

October 8, 2014

MEMO TO: BF-76 File

F R O M: Mike White, Chair 
Budget and Finance Committee

SUBJECT: **TRANSMITTAL OF LEGISLATIVE PROPOSAL RELATING TO
SHORT-TERM RENTAL PROPERTY TAXES (BF-76)**

The attached legislative proposal pertains to Item 76 on the Committee's agenda.

bf:ltr:076afile01:mmy

Attachment

ORDINANCE NO. _____

BILL NO. _____ (2014)

A BILL FOR AN ORDINANCE TO CLASSIFY REAL PROPERTY
USED AS SHORT-TERM RENTAL HOMES AS "COMMERCIAL"
FOR TAX VALUATION PURPOSES

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

SECTION 1. The purpose of this ordinance is to classify real property, for tax valuation purposes, as "Commercial," without regard to its highest and best use, if the property has been granted either a short-term rental home permit or a conditional permit allowing transient vacation rental use pursuant to Title 19 of this code.

SECTION 2. Section 3.48.305, Maui County Code, is amended to read as follows:

3.48.305 Classification of land and building. A. Except as otherwise provided in subsection B of this section, land and building shall be classified, upon consideration of the real property's highest and best use, into the following general classes:

1. Residential;
2. Apartment;
3. Hotel and resort;
4. Time share;
5. Commercial;
6. Industrial;
7. Agricultural;
8. Conservation;
9. Homeowner; and
10. Commercialized residential.

B. In assigning land to one of the general classes, the director of finance shall give major consideration to the districting established by the land use commission pursuant to chapter 205 of the Hawaii Revised Statutes, the districting established by the county in its general plan and zoning ordinance, use classifications established in the general plan of the State, and such other factors that influence highest and best use, except that:

1. A parcel that is used exclusively as the owner's principal residence and has been granted a home exemption in accordance with sections 3.48.410 and 3.48.475 of this chapter shall be classified as "homeowner" without regard to its highest and best use;

2. A parcel that has been granted a bed and breakfast permit, [a transient vacation rental permit,] or a conditional permit [to operate a] allowing transient vacation rental use pursuant to title 19 of this code, and serves as the owner's full time residence, shall be classified "commercialized residential" without regard to its highest and best use; [and]

3. A parcel that is subject to a time share plan as defined in section 514E-1, Hawaii Revised Statutes, as amended, shall be classified as "time share" [.] ;

4. A parcel that has been granted either a short-term rental home permit or a conditional permit allowing transient vacation rental use pursuant to title 19 of this code shall be classified "commercial" without regard to its highest and best use; and

5. A parcel determined by the director of planning as being offered for short-term rental home use but does not have a county permit allowing such use pursuant to title 19 of this code, shall be classified "hotel and resort;" and the property owner shall establish to the satisfaction of the director of planning or the board of appeals, as appropriate, that there is no short-term rental home use taking place in order to restore the property's immediately-preceding tax classification.

C. When property is subdivided into condominium units, each condominium association or any entity filing a condominium property regime, shall file an annual report with the director of all units in the association, by tax map key number, before December 1 of each calendar year.

1. The director shall prescribe the form of the list and any supporting evidence as necessary. The list shall include whether the unit is vacant, owner occupied, or rented long term or short term, by month;

2. Each unit and its appertaining common interest shall be:

a. Classified upon consideration of its actual use into one of the general classes as follows:

i. Homeowner. Only those units owned and occupied as a principal home and for which a home exemption claim was filed and granted shall be classified as "homeowner."

ii. Apartment. Only those units occupied by the owner for personal use or by a lessee for a term of six consecutive months or more shall be classified as "apartment."

iii. Commercial. Only those units occupied by the owner or a lessee for business or mercantile activities,

or units that have been granted a short-term rental home permit pursuant to title 19 of this code shall be classified as "commercial."

iv. Hotel and Resort. Unless classified as "time share" or "commercialized residential", units occupied by transient tenants for periods of less than six consecutive months, excluding properties granted a short-term rental home permit or bed and breakfast permit, shall be classified as "hotel and resort." In addition, unless classified as "time share" or "commercialized residential", units advertised for occupancy by transient tenants for periods of less than six consecutive months for any period during the course of any assessment year, shall be reclassified to "hotel and resort" and the real property tax shall be adjusted to taxes at the "hotel and resort" tax rate for the applicable tax year.

v. Time share. Units occupied by transient tenants for periods of less than six consecutive months that are subject to a time share plan as defined in section 514E-1, Hawaii Revised Statutes, as amended, shall be classified as "time share."

vi. Commercialized residential. Units that have been granted a bed and breakfast permit, [a transient vacation rental permit,] or a conditional permit [to operate a] allowing transient vacation rental use pursuant to title 19 of this code, and serving as the owner's principal residence, shall be classified as "commercialized residential".

b. Deemed a parcel and assessed separately from other units.

3. The director may, after investigation, re-classify and re-assess any unit in a condominium association found to be in violation of the owner's certification of actual use.

4. A condominium owner and/or the condominium association or any entity filing a condominium property regime shall notify the director of any change in a unit's classification within thirty days of that change.

5. If the required annual report is not filed on or before December 1, the director may classify all units in the project in accordance with subsection B for the following assessment year."

SECTION 3. 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 4. This ordinance shall take effect for the tax year beginning July 1, 2015.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

bf:misc:076abil01