

**HANA ADVISORY COMMITTEE TO THE
MAUI PLANNING COMMISSION
MEETING OF AUGUST 30, 2016**

** All documents, including written testimony, that was submitted for or at this meeting are filed in the minutes file and are available for public viewing at the Maui County Department of Planning, 2200 Main St., Suite 315, Wailuku, Maui, Hawai'i. ***

A. CALL TO ORDER

The meeting of the Hana Advisory Committee (Committee) was called to order by Chairperson, Ward Mardfin, at approximately 4:04 p.m., Tuesday, August 30, 2016, at Helene Hall, 150 Keawa Place, Hana Bay, Maui, Hawaii.

A quorum of the Committee was present (see Record of Attendance).

Chair Ward Mardfin: Ladies and gentlemen, we are about to begin. It is about 4:04. We're scheduled to begin at 4:00. I hereby call the meeting to order. We have planners Lehua Cosma, Gale Notestone, myself, Ward Mardfin as Chair, Dawn Lono, and Linda Clark. We're kind of hoping that Clayton Carvalho will come along, and Scott Crawford will come along, but we do have a quorum. Here for the Planning Department is Clayton Yoshida, the administrator for the planning program, and Jennifer Oana, to my immediate left, who is the Deputy Corp. Counsel for the County of Maui, we have Suzie Esmeralda, who is recording this for posterity, we have Gina Flammer, who is a planner for the Maui Planning Commission, we have Ed Cashman sitting in the audience, and we have Kaua Woessner for the first item on our – or item D on our agenda.

B. PUBLIC TESTIMONY - At the discretion of the Chair, public testimony may also be taken when each agenda item is discussed, except for contested cases under Chapter 91, HRS. Individuals who cannot be present when the agenda item is discussed may testify at the beginning of the meeting instead and will not be allowed to testify again when the agenda item is discussed unless new or additional information will be offered.

Chair Mardfin: I am announcing to the audience of, one, that we can take public testimony now or, if you would prefer, when the item that you're here to testify comes up, and I think we'll -- you know, we usually limit it to three minutes but with a smaller group, it's permissible for to limit it to

**C. APPROVAL OF MINUTES OF THE JULY 19, 2016 SITE INSPECTION AND
JULY 19, 2016 MEETING**

Chair Mardfin: Okay, next on the agenda is approval of minutes of the July 19th site inspection and the July 19, 2016 meeting. Do I hear a motion to approve those minutes?

Ms. Dawn Lono: I so move that --

Chair Mardfin: Thank you very much, Dawn, for moving. May I have a seconder?

Mr. Gale Notestone: I'll second.

Chair Mardfin: Is there any discussion or omissions or corrections to be made? Seeing none.

It has been moved by Committee Member Lono, seconded by Committee Member Notestone, then unanimously

VOTED: to approve the minutes of the July 19, 2016 site inspection and July 19, 2016 meeting as circulated.

Chair Mardfin: It appears to be unanimous. We are now onto to D, Public Hearing; action to be taken after the public hearing. Ed, are here to speak on this? It's Kaulani Wessner and Sandy Woessner requesting a B&B permit. Not for that.

Chair Mardfin read the following agenda item into the record:

D. PUBLIC HEARING (Action to be taken after public hearing.)

- 1. MR. KAUALANI WOESSNER and MS. SANDRA WOESSNER requesting a Bed and Breakfast Home Permit in order to operate a three bedroom bed and breakfast home on a property located in the County R-3 Residential District at 4820 Uakea Road, TMK: 1-4-014: 017, Hana, Island of Maui. (BBHA T2015/0002) (G. Flammer)**

The subject application requires a public hearing because there is at least one permitted bed and breakfast home located within 500 ft. of the subject property.

Chair Mardfin: Gina, would you like to proceed?

Ms. Gina Flammer: Sure. Good afternoon, Members. You just stated the most important reason. We're here because there is only B&B within 500 feet that has a permit, that's Bamboo Inn, John Romain, who's across the street and down a couple lot. For this, I did want to just say again, it's a three-bedroom, it's a bed and breakfast so the owner will be living on the property. I've gone through the staff report and described a little bit about the applicant. His mother is also on the application with him. They both own the house together.

The land use designations, it is urban. That area right there of Hana, for the Maui Island Plan, is considered small town boundary, so it does have that. It is a single -- zoned

single-family residential, R-3. The community plan it also single-family. There is a lot of different zonings right around that area so I did include that map in the exhibits.

The cap for Hana is 48 bed and breakfast. Right now, there are only 10. So there's plenty of room in the cap. I do go through in the report all the different criteria that we have for these types of permits and then how the applicant has met them.

And then I do just want to quickly go through the exhibits. The first one, the map, is more for the Maui Planning Commission. I think you folks all know probably where this property's located. It's just right up the street. There's some photos where you can see the entrance right off from Uakea Road. The property itself. Some pictures of the inside. It's one bedroom upstairs and then two different bedrooms downstairs that each have their own separate entrance. I did go ahead and include the fire extinguishers. You can see that. There's also smoke detectors in each of the units. Exhibit 3 is the site plan that shows all the parking on the property. And then if you go to Exhibit 4, it's actually the floor plan of the building itself. And then as we get into Exhibits 5, 6, and 7, they're just maps showing the different designations for that area, and I did talk about that it's in the small town growth boundary. It is located in a residential, for the community plan, but if you look around, there is multi-family, that would be the Hana Kai, Maui Kai right across the street, that's multi-family, which allows them, and then there's a lot of service business residential as well that's in the area. As we go to Exhibit 7, it's the map of the other bed and breakfasts that are located nearby, so we have the one within the 500-foot circle, and then there's another one along Uakea that's just a couple lots down. For the short-term rental home, I thought you might be interested in that as well. There are none within 500 feet; though there are four in somewhat close proximity. And then Exhibit 9 shows you who the bed and breakfasts are that are permitted in Hana, and Exhibit 10 shows you who the short-term rental homes are.

And then we go into the recommendations at the end. I have the applicant here if there's any questions also. Thank you.

Chair Mardfin: Thank you, Gina. I did notice that there were no letters of -- the neighbors within 500 feet had been notified and there were no letters of --

Ms. Flammer: There were no letters of protest and, actually, notification went out three times. He notified all his neighbors before the application came in, which I thought was a very nice thing to do; then he gave them the official notice after the department signed it and the application came in; and then again when this public hearing was called. It's also been in the newspaper three times so it's not for lack of notice that people haven't sent in protest letters.

Chair Mardfin: Do any members of the Hana Advisory Committee have any questions or statements to make?

Mr. Notestone: I have a comment.

Chair Mardfin: Gale Notestone.

Mr. Notestone: On Exhibit 6, no. 6, that is not the property.

Ms. Flammer: Is that your property?

Mr. Notestone: That's right.

Ms. Flammer: Is it? Oh, okay. Sorry. I thought I moved it. I must have printed the wrong one. It was for your staff report. Yeah, the property is up. It is -- it's almost at the top of it, it's a flag lot that's right next to the real big lot, which is the church right there. Thank you for that correction.

Chair Mardfin: Thank you very much. I presumed you weren't trying to sell your property, which is already being used. Any other Committee Members have anything to ask or state? Dawn?

Ms. Lono: I just making note that it looks like there are three separate rooms available for rent with a potential of 12 guests at one time - 4 are allowed, 2 adults and 2 children, per unit. Is that correct?

Ms. Flammer: That's what the county code says. Yes.

Ms. Lono: Yeah. Okay.

Mr. Notestone: Mr. Chair --

Chair Mardfin: Any other --

Mr. Notestone: Another question.

Chair Mardfin: Gale, please.

Mr. Notestone: Gina, being it was Kaua and his mom, can you pass your ownership of the B&B from -- to a relative?

Ms. Flammer: They're both on the application so they are both the applicants. There is no passing because they're both there. Could either one of them pass it on to another person? No. They couldn't do that. That new person would have to come in brand new for a permit.

Mr. Notestone: Even though it's a relative?

Ms. Flammer: Even -- yeah. The short-term rental home ordinance does have a provision that upon the death of the permit holder, it can pass to an immediate family member, but as of this point, B&Bs do not have that provision. The department is recommended it to the council but they haven't taken up our recommendations yet for the B&B bill.

Mr. Notestone: Thank you.

Chair Mardfin: Any other questions, comments? Gina, Kaua, would you like to say something? How long you've been around? What your plans are?

Mr. Kaulani Woessner: Hi, Council. I was born here in Hana. I've spent my childhood here. I moved back to Hana about 14 years ago. I have no plans of leaving Hana, and my mom to Hana about year ago, and we both live in the ohana in the backyard, and this is just sort of, you know, something looking forward for both of us. I'm in the hospitality and tourist industry myself as a wedding photographer and wedding planner, and I just thought it'd be a good fit. I love Hana. I want to be a steward of Hana. And a lot of people come through here and I just wanted to be a positive part of that.

Chair Mardfin: Thank you very much.

Mr. Woessner: You're welcome.

Chair Mardfin: Would anybody -- anybody -- Committee, you want to discuss this or if not, are we ready for somebody to make -- excuse me. I forgot. Would anybody -- is there anybody here that would like to give public testimony on this item? Seeing none, public testimony is closed. Now, would somebody like to either -- it would be nice if we had a motion, and a second, and then we could have discussion. Lehua?

Ms. Lehua Cosma: I'd like to make a motion that we approve the proposal before us.

Chair Mardfin: With no -- we have four alternatives: deferral, approval with no conditions, approve with conditions, and denial. I take it that you're moving to approve with no additional conditions. There are conditions already put in by the Planning --

Ms. Flammer: Perhaps the department could make our recommendations?

Chair Mardfin: Please, Ms. Flammer.

Ms. Flammer: Okay, great. Okay, so the department is recommending approval based upon 16 conditions that we've added onto the permit; these are conditions that we typically put on bed and breakfast homes. If anybody -- I can read through them but they are pretty standard. You've seen them a number of times. Does anybody have any questions on any of the conditions that are at the end in the recommendation? Okay.

Chair Mardfin: I have one.

Ms. Flammer: Okay.

Chair Mardfin: This is very manini. You said the requirement is that they provide a menu for breakfast --

Ms. Flammer: Yeah.

Chair Mardfin: And I looked for it in there and couldn't find it; then I reread it and it said it's on file with the Planning Department.

Ms. Flammer: It is. What's on your menu?

Mr. Woessner: Well, we had things like granola, yogurt, fruit. The way I understood was though there was also a bill passed that you could not serve food without a certified kitchen so by the time this goes through, it's not going to be an issue. We did have something on our original --

Chair Mardfin: But you can't do things like breakfast and eggs 'cause you don't have -- it's not a certified kitchen, and I know that but -- okay.

Ms. Flammer: So just to give you a quick little bit of background as to how the breakfast started. It was -- originally it's called a "bed and breakfast permit." The council passed with the intention of being a traditional bed and breakfast. The Department of Health commented after the bill was passed and they started reviewing applications that applicants cannot serve what's considered hazardous food. It is considered that anything served would sit out, and if it goes bad, it is considered hazardous. So applicants are extremely limited as to what they can serve for breakfast even if they have a fridge or are a chef themselves, we have had that. So for the applicant here, he's serving granola

bars, I think coffee with a creamer that's in a prepackaged container I think is pretty much what was allowed on his menu.

Chair Mardfin: Thank you. I know it seems silly but I've seen it before and I'm kinda used to it. Okay, so there are already some conditions and --

Ms. Flammer: So if I could finish up the recommendation.

Chair Mardfin: Oh, I'm sorry.

Ms. Flammer: So we have the 16 conditions on here. So in consideration of the foregoing, the Planning Department recommends that the Hana Advisory Committee for the Maui Planning Commission adopt the Planning Department's report and recommendation prepared for today's meeting, August 30, 2016, as your findings of fact, conclusion of law, and decision and order, and that you authorize the Director of Planning to transmit your recommendation to the Maui Planning Commission. Thank you.

Chair Mardfin: And now, Lehua.

Ms. Cosma: I'd like to make a motion that we approve the Planning Department's recommendations of the August 30, 2016 Hana Advisory meeting for the bed and breakfast of Kaua and Sandra Woessner.

Chair Mardfin: And you're also adopting the findings of fact, conclusions of law, and decision and order, and this is for transmission to the director and the Maui Planning Commission?

Ms. Cosma: Correct.

Chair Mardfin: Thank you very much. Is there a second to that motion?

Mr. Notestone: I'll second the motion.

Chair Mardfin: Thank you very much. Is there any discussion? Seeing none.

There being no further discussion, the motion was put to a vote.

