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**MAUI PLANNING COMMISSION  
PORTION OF THE REGULAR MINUTES  
ITEM E.1  
NOVEMBER 24, 2020**

Ms. McLean: Thank you, Chair. Under Unfinished Business, you have a referral from myself, the Planning Director, a proposed bill to amend Chapters 19.35, 19.64, and 19.65, Maui County Code relating to accessory dwellings, bed and breakfast, home permits and short-term rental home permits. They are proposed to be amended to allow bed and breakfast in short-term rental home operations in accessory dwellings subject to restrictions that encourage long-term occupancy, to limit short-term rental homes to one per property and per applicant, to clarify trusts and ownership requirements, to expand notification requirements to neighbors of the property, and other minor revisions. Our Administrative Planning Officer, Jackie Takakura is taking the lead on this and she has a brief PowerPoint presentation.

Mr. Carnicelli: Great. Jackie.

**E. UNFINISHED BUSINESS**

1. **MS. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, referring to the Maui Planning Commission a Proposed Bill to Amend Chapters 19.35, 19.64 and 19.65, Maui County Code, Relating to Accessory Dwellings, Bed and Breakfast Home Permits and Short-Term Rental Home Permits. (J. Takakura)**

**Chapters 19.35, 19.64, and 19.65 are proposed to be amended to allow bed and breakfast and short-term rental home operations in accessory dwellings, subject to restrictions that encourage long-term occupancy; limit short-term rental homes to one per property and per applicant; clarify trusts and ownership requirements; expand notification requirements to neighbors of the property; and other minor revisions. (Public hearing held on September 22, 2020)**

Ms. Jackie Takakura: Thank you, everyone. We're reaching the homestretch of this meeting and try to keep this brief. So, I'm going to share my screen again. Get a thumbs up, can you see that one?

Mr. Carnicelli: Yep.

Ms. Takakura: So in September, we had brought our proposal to revise these three chapters 19.35, 19.64 and 19.65 of the Maui County Code, that's accessory dwellings, bed and breakfast home permits and short-term rental home permits. We've listened to the comments of the commissions and the community and so, we have some revisions for you.

We have the revisions, but the goals of the proposed bill haven't changed. Proposed to allow for some flexibility in transient vacation rental use and accessory dwellings while encouraging long-term occupancy. We want to limit short-term rental homes to one per property and per applicant. We'd like to clarify trust and ownership requirements, and we want to expand the vacation rental notification requirements to neighbors, and then some other minor revisions to the two chapters 19.64 and 65 for clarity and consistency purposes.

1 And what I did was I took the previous presentation and then I updated it that way you could see  
2 where we were and what we've...what we're proposing to change, and then hopefully that'll also  
3 help the new commission member, Hipolito to get up to speed so can follow the flow. So, like I  
4 mentioned last time, the purpose of the bill is to allow breakfast and short-term rental home  
5 operations in accessory dwellings but with long-term occupancy on the property. We want to limit  
6 the short-term rental home permits to one per property and per applicant. We have some  
7 clarifications of definitions, revisions for consistency, improvements for notification, and then other  
8 things like you're going to see a lot of the shall to must. We color coded them like I mentioned  
9 last time, the green is more permissive, the red is more restrictive, black is neutral, and the new  
10 one is that you're going to be seeing today is bold, and those are the things that we've updated  
11 since September.

12  
13 So, I'm going to start in numerical order, 19.35, this is the chapter about accessory dwellings.  
14 This one actually doesn't just...it doesn't have changes, just some clarifications. And what we're  
15 proposing is that an accessory dwelling may only be used as a short-term rental home if the main  
16 dwelling and other accessory dwelling, if applicable, are occupied on a long-term residential basis  
17 as defined in Title 19, meaning an owner or owner's family or by lessee or tenant for 180 days or  
18 more per year. So the proposed changes allows for flexibility for the property owner and does  
19 require some long-term residency. And so the...when we say long-term, it can be owner occupied  
20 or a long-term rental or an owner's second home that they stay at occasionally. So, that was the  
21 only change for accessory dwellings, as we had mentioned last time for the bed and breakfast  
22 portion that it can be in one accessory dwelling so that it's not in more than two dwelling units on  
23 the property for a bed and breakfast, and that's the same thing we had proposed last time. The  
24 only change here is the bold for the short-term rental home part...(inaudible)...after.

25  
26 So, I'm going to move to the next chapter in 19.64, this is the one about bed and breakfasts. This  
27 is the parallel language here regarding accessory dwellings, so, no change, as I mentioned in the  
28 last slide. It just kind of, you know, makes 35 and 64 consistent for the accessory dwellings and  
29 the bed and breakfast homes.

30  
31 Okay, so this one, as you can see, there's some bold that means there's a change. In September,  
32 we proposed a five-year construction requirement for bed and breakfast. Lanai and Molokai  
33 Planning Commission supported the proposal, but the Maui Planning  
34 Commission...(inaudible)...just as a recap, the purpose of proposing a construction and  
35 ownership requirement was to reduce speculation and encourage a connection to the  
36 neighborhood. Bed and breakfast never had ownership or construction requirements before, but  
37 short-term rental homes have had a five-year ...(inaudible)...requirement and originally, this  
38 amendment was intended to bring parity between the two permit types. But after listening to the  
39 commissions, we're proposing to include the five-year construction requirement for Molokai and  
40 Lanai only.

41  
42 The next two items are no change from last time. Lanai bed and breakfast cap set at 21 permits  
43 because right now they don't have a cap, and this proposal is actually at the County Council for  
44 review and approval.

45

1 And then this last item, no change from September proposed addition. It's consistent with another  
2 parallel one that's for 19.65, the short-term rental home one that no permit may be issued to  
3 somebody who holds one of those permits and vice versa, and that allows others an opportunity  
4 to participate in these investments. And it also eliminates the loophole for rule breaker.

5  
6 So, this is about signs for bed and breakfast homes. No changes here. And it's simply to make  
7 the procedures consistent with the short-term rental home sign procedures. So no change from  
8 last time.

9  
10 Still on bed and breakfasts. The first two items, no changes. And this is...the first item is about  
11 the public hearing criteria and notification requirements. That's to make them same as short-term  
12 rental home requirements because right now, actually it's a little bit more complicated for bed and  
13 breakfast homes. So, by making this consistent with short-term rental home, it'll be a little bit  
14 easier and same for either one.

15  
16 The second item, no change. And that is the criteria for bed and breakfast public hearings,  
17 because right now the criteria is only one existing bed and breakfast on a lot within 500 square  
18 foot distance, and for short-term rental homes, it's two. So the proposed revision is making both  
19 chapters two as the trigger for public hearings, and that's what you saw in September.

20  
21 This last item, we had proposed to include the properties, real property tax class as evidence, but  
22 we're deleting that proposal and we're just going to leave this part of the chapter, as is.

23  
24 Okay, so now we're moving to the short-term rental home permits and this introductory part is the  
25 same as the accessory dwelling part. No changes here that a short-term rental home use would  
26 be permitted in no more than one single-family accessory dwelling unit per lot in Maui and Lanai,  
27 and that means the short-term rental can be in the main or the accessory dwelling and anything  
28 else has to be occupied...(inaudible)... And that, you know gives owners flexibility, you know,  
29 maybe it makes more sense to rent out one versus the other. Then they can have that option.

30  
31 Okay, so we've had a lot of talk about trusts, and the purpose of this revision is that we require  
32 that trustees belong to the family of the family trust. And we worked with Corporation Counsel on  
33 this trust language after we struggled with two applications from trusts, and this language clarifies  
34 how trusts work as ownership entities for short-term rental homes. Existing ones would be  
35 allowed to continue, you know, like grandfathered if they don't fit this definition, but new ones  
36 would have to comply.

