

**COUNCIL OF THE COUNTY OF MAUI**  
**PLANNING COMMITTEE**

November 21, 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 October 30, 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 restate and codify provisions allowing transient vacation rentals ("TVRs") in buildings and structures in the Apartment District that had lawfully issued, valid building permits, special management area use permits, or planned development approvals on or before April 20, 1989.

Your Committee notes it previously reported on this matter through Committee Report 14-22, which recommended the proposed resolution be adopted. At its meeting of February 7, 2014, the Council adopted Resolution 14-15.

Your Committee noted Ordinance 1797 (1989) amended Chapter 19.12, Maui County Code, to generally require buildings and structures within the Apartment District be occupied on a long-term residential basis. Your Committee further noted Section 11 of Ordinance 1797 (1989), which was not codified, included some exceptions to the long-term residential occupancy requirement. The requirement was intended to "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." Therefore, TVRs in buildings and structures in the Apartment District that had lawfully issued, valid building permits, special management area use permits, or planned development approvals on or before April 20, 1989, the effective date of Ordinance 1797 (1989), were intended to be allowed uses.

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Your Committee noted the proposed bill expressly restates the exceptions included in Ordinance 1797 (1989).

In response to Resolution 14-15, the Planning Director transmitted the Lanai, Maui, and Molokai Planning Commissions' 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 planning commissions recommended approval of the proposed bill, with an amendment recommended by the Department of Planning. A representative from the Department explained the recommendation that the proposed bill be revised to clarify TVR uses are allowed in planned developments in the Apartment District, if the planned development received site plan approval on or before April 20, 1989. Your Committee recommended the proposed bill be revised to include this clarification.

The Department's representative described the implementation of policies related to TVR uses in the Apartment District, and stated the Department's practices disallow TVR uses in reconstructed buildings and structures. Your Committee considered as an example a building destroyed by fire or other catastrophic event, and felt the owners of such a building should be allowed to continue a TVR use after reconstruction. Your Committee recommended the proposed bill be further revised to allow this continuation of use.

Your Committee voted 6-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Couch, Vice-Chair Victorino, and members Baisa, Crivello, Guzman, and White voted "aye". Committee member Cochran was excused.

Your Committee is in receipt of a revised proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING SECTIONS 19.12.020, 19.32.040, AND 19.37.010, MAUI COUNTY CODE, PERTAINING TO TRANSIENT VACATION RENTALS IN THE APARTMENT DISTRICT", approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Planning Committee **RECOMMENDS** the following:

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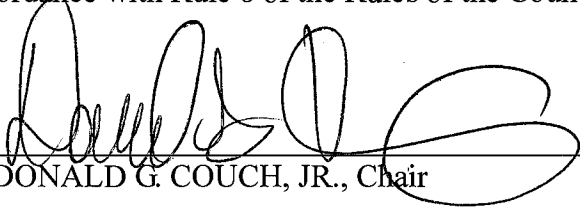
1. That Bill \_\_\_\_\_ (2014), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING SECTIONS 19.12.020, 19.32.040, AND 19.37.010, MAUI COUNTY CODE, PERTAINING TO TRANSIENT VACATION RENTALS IN THE APARTMENT DISTRICT", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 13-403 be FILED.

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



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DONALD G. COUCH, JR., Chair

pc:cr:14049ab:csh

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2014)

A BILL FOR AN ORDINANCE AMENDING SECTIONS 19.12.020, 19.32.040, AND  
19.37.010, MAUI COUNTY CODE, RELATING 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 restáte 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. The ordinance also amends Sections 19.32.040 and 19.37.010, Maui County Code, for consistency.

Additionally, the bill allows transient vacation rental uses for reconstructed buildings and structures, subject to certain requirements.

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:

- A. Any use permitted in the residential and duplex districts[;].
- B. Apartment houses[;].
- C. [Boardinghouses, roominghouses, and lodginghouses;] Boarding houses, rooming houses, and lodging houses.
- D. Bungalow courts[;].
- E. Apartment courts[;].
- F. Townhouses[; and].
- G. Home occupations.
- H. Transient vacation rentals in buildings and structures having building permits, special management area use permits, or planned development approval that were lawfully issued by and valid on April 20, 1989. Buildings and structures with such permits and approvals may be reconstructed, and transient vacation rental use shall be permitted, provided that:
  - 1. The reconstruction conforms to the original building permit plans, special management area use permits, and/or planned development approval; and
  - 2. The reconstruction complies with the building code and all other applicable laws in effect at the time of the reconstruction.”

SECTION 3. Section 19.32.040, Maui County Code, is amended by amending subsection H to read as follows:

“H. Transient vacation rentals shall be permitted in planned developments, except for developments that have been publicly funded; provided[,] that [all of the following shall apply to the planned development:] either:

- 1. The planned development received a planned development site plan approval that was lawfully issued by and valid on April 20, 1989, and the land is zoned A-1 or A-2 apartment district; or
- 2. The planned development meets all of the following:
  - a. The planned development received final approval [pursuant to] as provided in this chapter, and at least one unit in the planned development was operating as a vacation rental on or before April 20, 1981;
  - [2.] b. The planned development [must be] is located on parcels with at least some residential district zoning; and
  - [3.] c. The planned development consists of only duplexes or multi-family dwelling units.”


SECTION 4. 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 5. 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 6. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND  
LEGALITY:

  
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MICHAEL J. HOPPER  
Deputy Corporation Counsel  
County of Maui