It has been moved by Committee Member Cosma, seconded by Committee Member Notestone, then unanimously

VOTED: *to adopt the Planning Department's report and recommendation prepared for the August 30, 2016 meeting as its findings of fact, conclusions of law, and decision and order, and to authorize the Director of Planning to transmit said recommendation to the Maui Planning Commission.*

*(Assenting: G. Notestone; C. Carvalho, Jr.; L. Clark; L. Cosma; D. Lono)
(Excused: S. Crawford)*

Chair Mardfin: It appears to be unanimous. Congratulations, Kaua. I hope the Maui Planning Commission will treat you just as gently. That finishes item D, the public hearing. We are now into Communications.

Chair Mardfin read the following agenda item into the record:

E. COMMUNICATIONS

- 1. MAUI PLANNING COMMISSION requesting recommendations on Council Resolution No. 16-93 referring to the Lanai, Maui, and Molokai Planning Commissions a Proposed Bill Amending the Comprehensive Zoning Ordinance relating to Enforcement Procedures for Bed and Breakfast Homes and Short-Term Rental Homes. (G. Flammer)**

The Committee may act to provide its recommendations on the proposed legislation.

Chair Mardfin: I will open it up for -- I think we'll open it up for public testimony if anybody would like to testify on this bill, 16-93.

Mr. Ed Cashman: ...(inaudible - not speaking into the microphone)...

Chair Mardfin: Okay. I understand. Thank you very much. I will -- since we're not pressed by an overwhelming line of people willing to testify, I will suspend the public testimony and we'll come back to it after we've had some discussion on it. Gina, are you the one handling this one?

Ms. Flammer: I am.

Chair Mardfin: I guess you are.

Ms. Flammer: Yes, I am the planner. Thank you. So just to give you, I wrote about in here but I'm going to just give you a real brief overview.

As you know, the County Council went through a full review of the entire short-term rental home ordinance. It started here. It was great. We spent two very long meetings going through. The council then spent I think it was about 14 months going through, in great detail, all the different amendments. At the very end, they were wanting to get it passed before budget. They decided to go ahead and pass as far as they had gotten, and to take up the enforcement section as a separate bill. So we're here -- so they passed all the other amendments. I will tell you, they listened to your recommendations. The cap for short-term rentals was reduced down to 30. They do read everything. They did read your discussion about. Council Member Carroll did a good job, he made the proposal, and also Council Member Cochran, from West Maui. It was the two of them that put that forth. So went through all of it. They started to discuss the enforcement and they realized it was just going to take a lot of extra time.

There was a group of informal operators, at this time it was pretty much bed and breakfast operators that -- I'm backing up to the very beginning of where the enforcement part started. So in 2012, when the enforcement -- the short-term rental home bill passed, a group of informal operators started meeting with the Mayor and some other groups asking about enforcement. Part of the, you know, unofficial agreement, when the bill passed, is that there's going to be a regulated market that does protect the people that take the time and effort to get the permit, and part of that is enforcement.

As they continued to meet with the Mayor, they felt like they wanted to see more enforcement happening. They wanted to see proactive enforcement. It wasn't until about 2015 that the department was fully staffed with their enforcement members. Our new chief of the enforcement division had been in the job, had been able to fill those positions, so we started at that point doing proactive enforcement. That group had already written this bill and had put it forth. Mike White had already started the wheels of that. So what they asking for in here is they want to see the continued pressure on the department to go ahead and do the proactive enforcement. They're putting in here mandatory time frames in which we need to respond to do things.

Now once this bill was written and submitted to the council, the County Clerk, the council's office, the Council Services office wanted to bring the bed and breakfast into it so enforcement also applied to them, but in doing that, they had to update some of the bed and breakfast parts of the code to match the things that had just been updated in the short-term rental, so you're going to see a lot of that in the beginning, it wasn't necessarily part of the bill, but it's just a part of now updating some of the B&B enforcement procedures.

Once the department got the bill, and we had a little bit of time to work with the some of the new short-term rental home amendments, we realized there's a couple things that

aren't working real well so we're using that -- this bill as a vehicle to make some changes dealing with CPR lots too, so you kind of wonder, the bill's a little all over the place, it's a bit of a catchall for the end of that -- that whole review process. So what I did to make things a little bit easier is I went ahead and I made a chart, sorry about the writing, noticed it's pretty small in there, but, hopefully, it's good enough that we could work off of. When we're done with testimony, if you don't mind, I'd like to kinda go through each of the provisions and get your opinion on them, some of them are really housekeeping, but there's some really meaty public policy issues in here, so that's how I'd like to go ahead and take this.

Chair Mardfin: Gina, I think that's a really good idea. That's the way I would have approached it too. Rather go to the legal bill, go to your Exhibit 3, and I think on each one, we ought to figure out what our comments are. If you go through 17 pages and then go back for comments, we're going to be lost.

Ms. Flammer: No, I think we'll do it the way we did with when we did the amendment is that after each one, what I'm going to end up giving to council is this bill but it's going to have some extra columns at the end there that are going to talk about each of the different groups and what their specific comments are on each --

Chair Mardfin: Right.

Ms. Flammer: Item.

Chair Mardfin: Okay, please proceed.

Ms. Flammer: Okay great. Okay. So if we start on Exhibit 3, does everybody have that? Okay. Okay. And your reader glasses on too? Okay. It's Exhibit 3. Okay, so if we start with the very first section, this is actually the department wanting to bring the B&B code a little closer to the short-term rental home, so there were no changes in the bill, that happens to be the first one, when you look at the bed and breakfast bill, and that's where we deal with ownership of bed and breakfast. Right now, there is no minimum ownership established in code. The short-term rental home bill was amended so that the applicant or applicants must own 50% together. The department is recommending that the new -- this amendment also apply to bed and breakfast. We've had a little bit of a loophole with bed and breakfast where sometimes we get people that have a very minor interest in it that come in. We'd like to close that loophole.

Chair Mardfin: I'm going to take a little privilege here. Since I was on the Maui Planning Commission, I remember when one came in and the guy owned the whole thing and he gave 1%, or maybe it was less than that, to some housekeeper or something, and then

the thing was theoretically in here name and that offended my sense of righteousness, but it was legal, and this is to close that loophole I believe.

Ms. Flammer: Yes.

Chair Mardfin: Do you want comments on this?

Ms. Flammer: Yeah, I think we should just do the comments one by one.

Chair Mardfin: Anybody?

Ms. Lono: I have a comment.

Chair Mardfin: Dawn?

Ms. Lono: Why only 50%?

Ms. Flammer: I think the thought was if you have a husband and wife and only one wanted to be on there, that that would qualify right there. You know, it was the council's decision to come up with the 50%, and there were times when there's families that own it too, so there's a lot of discussion what do you do with a family that has five children, and in the end, they decided that a minimum of 50% was okay with them.

Ms. Lono: So that could potentially cause a conflict within a family if somebody owns 50% and somebody owns 50%, and one wants to do it and one doesn't want to do it. How does that work?

Ms. Flammer: We had a case like that which caused us to change everything.

Ms. Lono: I know.

Ms. Flammer: Yes. We have all the owners have to sign off on the application that they're okay. It's in the application itself. It is a owner certification is what it is and everybody has to sign that everything on the application is accurate and that the understand that it's being applied for.

Ms. Lono: So should that not be addressed in the legislation that all of the owners need to sign off on the application?

Ms. Flammer: We could add it but right now it is department policy and it's -- I don't know if Corp. Counsel, when we get to council, we can talk about whether or not it's necessary.

Ms. Lono: So it would be -- the difference is the law versus the department policies?

Ms. Flammer: Yes, exactly.

Ms. Lono: And if somebody wanted to buck up against the department policies and say, well, that's not what it says in the law, then, potentially, it could be a conflict?

Ms. Flammer: True. Yes.

Ms. Lono: Just trying to avoid that kinda stuff because I know it has come up in the past so --

Ms. Flammer: Yeah. Okay.

Ms. Lono: To your attention.

Ms. Flammer: Yes. Thanks. That's a good comment.

Chair Mardfin: And would anybody else like to speak on this or ask a question about this?

Chair Mardfin: Ed?

Mr. Cashman: ...(inaudible - not speaking into microphone)...

Ms. Flammer: Only the short-term rental home bill allows a provision for non-individuals to own the property. For separate B&Bs we don't currently allow that, we will allow a revocable living trust when it is just a couple in it, typically, but the B&B ownership is not as liberal as the short-term rental home.

Chair Mardfin: Gina, I'd like to add. I'm real glad to see this. As I say, when this thing happened that I saw, I was astounded that they would have the gall to try that sort of a thing, and it looked to me like end ...(inaudible)... around the rule that you're only allowed to have one B&B, you can't have multiple B&Bs, and it opened the possibility of this guy having 99 of them or something. So I'm really glad to see this in here.

Ms. Flammer: Did you want to it by consensus how we do the comments at the end?

Chair Mardfin: I'm sorry?

Ms. Flammer: Did you want to just do it by consensus your comments at the end of each -- yeah? Okay, that's ...(inaudible)...

Chair Mardfin: I think so. If somebody -- if we say something that you're offended by or you don't want to have, I'd urge you, first, I'd urge you to speak up now or whenever we hit, and, secondly, if you have a little tweaking, make a note of it, we can come back to it at the end, but I see at the end of this a sense of the Committee that our comments are reflective of our views. I don't know that we need to have a formal vote.

Ms. Flammer: And I'm happy to read what those are, what I'm writing down, so that you know before you guys all nod.

Chair Mardfin: I think, Jennifer has a good idea, let's do this as we go, does anybody have -- is everybody in consensus that we like this provision as recommended by the Department of Planning? Seeing no --

Ms. Lono: I'm just putting that as a comment for Gina and they can address that.

Ms. Flammer: I'm just adding that as a --

Ms. Lono: ...(inaudible - not speaking into the microphone)... necessary.

Ms. Flammer: Yeah, I think what I'm going to do is just read back what I have and then you can let me know by the --

Chair Mardfin: So it's a consensus here that we, basically, support the department's recommendation.

Ms. Flammer: Yes, and then I also have a note that you recommend that perhaps the council might want to take a look at codifying the owner certification.

Chair Mardfin: Yes. Moving right along.

Ms. Flammer: Okay. Since the second one, it's just a title change, the heading of it. We had reorganized the short-term rental bill and we changed to duration renewal and non-renewal of permits, that's all that is. The third one --

Chair Mardfin: Any -- any comments from anybody on that? Seeing none, let's move on.

Ms. Flammer: It'll make a little more sense later when I show you the new sections that were added. Okay, so the third one down deals with -- it's just clarifying language that

came out of the Department of Council Services, they got rid of "shall be" and wrote "are," so it's just clarifying language there.

Chair Mardfin: Any comments? Seeing none.

Ms. Flammer: Okay, the fourth one, the last one on this page has been kind of an interesting discussion we've had within the department about permit renewals, and when did they come in, and when does a permit expire. For some reason, the bed and breakfast and the short-term rental home, often people were waiting till the last minute. We're recommending that people come in earlier than that to give us time to process so that it doesn't expire. So what this provision does is it's asking that renewal applications come in within 90 days prior to the expiration date, however, the department's recommending up to 180 days. We recognize that these operators have reservations that go out quite far and that they want the security of knowing that they get the permits when they're taking those long-term reservations.

Chair Mardfin: Any comments? Dawn?

Ms. Lono: I support the department's recommendation of the 180 days prior to expiration.

Chair Mardfin: Any alternative view? Seeing none, that's our consensus view. By the way, under Summary of Change, under the third column, Maui does not have an okina in it.

Ms. Flammer: It does in the bill.

Chair Mardfin: I'm sorry.

Ms. Flammer: The proposed bill that came out of Corp. Counsel does have -- put one in it and it's --

Chair Mardfin: They need to get educated.

Ms. Flammer: Yeah. We were curious. You'll see when you read the bill, there's some okinas in some other places we haven't seen them before, and I'm not sure. They may have had a workshop from a cultural practitioner that --

Chair Mardfin: Okay.

Ms. Flammer: Anyway, it's not a typo. If we move the next page now, we're on page 2, so this is language that's coming out of the short-term rental home bill that just says,

"Compliance inspections can be conducted prior to granting or renewal or during the permit period and that the owner or proprietor has to allow the compliance inspection at reasonable times." The department agrees with the language. It just makes it -- adds a -- it just makes it a little bit clearer than what was in the law before.

Chair Mardfin: Any objection?

Ms. Flammer: Okay.

Chair Mardfin: You got it.