37  
38 After the September hearings, we consulted with Corporation Counsel and they recommended  
39 leaving the family trust definition as what was proposed in September. It might cut out some for  
40 profit trustees, but the intention is one person, one permit whether individual trustee, partner,  
41 shareholder or ...(inaudible)...by keeping the permit in the family it adds some accountability, and  
42 hopefully encourages small, you know, mom and pop businesses and family involvement.

43  
44 The second item is no change, only one permit for applicant, whether individual or trustee, and  
45 then the third item about not being transferable in any way that eliminated the loophole that could

1 be used for investment purposes. But we're proposing to say that permits held by a trust may be  
2 transferred to a beneficiary of the trust, that's the one change there.

3  
4 Okay, so only one change on the slide towards the bottom. The part in green about the criteria to  
5 assist the applicant in conforming to the character of the existing neighborhood. You know, a lot  
6 of these criteria come up during the hearing anyway, you know, the benefits that the short-term  
7 rental home brings to the community and then the reasons are a justification for the short-term  
8 rental home use. So by including it upfront, it just makes it easier for everyone so that information  
9 is prepared and it can be reviewed by the Commission.

10  
11 The second one in red, we have proposed by the Mayor's recommendation to increase the  
12 construction and ownership requirements to 15 years. That was not supported by the  
13 Maui Planning Commission, but it was supported by the Molokai and Lanai, so we're proposing  
14 to include the 15-year requirement for Molokai and Lanai only because the commissions on those  
15 islands supported the proposal and that would be ownership and construction requirements. For  
16 Maui, it would remain as is at five years.

17  
18 So, most of these are still the same as what we proposed last time. The Lanai cap at 21, and just  
19 like with the bed and breakfast one that's at County Council. No short-term rental homes in  
20 experimental or demonstration housing projects because those are meant to reduce the cost of  
21 housing in the state. And, you know, just like affordable housing and workforce housing, vacation  
22 rentals are inconsistent with the kind of...

23  
24 The item in the middle, the third one, that's similar to what's in the bed and breakfast language.  
25 You know, it's only one permit, you can't have a short-term rental and a bed and breakfast and  
26 you can't be banned that eliminates, you know, the...(inaudible)...

27  
28 Okay, and then the one change that we did have is for the ads. Short-term rental ads must include  
29 TMK, tax map key number. As you recall, we initially proposed the physical addresses, but the  
30 TMK number will provide enough information for verification in ...(inaudible)...that's our proposal  
31 on that one. And no change to that last one about having a financial interest ...(inaudible)...short-  
32 term rental...(inaudible)...

33  
34 So, almost done with short-term rental homes. This top one, last time we had proposed to include  
35 the physical addresses when they do the notification. Right now, only owners and lessees of  
36 record have to be notified, and you know, sometimes they're off island and so the people in the  
37 neighborhood don't always find out. So, we are proposing to include physical addresses. The  
38 change here is the proposed way method of notifying them, and that would be via either regular  
39 mail or hand delivery for those physical addresses and this is in a couple of parts. I didn't want  
40 to mention it three times, but you can see the three parts of the code that we're proposing to the  
41 have that.

42  
43 The middle one is about having to say when they want to submit written protests. Even if we get  
44 more than one from, say, an owner or lessee resident from the same lot, it's going to be counted  
45 as one.

1  
2 And then the last item is similar to what we saw with the bed and breakfast. We're just going to  
3 leave the advertising, as is. Advertising counts as evidence and we're not gonna include the part  
4 about the real property tax...(inaudible)...

5  
6 So, a summary of the proposed changes are that accessory dwellings may be used for a bed and  
7 breakfast or short-term rental homes if other dwellings are occupied long-term. We've clarified  
8 the definition of family trust, ownership requirements, limiting short-term rental home permits to  
9 one per property and per applicant, whether individual or trustee, consistency between the two  
10 permit types, neighbors are included in communication, and that existing permit holders would  
11 continue under existing rules. There's only one change that would affect existing permit holders  
12 and that's for existing short-term rental home permit owners. They would have to comply with the  
13 notification requirements at renewal, and that means doing the physical addresses, you know,  
14 with either the regular mail or ...(inaudible)...them.

15  
16 And so, you know, these revisions in this bill offer options to permit holders and help protect the  
17 character of the neighborhood. It makes the rules more consistent.

18  
19 ...(unidentified participant joined meeting with unmuted audio)...

20  
21 Mr. Carnicelli: If everybody...if you would please mute yourselves. There's somebody talking  
22 that we can hear, if you would please mute yourself. Sorry, Jackie.

23  
24 Ms. Takakura: No problem. I'm almost done. And as I mentioned, it would only affect the existing  
25 short-term rental home permit holders for the notification procedures when renewing so that the  
26 neighbors would be included in the notice.

27  
28 So, your options would be to either recommend to the County Council to approve, we can make  
29 some amendments or defer or you can disapprove that. We hope that you can approve, but those  
30 are your choices. That's it.

31  
32 I'm going to stop sharing and then we can take it to the next step. Thank you very much.

33  
34 Mr. Carnicelli: Thank you, Ms. Takakura. So, I guess at this point in time, we're gonna go ahead  
35 and open up the floor for public testimony, and remember again guys, this is nothing more than  
36 we're a recommendation to the County Council, right. So, the County Council does have the final  
37 say on this. Director, is anybody signed up? I think you said there was a few.

38  
39 Ms. McLean: Yes, Chair. The first person signed up to testify. Is Francine Aunty Mopsy, Aarona,  
40 and she will be followed by Ran Watamull. Aunty Mopsy if you want to unmute your audio and  
41 video?

42  
43 Ms. Francine Aarona: Okay, can you hear me?

44  
45 Mr. Carnicelli: We can hear you. Do we get to see you too?

1  
2 Ms. Aarona: I'm trying to, but it's not allowing me.

3  
4 Mr. Carnicelli: That's okay, it's good to hear you.

5  
6 Ms. Aarona: You can't see me but you can hear me, and it's been a long day. I put my husband  
7 through pressure because he had to sit in on all the meeting. But anyway, mahalo for all that you  
8 do, and I promise whatever I say is true. Mahalo for all that you do for our community, especially  
9 during this time of adjustment in how we do business.

10  
11 I hope that the word got out in time for our community to respond to changes, and unfortunately,  
12 we depend on social media, emails or word of mouth. You know, I was very disturbed per the  
13 minutes of the MVRA. It spoke of a meeting with the board to work out the details of our revisions.  
14 And this concerned me where as it would be beneficial if those who live in the 500 feet radius of  
15 the rental and B&B units had input before this meeting.

16  
17 I do applaud the Planning Department in listening to the community from the meetings in 2019  
18 and unfortunately didn't come out during the September meeting. But although I support the  
19 amendments, I am concerned about the five-year status. And in looking at the presentation, I'm  
20 not sure if I'm understanding it correctly, but we will keep the five-year status for the dwelling, the  
21 construction. I feel that the proposed revision by the Department should remain for Maui and I  
22 think for the 15 years that was proposed earlier and it's going back to five years, I think maybe  
23 we should compromise and through a 10-year revision in there. There must have been a reason  
24 why it was shot up to 15 years, but you know, it's been not a hardship for all of our people who  
25 experience short-term rentals and bed and breakfast and I feel that the Planning Department has  
26 heard the community and has made those adjustments so that we can have a better lifestyle  
27 within our short-term rental homes and our bed and breakfasts. So I mahalo you for allowing me  
28 to come before you today to share my manao, and I hope that you all stay safe and healthy and  
29 that we get through this revisions. So mahalo so much.

30  
31 Mr. Carnicelli: Thank you, Aunty Mopsy. Does anybody have any questions for the testifier? So,  
32 I have one quick question for you and to just to clarify, you'd like to see the 15-year revision and  
33 then what was the 500-foot radius thing that you were talking about that you just said as far as  
34 this meeting itself?

