

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

September 6, 2013

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Planning Committee, having met on August 1, 2013, and August 15, 2013, makes reference to County Communication 12-17, from Councilmember Elle Cochran, transmitting a proposed resolution entitled "REFERRING TO THE PLANNING COMMISSIONS A PROPOSED BILL AMENDING SECTION 19.32.040, MAUI COUNTY CODE, RELATING TO PLANNED DEVELOPMENT, AND SECTION 19.37.010, MAUI COUNTY CODE, RELATING TO TIME SHARE UNITS AND TIME SHARE PLANS".

The purpose of the proposed resolution is to refer to the planning commissions a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.32.040, MAUI COUNTY CODE, RELATING TO PLANNED DEVELOPMENT, AND SECTION 19.37.010, MAUI COUNTY CODE, RELATING TO TIME SHARE UNITS AND TIME SHARE PLANS". The purpose of the proposed bill is to permit transient vacation rentals ("TVRs") in planned developments ("developments") that were approved on or before April 20, 1981.

Your Committee notes it previously reported on this matter through Committee Report 12-109, which recommended that a proposed resolution entitled "REFERRING TO THE MAUI PLANNING COMMISSION A PROPOSED BILL AMENDING SECTION 19.32.040, MAUI COUNTY CODE, RELATING TO PLANNED DEVELOPMENTS, AND SECTION 19.37.010, MAUI COUNTY CODE, RELATING TO TRANSIENT VACATION RENTALS" be adopted. The purpose of the resolution is to refer to the Maui Planning Commission a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.32.040, MAUI COUNTY CODE, RELATING TO PLANNED DEVELOPMENTS, AND SECTION 19.37.010, MAUI COUNTY CODE, RELATING TO TRANSIENT VACATION RENTALS".

The purpose of the revised proposed bill is to permit TVRs in developments that (1) received final approval, pursuant to Chapter 19.32, on or before April 20, 1981; (2) had at least one dwelling unit operating as a vacation rental during that time; (3) have an area of at least 25 acres located on parcels with at least some residential district zoning;

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and (4) consist of duplexes or multi-family dwelling units. At its meeting of October 5, 2012, the Council adopted the recommendations contained in Committee Report 12-109 (Resolution 12-99).

The Planning Director transmitted the Maui Planning Commission's comments and recommendations on the proposed bill pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended. The Maui Planning Commission recommended passage of the proposed bill.

Your Committee notes Ordinance 1134 (1981) amended Section 19.37.010, Maui County Code ("MCC"), to prohibit TVRs from operating in any zoning district, except in the Hotel and Apartment Districts. The ordinance exempted existing TVRs from this prohibition.

Your Committee further notes Ordinance 1797 (1989) amended Sections 19.04.350, and 19.04.572, MCC, to require all multi-family dwelling units to be occupied on a long-term basis for at least six continuous months per year.

Your Committee further notes prior to 1981, many multi-family dwelling units in certain developments were used primarily as short-term TVRs. Additionally, some developments' covenants, conditions, and restrictions specifically authorized TVRs. The enactment of Ordinance 1134 (1981) prohibiting TVRs outside of the Hotel and Apartment Districts, and Ordinance 1797 (1989) requiring the long-term rental of multi-family dwellings, prohibited these developments from lawfully allowing new TVR operations.

The Department of the Corporation Counsel transmitted a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.32.040, MAUI COUNTY CODE, RELATING TO PLANNED DEVELOPMENTS, AND SECTION 19.37.010, MAUI COUNTY CODE, RELATING TO TRANSIENT VACATION RENTALS". The revised proposed bill changed the year of the bill from 2012 to 2013.

Your Committee notes the Puamana Planned Development would be the only development that would meet such criteria established by the revised proposed bill. If the acreage requirement is eliminated, the Kaanapali Plantation Development would also meet the criteria established by the revised proposed bill.

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A representative from the Department of Planning recommended permitting TVRs in developments consisting of only duplex or multi-family dwelling units.

Your Committee voted to amend the revised proposed bill to permit TVRs in developments that (1) received final approval, pursuant to Chapter 19.32, on or before April 20, 1981; (2) had at least one dwelling unit operating as a vacation rental during that time; and (3) consist of only duplexes or multi-family dwelling units.

Your Committee agreed it is not fair to prohibit homeowners, who specifically purchased property because the covenants, conditions, and restrictions allowed TVRs, from operating TVRs.

Your Committee voted 5-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Couch, and members Cochran, Crivello, Guzman, and White voted "aye". Committee Vice-Chair Victorino and member Baisa were excused.

Your Committee is in receipt of a revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions.

Your Planning Committee RECOMMENDS the following:

1. That Bill No. _____ (2013), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.32.040, MAUI COUNTY CODE, RELATING TO PLANNED DEVELOPMENTS, AND SECTION 19.37.010, MAUI COUNTY CODE, RELATING TO TRANSIENT VACATION RENTALS" be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 12-17 be FILED.