Ms. Flammer: Okay. So these next two sections, what the department did with the short-term rental home bill is we wanted some specific criteria written into the law if we're not going to renew a permit or if we're going to revoke it. The old law was pretty broad that just gave us discretion to go ahead and do it, but we wanted to have something specific so the applicant understood what it was, and then if we did ever end up in court, we had something very specific measures that we used. So we took out these two kinda vague criteria that we had, and then we wrote, actually, two separate sections, and you'll see that down there, so we took out the first -- the second and then the third section here, and we replaced it with, "The director may decline to renew a permit if we find any of the following," some of it was already in here, some of it we just regrouped from another part of the section, and it was just a way to better organize the bill. One of the things that we did change or recommend that the council change is they had just taken some language from the short-term rental home bill that just said, "evidence of a non-responsive owner-operator," now that's spelled out in the short-term rental home code, but it's not spelled out in the B&B code, we thought that might be a little confusing, so what we did is you look over under c., at the bottom of this chart, here on page 2, and it just explains that evidence of a non-responsive over proprietor means the following things: not answering the telephone or responding to text messages right away or not being physically present at the home within a reasonable amount of time if there's a problem. I don't know how you guys --

Ms. Lono: What is a reasonable amount of time?

Ms. Flammer: That's a very good question. We left a little bit of flexibility in there. The council may wish to tighten that up. For the short-term rental home, it's only an hour. And maybe you have thoughts on that?

Ms. Lono: I think according to the law, I think within an hour is something that should be really specific in here, so that would be my recommendation on that.

Chair Mardfin: I'm sorry, Dawn, your recommendation is that --

Ms. Lono: They respond within an hour.

Chair Mardfin: A reasonable amount of time --

Ms. Lono: Being one hour.

Chair Mardfin: Do you recall, we made, for Hana, we had a deal where we were saying the property manager, this was for short-term rental, not for B&B, but the property manager had to be available within a certain period of time. Does anybody recall what that was?

Ms. Flammer: It ended up in the code as an hour but you recommended more time because of Hana because if someone's on the other side at Costco, the property manager, it'd be hard for them to get back within an hour. It stayed as an hour in the short-term rental home code though.

Ms. Lono: Well, I would like recommend that we stick with an hour and if someone is gone, then they have somebody designated to be that person, and that's really important, and so my recommendation is to stick with an hour and then it be specific in this ordinance.

Chair Mardfin: Does the rest of the Committee concur with an hour being there? We're in concurrence with an hour.

Ms. Flammer: So what I'm hearing from you is that you would like "reasonable" defined, which makes sense.

Chair Mardfin: Yes.

Ms. Flammer: And that you think an hour is good enough for the short-term rental home; it's good enough for the bed and breakfast.

Chair Mardfin: And I would add that if an hour's good enough for Hana, it ought to be really good enough for any other place on the island.

Ms. Flammer: Okay, great. Thank you very much.

Ms. Lono: I have another quick question. So the director may decline or renew the permit if it finds any of the following, is there anything else, what if they find something else,

some other noncompliance issue or something else, do they have the right to not renew or to deny the permit or is it just specifically what's listed in here?

Ms. Flammer: Well, we thought about that so we wrote in some pretty general things, such as, you actually have to go to the next page to see it, noncompliance with other governmental requirements, noncompliance with this chapter --

Ms. Lono: Oh, okay.

Ms. Flammer: And, yeah, noncompliance with permit conditions, so we thought that that would be broad enough.

Chair Mardfin: Dawn, does that take of your concern?

Ms. Lono: Yes.

Chair Mardfin: Thank you.

Ms. Flammer: Okay, the only other difference I want to point out here in our language versus what is -- was written into the bill and what's written in the short-term rental home is we wanted a little more discretion in dealing with neighbor complaints. When council first wrote the short-term rental provisions, they put this provision that you have to have two neighbors file complaints within a 12-month period. We've had the bill for 4 years now, we have had at least 1 case where it's been a corner property and there really only was one neighbor that was impacted but it wasn't enough to trigger it, so we're asking for a little broader authority with that and that we go to what you see in blue, at top of page 3, where it's just complaints of noise and disturbances from other lots, it doesn't limit it in such specificity.

Ms. Lono: It does, however, limit it to 500 feet, which is nothing, you know, as far as proximity, and properties, especially in Hana, in some areas, like out in Kaeleku area and some of the more remote areas, have properties that may be impacted that may not be within 500 feet, and so that 500 feet is very, very restrictive, so just for instance, I know, you know, there's a place, a house up on a hill, and when these people are doing their thing down here, that sounds carries up, well they're not within 500 feet but it is a serious problem but they have no recourse, according to this, so I don't know if you can say something about if this is -- if this is specific to the Hana Community Plan area, or if this occurs in other areas of the county, but it seems like 500 feet is like pretty limiting, and if you're at 505 feet, or 550 feet, you have no recourse, you have no say, you have nothing that you can do about it, so I think that's very limiting and should be readdressed.

Chair Mardfin: I understand your concern. I see where it could come from. But there is recourse. There isn't recourse in rescinding a B&B or short-term rental, but call the police. You know, you don't have to be within 500 feet to call the police if there's a noise disturbance. So you're right in that the Director of Planning couldn't do anything about it, but other county and state agencies could.

Ms. Lono: I understand what you're saying, Mr. Chair. I'd like to still propose that this be readdressed and looked at and see how the other Committee Members feel about it.

Chair Mardfin: Anybody wanna weigh in on this issue? Are you recommending that they consider a longer -- a longer distance but not specifying a particular distance?

Ms. Lono: Well, I think we should discuss a particular distance because I don't think you can just leave it open, you know, to somebody one mile down the road or something, I don't know, but I'm not sure how to address that in feet. I don't know if there's some kind of a description that could be within, you know, hearing sounds distance or, you know, something like that. I know that there are issues specifically in our community that are in that situation so that's why I'm bringing it up because I've had the complaints. So I don't know if there's a way. I know that police are called. I know that things sometimes are handled differently here than they are in other places. But it would be nice to have some kind of recourse in that situation. So I guess, in another place in here, it addresses if there are police reports?

Ms. Flammer: Yes.

Ms. Lono: If there are complaints. So I guess, you know, Ward is right, you could just call the police and then they would have a report, but do the police have to give that information to the Planning Department or how does that get conveyed, would it be up to that property owner that made the complaint say, okay, could you transfer to the Planning Department so they know or how is that going to work?

Ms. Flammer: At renewal time, we do look for police reports, not all reports make it onto the county rate system though. If we think there's a problem, we will route to the Police Department, specifically. What I were just to put some kind of comment that there was discussion about removing the 500 feet so the properties that hear noise beyond 500 feet can have their complaints considered? Something --

Ms. Lono: Something like that -- I think something like that would be reasonable to at least address it and, like I said, I know in a lot of areas it may not be relevant, but I know specifically here that it is relevant.

Ms. Flammer: It's not just Hana. We have areas sometimes when you're up on top of a hill, the noise can go in various directions.

Chair Mardfin: Gina, the way you phrased your response is something I could agree with.

Ms. Lono: Yeah.

Ms. Flammer: Okay. Okay.

Mr. Cashman: Can I comment?

Chair Mardin: Sure, Ed, go ahead.

Ms. Lono: Use the microphone so we can all --

Mr. Cashman: I live in Hamoa. In Hamoa, we have like eight, nine illegal vacation rentals, and when you talk about these million dollar homes, one of them just got permitted, and because it's a million dollar home, you don't have one family, you get three, four families. So when they come, they bring their bikes, their surfboards, their skateboards. Two o'clock in the morning, they're going up and down the street. You call the police, they going tell you it's a public road. I've had them sitting drunk sitting on my wall. I call the police. He said this a public road. You can't do anything. So the idea that you gotta call the police, it doesn't work. I've done it many times. And they don't live 500 feet from me, maybe 510 feet, but they come back and forth, and we had one legal, she just told me had two, we had eight nine. In fact, you cannot tell where they're coming from. We're eating dinner, they open my gate come in the yard. This is where we want to be. And they show, they using my address. I tell them no, this is not the house. They say no, this the address. I say no. When I look at the name, it's my neighbor. It's our senator. And it's not one time, it's more than one. And I've testified council meeting, I've -- you cannot rely on neighbors reporting neighbors. It doesn't work. You gotta go hire inspectors and enforce it. And 90% of these, they don't live there.

Chair Mardfin: Thank you very much. Gina I now concur with Dawn on her concern. But I'm actually glad to see, there is a drawback, but I'm glad to see it isn't "at least three complaints," that was taken out, and at least two property owners. I will say though that you have to be a little careful with this 'cause you could get one guy complaining all the time and essentially blackmailing his neighbor into paying them off to stop complaining, and that wouldn't be good, you know, it's not good on the neighbor for, you know, attempting to blackmail the guy, but it's a little tricky in here.

Ms. Flammer: It is. When we talk about this provision, all it is is giving the department ability to act on it, it's not mandating that we act on it, and our enforcement officers are pretty good at recognizing when something is an issue and when something -- maybe there's other things going on perhaps than the actual complaint being filed.

Chair Mardfin: Yeah, neighbors just not liking neighbors and so they use this as an excuse. Okay, thank you.

Ms. Flammer: Okay.

Chair Mardfin: Are we, in general, in agreement with this, the comments made by Dawn, primarily?

Ms. Lono: Could Gina repeat her language that she recommended?

Ms. Flammer: Okay, so I'm just going to put a note in there that says there was discussion about removing the 500-foot limitations so that properties hearing noise, heard beyond the 500 feet, can have their complaints considered.

Chair Mardfin: And I think we're in concurrence with that.

Ms. Flammer: Okay, and when I talk to the council, it's going to be not only just the 505, but it's also going to be some of the areas where noise does travel in different directions. Okay.

Chair Mardfin: Are we up to 3.8-3.12?

Ms. Flammer: We are. Okay, so again, we took out this very small -- this one sentence and we added an entire section later. I'm going to go into that as we go a little bit further down. So we can just move on. The next one, line 3.12 to line 3.20, was just clarifying language that was added by the Council Services. And then we just added the word "permitted" in one place just for -- to clarify it.

Chair Mardfin: So this is 3.12-3.20?

Ms. Flammer: Yeah.

Chair Mardfin: And we're in basic agreement with the Planning Department's position on this?

Ms. Flammer: And the council. They're just clarifying it.

Chair Mardfin: Okay.

Ms. Flammer: Okay. Now when we --

Ms. Lono: ...(inaudible - not speaking into the microphone)...

Chair Mardfin: Consensus? Yup. Yup.

Ms. Flammer: Yeah, some of it's pretty -- housekeeping. Okay, so the next one, at the very bottom, we added criteria, they're the same criteria for not renewing a permit as they are for revoking it, so it's the same discussion that we just had only these are the same criteria if we actually go out and revoke the permit while it's still in operation. Did you want me to make the same comment about the 500 feet here? Yeah? Okay. Okay, so if you don't mind, there's nothing new; it's just the difference is you're not renewing in this case, you're actually revoking the permit.

Chair Mardfin: So we're -- are we in consensus on that? It's almost a page long but -- continued from the previous page, but I think we're in agreement with the Planning Department's position.

Ms. Flammer: Okay, thank you. Okay, so at the bottom of page 4, in the short-term rental home bill, when we did enforcement, the council's attorneys did something really creative that turned out to be really good, advertising equals operating. We used to actually have to send our enforcement officers out to take a look and to prove, through observation, that someone was a guest at a house. No more. Now it's just the advertising you find. That means it's operating. We're adding the same clause right into the B&B bill.

Chair Mardfin: I'd like to say I really like that peace.

Ms. Flammer: Yeah.

Chair Mardfin: I remember, on the Planning Commission, we would go round and around about it and it slowed things down horribly, it increased the manpower to get enforcement, and if they're advertising it, take the advertising down, or you're in violation.

Ms. Flammer: Yeah.

Chair Mardfin: I really like that.

Ms. Flammer: The only thing that we're recommending is that we wanted to be really clear about the amount of time that someone has to respond to a notice of warning, so we're giving them 7 days from receipt or posting that notice to come into compliance. It used to just be from the day that the letter, so if you had a holiday weekend, sometimes people were getting the letter and only have 24 or 48 hours to get all the advertising off the web, so now we're just giving them that 7 days.

Chair Mardfin: Gina, I think that's reasonable, but at another place in here, I'm not going to be able to find it real quickly, there was some discussion about not all advertising is within the control of the owner.

Ms. Flammer: Yes. We'll get to that in a minute.

Chair Mardfin: Okay. So when you say they have to do something, it's something that's within their control?