35  
36 Ms. Aarona: You know, as far as getting the word out to people, when I saw the minutes on the  
37 MVRA site, it shared that they were able to speak with some of the board members to work out  
38 some of the revisions that we're looking at today. My concern is, what about the community?  
39 What about the people who live in the 500 radius? How do they get information or how did they  
40 give you their manao on how they feel to what is presented today? I know the Planning  
41 Department did a lot of work to meet the community in all their concerns, but in things like this, it  
42 alarmed me that an extra effort to work out details regarding the revisions were just set with certain  
43 people and not with others concerned, like the community and I don't...I may be speaking out of  
44 turn or, you know, whatever, but dumb. That's how I felt when I read the minutes. So, that is a  
45 big concern for me.

1  
2 The five-year, if I read it correctly, you're going to keep the five-year construction thing for the  
3 dwelling, the ownership, but then you got to go back to the five-year in Chapter 19.65, I think  
4 instead of raising it up to 15 years as was proposed, you're going to just keep that for Molokai and  
5 Lanai and keep the five-year for Maui. So, I'm saying, well why don't we compromise to a ten-  
6 year but I'm just throwing that out to the Commission.

7  
8 Mr. Carnicelli: Understood. Understood. Thank you for the clarification, and just so you know,  
9 it is the Director, like the Department, may have met with MVRA, but the planning commissioners  
10 didn't. You know, the...and I'm sure the Jackie and/or Michele will address the amount of  
11 community outreach that's been till done now, 'cause this...I want to say this might be the third  
12 iteration that's come to us. But thank you for your manao, very much appreciated, as always.

13  
14 Ms. Aarona: Thank you, and I'm sorry you can't see me. I can see all of you. Lovely day.

15  
16 Mr. Carnicelli: All right, thank you. Director.

17  
18 Ms. McLean: Chair, the next testifier is Rann Watamull, and so far he will be the last person to  
19 testify.

20  
21 Mr. Carnicelli: Got it.

22  
23 Mr. Rann Watamull: Okay, well unfortunately, you can see me, so but it's good to see you guys.  
24 You guys had a long day, and I had submitted testimony at the last meeting of September 22<sup>nd</sup>,  
25 so regarding my concern is the definition of family trusts and I won't go over it in detail but just the  
26 two points on it was the definition that says, a self-trustee of family trust is defined as a self-trustee  
27 revocable trust where the trustee is also the trustor and is related by blood, marriage, adoption or  
28 civil union to the beneficiaries.

29  
30 Two concerns with that is one is this language would arbitrarily discriminate against Maui families  
31 that would need to use an irrevocable trust. And in a minute, I'll be happy to talk to you about the  
32 differences are revocable, irrevocable, what the advantages, disadvantages, but eventually all  
33 revocable trusts become irrevocable anyway when the trustor dies or becomes incapacitated, so  
34 it's just a matter of time it becomes an irrevocable ...(inaudible)...but some families may choose  
35 to put their property into irrevocable trust now, and that could be really important, and I'd be happy  
36 to tell you some of the reasons why.

37  
38 The second issue is having the trustee forcing the trustee to be related to a family member also  
39 puts family members, discriminates against families because not all families have a beneficiary  
40 who is capable, willing or even able to serve as a trustee and as an independent trustee for  
41 26 years, this has been my experience, I've been working with Hawaii families for over 26 years,  
42 and having an outside trustee to help the family is really critical at times. And so, this would  
43 prevent that, and especially families where there are special needs in the family. You just don't  
44 have anybody that can serve as trustee and you would knock them out from having the benefits  
45 of the property to somebody who had an independent trustee.

1  
2 Now you have defined trustee as an individual, so you have eliminated the corporate trustee, and  
3 in Hawaii there's only three major corporate trustees, and that's Bank of Hawaii, First Hawaiian  
4 Bank and Central Pacific Bank because you required that the applicant be an individual, you will  
5 not have, you cannot have a corporate trustee. So, so, that addresses that issue.  
6

7 And I've also proposed, and Director McLean has it some language that might help with this in  
8 defining the family trust. It doesn't have this...these two provisions that I think are really  
9 discriminatory against the Maui families. Now with said, I'd have to open up and talk about any  
10 clarification how trusts were, why irrevocable could be really beneficial or any other questions you  
11 may have? Thanks.  
12

13 Mr. Carnicelli: Thank you, Mr. Watamull. Ms. Pali has a question for you.  
14

15 Ms. Pali: Hi, thank you. So, may I ask you, in your opinion, if this was worded, family trust is  
16 defined as self-settled revocable or irrevocable trust--  
17

18 Mr. Watamull: Yes.  
19

20 Ms. Pali: --and then everything stayed the same. Are you, am I hearing you correctly that  
21 because it's already defined as an individual, the corporate people are out of it anyway, and that  
22 it could serve the same purpose?  
23

24 Mr. Watamull: Yes, and as long as we don't say the trustee must be related by blood, adoption  
25 to the beneficiaries because that's where we run into problems. So, those two issues I think—  
26

27 Ms. Pali: Well, are they, are they separate issues or are you saying there's no point in allowing  
28 irrevocable trust if they have to be related? Are you saying they're together or can we handle  
29 them separately?  
30

31 Mr. Watamull: You can handle them separately. There's two different issues. One is irrevocable,  
32 of course, if it's irrevocable, typically the settlor is not the trustee. You have somebody else.  
33 Yeah, yeah. And then, but, but to prohibit an outside independent trustee from serving the family  
34 can be really harmful to families because, you know, not all family members have a child that is  
35 capable of being a trustee or could be could be unbiased. I can tell you so many stories of saving  
36 families from that, yes.  
37

38 Ms. Pali: May I ask you one more question.  
39

40 Mr. Watamull: Yes.  
41

42 Ms. Pali: Is it your opinion that the reason why people may have the trustee, like you said, not a  
43 family member or related, is because they might not be capable of managing, but could it be true  
44 that just because they're not managing, they're still the beneficiary? Could it be worded that the



1 beneficiary of the irrevocable trust is...must be blood related adoption, marriage? Could those  
2 two go together?

3  
4 Mr. Watamull: Absolutely, and that was some of my suggestions last time, Commissioner Pali is  
5 that I recommended that you define the beneficiaries in there as, as the settlor or his children or  
6 heirs. And so it has to stay within the family line it can't be given out to a corporation or to an  
7 investment company or something like that. So absolutely you have that where you keep it in the  
8 family, even though you may have a third party be a trustee, you keep the beneficiaries within the  
9 family, yes.

10  
11 Ms. Pali: So, the family and the blood related family members, adoption, marriage, civil union,  
12 they're still the benefit...beneficiaries of what's happening. It's just that they have someone  
13 managing it all for them.

14  
15 Mr. Watamull: Exactly, exactly.

16  
17 Ms. Pali: Under the irrevocable, trust model.

18  
19 Mr. Watamull: Whether irrevocable...yes, irrevocable or even, or even you can have an  
20 irrevocable...a revocable trust that's managed by somebody else as well. Irrevocable just means  
21 that the person who set it up can't change it at all. That's only thing a irrevocable means in, and  
22 so in some cases, irrevocable benefits a family set up because it...but once you place an asset  
23 into an irrevocable trust and you take away ...(inaudible)...of it, once it's there, you have creditor  
24 protection, also, you can get that asset outside of your estate for estate tax protection. And even  
25 though the federal lifetime exemption is high quality, Hawaii lifetime exempt is now only five million  
26 dollars. And above that, Hawaii has the highest estate tax in the nation with a--

27  
28 Ms. Pali: Let me go ahead and cut you off, sir. I'm so sorry. Let me just cut you off and stay  
29 focused here.

30  
31 Mr. Watamull: Yes.

32  
33 Ms. Pali: So, you kind of just said something that now I'm toggling, someone could have a  
34 revocable trust, have it managed by someone in the trustee that's not there, that's not blood  
35 related, but still have the blood related families a beneficiary that model would still so, so those  
36 families that didn't have someone they trusted to manage the trust could still have a trustee that's  
37 not blood but...and still file it as a revocable trust? Is that a yes or no?

