

COUNCIL OF THE COUNTY OF MAUI
BUDGET AND FINANCE 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 Budget and Finance Committee, having met on October 14, 2014, and October 28, 2014, makes reference to County Communication 14-247, from Councilmember Donald G. Couch, Jr., referring the matter relating to real property use classifications for planned developments with allowed transient vacation rentals (“TVRs”).

By correspondence dated October 7, 2014, Councilmember Couch transmitted a proposed bill entitled “A BILL FOR AN ORDINANCE TO EXPAND THE AVAILABLE REAL PROPERTY USE CLASSIFICATIONS FOR PLANNED DEVELOPMENTS WITH TRANSIENT VACATION RENTALS”. The purpose of the proposed bill is to establish a process for specifying real property use classifications other than “hotel and resort” for units in planned developments where TVRs are allowed.

By correspondence dated October 22, 2014, the Department of the Corporation Counsel transmitted a revised proposed bill entitled “A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, TO EXPAND THE AVAILABLE REAL PROPERTY USE CLASSIFICATIONS FOR UNITS IN PLANNED DEVELOPMENTS WHERE TRANSIENT VACATION RENTALS ARE ALLOWED”. The purpose of the revised proposed bill is to establish a process for specifying real property use classifications other than “hotel and resort” for units in planned developments where TVRs are allowed, based on actual use of the property.

Your Committee notes Ordinance 4063 (2013) allowed TVRs in planned developments, subject to certain requirements. Currently, the only planned development meeting the requirements for TVR operations set forth in Ordinance 4063 (2013) is the Puamana Planned Development (“Puamana”). Your Committee further notes Puamana is a unique, multifamily development that appears to be a condominium, but is recognized by the County as a planned development.

Your Committee further notes the proposed bill will establish a process to allow planned developments to specify the uses of their individual units. This will allow the

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development's real property uses to be considered on a unit-by-unit basis for tax classification purposes. Currently, the Maui County Code ("MCC") has no provision for specifying uses of planned development real property on a unit-by-unit basis. Planned developments do not meet the requirements of Section 3.48.305(C), MCC, which specifies a process for condominium properties to specify use on a unit-by-unit basis, as part of a "condominium property regime" report submitted to the Director of Finance once per year.

Your Committee notes upon enactment of Ordinance 4063 (2013), and pursuant to Section 3.48.305(A), MCC, which states real property shall be classified based upon consideration of its "highest and best use," the Puamana units were to be classified in the "hotel and resort" class. Because there is no provision in the MCC to allow for specification of uses on a unit-by-unit basis for planned developments, all Puamana units were classified as "hotel and resort" based on their allowed TVR use.

Your Committee notes an exception was allowed by the Director of Finance for this tax year, to allow the Puamana units to be classified individually, rather than classifying the entire development as "hotel and resort."

Under the proposed bill, the units where TVRs are being operated would still be classified as "hotel and resort," but other units, such as those with long-term residential uses, would be classified in the lower rate classes.

Your Committee voted 7-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair White and members Baisa, Carroll, Cochran, Couch, Crivello, and Victorino voted "aye". Committee Vice-Chair Hokama and member Guzman were excused.

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

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Your Budget and Finance Committee RECOMMENDS the following:

1. That Bill _____ (2014) as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, TO EXPAND THE AVAILABLE REAL PROPERTY USE CLASSIFICATIONS FOR UNITS IN PLANNED DEVELOPMENTS WHERE TRANSIENT VACATION RENTALS ARE ALLOWED", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 14-247 be FILED.

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



MIKE WHITE, Chair

ORDINANCE NO. _____

BILL NO. _____ (2014)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48,
MAUI COUNTY CODE, TO EXPAND THE AVAILABLE REAL PROPERTY
USE CLASSIFICATIONS FOR UNITS IN PLANNED DEVELOPMENTS WHERE
TRANSIENT VACATION RENTALS ARE ALLOWED

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

SECTION 1. Ordinance 4063 (2013) allowed transient vacation rentals in planned developments meeting certain requirements. Units within planned developments where transient vacation rentals are allowed are classified as “hotel and resort”, pursuant to Section 3.48.305(A), Maui County Code, because “hotel and resort” is the highest and best use allowed for the real property. The purpose of this ordinance is to establish a process for specifying real property use classes other than “hotel and resort” for units in planned developments where transient vacation rentals are allowed, based on actual use of the property.

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

“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] 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 serves as the owner's primary residence and has been granted a bed and breakfast permit, a transient vacation rental permit, or a conditional permit [to operate] allowing a transient vacation

rental use pursuant to title 19 of this code, 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”[.]; and

4. A unit and its appertaining common interest that are part of a planned development where transient vacation rentals are permitted, in accordance with chapter 19.32 of this code, shall be classified in accordance with subsection 3.48.305(C)(2)(a). The planned development shall form an entity that shall annually report to the director on a form prescribed by the director, the actual use of each unit in the planned development along with any information deemed relevant by the director to determine the actual use of each unit. If the required annual report is not filed on or before December 1, the director may classify all units in the planned development in accordance with subsection 3.48.305(A) for the following assessment year. The entity shall report any change in actual use of a unit in the planned development within thirty days of that change. The director may investigate any unit and, if it is determined by the director that the actual use differs from the use reported, reclassify and reassess the unit.”

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:



JEFFREY UEOKA
Department of the Corporation Counsel
County of Maui
JTU/ORDS/3.48.305(bf-122)
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