Ms. Flammer: Yes, and they have to contact the department within those 7 days is what it is. I had one case where the woman chose not to pick up her mail and in delaying the 3 days, she ended up with, this is not this violation, but she ended up with a \$10,000 fine where had she just driven to the post office three days earlier, it would have stopped it but, anyway, this gives them a little bit of flexibility. The next one here where we're talking about any communication, it's not just advertising, but if we have an email from an owner saying hey great, here's your reservation date, that that counts as operating also. So that's in the short-term rental home bill where we asking that that be put into the -- or, actually, the council is asking that that be put into the bed and breakfast. And again, we're saying that if we give you a notice of warning, you have 7 days from when you receive it to then respond to us.

Chair Mardfin: Are we in consensus with that?

Ms. Flammer: Okay. So if we move to the bottom of page 5, again, this is all short-term rental home language that talks about advertising without a valid permit is prohibited. Sometimes when you read something so many times, you over analyze it to death, which is kind of what we did with this, so we made it as clear -- we're recommending that it just say, "If you're advertising an unpermitted bed and breakfast home." We did actually have someone say, hey, I am using a valid permit number. It just wasn't their number. We're just clarifying that that's not what we mean.

Chair Mardfin: Gina, this brings up, you had a letter here from mister --

Ms. Flammer: Dantes.

Chair Mardfin: Right. I guess. And he was quite concerned, and I think Mr. Dantes, and he was quite concerned that you have the "may" in there, and "may result in an enforcement action."

Ms. Flammer: That's going to come up --

Chair Mardfin: It's going to come up several times --

Ms. Flammer: Yeah.

Chair Mardfin: But it's a "shall" versus "may."

Ms. Flammer: Yes, and that's the core of this whole bill, frankly. Yeah, but I think that doesn't come up until the next section.

Chair Mardfin: Well, whatever we decide there should be retroactively done to this.

Ms. Flammer: Yeah, the section we're at right now, we haven't hit it, but we're going to hit it in just a minute. This is just if you're advertising, that means that you are operating and that -- oh, here we go. It does come up right in here. Thank you. It comes up at the very bottom of page 5. They are requesting that it say you shall -- the notice of warning shall say you shall stop within this certain amount of time. We're recommending "may." We're open to -- to what you want to know. We want to hear it. Dawn, did you want to say something on that?

Ms. Lono: "Shall."

Chair Mardfin: I am not thrilled with "may;" I think "shall" -- I don't mind giving them 7 days to correct it, but I do think it should -- something should be done. It shouldn't just be discretionary.

Ms. Flammer: And again --

Chair Mardfin: Are we in consensus on that? Yeah.

Ms. Flammer: Again, I just want to point out, and I did go to a meeting with those operators so I'm just stating their case, this is in a very limited circumstance where all the information has been provided to the department that they need, it's not when there's proactive enforcement, it's when they receive something, the department has to do very

little work. The department's concern was that there just isn't a lot of these cases where we have everything that we need. We'd love to have a magic bullet.

Ms. Lono: ...(inaudible - not speaking into the microphone)...

Ms. Flammer: There's not a lot of times where we'll get the complaint that has absolutely everything we need where we don't have to turn around and do -- go out and do extra work on it. We're trying to train the public how to give us exactly what we need. We're okay with if we have everything we need, we can act on it pretty quickly; it's when we actually have to go out and find the property, like Mr. Cashman just said, I guess the new thing now is to give your neighbor's address and not your own address, so if the ad comes in with the wrong address, it does take our enforcement officers a couple days. But again, this provision is only limited to where those specific instances --

Chair Mardfin: I want to ask our Corp. Counsel, "may" versus "shall," how about "will?" Is that sort of in the middle?

Ms. Jennifer Oana: Well, in terms of legal language, "shall" is mandatory and "may" is permissive.

Chair Mardfin: What about "will?"

Ms. Oana: "Will," if you want it to be mandatory. I would say "shall."

Chair Mardfin: Okay. So is it our consensus that they "shall" do it?

Ms. Flammer: You want to give me a little bit of background too on why you feel that's so important? I know Hana you deal with the enforcement issue maybe more than any other area. You want to me a little background on why it's so important that it's -- enforcement is done?

Ms. Lono: You're asking a question?

Ms. Flammer: Do you guys -- yeah.

Chair Mardfin: Dawn?

Ms. Flammer: That I can include in my report.

Ms. Lono: Well, there are so many illegal bed and breakfasts and short-term rental homes here operating for years, and since this ordinance came out and there is virtually no

enforcement out here, I know people have tried, I know it's been difficult for the department because you need certain information and proof and all of that, but I mean just reading in the Woessner application, what you're saying about how many short-term rentals and bed and breakfasts are there, it's a joke. I mean it's a joke. It's so inaccurate, it may be permitted bed and breakfasts and STRs, but that whole area down there is all pretty much short-term rental homes and bed and breakfasts, legal or illegal. So it's really important to find a way to capture the -- these people and either encourage them to get a permit so that they're paying appropriate taxes and that they're following the law and so that there is recourse for the community if there is a problem, and, you know, the people who are actually going through the process, and paying all of the fees, and paying the property taxes associated with having a B&B or an STR and not getting the benefits and all of that, I mean that's just so unfair and unbalanced, so they can undercut the price that they charge for their rooms because they don't have all of that overhead associated with the taxes and the GE and the property taxes and the fees associated with going in and getting a permit. I mean this is just fair and balancing the situation. And it seems to me it's almost near impossible because the way they're advertising now, there's no information about where it is, it may give a general like East Maui little icon, but there's no address, you have to contact them, and, you know, make a reservation, and it's very - I mean they're getting around it, and so this is going to make it maybe a little better for the people aren't smart enough to do that, but somehow we have to get to these people who are doing the advertising, the overall groups and agencies who are doing the advertising, and make them responsible for making sure that these are legal entities that they're advertising or they should get a fine. So that should be considered in here. If you're on Airbnb or whatever it is, and you're advertising an illegal bed and breakfast room or STRH, then that agency should get fine for illegal -- advertising an illegal bed and breakfast. That would be my recommendation.

Chair Mardfin: Gina, the one concern I will have, I agree with Dawn, although I'm not sure that you can fine Airbnb if they're not physically located in the State of Hawaii, I wouldn't want -- I agree with the "shall," but suppose the department isn't able to do it within 7 days or whatever it's supposed to be, I wouldn't that to turn into a loophole where the owner of the B&B could get out from under it by saying, well, they didn't see, talk to me in 7 days so I don't -- they can't do it now, which would be horrible, and I have no idea --

Ms. Flammer: There's a provision in there that's a little bit later on that they put in to address that.

Chair Mardfin: Okay.

Ms. Flammer: Whether or not it's strong enough, I don't know.

Chair Mardfin: Yeah. But that shouldn't be a loophole to get them out of things.

Ms. Flammer: The department, one of our comments has been that more staff is probably what's going to result -- yield the best results. I know we deal with competing monies. I mean does this group have any comments on additional government staff to monitor this?

Ms. Lono: I thought department already got staff to assist with the enforcement?

Ms. Flammer: I think we got a clerk.

Chair Mardfin: You're not going to get -- they're not going to get the staff. I don't see Maui County Council passing enough money to give the staff all they need to be able to do this island-wide in any reasonably short period of time.

Ms. Lono: Did the department request a position in the last budget?

Ms. Flammer: We requested a clerk position to help with it, and there's been discussion about how to approach this whether it actually be county staff or whether it be a third-party vendor. If you read the committee report, there was actually a presentation that day on a third-party vendor that could come in and do enforcement.

Ms. Lono: Well, you know, I just sit at my desk some days and the first time that I got this list, I went through these properties in, I don't know, 20 minutes. You have violators here that don't have their taxes paid. Is anybody looking at that? Is that clerk person sitting there like going this and checking? It takes like 2 minutes to go on and look and see who's in compliance. It's not a hard thing to do. I mean a lot could be done with things like this. If you're not in compliance with your property tax, if you're behind, you're not in compliance with your permit, right, for legal people? So enforcement on this end as well is important. I don't know. I mean I can see somebody 40 hours a week being able to do a considerable amount of work on a situation but what my question was was if the department asked for a position. If they need a position other than a clerk, then the department needs to ask for that position, and the Mayor needs to put it in the budget, and then, of course, it'll be considered by the council and go one way or the other, but it's important to get that on record that a position is needed, if it really truly is needed. I think a third-party situation is going to cost you way more money and you don't have as much control over it, I mean I don't know, I have to really think about that 'cause I just see that -- the county and the state being really overcharged for a lot of services in that way, so it's something to think about both ways.

Chair Mardfin: The one thing that the department seems to be doing in here though is putting in provisions that'll make them easier to enforce from their own desk rather than

have to go out and do site visits, so I think this whole effort of what the department, at least, is recommending is a way to get more bang for the buck with the existing staff, get more done because you're reducing the time requirements to do things, so I think they're heading in the right direction, whether it's fast enough is always difficult.

Ms. Lono: Well, Gina asked the question so that's my response to it.

Ms. Flammer: Okay good. Okay. Good. Let's move on.

Chair Mardfin: I'm sorry. Where are we, Gina?

Ms. Flammer: We're not heading into page 7. Okay, so when --

Chair Mardfin: Did we do -- did we do 6?

Ms. Flammer: That's what we just did. That's the "may" versus "shall," and you feel very strongly about a "shall."

Chair Mardfin: Oh, the other -- the other thing in here, on page 6, is, this came up several times, but the council version always said "unpermitted" something or other, and the Planning Department's always said without a valid -- crossed out "without a valid permit number. You're going to apply this regardless. It's not where they have a permit number that's important, it's what their behavior is that important, and so I actually concur with the department's position on this.

Ms. Flammer: Thank you. Yes, that's --

Chair Mardfin: I mean that was --

Ms. Flammer: Yes.

Chair Mardfin: That's come up -- came up many, many times through this.

Ms. Flammer: That was just ...(inaudible)...

Chair Mardfin: Is that ...(inaudible)... are we still in general consensus? I see nodding heads from others.

Ms. Flammer: Okay. Thanks. Okay, so if we move on to 7, when Council Services updated the bill to include enforcement provisions from the short-term rental home bill into the bed and breakfast bill, they put in a five-year ban. It wasn't -- it was -- I don't

know that any policy decisions were made. It was Council Services updating the bill in a way that they thought they were. What they ended up doing in updating it now is anybody that's running a B&B without a permit, if they're caught, they're subject to a five-year ban, which doesn't allow them to apply. Just something new, as we read through it, we kinda went what? We kinda traced it back.

Chair Mardfin: This is one where I have some real questions with the department's policy.

Ms. Flammer: Okay.

Chair Mardfin: I kinda like the five-year ban. I think that'll, you know --

Ms. Flammer: Okay.

Chair Mardfin: There are two things that deter crime: heavy punishments and the likelihood of being caught, and this doesn't do anything with the likelihood of being caught, the rest of it does, but this doesn't, but it does make the penalty heavier and should be a good incentive to clean up their behavior.

Ms. Flammer: Okay.

Chair Mardfin: Now, is there a -- they're already in a period where they - I forget the word for it.

Ms. Flammer: Amnesty. That only applies to short-term rentals.

Chair Mardfin: ...(inaudible)... amnesty. Are they still -- they're past the amnesty period?

Ms. Flammer: No. That's till the end of this year but it's only for short-term rentals, so what does happen is you have someone come in for short-term rental, they're banned because they've been caught advertising and operating illegally. In some cases, they do come in for a bed and breakfast next. It might be part of why this was put in here. We're looking to address that a little further down in the bill, but the way it's read right now with the bill as proposed is that if you're operating a B&B without a permit, you will be subject to a five-year ban.

Chair Mardfin: On B&B or on both B&B and short-term rentals?

Ms. Flammer: It would be both. It's already the law for short-term rentals.

Chair Mardfin: I like that, and I don't mind if there's a short period for amnesty for people to clear up their mess, but if they don't --

Ms. Flammer: Okay, that --

Chair Mardfin: It's cheaper to put people in prison. I mean this just means you can't do a certain kind of business.

Ms. Flammer: Okay. Is that -- am I seeing -- I mean am I seeing consensus?

Mr. Galestone: Yeah, I agree with that five-year.

Ms. Flammer: You do? Okay.

Mr. Galestone: I have a question. On the amnesty, have you have a good turnout on that?

Ms. Flammer: No, surprisingly. I think part of it has to do with they have to go back and pay property taxes for operating. They cannot have claimed the homeowner's exemption. We've had a couple cases where the people had claimed the homeowner's; right there, that means you're ineligible for applying for the amnesty, and there's a couple other things. So we're trying to figure out now is it because people are trying to figure out or is there just no interest. We won't really know till December. We had a deadline for short-term rentals the first year that if you came in by the end of 2012, there was no public hearing if there was another one within 500 feet, we had I think 31 applications on that, actually Clayton remembers the number, but so we won't know till December 31st, frankly.