38  
39 Mr. Watamull: Good question. It depends how it's written.

40  
41 Ms. Pali: Well I think I just heard you said, yes, you could still do that.

42  
43 Mr. Watamull: Yes, you can if you have certain provisions in the trust, it's called a defective  
44 grantor trust, and that's technical, but yes, if the settlor still reports that income on his taxes, it's

1 considered a defective grant meaning, meaning for tax purposes it's still  
2 considered...(inaudible)...but for estate tax purposes it's outside estate, so yes.

3  
4 Ms. Pali: Okay, I got it. Thank you, sir. Thank you for your testimony.

5  
6 Mr. Watamull: Yeah, thank you.

7  
8 Mr. Carnicelli: Any other questions for Mr. Watamull. I, I may have to call you back at some other  
9 time cause this is...and if we, if we're gonna start talking about actual changes, and I actually I've  
10 been looking here in my emails and stuff like that, for whatever reason, I can't find what your  
11 changes, what your written testimony is, so if you would be ready with that that would be great,  
12 so—

13  
14 Mr. Watamull: I've got it and happy to share. I sent it to the...I think Director McLean should have  
15 it, so I'd be happy to provide it.

16  
17 Mr. Carnicelli: Yeah, yeah, I mean, I'm sure I have it somewhere. I just personally can't find it  
18 right. Commissioner Freitas has a question for you.

19  
20 Mr. Watamull: Yes.

21  
22 Mr. Freitas: Thank you, Chair. That was kind of one of the questions I was going to ask the  
23 Department. What if, I'm sorry, you confused me even more. I'm sorry, with your response.

24  
25 Mr. Watamull: I'm so sorry.

26  
27 Mr. Freitas: But here's, here's a quick question. What if we just do revocable and irrevocable  
28 trust will be allowed?

29  
30 Mr. Watamull: Yes, perfect. As long as the trustee doesn't have to be related to the beneficiaries  
31 or their children, then you've solved the issues and you keep, and everything remains the same,  
32 the beneficiaries are the family members.

33  
34 Mr. Carnicelli: But you've got to understand, though, the point of even bringing this up is cause  
35 we're trying to not create a work around.

36  
37 Mr. Watamull: Yes.

38  
39 Mr. Carnicelli: These things are not transferable. We don't want like, okay, I'm a trustee or I'm a  
40 beneficiary then all sudden Fred shows up and we make him a beneficiary on the trust...you know  
41 what I'm saying? So this is the part, like I get what might work and we can use the local family  
42 as the example, but we don't want to create a situation where suddenly these become  
43 transferable, just kind of de facto.

1 Mr. Watamull: Well, that's a very, very good point, Chairman. But here here's the thing, your  
2 definition requires that the, they have owned it for five years, right? If you change trustee, the title  
3 is held by the trustee. He cannot be an owner because if you change it, he has to be an owner  
4 for five years before he can be a legal applicant or owner of a short-term rental.

5  
6 Mr. Carnicelli: Okay.

7  
8 Mr. Watamull: So, you have that already written in there that there's very little work around,  
9 especially if you make sure that trust names, it's only for the beneficiary, you know, the beneficiary,  
10 his children and heirs, and it cannot go out to a corporation. I understand that, I support that  
11 cannot go to a corporation, you cannot have a corporate trustee, you cannot get it, you, and if you  
12 sell the property, it's gone anyway, right, so, but...and I do like the fact that you can distribute it  
13 out to a beneficiary because sometimes that makes sense. So, that that was a good addition.

14  
15 Mr. Carnicelli: Okay, awesome. Thank you, Mr. Watamull:

16  
17 Mr. Watamull: But happy to talk any time if want to talk more about language, I'll make myself  
18 available to you whenever you want.

19  
20 Mr. Carnicelli: Well, and we're not the final say, there's gonna be another crack. You know,  
21 County Council's the final say on changes to, you know, this is, this is a change to the ordinance,  
22 but we're just a recommendation and we're trying to chase it down the rabbit hole as far as we  
23 can to, you know, do as good a recommendation as we can. So anyways, appreciate you coming  
24 forward and testifying. Anybody else have any other questions? Okay, seeing none, stay around  
25 we might need you again.

26  
27 Mr. Watamull: Okay.

28  
29 Mr. Carnicelli: Director.

30  
31 Ms. McLean: Chair, the next person to testify is Jen Russo, and she will be followed by  
32 Sharyn Stone.

33  
34 Mr. Carnicelli: Ms. Russo, you will need to unmute yourself. We cannot hear you if you are  
35 speaking.

36  
37 Ms. Jen Russo: Okay, unmuted?

38  
39 Mr. Carnicelli: We got you now.

40  
41 Ms. Russo: Am I unmuted? Okay. Aloha, I promise to tell the truth. Aloha, Commissioners.  
42 Thank you for the opportunity to speak today. Happy Thanksgiving to everyone. We really  
43 appreciate the Planning Department letting the community and stakeholders weigh in on changes  
44 to the proposed legislation to the B&B and STR ordinance, and working on the revisions. The  
45 community felt the 15-year requirement on STRs was exorbitant well as the five-years on B&Bs,

1 so thank you for working on revising. We do support several revisions and the cleanup of some  
2 of the language. We like the change to add accessory dwellings. We think the trust language  
3 could be further adjusted and still arrive at the goal of making sure it's not a person or it is a  
4 person, not a corporation, and not create a situation whereby somebody would not be able to  
5 apply because the last name is wrong and they're not able to undo the family trust. So I think  
6 Rann spoke to that very well.

7  
8 We have some language that we worked on too, if the Department want us to send that over. I  
9 think that while we are working on the B&B ordinance this would be a great time to add a way for  
10 B&B owners who have had their properties for 20 years or so to transfer their permit. We still  
11 have some folks that are concerned that listing the TMK in their ads might be problematic because  
12 some online hosts like Airbnb and VRBO block that info from coming up, and also I want to really  
13 clarify that the intention in Section 12 is that all renewals for existing permits occur under the rules  
14 when the permit was originally approved. That is the intention for that Section 12, so just make  
15 that that is real clear. And lastly, we are still not sure this is the time to change the ordinance and  
16 make any restrictions that could have a negative impact on our economy. Again, I thank everyone  
17 for their time and attention to these matters and for their time at these meetings.

18  
19 Mr. Carnicelli: Thank you, Ms. Russo. Is...Commissioner Pali has a question for you.

20  
21 Ms. Pali: Can you just clarify, you said Section 12.

22  
23 Ms. Russo: Right.

24  
25 Ms. Pali: Your comment is just that you should not...current applicants should not be subjected  
26 to the new changes or what was your comment?

27  
28 Ms. Russo: No, existing...the existing permits for bed and breakfast and short-term rental homes  
29 renew under the rules that when their permit was originally approved

30  
31 Ms. Pali: So, in other words, that you would not be subjected to the new rules?

32  
33 Ms. Russo: Right.

34  
35 Ms. Pali: Thank you.

36  
37 Ms. Russo: Okay.

38  
39 Mr. Carnicelli: Any other questions? Thank you, Ms. Russo.

40  
41 Ms. Russo: Thank you.

42  
43 Mr. Carnicelli: Director

44

1 Ms. McLean: Chair, the next testifier is Sharyn Stone, and she will be followed by Leanne Sim,  
2 and currently Leanne is the last one signed up to testify.

3  
4 Ms. McLean: Sharyn if you want to unmute...

5  
6 Ms. Sharyn Stone: Okay, can you hear me?

7  
8 Mr. Carnicelli: We can.

