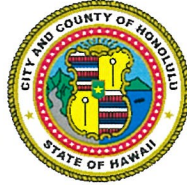


DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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January 19, 2022

The Honorable Brandon Elefante, Chair
and Members
Committee on Zoning and Planning
Honolulu City Council
530 South King Street, Room 205
Honolulu, Hawai'i 96813

Dear Chair Elefante and Councilmembers:

SUBJECT: Bill 41 (2021), Proposed CD 1 - Land Use Ordinance (LUO)
Amendments Relating to Transient Accommodations

We appreciate your Committee considering the Administration proposed amendments to the LUO to address short term vacation rentals on O'ahu. The COVID-19 pandemic created a situation in neighborhoods across O'ahu with little to no transient accommodations being actively used by tourists and visitors. In the absence of transient accommodation activity, residents began to understand the negative impact of Bed and Breakfast (B&B) operations and short term vacation rentals (STR) to their residential neighborhoods.

After listening to residents and communities across O'ahu, Mayor Blangiardi asked the Department of Planning and Permitting (DPP) to propose a bill which would restore the culture and sense of place in our residential neighborhoods on O'ahu, the genesis of Bill 41 before you today. The primary objective of Bill 41 is to curtail the expansion of B&Bs and STRs into residential-zoned neighborhoods but allow for expansion of B&Bs and STRs in or near selective Resort zoned properties where there is sufficient infrastructure to support additional tourists and visitors.

DPP firmly believes the amendments proposed in the CD 1 accomplish these objectives. We respectfully request, however, that the Committee consider the following friendly amendments and comments to the proposed CD 1:

1. Section 4, page 6 Administrative enforcement: We appreciate and fully support the proposed changes to the LUO which would allow enforcement notices to be served by any one of the following:
 - a. Registered or Certified Mail;
 - b. Delivery in person;

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- c. Leaving a copy at the violator's residence, place of employment, or usual place of business or by physically posting a copy on the property; and
- d. Publish a copy of the notice once each week for two consecutive weeks in a daily or weekly publication.

The proposed amendments address current challenges experienced by DPP when violators refuse to accept delivery of the registered or certified mail.

2. Section 4, page 10: DPP believes the fines for illegally advertising rental of a B&B or STR not properly registered with DPP should be as follows:

- (A) For the initial violation:
 - (i) Pay a civil fine of \$10,000 in the manner, at the place, and before the date specified in the order; and
 - (ii) Pay a civil fine of \$10,000 per day for each day in which the violation persists beyond the date specified in subparagraph (i), in the manner, at the time and place specified in the order.
- (B) For recurring violations:
 - (i) Pay a civil fine of \$25,000 in the manner, at the place, and before the date specified in the order; and,
 - (ii) Pay a civil fine of \$25,000 per day for each day in which the violation persists beyond the date specified in subparagraph (i), in the manner, at the time and place specified in the order.

DPP believes the higher fines will act as a deterrent for illegal owners/operators who may be considering the risks and rewards of operating illegally.

3. Section 8, page 25, item (b)(3)(C): This section prohibits the use of exterior signs stating that the unit is being used as a bed and breakfast or transient vacation unit. We believe exterior signage stating that the dwelling is being used as a B&B or transient vacation unit is appropriate in residential-zoned districts and would support this type of signage on residential-zoned properties.
4. Section 8, page 30, item (b)(6): This section provides the director with the ability to revoke any registration if the owner or operator has more than two notices of orders in one year or demonstrates an inability to operate the B&B or STR without causing significant impact(s) to the surrounding community.

We believe this provision will strengthen the department's ability to take action on owners/operators who are not managing their units correctly.

5. Section 8, page 32, item (c)(2)(B) Advertisements: This section provides for the minimum rental period for a non-registered and non-nonconforming use certificate B&B or transient vacation dwelling unit at 90 consecutive days. This 90-day

consecutive rental period is then referenced in other sections of the proposed amendment to differentiate legal STR units, which are rented for less than 90 days, from other rental units which must be rented for a minimum of 90 consecutive days or more. We would prefer to be consistent with the State's definition of "Transient Accommodations" as units being rented for less than 180 days.

6. Sections 11 and 14 requires DPP adopt Administrative Rules to implement the ordinance within 180 days after the effective date of the ordinance. Given the lack of predictability in the rule-making process, we respectfully request these sections be amended to provide DPP with 365 days or upon adoption of the Administrative Rules to implement the ordinance, whichever is sooner.

The DPP is in strong support of Bill No. 41, CD 1, and respectfully requests that the Council consider including DPP proposed amendments in the bill.

I am available should you have any questions.

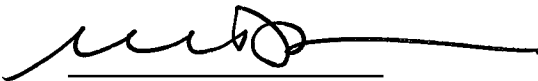
Very truly yours,



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Dean Uchida
Director

APPROVED BY:



Michael D. Formby
Managing Director