Chair Mardfin: That particular violation of tax evasion, which makes a five-year ban very -- feel very good to me.

Ms. Flammer: Then they had to have been paying their GET and TAT, but they do have to go back and pay a brand new property tax rate for the county tax rate, so I don't -- I'd like to talk to people considering it and just hear their reasoning on it. We don't know yet.

Chair Mardfin: So I think our consensus on 5.31-5.42 is we don't agree with the department's recommendation. We like the five-year ban.

Ms. Flammer: Yeah. Yeah.

Chair Mardfin: And I see nodding heads all around me.

Ms. Flammer: Okay. And I think I heard you like it because you think it's an effective enforcement tool. Is that what I heard? And it's an issue of fairness?

Chair Mardfin: It's an effective incentive not to get caught doing it.

Ms. Flammer: Okay. Thank you.

Ms. Lono: Mr. Chair?

Chair Mardfin: Dawn.

Ms. Lono: I have a comment on the second section, the department, it says, and I'm a little bit confused, maybe you could explain it to me, it says, "Bed and breakfast operations provide housing for local residents unlike short-term rental homes." Does that mean that somebody live at the bed and breakfast so that's providing residence? Okay.

Ms. Flammer: I didn't write this particular paragraph but I can do my best to guess as to what they were --

Chair Mardfin: Yeah, it's like Kaua would have to be living there so that's providing housing --

Ms. Lono: Yes.

Chair Mardfin: For them.

Ms. Lono: I understand that. Okay.

Chair Mardfin: But that doesn't mean that if you're doing the wrong things, you should not get a five-year ban. You should still get a five-year ban.

Ms. Lono: I agree with that.

Ms. Flammer: Okay. Okay, the next one down below, again, it's just real clarifying language. I don't even know what else to say about that. The whole -- the original provision is being added from the short-term rental home that we have to notify real property tax of the B&B violators. We already do that for STRH so, again, it's just kinda updating the bill, and same with the one below that now anybody that's operating a B&B, we kinda do already, we don't really, in our enforcement with violations, differentiate between B&B and short-term rentals 'cause we don't know what they're doing, we're just seeing their advertising, so we've been fine with it. We just wanted to change the wording

to something we were a little more comfortable with. We don't know all unpermitted, but we do know the ones that have received notices of violation.

Chair Mardfin: Does the group agree with department's recommendation there? I think I see yes, so we're up to page 8. Oh, short page.

Ms. Flammer: Yeah, this is the end of the B&B section. Again, this came right from the short-term rental home bill the exception of two things here. Right now, we did provide a list to the State Department of Taxation, Real Property Tax, and it will be the council now, how many notice of issues -- I mean how many notices of warning and violation, but they're also interested in seeing the appeals, and outcome of the appeals, and we don't have any problem with that.

Chair Mardfin: But the essence of what's on page 8 is to just take out the word "unpermitted" --

Ms. Flammer: Yes.

Chair Mardfin: So any bed and breakfast, permitted or unpermitted.

Ms. Flammer: Yeah, and it does capture the violators, like you're talking about, that do have permits also, and we thought that's valuable.

Chair Mardfin: Good. We're in consensus on that page?

Ms. Flammer: Okay, so the next, the reason this is one the next page is these are the amendments to the short-term rental home ordinance. The first one, we're just throwing it out there for comment --

Chair Mardfin: We're still on the same bill, right? We're still on 16-93?

Ms. Flammer: It's the same bill. The same bill puts in two different sections of the code, as bills sometimes do, so for me and my table, it's just easier for me to keep things straight between what's the B&B section and what's the short-term rental home section.

Chair Mardfin: Right. This has nothing to do with 16-94?

Ms. Flammer: 94? 16 --

Chair Mardfin: The next one that we're going to deal with.

Ms. Flammer: No. We're not on ownership yet. Now, that's something different.

Chair Mardfin: We're not there yet.

Ms. Flammer: Okay. Okay, so there was discussion at the end of the short-term rental home amendments about making permits transferrable, it came from the council, and it came from this other one we're going to talk about if you don't own it for 5 years. We're just wanting to get the opinion of you folks on what you think of that.

Ms. Lono: Well, I would just like to say that that was a recommendation by this body when this originally came through.

Ms. Flammer: That they be transferable?

Ms. Lono: That they not be transferable.

Ms. Flammer: Oh yeah.

Ms. Lono: And that the property be owned, not just built, as it says currently, but be owned for five years before you can apply for a short-term rental or a B&B permit, and that is regarding speculation, and driving up property values and, therefore, the property taxes on surrounding properties, I mean it has severe impacts, and I know that there are a lot of people elsewhere on this island and in this county that are totally not in agreement with this, but here, this is very, very significant for our community, and this was recommended by this body previously, and it did not get picked up by the council or anybody throughout all the discussion, so at the end, it got brought up again after being brought up several times within, it got brought up forcefully toward the end, and Councilman Carroll, and I believe Elle, Council Member Cochran, also, you know, grabbed onto this for the Hana community, for the Hana Advisory Committee's recommendation. So I just want to make that clear on Councilman Carroll's behalf, as well as Elle's half -- behalf, that this came from the Hana Advisory Committee, originally.

Ms. Flammer: Oh yeah. The second -- or for sure. Yeah, right now somehow, this little clause got thrown into this section but it does more relate to if the property is sold. I'm not sure what's going to happen to this clause 'cause we had a department meeting and I have about five or six different reasons why we don't agree with it, so I think it's a -- we know it's going to come up for discussion so we wanted to have --

Chair Mardfin: Gina, this one where I had an "x" next to the department's position. I don't like that extra wording that it's easily transferable. I like the council's version on this. It

should be nontransferable and you gotta wait five years, if you buy a house, you gotta wait five years --

Ms. Flammer: Yeah.

Chair Mardfin: Before you can apply again. And I saw, it's in the next bill that we'll deal with, but they talk about, oh, it's going to hurt the tourist industry because -- the visitor industry because they'll cancel reservations. Too bad. I mean, first, houses generally don't sell overnight anyway. You have plenty of time to wind down your business if you know you're going to sell it, and that the succeeding owner will not be able to start it right up again. You gently close down your operation near the end. This -- and I'll say it when we get to the next one but I'll start it now just so you're thinking about it, this will reduce or put pressure on prices of houses that are engaged in this kind of business. If they can't transfer it, the owner who's been benefitting from this all along will have to take a -- will probably take a lower price. They'll have to. And I like not letting it be transferable.

Ms. Lono: So could we make a recommendation that under existing code that it should say, "A permit is not transferable."

Ms. Flammer: Or you could just leave it the way it is. I mean that's just -- I will bring up something because it could come up at council. The short-term rental home allows it to be transferred upon death of the permit holder to an immediate family member.

Chair Mardfin: That's a different circumstance.

Ms. Flammer: Yeah, I'm just asking, when it comes up, do you have any opinions?

Chair Mardfin: We'll get to it in the next bill. In the next bill --

Ms. Flammer: It's not in the next bill.

Chair Mardfin: It's not?

Ms. Flammer: But --

Chair Mardfin: No, but, right now, it says you have -- there is an exception upon the death of a permit holder to an immediate family member.

Ms. Flammer: Oh, we're recommending that as well. That's right. I see that. That's -- hold on a second.

Chair Mardfin: But that was in the existing code.

Ms. Flammer: Oh, I'm sorry. We're in the short-term rental home, even though it's on a separate page, I'm still working on the --

Chair Mardfin: It was in the --

Ms. Flammer: Yes.

Chair Mardfin: It's in the existing code.

Ms. Flammer: Yes. Yes.

Chair Mardfin: So I don't have a problem with it going to a family member. I have a problem if it were being sold.

Ms. Flammer: Being sold. Right. Okay. Sorry. I had to get my brain around it.

Chair Mardfin: I think we have consensus on that.

Ms. Flammer: Yeah. Okay. Okay. Thank you. Ed?

(Committee Member Clayton Carvalho, Jr. arrived at 5:15 p.m.)

Mr. Cashman: ...(inaudible - not speaking into the microphone)... in fact, we had -- we had one in Hamoa. The property was sold, and then they were still operating; then I kinda questioned how come they still operating, and I was told that the permit was transferred administratively. Then I also asked then, "Who's the manager?" They said, "Well, the former owner still lives there." I said, "Well, is the former owner," you know, you had to be one broker, you know, but I was told it was transferred, and this is the law.

Chair Mardfin: That shouldn't have been. Make sure the Planning Department knows about it.

Mr. Cashman: I was told today that the former owner was sick but, you know, if went from one owner to an LLC so --

Chair Mardfin: They're not supposed to be LLCs involved in this either.

Ms. Flammer: No, there aren't. We're in the short-term rental ...(inaudible)...

Chair Mardfin: Short-term rental. Okay. But not B&Bs.

Ms. Flammer: I will tell you what happened in this particular case, and it's not the only case where this has happened. The property is sold. The new owner comes in for a brand new permit. When you come in for a permit, we can turn it around in about 47 days; you got the 45-day period for the neighbor notice, and then if it's administrative, if it doesn't come to you for a hearing, if it doesn't meet any of those triggers, there's not another -- actually, the short-term rental just went to 2, so there's not another 2 within 500 feet, or you don't get the neighbor protests, or there was no variance, then it is approved administratively. So we've had a number of cases where these properties were sold, they're supposed to shut down operations, they come in for a new permit, and then we either bring them to Commission if --

Chair Mardfin: And that's because there's no five-year waiting period of ownership before you can start?

Ms. Flammer: Exactly. Yeah.

Chair Mardfin: So that has to be passed before we can put an end to this business?

Ms. Flammer: Yeah. Yeah, I wouldn't say they're transferred, but they do -- we do require them to shut down.

Ms. Lono: ...(inaudible - not speaking into the microphone)...

Ms. Flammer: Well, it's happened with Planning Commission review, but they do come in for a brand new permit is how it happens. But we'll get to the next one --

Chair Mardfin: Yeah.

Ms. Flammer: And that's where we're talking about addressing this. Okay.

Chair Mardfin: So if it doesn't have to come to us, it just goes to the director, then the director could say, no, I'm sorry. Our policy is you wait five years before you can apply for --

Ms. Flammer: No, we administer the code, so we can't set a policy that's inconsistent with the county code.

Chair Mardfin: Until a bill passes that prohibits it. Okay.

Ms. Flammer: Yeah. Okay, so --

Mr. Cashman: Yeah, my name is Ed Cashman. To me, the public, especially the one that live there, have to be notified. I pass that house every day, I've never did see a sign.

Chair Mardfin: Are you within 500 feet of it?

Mr. Cashman: No. I'm not in 500 feet. But within 500 feet, you have at least 5 other ones, but we don't have input. Part of the law is they have to put a sign. There was never a sign.

Ms. Flammer: There was sign up. It's small. It's two feet by two feet. There was a new notice sign. But again, it's up for 45 days and that's it with these.

Mr. Cashman: ...(inaudible - not speaking into the microphone)...

Chair Mardfin: Let's move right along.

Ms. Flammer: Okay.

Chair Mardfin: I think Gina will go back and check on some of the things but --

Ms. Flammer: No, I was the planner. I did the site visit. I saw the sign, and I have a picture of it, but it was only up for 47 days in that case, but nonetheless, we'll get to the next bill, that'll deal with these bigger issues.

Chair Mardfin: Okay.

Ms. Flammer: Okay, so I hear you loud and clear on the transferability. The next one --

Chair Mardfin: Thank you, Ed.

Ms. Flammer: At the end of the short rental home amendments with the council, council decided to add in some specific provisions for CPRs. Is everyone familiar with what a condominium property regime is where you can take a single lot and, it's a state process, where you can divide the ownership of the lot into a number of lots, however, you cannot change the density that's allowed under county code. What we see the most is someone will divide it into two and keep the main house on one and the cottage will be on a second, and then you can sell it, one or both, and you have two separate property owners. Sometimes you have residential properties that allow three different houses so, in those cases, you may see three CPRs, it doesn't give a higher density but it does allow

individual ownership of these different things. The county considers it still one parcel, one lot, so we were having those owners come in under one permit. The council decided that they didn't -- they wanted to give each of those individual units their own permit. It kinda came at the end. We tried to do our best to discourage it 'cause there's a lot of problems in administering it, but nonetheless it passed, so we're recommending some clarification in there.

Chair Mardfin: I'm lost. Where are we?

Ms. Flammer: We're on page 9 right now, and we're in the part of the bill that the department is using this bill to get some clarifying language so we can --

Chair Mardfin: Restrictions and standards?