9  
10 Ms. Stone: Oh, good. Okay, on Zoom I'm freezing at the other end here, so anyway. Aloha  
11 Members of Maui Planning Commission. Thank you for allowing me to say a few words today,  
12 my name is Sharyn Stone, and I, with my husband, Jeff have lived on our property in Huelo for  
13 27 years, 27 years this month actually. We've had a licensed B&B since 2009, after having first  
14 applied for a permit in 2001. As you will note, a permit is not an easy thing to get. You have to  
15 work hard for it, and once you have it, guess what, you get to keep working hard. Our land is  
16 beautiful and we consider ourselves privileged to be its caretakers. We've been totally organic  
17 since we purchased it in 1992, and we take great pride in that care and creation of an abundant  
18 food supply with well-fed and maintained organic soil. The present pandemic has given us a  
19 sobering lesson in the need for food security preparedness, the changing weather patterns of the  
20 world over giving us more active lessons in wise resource management. Our visiting B&B guests  
21 appreciate our offerings of fresh fruit, organic cleaning practices, composting, recycling, et cetera  
22 and we love sharing that experience.

23  
24 It should tell you something that I just had a birthday a few days ago and my husband's big present  
25 to me was a giant garden chipper shredder. How many wives do you know who'd find that a  
26 wonderful birthday gift? Okay, so I'm a sick puppy. However, I'm 68, my husband is 71, as much  
27 as we enjoy the work, we're thinking of the future when we're not perhaps as capable of putting  
28 out as much energy as we have had for the last 28 years. I would like to request that you consider  
29 the proposal for a B&B owner who's owned their land for 20 years, has an active B&B license and  
30 has had that license for at least ten years, please be allowed to transfer or sell their hard earned  
31 business as a business. We're the only business in Hawaii I know of which is not allowed to sell  
32 their business as a business. Frankly, I'm hoping my son is wanting to take it over, but he is only  
33 23, so he needs to make his own decisions and he does need to have free choice, so just in case  
34 we would truly appreciate having that option available to us if possible.

35  
36 I've only one more comment and that is that I honestly don't think this is the ideal time to be  
37 embarking upon the major work of revising B&B and STR permits though, there seems to be an  
38 indecently short amount of time for discussion, and every owner I know is under real, real financial  
39 stress, myself included. Please, stay well and stay safe. And again, thank you for your thoughtful  
40 consideration.

41  
42 Mr. Carnicelli: Thank you, Ms. Stone. Any questions for the testifier? Just clarification, you said,  
43 make it transferrable if you've had it for 20 years and what was the ten-year thing?

44  
45 Ms. Stone: That you'd had a permit for at least ten years.

1  
2 Mr. Carnicelli: Oh, you've owned the home for 20 and had a permit for ten, I see. Okay, got it.

3  
4 Ms. Stone: Exactly, yes, yes.

5  
6 Mr. Carnicelli: Got it, okay. We will take that under advisement. Thank you very much Ms. Stone.

7  
8 Ms. Stone: I'm sure you will. Thank you.

9  
10 Mr. Carnicelli: Director.

11  
12 Ms. McLean: Chair, the presumably last person to testify is Leanne Sim.

13  
14 Mr. Carnicelli: Okay.

15  
16 Ms. Leanne Sim: Hi, can you hear me?

17  
18 Mr. Carnicelli: We can.

19  
20 Ms. Sim: Thanks everybody, I just have a couple of questions. One about the trust, maybe I'm  
21 a little bit confused about the trust. I did have a question for Michele earlier about whether that  
22 had to do with B&Bs or just STRs, and she said not the B&Bs. Can B&Bs be under a trust or no?

23  
24 Mr. Carnicelli: Well, right now is public testimony so just go ahead and throw your questions out  
25 and we'll try to get them answered for you.

26  
27 Ms. Sim: Okay, what I was wanting to refer to in that instance is, you guys are talking about  
28 having...being able to leave a trust to a beneficiary. If we're doing that, should you not be able to  
29 leave your house to a beneficiary and that beneficiary be able to continue on with your business  
30 as well, whether it be a B&B or an STRA, I just wanted to be fair on both ends. If a trust can be  
31 inherited, then so should be a B&B business or in STRA business. That was one thing.

32  
33 The other one was I do agree with the grandfathering in of when your permit was granted that the  
34 rules be followed for when your permit was granted. And I'm with the selling of the business as  
35 well. If you have owned the home for a certain amount of time and you've had the permit for a  
36 certain amount of time, be able to either leave it to a beneficiary or be able to sell it as a business  
37 because she is correct. It takes...it's the only business in Hawaii that you can't sell. I think that's  
38 it. That's all my comments. Thanks, everybody.

39  
40 Mr. Carnicelli: Thank you, Ms. Sim. Any questions for the testifier? Seeing none, thank you very  
41 much.

42  
43 Ms. McLean: Chair, and Mr. Tom Croly has signed up to testify.

44  
45 Mr. Carnicelli: Shocking.

1  
2 Mr. Tom Croly: Aloha members, Tom Croly speaking on my own behalf. I want to thank the  
3 Commission for their deferral at the last meeting and for the changes that you suggested be made  
4 and I sincerely want to thank the Planning Department for working with the MVRA to make the  
5 changes that are proposed before you today. I think that what you're looking at today is a much  
6 better proposal than what was submitted in, in September, and I'm generally supportive of, of  
7 these changes.

8  
9 My first concern has always been for the, the people who already have permits. We don't want  
10 to change the rules on underneath them. And I'm appreciative to Jackie today for making clear  
11 that these changes, most of these changes are not going to apply to people who have permits,  
12 for example, there's someone who has both a B&B and a short-term rental permit, I didn't want  
13 these changes to say, hey, now you have to give up one or the other, and that's clearly not going  
14 to be the case. But if you adopt what, what's here going forward, they...a new person couldn't  
15 get both of those permits, and that's, that's fine by me, but that might not be for everyone else.

16  
17 I do have some changes about...some concerns about the trust's ownership issue, and I do think  
18 I can share a little bit more insight for you on that. And as has already been stated, I have some  
19 concern about a requirement for the TMK or address to be published in the ad, problem is, the  
20 ads are not always under the control of the owner. Airbnb says what they are allowed to put on,  
21 so even when I put my, my, my address in the ad, they block it out and say, you're not allowed to  
22 do that, and the same thing with the TMK numbers. So, that that may be something that that we  
23 can't do because it's not in our control.

24  
25 And then, as Sharyn Stone just asked, I would like you to give some consideration to the B&B  
26 permit holders who have owned their property for a long time, they're long-term residents here  
27 and who's B&Bs are operating for, let's say, ten years with no complaints in an area that when  
28 they get to retirement age, they have the ability to use the goodwill that they have built up in their  
29 B&B and perhaps the changes that they've made to their property to make it work well for a B&B  
30 as an asset to, to sell that property to somebody new.

31  
32 As things stand today, the new person can apply for a permit, but just as these changes that are,  
33 that are being proposed before you are being made, the new person may not be able to apply for  
34 the permit in the same derivation that it was before. So, this idea of making a limited transferability  
35 for people who have owned the property for X number of years, let's say 20, and held a permit for  
36 X number of years, let's say ten, I'd like the Commission to consider that.

37  
38 The questions were about the trust are very confusing and I've made it an effort to learn more  
39 about trusts and become well-educated on these, and the key thing here is who the trustee is. A  
40 trustee is someone who manages the trust. The trustee is not the beneficiary of the trust unless  
41 the trustee is either the grantor of the trust or the beneficiary of the trust. So, in other words, the  
42 trustee's job is to make sure that the conditions of a B&B permit are being met. But the trustee is  
43 in no way, shape or form benefiting from the use of the property as a B&B or as a short-term  
44 rental. So, what Rann was trying to say to you, it's fine to make sure that the grantor of the trust  
45 that is the owner of the property before it goes into trust and the beneficiaries of the trust are all

1 family related, that's fine. But to also make the condition that the trustee must be part of that  
2 family is leaving out a whole lot of people, and when the grantor of that trust dies, okay, now, the  
3 only person left managing it is the trustee. But who benefits from it? The beneficiaries, those  
4 family members. So, we've made it possible for some types of trusts to get a short-term rental  
5 permit and then we're excluding—

6  
7 Ms. Takayama-Corden: Three minutes.

