

Testimony

For BILL041(21)
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Testimony

The Kailua Neighborhood Board (KNB) strongly supports Bill 41 for the long overdue enforcement of ordinances on Short-Term Rentals (STRs). At its regular meeting on March 3, 2022 the KNB unanimously approved the following resolution: The Kailua Neighborhood Board supports Bill 41 CD1 relating to short-term vacation rentals for the following reasons: • It upholds residential zoning and promotes permanent residency in our neighborhoods by changing the definition of short-term rentals from 30 days or less to 90 days or less. Both Maui and Kauai define short-term rentals as 180 days or less. • It will significantly reduce the number of vacation rental units currently operating in Kailua's residential zoning by prohibiting property owners from renting 12 times a year. • It fixes many of the loopholes, including legal technicalities that enable illegal vacation rentals to skirt the law and fines. • It stops illegal vacation rental operators from creating fake 30-day leases that hide illegal short-term rental activity. • It increases fines from \$1,000 to \$10,000 for first violations and from \$10,000 to \$25,000 for reoccurring violations. Furthermore, an estimated 10,000 illegal STR units that could be long-term rentals or owner occupied homes are missing from our long-term housing inventory, thus contributing to our 20,000-unit long-term housing shortage. Furthermore, these 10,000 illegal STRs create a substantial nuisance in certain residential neighborhoods. An article in the Honolulu Star-Advertiser on May 17, 2021 provided a measure of transparency that has often been lacking regarding the effectiveness of the City's STR enforcement actions. <https://www.staradvertiser.com/2021/05/17/hawaii-news/state-tax-crackdown-garners-millions-in-unpaid-vacation-rental-taxes/> • In 2019, the city issued 264 STR notices of violation and 64% of the notices of violation were corrected, with 42 advancing to notices of order. The city assessed \$136,200 in fines, of which \$2,100 was paid. • In 2020, the city issued 325 STR notices of violation and 59% of the notices of violation were corrected, with 51 advancing to notices of order. The city assessed more than \$3.4 million worth of fines, of which \$31,000 was paid. • So far in 2021, the city has issued 42 STR notices of violation and none of the notices of violation have been corrected so far, with 9 advancing to notices of order. Let's put those numbers and the dismal results of STR enforcement into perspective. • With an estimated 10,000 illegal STR units operating on Oahu, and a total of \$33,100 in fines paid over the past 2.3 years, illegal STRs have paid an average of \$1.44 in fines per year. There is zero deterrent value in this. • Enforcement actions only averaged 47 per year with 10,000 illegal operators (0.5%). • Of the \$3.5 million in fines be assessed, only \$33,100 (0.9%)

was actually paid. • DPP's 18 inspectors involved in vacation rental enforcement only averaged 47 enforcement actions per year – or 2.6 enforcement actions per inspector per year. That same article also noted that STRs, almost all of which are illegal, were operating at more than 62% occupancy in March 2021, compared with just 43% for Hawaii's hotels, thus depriving many residents of jobs at hotels. This begs the question: How is it that we can accurately pinpoint that STR occupancy was 62%, yet almost none of the illegal STRs can be pinpointed for enforcement action? Effective enforcement of existing ordinances has obviously been almost non-existent for the past three decades and must be addressed. Bill 41 provides important tools for enforcement that are long overdue, including: • Requiring that a current registration or nonconforming use certificate number be listed on all advertising • Requiring that the tax map key number be listed on all advertising • The failure to include the certificate number and tax map key number in advertising will be prima facie evidence that an illegal STR is being operated. Illegal STRs thrive because they effectively advertise. Enforcement of the law is greatly hampered because the act of advertising an illegal activity has not been accepted as evidence. A key part of Bill 41 finally addresses this. Let's get this done!