Ms. Flammer: It's, yeah, the second section, 19.650.30A, where it says, "No changes in proposed bill," and then it gives you the existing code. So our language in here, it talks about when there is a CPR, whose -- the first one just says where the CPR language -- what part of the code it applies to - Does it apply to the entire bill? Does it not? The second one says, in terms of who you're notifying, we're recommending that they notify everybody from the larger lot, not just from that mini lot, there really is no way for us to get a 500-foot list off that mini lot, so we're recommending that as a clarifying change. Keep in mind the policy is set in code as it is, I mean you can make your comments about it and they'll discuss it again, but this is what they've decided.

Chair Mardfin: Let me ask a question, hypothetical. There's a larger lot somewhere in the area and they didn't -- they haven't subdivide it but they've informally put three different owners on it, I mean they've -- three different houses on it, and each one decides they want to do a B&B and the effect of this would be what? To allow each one to do a B&B or only allow one B&B on the property?

Ms. Flammer: Is it subject to a condominium property regime?

Chair Mardfin: Not officially, as far as I would think.

Ms. Flammer: These provisions only apply for short-term rental homes when there has been a legal condominium property regime.

Chair Mardfin: So if it were just an informal arrangement where there are three homes and three different owners and they --

Ms. Flammer: You can only have a B&B on two of the dwellings.

Chair Mardfin: But you could do it on two?

Ms. Flammer: You can do it on two, yeah.

Chair Mardfin: Okay. Thank you.

Ms. Flammer: So I see here there's only two kinda cleaning up how to do the CPR, but that's why that's in there. Again, it's just kinda clean-up language ...(inaudible)...

Chair Mardfin: Is this page 10?

Ms. Flammer: Now we're on page 10.

Chair Mardfin: Okay.

Ms. Flammer: So as often happens, when you're at the end of a bill, there's a flurry of activity; one of those flurries of activity was at the very end, Council Member Gladys Baisa introduced a certification form as part of the application process. It's a great idea. The owner has to certify, and this is part of what we were talking about with who's on board with this application, but you also have to say you haven't rented illegally, that you had no financial interest in any other property that has a permit, but also imbedded into this is language about the amnesty, and when the amnesty is over, the language doesn't go away, it's been codified, so we're just recommending that this -- this, likely, by the time we get to this, the amnesty will be over, we'd like to update the language to update that.

Chair Mardfin: That seem -- to me that seems reasonable. Anybody -- Hi, Clayton. Clayton Carvalho has arrived, maybe a while back. Any other comments?

Ms. Flammer: Okay, now one other that's --

Chair Mardfin: Oh, Dawn has one.

Ms. Lono: Why -- why are you taking out 1, 2, 3, and 4? Or why is the department recommending the removal of 1, 2, 3, and 4?

Ms. Flammer: Because after six months or over -- the amnesty period is over, if you check any of those boxes, you can't come in for a permit. You've operated illegally.

Ms. Lono: Yay.

Ms. Flammer: Right. So they don't need to check those boxes. They just need to check "A." So if they check "A," it doesn't matter. I mean we didn't want to give them the impression that it's okay by telling them that please show your state tax clearance because it's not going to matter. The amnesty period is over. Okay, the only other thing I want to show you is that we've introduced a new concept within this called "the look back period," so how far -- how far back were you operating and does it matter. The department has decided within five years, so if you were operating ten years ago, it wouldn't make you ineligible, but five years would. So I don't know, do you have any comments about what -- we're calling "a look back period?"

Chair Mardfin: It'd be hard to -- might be hard to get records on -- much earlier, and if they've stopped for five years, I don't have a problem with it.

Ms. Flammer: Is that kind of a general --

Chair Mardfin: Are we in general concurrence on that?

Ms. Flammer: Okay. You're okay with that.

Chair Mardfin: Go on.

Ms. Flammer: okay, so if we continue on to page 11, again, this has to do with the CPR whether or not -- and what -- who can give a protest. So what we're saying is that anybody within the 500 feet measured from the entire lot can give a protest. Also, those other CPR units can issue a protest. I know we have some people that live on --

Ms. Lono: ...(inaudible - not speaking into the microphone)...

Chair Mardfin: The top of page 11.

Ms. Flammer: That's the end of the certification.

Chair Mardfin: Gina, I have one little comment about d., at the top of page 11.

Ms. Flammer: Sure.

Chair Mardfin: It says, "The owner has paid, or will pay, all fines . . ." I don't like "or will pay." They either paid them or they didn't pay them.

Ms. Flammer: I'll tell you why that's in there.

Chair Mardfin: I'm sorry?

Ms. Flammer: It's a legal reason. We -- they have to pay before they can come in for the application but they have to do it voluntarily, otherwise, it could be considered a takings, so we -- a takings, so they have to volunteer and pay out of their own will, which is why "or will" was added to the language, however, they cannot actually come in until it has been paid.

Chair Mardfin: I don't understand.

Ms. Flammer: I hope I'm doing a good job explaining that.

Chair Mardfin: I don't understand why you need the comma "or will pay" comma.

Ms. Flammer: It was put in by our attorney, Mike Hopper, so that it was legally defensible, that we weren't forcing people to pay a tax or pay something.

Chair Mardfin: I'm not a lawyer. I guess I can't object.

Ms. Flammer: Then they have to pay it or we do not issue the permit.

Chair Mardfin: Okay.

Ms. Flammer: So -- well, he'll be there when we go to council to clarify. I'll get a better understanding of that when I go to the other commissions.

Chair Mardfin: I mean I -- I just -- I'm not a lawyer so I know there are things that you guys do that --

Ms. Flammer: Okay. Are we okay with moving down to the CPR language? It just wants to make sure that everybody within 500 feet has a right. Yeah. Okay.

Ms. Lono: ...(inaudible - not speaking into the microphone)...

Chair Mardfin: I'm sorry?

Ms. Lono: Consensus?

Chair Mardfin: On the bottom one?

Ms. Lono: Yeah.

Chair Mardfin: Yeah. Consensus on the bottom one? I do have one quick question.

Ms. Flammer: Sure.

Chair Mardfin: When you're -- the 500 feet, you're measuring in a -- say you have a condo, the 500 feet's being measured from ground level, not from the height of the building, right?

Ms. Flammer: It's outward. It's a radius from the lot --

Chair Mardfin: Yes. Okay. So it's -- okay.

Ms. Flammer: Yeah, and it's from the actual lot line.

Chair Mardfin: 'Cause from the unit, you know, the ...(inaudible)... is longer than the --

Ms. Flammer: Right.

Chair Mardfin: The base.

Ms. Flammer: Yeah. Yeah. No, it's not -- yeah. It's an interesting -- yeah, like a skyscraper would be radically different, yeah. No, it's actually from the lot itself out so --

Chair Mardfin: I get it. I assumed that was the case but --

Ms. Flammer: Okay. Again, the next one we're just clarifying that CPR lots that it is the entire lot. And then again, if we go to the bottom of page 12, we just wanna give people 180 days to come in and not just the 90 days; give them a little more time; same as we talked about with the B&B.

Chair Mardfin: Can -- can you explain again why?

Ms. Flammer: Sure.

Chair Mardfin: I didn't have an "x" next to this but I did have question marks next to it.

Ms. Flammer: Yeah. The condition that was written in the permits would say you must apply within 90 days from your expiration date. So when we sat down and looked at it with one of our attorneys, they said, well you know, if deny someone a renewal when they apply at day 89, day 90 is their expiration date, so you need to get some clarity with this, and I said, okay, what do you recommend, so they said you have to come in within 90

days, you know, and then we thought, well, that doesn't -- okay, it doesn't really give us enough time to process applications if they're coming in on, you know, day 1, and they're expired the next day, but I guess, legally, they do have a right to do that. But then we had operators that said to us before it said, you know, 90 days in advance, you know now we've limited them to 90 days or before, so they wanted more certainty so that's why we went from 90, we're requesting now 180 days. Legally, they could still come in on day 1 when it's, you know, the next day it expires.

Chair Mardfin: And, legally, you can say no?

Ms. Flammer: No. We can say no only once the permit has expired itself.

Ms. Lono: If it's complete. If it's incomplete though. If it's complete, then you can't say no. But if there's anything in it that's not complete then you can say --

Ms. Flammer: As long as it's substantially complete, and we didn't really define that, but this is why, the state has been having great difficulty issuing their A-6 tax clearance forms, it's taken six, nine months in some cases if it's due around April.

Chair Mardfin: I guess my view is while I don't really think you need to go to 180, it doesn't totally offend me, so I guess I don't care all that much.

Ms. Flammer: You know, we get -- I joke. I have a couple Swiss applicants that just follow everything to law and they would like to send it in as far as in -- I actually have somebody who's is not Swiss who sent it in a year in advance because he was taking reservations and he wanted to assure that -- be assured.

Chair Mardfin: I can see that. Are we in concurrence with the department's view? I think we are.

Ms. Flammer: Okay.

Chair Mardfin: Now are we up to page 13?

Ms. Flammer: Yes. Okay so -- okay so page 13 again is, we talked about this with the B&B bill, where we -- we combined what the criteria are for not revoking a permit -- I mean for -- right now, we're in the non-renewal section, and we just wanted to clean up some of the language in it. The first -- now, we're in the short-term rental home section, we already talked about it for B&B, we wanted to make the complaints give us a little more flexibility, and I could just add your same comment about that maybe take out the 500 foot radius? Okay.

Ms. Lono: Yes. If everybody agrees with that.

Ms. Flammer: Okay, and then we're going to hit the same --

Chair Mardfin: Are we in concurrence? Yes, I believe so.

Ms. Flammer: And then we're going to hit the same one again when we revoke. It's the same language again.

Chair Mardfin: Yes ...(inaudible)... the same objection.

Ms. Flammer: So I'll add the same comment. Yeah. Okay. Okay, so now we can move, we're almost done with this, we can move to page 14. Okay, so these are the same things we talked about with the B&B bill. The most important part is the neighbors and shall.

Chair Mardfin: Wait, wait, wait, wait, wait, wait, wait. Are we at the top of 14 or --

Ms. Flammer: No, we're in the middle. The top is just --

Chair Mardfin: Hang on 'cause the top one says, under the department's position, "If the director revokes a permit, the department shall not accept a new application for a short-term rental home permit from the same permit holder for two years after the date of the previous permit's expiration date." Why not five years?

Ms. Flammer: Oh, you know what? That's actually the law right now. It's two years. You can make a recommendation to go to five. We're just adding different -- our head of enforcement just wanted it to say "if the director revokes the permit" versus "if the permit is revoked."

Chair Mardfin: Well, I kinda -- I don't have objection to that but I think two years should be five years.

Ms. Flammer: I'm happy to make a comment. Is that what you guys -- are you good with -- you like five years? Yeah? It would make it easier with training all these new planners that are trying to keep all these different time periods in their heads.

Chair Mardfin: Yeah.

Ms. Flammer: Okay.

Chair Mardfin: I think you have concurrence on a five-year ban.

Ms. Lono: Is there any other way -- the director is the only one that revokes permits?

Ms. Flammer: No, it's only the director.

Ms. Lono: It's only the director. That was my question. Okay.

Ms. Flammer: Yeah. In our law, the way we do it here in Hawaii, yeah. Okay. Okay, your comment is that you recommend five year instead of the two. Okay.

Chair Mardfin: Yeah.

Ms. Flammer: Okay, great. So this next section again, it's kinda the heart of the whole bill, the "may" versus "shall." I can go ahead and just repeat your earlier comments. Is there anything in addition that you wanted to add?

Chair Mardfin: I agree with you that it should be "shall" not "may." I'm looking at the middle column, creates conformity; establishes a seven-day time period for removing ads from date of letter. It only applies wording of a notice of warning. Notice of warning wording is already used by department. I'm a little lost on what that whole thing means.

Ms. Flammer: Oh, the language that they're suggesting to the left there, it's just -- it shall specify that failure to cease advertising shall result in issuance of a notice of violation and an order to pay civil fines. Our wording pretty much says that. It doesn't --

Ms. Lono: ...(inaudible - not speaking into the microphone)... may.

Ms. Flammer: Yeah. What we currently say, we don't use the word "shall." I think we use the word "will," frankly. The department just doesn't want to be forced into using the word "shall," though I almost included one of our, I didn't want to embarrass anybody, I almost included one of the notices of warning so you could see what it says. It's pretty strong language. It doesn't say "may." I think the department is just wanting to not -- they want a little bit of flexibility in case they need it in the future, but those NOWs are very strongly worded as it is now, and that's why I put that in, "Notice of NOW wording," is I mean pretty much what they're saying is almost the same except we don't use -- I think we say "it will result," which --

Chair Mardfin: I can live with "will."

Ms. Flammer: It's what it says now.

Chair Mardfin: But I prefer "will" over "may."

