just to name a few reason this draft bill should not be allowed to pass. Our economy is barely recovering from a global disaster and this measure is not the time or place to further inhibit our ability to exercise freedoms, and have reasonable options.

Please do not pass this bill if you care about individual freedom and rights of homeowners.

Sincerely,
Diana Ricciuti RB#20863
Hawaii Life
dianaricciuti@hawaiilife.com

From: James Bersson [mailto:jamesbersson@gmail.com]
Sent: Tuesday, August 31, 2021 4:10 PM
To: Info@honoluludpp.org
Cc: Kiaaina, Esther; Thomas W. Cestare
Subject: Written Testimony - Proposed Amendments to Chapter 21 Relating to Transient Accommodations

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The Lanikai Association's written testimony, **in support** of the the Proposed Amendments to Chapter 21(Land use Ordinance [LUO], Revised Ordinances Of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations, **is attached**.

August 31, 2021

The Lanikai Association strongly supports the Proposed Amendments to Chapter 21 (Land use Ordinance [LUO]), Revised Ordinances of Honolulu (ROH) 1990, as Amended, Relating to Transient Accommodations.

The Draft Bill's Findings and Purpose, copied below, aptly describe the impact of short-term rentals on residential communities and the City and County of Honolulu as a whole. The Draft Bill addresses these impacts appropriately.

"STRs are disruptive to the character and fabric of our residential neighborhoods. They are inconsistent with the land uses that are intended for our residential zoned areas, they decrease the supply of long-term housing for local residents throughout the City, and increase the prices and rents of housing, making living on Oahu less affordable for its resident population. Any economic benefits of opening-up our residential areas to tourism are far outweighed by the negative impacts on our neighborhoods and local residents."

Thank you for the opportunity to provide testimony on this important Draft Bill.

Thomas W. Cestare, President
The Lanikai Association