

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

February 7, 2014

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 January 9, 2014, makes reference to County Communication 13-403, from Councilmember Donald G. Couch, Jr., transmitting a proposed resolution entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL TO AMEND SECTIONS 19.12.020 AND 19.37.010, MAUI COUNTY CODE, PERTAINING TO TRANSIENT VACATION RENTALS IN THE APARTMENT DISTRICT".

The purpose of the proposed resolution is to refer to the planning commissions a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTIONS 19.12.020 AND 19.37.010, MAUI COUNTY CODE, PERTAINING TO TRANSIENT VACATION RENTALS IN THE APARTMENT DISTRICT". The purpose of the proposed bill is to permit transient vacation rentals in the Apartment District.

Your Committee notes Ordinance 1797 (1989) amended Chapter 19.12, Maui County Code, relating to the Apartment District, to generally require that buildings and structures within the Apartment District be occupied on a long-term residential basis. Section 11 of Ordinance 1797 (1989) provided that this requirement would "not apply to building permits, special management area use permits, or planned development approval which were lawfully issued and valid on the effective date of this ordinance." (April 20, 1989).

Your Committee further notes the proposed bill expressly restates the exceptions established in Section 11 of Ordinance 1797 (1989).

Your Committee further notes Ordinance 1989 (1991) eliminated time share units, time share plans, and transient vacation rentals as permitted uses in the Apartment District except for those that were operating on or before March 4, 1991.

Your Committee further notes the proposed bill clarifies the exemptions outlined in Ordinances 1797 and 1989, which otherwise prohibit transient vacation rentals in the Apartment District. Therefore, transient vacation rentals that have a lawfully issued and

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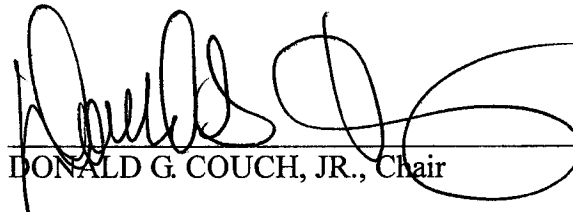
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valid building permit, special management area use permit, or planned development approval on April 20, 1989, or were in operation on or before March 4, 1991, would be allowed to operate in the Apartment District.

Your Committee voted 5-0 to recommend adoption of the proposed resolution. Committee Chair Couch, Vice-Chair Victorino, and members Baisa, Cochran, and Crivello voted "aye". Committee members Guzman and White were excused.

Your Planning Committee RECOMMENDS that Resolution _____, attached hereto, entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL TO AMEND SECTIONS 19.12.020 AND 19.37.010, MAUI COUNTY CODE, PERTAINING TO TRANSIENT VACATION RENTALS IN THE APARTMENT DISTRICT" be ADOPTED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



DONALD G. COUCH, JR., Chair

Resolution

No. _____

REFERRING TO THE LANAI, MAUI, AND MOLOKAI
PLANNING COMMISSIONS A PROPOSED BILL TO
AMEND SECTIONS 19.12.020 AND 19.37.010,
MAUI COUNTY CODE, PERTAINING TO TRANSIENT
VACATION RENTALS IN THE APARTMENT DISTRICT


WHEREAS, the Council is considering a proposed bill to expressly permit transient vacation rentals meeting specified criteria in the Apartment District; and

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require that the appropriate planning commissions review proposed land use ordinances and amendments thereto, and provide findings and recommendations to the Council; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby refers the proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTIONS 19.12.020 AND 19.37.010, MAUI COUNTY CODE, PERTAINING TO TRANSIENT VACATION RENTALS IN THE APARTMENT DISTRICT", a copy of which is attached hereto as Exhibit "1" and made a part hereof, to the Lanai, Maui, and Molokai planning commissions for appropriate action, pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended; and
2. That it respectfully requests that the Lanai, Maui, and Molokai planning commissions transmit their findings and recommendations to the Council as expeditiously as possible; and
3. That certified copies of this resolution be transmitted to the Mayor, the Planning Director, the Lanai Planning Commission, the Maui Planning Commission, and the Molokai Planning Commission.

APPROVED AS TO FORM AND LEGALITY


Department of the Corporation Counsel
County of Maui

ORDINANCE NO. _____

BILL NO. _____ (2013)

A BILL FOR AN ORDINANCE AMENDING SECTIONS 19.12.020 AND 19.37.010,
MAUI COUNTY CODE, PERTAINING TO
TRANSIENT VACATION RENTALS IN THE APARTMENT DISTRICT

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Findings and purpose. Prior to April 20, 1989, transient vacation rentals were a permitted use within the apartment district. Ordinance 1797 (1989) amended Chapter 19.12, Maui County Code, to require that buildings and structures within the apartment district be occupied on a long-term residential basis. Section 11 of Ordinance 1797 ("Section 11") states that the ordinance "shall not apply to building permits, special management area use permits, or planned development approval which were lawfully issued and valid on the effective date of this ordinance". Ordinance 1797 became effective April 20, 1989.

The purpose of this ordinance is to expressly restate the exceptions set forth in Section 11 and declare the intent of the council in enacting Ordinance 1797 was originally and is now to exclude the requirement of long-term-residential occupancy from buildings or structures having, on or before April 20, 1989, lawfully issued and valid building permits, special management area use permits, or planned development approval. Accordingly, such buildings or structures are expressly permitted to be operated as transient vacation rentals. This ordinance also amends Section 19.37.010, Maui County Code, for consistency.

SECTION 2. Section 19.12.020, Maui County Code, is amended to read as follows:

"19.12.020 Permitted uses. Within the A-1 and A-2 districts, the following uses shall be permitted:

EXHIBIT "1"

- A. Any use permitted in the residential and duplex districts;
- B. Apartment houses;
- C. Boardinghouses, roominghouses, and lodginghouses;
- D. Bungalow courts;
- E. Apartment courts;
- F. Townhouses, under the provisions of conditional permit; [and]
- G. Home occupations[.]; and
- H. Transient vacation rentals in buildings and structures having, on or before April 20, 1989, lawfully issued building permits, special management area use permits, or planned development approval."

SECTION 3. Section 19.37.010, Maui County Code, is amended by amending subsection A to read as follows:

"A. Except as provided in this chapter, time share units and time share plans are prohibited. Transient vacation rentals are prohibited, excluding bed and breakfast homes permitted under chapter 19.64 of this title, short-term rental homes permitted under chapter 19.65 of this title, transient vacation rental units permitted by a conditional permit under chapter 19.40 of this title, transient vacation rentals permitted under [chapter] chapters 19.12 and 19.32 of this title, and hotels that are permitted based on the applicable zoning in the comprehensive zoning ordinance."

SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 5. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

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