8  
9 Mr. Croly: --and then we're excluding other types of trusts and allowing them. So, I just encourage  
10 you to kind of adopt that, that some changes there. Thank you, Chair.

11  
12 Mr. Carnicelli: Thank you, Mr. Croly. So, here's the thing is, I don't want for us non trust attorneys  
13 to sit here and try to wordsmith this thing till 5:30 when our next meeting starts. Is there something  
14 very simple, and again, without us going down the wordsmithing rabbit hole to make this trust  
15 thing at least work enough to where the fine scalpel can be used.

16  
17 Mr. Croly: Yes.

18  
19 Mr. Carnicelli: --at Council.

20  
21 Mr. Croly: Here's what I suggest is that we, you're still making the permit holder the trustee, but  
22 then when we say that the trustee and the grantor and the beneficiaries all must be related just  
23 remove trustee from that. The granters must be related to the beneficiaries. There's the, the nut.  
24 And then there's one other place where you're going to want to take out the word trustee, and that  
25 is where they're blending it with the restrictions for corporations, where they say if there is more  
26 than one member of an LLC or trustee, take out the trustee part of that, then they must all be  
27 related, and I think you have fixed the problem right there.

28  
29 Now, you might consult with Corporation Counsel and make sure that what I'm asking for doesn't  
30 open the door, as you say, to some type of back door where someone could, you know, work  
31 around the rules and get more than one permit. But the whole point is one permit per customer,  
32 and you can't use the trust as a way to get multiple permits, and as long as you address that,  
33 that's the fundamental concern, and that you can't sell the, the trust which trusts or not sellable  
34 like an LLC would be, and transfer the permit that way, then you're fine. So, I think that they,  
35 they've overengineered this in trying to protect the trust. And all you have to do is remove the  
36 trustee as being part of the family members and just make sure granter and beneficiaries are all  
37 family members. Got it?

38  
39 Mr. Carnicelli: Thank you, Mr. Croly. Any other questions? Mr. Freitas.

40  
41 Mr. Freitas: Thank you, Chair. Mr. Croly. I like when you testify because you really look at both  
42 sides. I want you to help me, and this is your personal opinion, B&B, short-term rental, our role  
43 as Commissioners, we want to make it an easy process, but also, I kind of disagree with  
44 something you said, so I want you to tell us, what are we really, what are we providing the  
45 opportunity for people to be owners? Let me give you an example. Ms. Stone, I'll use Ms. Stone



1 as an example, her son doesn't want to take over, you said, let her sell it, let her be able to sell  
2 the place and get a profit over B&B, short-term rental. I don't think that is the intent of why there's  
3 short-term rental and B&B. The person who buys the place, may totally just want to live in it. So,  
4 my thing is what...also, what if there's other people who are on, who's waiting but in their 500 feet  
5 radius they can't because someone has it. They sell it to somebody who sits on it, doesn't promote  
6 it, whatever and these people who really deserve it are left out because we are kind of going, I  
7 don't know what we are with the cap and all that. So to me, there's the question of will it make it  
8 easy for them, and who is them? I know that was a comment about we don't want corporations  
9 to be able to run a business out of it. But who are, who are we doing this, making these rules for?

10  
11 Mr. Croly: Okay, first let me separate bed and breakfast from short-term rental. Okay, 'cause  
12 bed and breakfast is owner must live on the site. So, so by definition bed and breakfast is the  
13 owner's home. Okay, so I'm not asking and Ms. Stone is not asking for the transfer of a short-  
14 term rental where it's not the owner's home, but she is saying and what I'm supporting here is the  
15 idea that as a owner who lived in my home for 20 years and held a bed and breakfast permit for  
16 10 years, I would like to be able to gain from the increase in value that might come by selling the  
17 business portion of that.

18  
19 Now, when the Council made the bed and breakfast ordinance first, they said we don't want  
20 someone to be able to go into the business of buying homes up, turning them into B&Bs, saying,  
21 hey, look at what the income potential is and then selling it to someone else. They thought that  
22 would not be a good thing to do when I understood that. But I'm now asking for you to open that  
23 up for someone after 20 years of doing it, they're not a speculator anymore. This is their, you  
24 know, it's their home. Now, if someone wants to buy that home and not do it as a B&B, they  
25 certainly can. But there certainly would be some added value that, that, that a owner of a B&B  
26 that that's successful could sell that home at a premium for if they can show that. So I'm asking  
27 you to give consideration to that 10 years of B&B use and so forth.

28  
29 Now, you said that there may be someone else waiting for that permit within 500 feet. That person  
30 is not excluded from applying for a permit if they're within 500 feet. In fact, one of the changes  
31 that you're considering today is allowing two permits within 500 feet. So, if there is somebody  
32 else within 500 feet, the second guy can get a permit without even going before you guys. Now,  
33 if there is already two and somebody wants a third one, then they have to come before the  
34 planning commission for approval. It can't be approved administratively.

35  
36 Now, the other question that you asked and I thought this was good, what's our role in this? What  
37 are we doing like as the planning commission and, and like as many times, you have these public  
38 hearings, and the point of bringing it to a public hearing is to make sure that we have given the  
39 public all of the opportunity to see all the data before you render a decision as opposed to  
40 somebody makes an application and it's approved administratively, and the public didn't have  
41 that. It doesn't mean you can't grant the permit. It just means that we're inviting the public in for  
42 a second time, we invited them in through, through sending them a letter saying, hey, this B&B is  
43 going to happen in your area and you can, you can send a notice about it, and then we've invited  
44 them in for a second time to come to this meeting, and it's for you to look over and then sometimes  
45 in your purview of looking over it, you see something that the Planning Department missed. Oh,

1 you know, hey, we're looking closely and they don't have the proper parking or this is not a good  
2 ingress/egress for this property or whatever the case may be, and you can condition it or you can  
3 deny the permit. But that's how I, how I see your role in this process is just, just giving another  
4 level of public oversight to these permits when they reach a certain threshold at that point.

5  
6 But the transferability getting back to that, that Ms. Stone is asking for and that I'm advocating for  
7 it really is kind of like a 401K, you work for a big company and you put your money into a 401,  
8 and then you retire, you get your 401K, and can you live off of it, these people who have been  
9 working real hard and putting their time and effort into their, their land and their B&B should be  
10 able to gain something back from it. So that's all I'm asking for. But thank you, sir, for giving me  
11 the opportunity to, to say that.

12  
13 Mr. Freitas: I appreciate that, really do. Thank you.

14  
15 Mr. Carnicelli: Any other questions? Thank you, Mr. Croly.

16  
17 Mr. Croly. Thank you. Good luck.

18  
19 Mr. Carnicelli: Anybody else, Director.

20  
21 Ms. McLean: No, Chair. No one else has indicated they...oh, wait a sec, Kai Nishiki would like  
22 to testify.

23  
24 Mr. Carnicelli: Okay.

25  
26 Ms. Kai Nishiki: Hello, Chair. Hello Commissioners, again. I wasn't gonna testify, but sorry after  
27 I heard Tom Croly, and anyway, I absolutely disagree that B&B permits should be transferable.  
28 It is definitely incentivizing speculators, whether or not you've had your business or whatever for  
29 20 years on, at your home. I just don't believe that we want to be incentivizing things like this.  
30 So, I completely disagree with that proposal. And I know this goes to Council after and I'm hoping  
31 that you guys are just not going to make too many revisions to this, especially in that department.  
32 Thank you very much.

33  
34 Mr. Carnicelli: Thank you. Any questions for testifier? Thank you, Ms. Nishiki. I'm sure we'll  
35 hear from you again later tonight. Anybody else signed up to testify Director?

36  
37 Ms. McLean: No, Chair.