Ms. Flammer: Yeah.

Chair Mardfin: I prefer "shall" over "will."

Ms. Flammer: Yeah, so I'm just going to use your same comments earlier, "shall," and why you think it's so important.

Chair Mardfin: Okay.

Ms. Flammer: Okay. Then again, we're giving them seven days from when they receive the notice.

Chair Mardfin: That's fine.

Ms. Flammer: Yeah. Okay.

Chair Mardfin: For me it's fine at least. I think we're in concurrence still? Yep.

Ms. Lono: Recommend deleting 2 and 3?

Ms. Flammer: Well, that's again because --

Ms. Lono: ...(inaudible - not speaking into the microphone)...

Ms. Flammer: Yeah. They just -- the thought is that to tell them within 30 days of receiving it, they have to have everything done within the deadline. There's concern that if people don't meet that 30 days.

Ms. Lono: Why are we taking a leniency approach? I mean if they've been operating, advertising, all of this, in violation of the law, well then they need to come in compliance within a stricter amount of time perhaps because they should be at least knowledgeable about what it requires, you know, if they're operating. I just don't see giving leniency there as something that's beneficial to what we're trying to do here.

Ms. Flammer: I don't think it's an issue of lenience as much as it is an issue of concern about manpower. The enforcement division deals with all of Title 19 as well as all of the state SMA, and there are times when certain enforcement actions, I don't know if you recall when the signs became a big issue about two years ago, one or two people got a

warning for having too many signs on the property which led to other owners turning in them in and all of a sudden we were flooded with sign violations, so we handled sign violations exclusively for three months, so I think there's concern about that where all of a sudden if we're required to spend more time on our SMA violations, I think they're just a little concern that 30 days is problematic and they wanted -- I think that's the big concern. I mean again, it's really only for the complaints that come in and have everything in them, you know, so it is a small percentage, it's applying to everything.

Chair Mardfin: Okay.

Ms. Flammer: I mean I wish there were an easier answer to get better enforcement, frankly. I think we're all on the same page that we all want it, it's just --

Chair Mardfin: I think we're still together?

Ms. Flammer: Yeah. You like the "shall." You're okay with specified time periods because you think it'll make it more effective.

Chair Mardfin: Are we up to page 15? Three more to go.

Ms. Flammer: And again, these are all the things we've talked about. Again, it's the "may" versus the "shall," and I think I have your language. I understand. So if we move to the bottom, what this does is --

Chair Mardfin: Except, Gina, the center column, no. 5, "Provides legal protection in cases where the department is not able to meet mandatory deadlines."

Ms. Flammer: Yeah, that's no. 5 that's in the bill. It says, "The department's failure to serve a notice of warning or notice of violation within a time limit specified in this section shall not invalidate the notice of warning or notice of violation." It addresses your earlier concern. We're okay with that.

Chair Mardfin: So I like that.

Ms. Flammer: Yeah, we were okay with that.

Chair Mardfin: But in your department's thing, it says, "Delete section 5 if sections 2 and 3 are deleted." Keep it if these sections are kept.

Ms. Flammer: Yeah, so if there are no time limits for notice of warning or violations, there's no need for 5. That's all they're saying.

Chair Mardfin: Okay. Now, we're at the bottom of 15?

Ms. Flammer: We're at the bottom of 15 which says what we're recommending is that -- well, first of all, the bill is saying, when you get your five-year ban, it's from the most recent department notification of unlawful operation. So if you continue, which some people do, to operate illegally, your ban moves further and further out; that's what it's saying. We also ask that people that get the five-year ban not be allowed to come in for a bed and breakfast.

Chair Mardfin: That's good.

Ms. Flammer: Yeah, and also that the property itself not be able to come in for a short-term rental home permit.

Chair Mardfin: That's also good.

Ms. Flammer: Am I seeing nodding heads for both of those? Okay. Okay. Thank you. It looks like the last one we're really just dealing with some clarification languages. Instead of "known unpermitted," those that have received violations, same as we talked about at the very end of the bed and breakfast. And again, we're okay with notifying the council of NOWs, notices of violation, appeals. That's fine with us.

Chair Mardfin: So I think we're in concurrence with that, the department's position on that. And we're up to page 17?

Ms. Flammer: And that's it. Yeah. It's the end of this one.

Chair Mardfin: And are we all agreed with the department's recommendation on 9.40 to 10.11? I think I'm seeing nods or at least no objections, so we're in --

Ms. Flammer: Okay.

Chair Mardfin: So on the whole thing, you have our comments, considerations, and we're in general -- it's amazing that we're in great consensus with each other, which is a wonderful thing to have happen.

Ms. Flammer: Yeah.

Chair Mardfin: But happens often in Hana. Dawn?

Ms. Lono: I don't know if this is appropriate or not at this point in time and within this bill, but the recommendation from the Hana Advisory Committee previously was to reduce the B&B permit cap from 48 to 30, and that's -- in here it says it's still 48?

Ms. Flammer: You know, we really want council to take up those amendments to the B&B bill. It's just -- the short-term rental amendments have come and gone, we're past that, we were hoping he'd go right to the B&B amendments, it hasn't happened, they promised this bill first, so this updates some of the B&B, but it doesn't update the entire B&B.

Ms. Lono: Well, can we make a recommendation within this bill --

Ms. Flammer: Sure.

Ms. Lono: That that be added and I would like to make a recommendation that the cap on B&Bs for Hana be reduced from 48 to 30 per the previous recommendation of the Hana Advisory Committee, and then supported by this Hana Advisory Committee, if we agree.

Chair Mardfin: Is your motion to reduce the cap from 48 to 30?

Ms. Lono: Yes.

Chair Mardfin: Is there a second?

Mr. Notestone: I second that.

Chair Mardfin: Is there discussion? Clayton?

Mr. Clayton Carvalho: I just had more a question. The last time we suggested this cap, where did we leave of in regards to the county?

Ms. Flammer: So the last time you suggested it was for the short-term rental home bill and the council did end up adopting it for short-term rental homes, so they reduced the cap for Hana from 48 to 30. Because they haven't taken up the bed and breakfast bill, they did not reduce that. It's still at 48.

Mr. Carvalho: Thank you.

Ms. Lono: And I just --

Chair Mardfin: But the effect of Dawn's motion would be to renew our recommendation that that be done.

Ms. Flammer: And try to use this bill as a vehicle to make it happen sooner.

Ms. Lono: And the rationale behind that has to do with all of this lack of housing, not only affordable housing, but housing period - rental housing within our comment for even our professionals, our teachers, our police officers, our firemen, you know, they're just -- it's all being taken up by these rentals, and not only that, we have finite amount of resources, not only within this community, but within our island and our state. We cannot create anymore beaches. We cannot create anymore pathways into the forest to go and experience the wonders of the island without severe, you know, negative impacts, and it's just becoming overwhelming, and I don't know if any of our other Committee Members have noticed this, but it has become overwhelming in the last couple of years the amount of tourism in our community, which is welcomed on some parts because of the income that it brings in and the -- and all of that, but on the other side, it is just severely depleting our resources. We can't even come to our own beach on the weekends here at Hana Bay. Where else do we have to go with our families and stuff as safe -- safe beaches. It's just backed. There's no place to park. We can't use our pavilion because all the busses are coming in and using it. All the tourists that are coming into Hana are using the resources, which they have a right to, but, man, there's gotta be some way to balance it. There's gotta be a balance. So our housing and our resources are severely depleted and are at risk, so we need to pay attention to that and try to do something about it before it goes too far. 'Cause once it goes too far, you can't retract it. You can't say, oh, we got 48. Well, that's too much. Let's reduce it once they're all taken. So let's do it now.

Ms. Flammer: Okay.

Chair Mardfin: Is there anymore discussion on Dawn's motion to request that the cap on B&Bs be lowered from 48 to 30? Seeing no more discussion --

Ms. Flammer: I'm hearing that this is related to the enforcement bill because it's the same issue. If you combine enforcement along with reducing this, you're going to have a better balance between tourism and your residential needs. Is that what you're telling me?

Ms. Lono: ...(inaudible - not speaking into the microphone)...

Ms. Flammer: Okay.

There being no further discussion, the motion was put to a vote.

It has been moved by Committee Member Lono, seconded by Committee Member Notestone, then unanimously

VOTED: that the cap for bed and breakfast permits for Hana be reduced from 48 to 30.

Chair Mardfin: It is a unanimous vote, six-zero. That finishes Communications no. 1. We're up to Communications no. 2.

Chair Mardfin read the following agenda item into the record:

- 2. MAUI PLANNING COMMISSION requesting recommendations on Council Resolution No. 16-94 to the Lanai, Maui and Molokai, Planning Commissions containing a Proposed Bill Amending Section 19.65.030 of the Maui County Code to Establish Ownership Durational Requirements for Short-Term Rental Home Applications, (G. Flammer)**

The Committee may act to provide its recommendations on the proposed legislation.

Chair Mardfin: And strangely enough, the planner on this is Gina again.

Ms. Flammer: Yes, even more interesting is this is where the idea came from was meeting in here.

Chair Mardfin: I'm closing testimony on the last bill. There is no one here for testimony on the current bill so I am opening it, and now closing it. Thank you. Gina?

Ms. Flammer: Okay, good. So I often tell members of the public that they really can make a difference. This idea came up in here. It was kinda buried with the stack of information that went to the council on the short-term rental home amendments. I mean their binder was -- I'm showing about four-inches thick. So it really took two people, really, that pushed this forward through, and it took a little bit of time, but it finally caught; unfortunately, it caught at the very end of the discussion and, therefore we have it as its own bill, and it's worthy of its own bill because of the discussion that's going to happen, so we have a bill here that talks about people having to own a property for five years before they can turn it into a short-term rental, however, there are three exceptions to it; the first being a six-month grace period. It gives everybody just a chance to get used to this. If you're in the process of applying, you can finish up. The second is going to be where most of the discussion is going to be held at council. The exception is if you have a house with a building valued that is over -- under? I think it meant to say "over," over a

million dollars, you can come in within the five-year period. And then the third is this transferability. Previously permitted properties would have the right to come in within the five years; that was kinda negotiated on the floor at the end. The one million dollar mark was just a quick attempt by one of the council members to try define what is -- what's residential, what's a property value for that, so in order -- that's going to be an interesting discussion. I did a chart in here of all the existing permits, and I tried to capture the information I could as to what the building values are, and then what the total assessed value of the property is. So we can just jump right into your comments overall on the bill, and then maybe your comments on the three different exceptions to the bill.

Chair Mardfin: Dawn?

Ms. Lono: Okay, houses with building values under one million dollars --

Ms. Flammer: I think it's supposed to be "over." Sorry.

Ms. Lono: Are subject -- are subject to this?

Ms. Flammer: Yes.

Ms. Lono: Right. Now, I listened to the meeting and I heard the council member and her rationale behind this, and it really applies to areas other than the Hana Community Plan district because I've been a property manager in this community for a very long time, and there are a lot of houses that are valued over a million dollars that are long-term rentals, and it's because the property values are pretty high, and I know they're higher in other areas of this island, but we have larger properties, so this is saying the house value itself rather than the property value, and that's the assessed value versus --

Ms. Flammer: Of the building itself.

Ms. Lono: Of the building. Okay, I gotta think about that a little bit more because the -- you know, I can name several properties right now that have building values that are over a million dollars that are long-term rentals this, conceivably, could push them to say, oh, okay. You know, I can do this. So I don't know. I have a little bit of problem with that one million dollars. I really need to think about it, and I'd like to hear what anybody else on the Committee thinks about that.

Ms. Flammer: And I'd love it if you could take a look at the chart. When we had our department meeting, we actually thought the million was a little bit low. I noticed, when I did the chart of the property values and building values, you get some that are around a million, you get a couple that are a million two-hundred fifty maybe, and then there's an

enormous jump, and, you know, I think there's a real misnomer that most of these properties are really high end. When you look at the numbers here, it's not the case, but there are a number of them that are extremely high end and I think that's what they're trying to capture, but where do find that number? That's what we wanna --

Chair Mardfin: Gina?

Ms. Lono: Is there an average?

Ms. Flammer: I did not do a median and I did not do an average. It was too hard with trying to deal with property value versus building values and trying to figure out what buildings apply to what.

Chair Mardfin: Gina, I'm looking at Exhibit 2, which is I think what you're looking at, and I'm looking at page 1 because that's Hana.

Ms. Flammer: Yes.

Chair Mardfin: There's not a single property there that has a combined building value of a million dollars. They're all under a million dollars.

Ms. Flammer: Yeah. You know, yeah. Some of them are really ...(inaudible)...