38  
39 Mr. Carnicelli: Okay, so if there's anybody else that would like to testify on this item, please  
40 unmute yourself and step forward now. Going once, going twice, okay if there are no objections,  
41 we're gonna go ahead and close public testimony. Seeing no objections, public testimony is now  
42 closed. Okay, so we have the Department's recommendation. I think the easiest thing to do is if  
43 people have specific amendments or changes that they would like to make. Let's just, let's start  
44 with that, 'cause, again, we're pushing three o'clock or Director.

1 Ms. McLean: Thanks Chair. If I could just make a few quick comments.

2  
3 Mr. Carnicelli: Yea, yeah, yeah, I'm sorry, I should have given you that opportunity my fault.

4  
5 Ms. McLean: That's okay. I just want to note that this this actually started as a cleanup bill to  
6 bring the B&B and STRH processes more into alignment. The Mayor specifically asked for the  
7 15-year ownership requirement for STRHs, so that was added to the bill. Then when we put that  
8 forward, we got real scoldings from you folks, and so we did sit down with the MVRA and came  
9 up with a version that's in front of you today.

10  
11 Regarding putting the TMKs in the ads for STRHs that actually started out as listing the property  
12 address, and we changed that to TMK at the request of the MVRA and some other folks. I think  
13 it would be fine to add a qualifier that says, unless that's specifically prohibited by the hosting  
14 platform, then you know, if it's their own website, they would need to provide it.

15  
16 The trust language, we spent a lot of time with Corp Counsel on that. That doesn't mean that it  
17 doesn't still need work, but unless you have a very clear and specific amendment, I'd ask that that  
18 be left with us to further refine with Corp Counsel and we can consult with Mr. Watamull if we  
19 need to. What we had come across is that there were these large enterprises that held a property  
20 in trust and the applicant was unrelated to the family that established the trust and our belief was  
21 that the Council wanted there to be a family connection with that operation if it's a family trust,  
22 they wanted a family member involved. Whatever we may come up with, it's up to Council to  
23 determine what they think is appropriate but that's why we, we went in that direction. Certainly,  
24 we can work on better refining it, but I don't know that it would be time well spent today trying to  
25 finalize that language.

26  
27 And lastly, relating to transferring B&Bs, I would just point out that wasn't in the public hearing  
28 notice, that hasn't been reviewed by the other two planning commissions, so I'm not really sure  
29 that's something that can be added to this. Mike Hopper might want to comment on that.  
30 Certainly, we can convey it up to Council and they can determine whether or not to include  
31 something like that, but the other planning commissions which have completed their review did  
32 not comment on that concept. So that's all I wanted to add, thanks Chair.

33  
34 Mr. Carnicelli: Thank you, Director. Yeah, the thought that I had about the transferable, you  
35 know, say 20 years, 30 years, whatever it might be, you know, if whatever the number is, is maybe  
36 not even let it say, okay, they're now transferable, but maybe after a certain point allow a new  
37 applicant to say, be in escrow if that makes sense. So the new applicant still has to qualify, right.  
38 So, it's not like, okay, they just...the new applicant just gets the permits like, no, that new guy still  
39 gets vetted, but again, that's not part of this, so we can, we can go down that rabbit hole another  
40 day. But it is interesting to say, you know, for local people that live here, like okay, I think that  
41 there's something also to be said for an established B&B that's been there 10 years, 20 years,  
42 the neighborhood's you used to it, right. It's like, well, why would you say, oh, no, there and then  
43 it's gonna, you're gonna get a new one in fresh place so there is something to be said for keeping  
44 a very well-run, well established to B&B in the same place. So that's my thought on that.

45

1 But again, let's go to specific things that we want to change in what's been given to us. And I'm  
2 going to go ahead start with you, Commissioner Pali. We're going to just start as if this is going  
3 to be, say, a yes. Okay, and then we'll just make amendments. So, go ahead.

4  
5 Mr. Hopper: Mr. Chair?

6  
7 Ms. Pali: Corp. Counsel.

8  
9 Mr. Carnicelli: Oh, I didn't see, I didn't see Michael. Okay.

10  
11 Mr. Hopper: Yeah, I just wanted to say, I think the reason that you have the family trust language  
12 is because if you're looking to make sure that you have one person, one permit, if you say that  
13 the trust, the trustee who is the applicant and because they control the property would be the  
14 applicant, if they're not related to anybody, there's really no way for them to, for you to make sure  
15 that only one, one person has the...there's only one permit per person because you could have  
16 you know, a family could own five different properties, transfer all five of them into different trusts  
17 with different trustees, and they could all get STRH permits. So, that's why the family trust  
18 language, I think originally existed, and that's why the current language is there now it has a  
19 required familiar relationship between the trustee and the individuals.

20  
21 Now, if you want to allow a, you know, a trustee to own, to apply and have a family, have an  
22 unrelated trustee, you can do that, but there's going to be a risk of having multiple family...families  
23 own multiple trustees or family's essentially...families own multiple STRHs by way of either having  
24 the settlors and/or the beneficiaries be the same people, but the trustees be different. That  
25 actually happened, we had a case where the...where the settlor of a trust owned an STRH permit  
26 and transferred other property that they owned into a trust and had that trustee apply for an STRH  
27 permit, and in fact, in that case, the trust was a revocable trust in which the settlor retained total  
28 control over the actions of the trustee, meaning that the settlor could dictate all of the actions of  
29 the trustee. So, not only did the, did this, the individual, own the property, own a property with an  
30 STRH permit, but also transferred other property they owned into a, into a trust that trustee applied  
31 and, and would not have any restrictions because the trustee is not related and the trustee is the  
32 one who applies for the permit.

33  
34 So, this is what this was trying to get at. I think that you could probably add that irrevocable  
35 language, but if you mess with the familiar relationship issue, it will be difficult to ensure one  
36 person, one permit. And if you're okay with that, then we can go that way and, you know, this  
37 was added to make clear the Council's intent. If you're okay with and you think it's a minimal risk  
38 that if you have different trustees owning property and managing properties for the same  
39 beneficiaries or the same settlors, then you can do it that way, But this was why that language  
40 was, was put there, was to deal with that issue. I agree this is extremely complex. At the time  
41 this came out, I had recommended not having anyone other than individuals be eligible for STRH  
42 permits, but no, we wanted LLCs, we wanted corporations and we wanted trust, trusts. So that's  
43 where we are now, and it can get complicated and my understanding is that our office spent a  
44 while working on this language. You could add the irrevocable language and you could take away

1 the familial relationship requirement, but that would incur, I think a risk of multiple people operating  
2 STRHs or owning property and finding a way to have multiple properties operated as STRHs.

3  
4 Mr. Carnicelli: Well, before you go anywhere, Mr. Hopper, but the grantors and beneficiaries of a  
5 trust that hold a permit aren't eligible for an additional permit. They may not, they may not hold  
6 one, an additional one.

7  
8 Mr. Hopper: Right. So, they just, they transfer their property into a trust that a trustee that is not  
9 related to them manages that trustee applies for a permit and the grantor because, you know, the  
10 trustee is applying for the permit in that situation, the relationship with the settlor that doesn't,  
11 that's not restricted in that situation.

12  
13 Mr. Carnicelli: But you can't change grantors and beneficiaries.

14  
15 Mr. Hopper: The applicant is the trustee. The applicant is not the settlor.

16  
17 Mr. Carnicelli: Okay, I ...(inaudible)...

18  
19 Ms. Pali: So then we just get some trust docs and we look at the beneficiary and we see it's the  
20 same, I mean, there's other ways to navigate to know there's multiple ...(inaudible)...

21  
22 Mr. Hopper: We tried to do that, and that's not what the language currently allows so that's why  
23 this change was being made.

24  
25 Mr. Carnicelli: I'll allow you to speak just briefly Mr. Watamull.

26  
27 Mr. Watamull: Okay, but thank you just real quick. But if the trustee, an independent trustee is  
28 all of sudden put in, he's not allowed to apply 'cause he's not owned the property for five years.  
29 He would be precluded. That's all I gotta say, okay thanks.