Chair Mardfin: Now, which when you put in land value, then you get to two of them that are over a million dollars, total assessed, there are two that over a million dollars.

Ms. Lono: But that supports my point that there are people who have properties where the building value is over a million dollars who are renting it out long term --

Chair Mardfin: Yes.

Ms. Lono: Rather than turning it into a short-term rental home or a B&B, and I think what I heard in that meeting was that, oh, these people that own these multi-million dollar properties, you know, they're not going to rent it out long term, they're going to -- they want to come here periodically through the year, and stay in their property, and come and visit, and have it available to them, but in between time, they could make it available as a short-term or a B&B. So I don't get that for out here, and so maybe there's some way that we could put in here excludes the Hana Community Plan area for that one million dollars.

Ms. Flammer: You could it. It'd also be good just to get a sense of -- the other thing that I heard in that meeting is that residents can't afford a certain dollar amount to rent.

Ms. Lono: Well, not all people who own these million dollar homes, you know, when they rent it out, they don't necessarily say, oh, my home is worth, you know, two million dollars so the rent is \$3,000 a month. They know that people here cannot afford that.

Ms. Flammer: In Hana you're talking about?

Ms. Lono: Yeah, and they have -- yeah. I'm talking specifically to the Hana Community Plan area, so there are people who do rent out for a reasonable amount of money, \$1500 to professional, you know the professional community that can afford that, so this doesn't really ring true for me here, so that's what I'm bringing up.

Chair Mardfin: Any other Committee Members wanna weigh in on this? No? I do wanna weigh in on this as an economist more than a member of the Committee, I don't mind the six-month grace period exception. That's fine with me. I'm not wild about either one of the other two amendments; in fact, I really don't like these houses with the building value of over a million dollars being exempted because that will, basically, say this will never be in any other kind of ownership, and it's not even getting into the transfer of ownership where there'd be a five-year ban on doing it anyway. I mean this is exempting them from that five-year ban sort of. I don't think that ought to happen. And what would happen is if you could not continue, if it had to be shut down for five years, the current owner would lose money. They cannot sell it for as much as they would be if it was a continuing operation because it's not as valuable if you can't use it for five years, so that will result in the price coming down a bit, which might put it back, maybe, into more affordable things or open it up to something other than short-term rental. Do I don't think the houses with a building value over a million should be exempted from this. I'd be almost willing to say make it ten years for them instead of five years, I'm not actually proposing that, but that would reduce the incentive to keep the price high, and I don't feel really sorry for the owner who winds up selling at a reduced price because they bought it at less than that, it's still going to be higher, so they're going to be okay, just not okay-okay. The third one, previously permitted properties, I could sort of live with that but I don't really want to. I think there ought to be -- you know, just saying, well it's been used for it so it's probably okay, I think the five-year ban serves a purpose of putting a break on rapidly expanding housing prices, and if it's a break at the top, it'll trickle -- I expect it to trickle down a bit to lower valued houses that aren't being used in this. I think exemption 2 and 3 should be withdrawn, and on 2 I feel especially committed, but I don't think either one should be there; just 'cause somebody's gotten a permit in the past doesn't mean that a new owner should get it. This is consistent with what we were saying on the first bill that the five-year stop should act as a break on rapidly increasing housing prices. Dawn?

Ms. Lono: Well, that also allows other people who are waiting, if the cap is met, other people who are waiting to perhaps apply to be able to come in and have a business in the meantime and, again, this inflationary is a really, really big issue on being able to sell it as an STRH or a B&B increases the value significantly of that property, and when that property sells for that amount of money, then that impacts the surrounding properties, is my understanding, so, boy, that can be a really big hit to somebody. And I, no. 3, I am against that, and if -- if there's going to be an argument within the council, which I know there will be, perhaps it could be proposed that within the Hana Community Plan area that this not apply, you know. If -- 'cause I know there's strong --

Ms. Flammer: The second one.

Ms. Lono: What?

Ms. Flammer: The million dollar one.

Ms. Lono: Well, that one and no. 3. No. 3 that --

Ms. Flammer: Sounds like you don't like no. 3 for any part of Maui.

Ms. Lono: Yeah. I mean I would say not for any place, but if -- I know there's strong opinions though on the council already about these, so if they are going to argue that, then I would say could we at least consider exempting the Hana Community Plan area from these, if everyone agrees with that.

Chair Mardfin: I agree. In general, we don't want them in at all for the entire county. If it's gotta be there, I agree with Dawn that it would be nice if Hana could be exempted from that.

Ms. Flammer: And again, the uniqueness of Hana is that some of these higher end properties go for more affordable rent due to limited quality tenants? I mean is that --

Ms. Lono: Well, not limited quality.

Ms. Flammer: Or, you know, people that could pay, you know, that --

Ms. Lono: ...(inaudible - not speaking into the microphone)...

Ms. Flammer: Well, ability to pay.

Ms. Lono: Yeah. I mean when I talk about rents, rental values, you know, there are professional people here - teachers, firemen, policemen, nurses, doctors - who can afford a higher rent, meaning higher between 1500 possibly to 2500, not much above that, but people are willing because of the way things are to rent their house out long term to those professional people, so looking down the road that they're going to come here and retire, you know, not so much that they're going to start a business and make money off of it, so those houses are available in the community.

Ms. Flammer: I understand. Okay, thanks.

Chair Mardfin: Gina, the other thing, I would argue that the County of Maui needs to not have this. If you pass these two exceptions, you're basically saying, okay, you can have a mini hotel in perpetuity, and it will stay that way. If you have a -- if with any change in ownership there's a five-year waiting period, then you've taken it out of the hotel category at least for that five years, they may apply and go in, but we're nowhere near our cap, but other places on Maui who are near their cap, and Dawn's earlier comment about, you know, give somebody else a chance, don't have it be a permanent hotel, let it be a rotating hotel makes a lot more sense to me.

Ms. Lono: You know, and the people who are going to come up and testify for this are the people who, you know, have the permits, and have the likelihood of making the money on the situation, and, you know, perhaps if I were in that situation, I would address it that way as well, but it is not in the best interest of the general community anywhere on the island to allow this and the inflationary prices of the homes. It's just not in anyone's best interest.

Ms. Flammer: And you're saying that these homes can return back to the long-term residential market. It's not naturally -- yeah.

Chair Mardfin: I don't know what would happen to them. I mean I would agree a million dollar home is not going to -- Hana may be excepted, is not in general going to turn into long-term rental, but if it's not, and they're treated as a second home, they'll hire people to work to take care of their property. There are a lot of caretakers in Hana that make a living off of being a caretaker. There are all kinds of other things, and giving a permanent, effectively, a permanent license to be a mini-hotel, I don't think is right.

Ms. Flammer: Do you have a preference over -- I did an analysis of one of the areas in Napili and there's a lot of second, third homes that just stay vacant. These families choose not to seek permits. Do you have a preference over that kind of use versus --

Chair Mardfin: I'm sorry. What was that?

Ms. Flammer: That the very high end home that's used as a second or third home that remains vacant nine months out of the year versus it being -- yeah, that's what I -- I mean is there --

Ms. Lono: Yeah, they hire somebody to come in and clean it on a regular basis, and to take care of lawn and maintain it, and I mean it's still providing jobs but it's not taking up the vacation rental or short-term rental home. I mean having a vacant home is not a negative.

Ms. Flammer: That's what I'm asking.

Chair Mardfin: It wouldn't employ as many people, quite honestly. If it was an ongoing -

Ms. Lono: I didn't say it would employ as many people; it would still employ people.

Chair Mardfin: I agree with you.

Ms. Lono: And it would not be a detriment to have a vacant home in the community. It's not a detriment.

Chair Mardfin: I agree.

Ms. Flammer: Any other comments on this besides that you love like the concepts?

Chair Mardfin: Like last time, are we in consensus on this? We don't want items 2 and 3 to remain? Any objections? Seeing none, you have a consensus.

Ms. Flammer: Okay.

Chair Mardfin: We would like 2 and 3 taken out.

Ms. Flammer: Okay. Great ...(inaudible)...

Chair Mardfin: ...(inaudible)... entire county at least for this small end of the island.

Ms. Flammer: Okay. Alright. Thank you very much.

Chair Mardfin: Gina, that finishes your thing; we're up to the Director's Report, item F; I believe that is Clayton Yoshida, Scheduling of other Hana Region Applications.

F. DIRECTOR'S REPORT

- 1. Scheduling of other Hana Region Applications**
- 2. Discussion of Future Hana Advisory Committee Agendas**

Mr. Yoshida: Thank you, Mr. Chair. I guess we don't have anything new as far as status, changes since our -- your last meeting of July 19. I guess we have the Public Works SMA application for the Kahawai`okapia Bridge replacement project, and I think we can schedule that as soon as they finish their final environmental assessment and make a --

Chair Mardfin: I got the environmental assessment. I got it by email. Dawn, maybe it was you that sent it. Somebody sent it to me.

Ms. Lono: That might have been the preliminary for comments, not final.

Mr. Yoshida: Yeah, when they, you know, they gather all the comments and produce a final environmental assessment.

Chair Mardfin: Okay. My mistake.

Mr. Yoshida: So that might be, you know, before the end of the year.

Chair Mardfin: Good.

Mr. Yoshida: And the other project is the Kawaipapa change in zoning that Bill Sides is working on, and that's a little bit behind the Kahawai`okapia Bridge project, so that'll be later, maybe early next year, and so those are the two projects that --

Chair Mardfin: Thank you. Dawn, you have a question or comment?

Ms. Lono: Yeah, in the interest of saving time on that Kahawai`okapia Bridge, could we have a site visit scheduled before the meeting because that is probably going to be something that we're going to want to do, so why come, have a meeting, and then request a site visit and have to come back and then have the meeting. Could we request a site visit when that is scheduled?

Mr. Yoshida: Yes. Would we -- could we do it the same way we did for the botanical garden?

Ms. Lono: Have the site visit in the earlier afternoon and then follow it up with a meeting?

Mr. Yoshida: Yeah, have the site visit at 2:00 or something --

Ms. Lono: Yeah.

Mr. Yoshida: And the meeting at 4:00.

Ms. Lono: And the reason that I'm asking for that is because what has happened at Kaholopo`o Bridge, and the issue we have with that, and to make sure that we're not going to create any problems, and look at it on the ground and understand exactly what is happening before it gets approved. Mahalo.

Chair Mardfin: Thank you very much.

Ms. Jennifer Oana: ...(inaudible - not speaking into the microphone)...

Mr. Yoshida: Yeah, we would notice the site visit and members of the public, like members of the public could attend the tropical botanical garden site visit.

Chair Mardfin: The problem is, and I think you're seeing it, it's passed Hamoa so there's no diversion route, it's the main road going south, and so every car that wants to go by will go by unless we hold them up somehow.

Ms. Oana: Is there a place for us to meet and for people -- I'm just worried about this because I don't know what it looks like, you know, the road and the bridge and there's no-

Chair Mardfin: There is -- no, there's no sidewalk. There's a small shoulder but there's barbed wire or at least wire fencing right along there so you can't -- I mean you can climb over the wire to get to the pasture on either side of -- well, on the mauka side easily; on the Hana mauka side there's room, the --

Mr. Yoshida: Yeah, we will work with Public Works on, you know, a viewing area of the bridge and so the people can get an understanding what's being planned.

Chair Mardfin: Thank you for scheduling. Were there any questions or comments? Oh, Kawai`okapia is the one just between the end of Haneo`o Road and the big -- where Ken Williams used to live. That short bridge.

Mr. Carvalho: ...(inaudible - not speaking into the microphone)...

Chair Mardfin: Yes. Does anybody know if there are still petroglyphs up that stream? There used to be. I saw it 40 years ago but I haven't seen it -- I haven't gone up there

lately. Okay. Clayton, now discussion of future Hana Advisory Committee agendas? Or did you cover that? Oh, I thought that was scheduling of other Hana region applications. Any comments? I want to take a point of personal privilege to, first, apologize for not being at your meetings this summer. I understand you've done great work and I, personally, want to thank Gale Notestone, the Vice-Chair, for ably carrying on the duties. And with that, we face adjournment.

F. ADJOURNMENT

There being no further business brought before the Committee, the meeting was adjourned at 6:20 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards & Commissions

RECORD OF ATTENDANCE:

Present:

Ward Mardfin, Chairperson
Gale Notestone, Vice-Chairperson
Clayton Carvalho, Jr. (Arrived at 5:15 p.m.)
Linda Clark
Lehua Cosma
Dawn Lono

Excused:

Scott Crawford

Others:

Clayton Yoshida, Planning Program Administrator
Gina Flammer, Staff Planner
Jennifer Oana, Deputy Corporation Counsel