30  
31 Mr. Carnicelli: Okay. Here's, here's, here's what I think I want to do, I mean, 'cause again we're  
32 gonna sit here and, you know especially when you get two attorneys and things like, we're gonna  
33 sit here for an hour and a half, two hours just trying to wordsmith thing. What I would like to do is  
34 probably, I mean, saying that we're gonna pass this on is just to say, hey we're passing it on but  
35 this language is unclear, that you know, whatever it is, is we're gonna have to figure it out again  
36 or something like that 'cause it just seems like there's still something. I get that Corporation  
37 Counsel spent hours on this, and whatever it is, but it still seems like there's something going on  
38 here that, that us laypeople aren't gonna do, and I don't know if Director we can send this on by  
39 saying okay, we're sending this to you with these changes but this thing is a big question mark.

40  
41 Ms. McLean: And I would agree, I would agree with that, and we can continue working on that.  
42 And it may be that between the time you folks finish with this, we can work with Corp. Counsel  
43 and others to provide better language that addresses most of the issues that we've heard.

1 Mr. Carnicelli: Yeah, and again, 'cause there's gonna be a give and take or whatever it is, and I  
2 don't even know, like if there's ...(inaudible)...Corporation Counsel that is a trust attorney and that  
3 understands a certain level and maybe I'm...maybe we're making this way too complicated. But  
4 Commission Members, are you guys okay with if we just let's push the trust language and let's  
5 punt on it, all right, and just say, hey, listen, okay "the change", is gonna to be that it's not this, but  
6 we don't know what it is. We okay with that? ...(inaudible)...be okay with that. Okay,  
7 Commissioner La Costa.

8  
9 Ms. La Costa: Thank you. I'm not gonna punt, I'm gonna go for the fourth down. On Page 12,  
10 where it says, family trust and it is underlined, we talked about put irrevocable in there, so, so  
11 might that be in addition and then it can be wordsmith further or defined further after that family  
12 trust is defined as a self-settled revokable or irrevocable trust, and just add that word. Thank you.

13  
14 Mr. Carnicelli: Okay, any objections to adding revocable and irrevocable? Okay, seeing no  
15 objections, we go ahead and made that amendment then. So, who would like as  
16 Commissioner Pali, do you have any changes that you would like to make to this? Go ahead.

17  
18 Ms. Pali: No, no, no. Are we done with the trust talk? We're good?

19  
20 Mr. Carnicelli: We're done with the trust talk, I mean, unless you want to revisit?

21  
22 Ms. Pali: No, no, no, nada. I just have two questions for maybe Director McLean, and it might  
23 affect maybe some other topics. On Page 1, when we talk about STRH or B&B, if there's two  
24 dwellings, as long as one is long-term and then the other one can be used for short-term rental.  
25 How are you going to know if it's occupied as long-term? How do you know that they just don't  
26 keep it vacant and say, oh, that's our second home, but it's kind of vacant, like what are the sort  
27 of enforcement rules on specifically identifying that second unit as a long-term rental basis? Or  
28 are they going to have to validate that they are using it for long-term leases to the community, so  
29 one is going for the community members residence, and then the other one goes to vacation can  
30 you tease that out for me?

31  
32 Ms. McLean: Sure, and this is an—

33  
34 Mr. Carnicelli: Sorry, what section are we in now? Is that 19.35.

35  
36 Ms. Pali: We're on Page 1, Yeah, 19.35.010.D and E, it's on the first page of the November 24...

37  
38 Mr. Carnicelli: D and E, okay, yeah, second page, yeah, second page, okay got it, I got it, yeah.  
39 I just want to make sure we're all on the same page literally.

40  
41 Ms. McLean: Okay, when we, when we talk about long-term occupancy that can mean a couple  
42 of things. It can mean owner occupied, so the person lives there full-time. It can mean rented to  
43 a tenant long-term, which means for six months or longer or it can be the owner's second home  
44 and they live there when they come to it because that's their right as the property owner. So that  
45 will be clarified, we did talk about that particularly to clarify that. The way that we would verify it,

1 and so...right now, the way the law stands is you can't use an ohana at all, and so that means if  
2 you want to do vacation rental, you would have to live in the ohana and rent out the main house.  
3 We're like, well, wait a second, people should have the opportunity. Maybe they want to live in  
4 their main house and rent out the ohana. The point is that both dwellings can't be used, and that's  
5 what it had been, you know, for many years, both dwellings could be used. And so, one can be  
6 used for short-term rental, the other would either be the owner lives there full time, rents it out to  
7 someone long-term or it's their second home and they use it when they want to, and we would  
8 regulate that by looking at the ads of their operation that it's only for the number of bedrooms that  
9 are allowed, et cetera.

10

11 Ms. Pali: Okay, and we have other rules in place that require on site manager or a manager  
12 nearby if it's that vacant second home thing, right. Okay, next question. I'm just using your, this  
13 really cool packet, I'm on Page 2 of the proposed summary changes, it's kind of easier on the  
14 third page, we're talking about a revision to allowing regular mail or hand delivery notification to  
15 the physical address because we're noticing that owners might live all over the world, but maybe  
16 their tenant didn't get the notice and they're going to be impacted. How are we going to be able  
17 to validate that there was a hand delivery?

18

19 Ms. McLean: Right now with, even with the certified mailings...well, certified mailings, you get  
20 the return receipt, but there's also affidavit of mailing where the applicant certifies that they did  
21 their mailing. So, we would request the same thing. It's not proof, but because this is an additional  
22 requirement we didn't want to make it too burdensome. So, it's just asking the applicant to sign  
23 an affidavit that they provided notice to those addresses.

24

25 Ms. Pali: Is there a follow through language if a neighbor shows up because he heard from his  
26 other neighbor and says he never got a hand delivery? Is that a negative mark against the  
27 applicant? Now you've got someone's word against someone else's whose word? I feel like  
28 that's a gray area that might be a little tough.

29

30 Ms. McLean: That actually happens now, even with the certified mailings. Sometimes they get  
31 returned and that's not the applicant's fault, you know, the recipient didn't pick it up. So, it's we  
32 ask for a good faith effort, and if we feel like that has been done, then it's acceptable. If we feel  
33 like it hasn't been done, then that could be considered providing false or misleading information  
34 in the application process, which would be...(inaudible)...and to deny.

35

36 Ms. Pali: Okay, so, I think then I would be fine with no revisions there. And the only other  
37 recommendation personally, myself, would be the Section 12. I like the proposed change. I get  
38 that. I like the intent, but interesting enough, I'd really hate the way it's worded.

39

40 Mr. Carnicelli: Where are you Kellie? Kellie, where are you?

41

42 Ms. Pali: I'm on, I'm on one, two, three, bottom of Page 3, on the packet, it's the summary  
43 columns.

44

45 Mr. Carnicelli: Oh, you're in the summary. Okay.

1  
2 Ms. Pali: Yeah, the summary is just real...much easier to read. It's Section 12 on the left, the  
3 very bottom page.

4  
5 Mr. Carnicelli: Yeah, I get it.

6  
7 Ms. Pali: And the revision states simply put, existing permit holders may continue to operate and  
8 renew under zoning restrictions when they were originally permitted and apply for renewals  
9 subject to renewal procedures of this ordinance. That just is so plain and totally I get it, and then  
10 you read the wording which is supposed to mean that, and it's...is supposed to mean that...and  
11 it's...I know we're trying to do it in a backwards effect, but it's...it gets lost in translation. So, I  
12 really like the revision language that trumps the proposed language.

13  
14 Mr. Carnicelli: Okay, so no changes. We're going to keep what they're proposing?

15  
16 Ms. Pali: I don't like the language that they're proposing. I would reword it using their explanation  
17 under comments and revisions. I would have the comment and revision language supersede and  
18 be the proposed change.

19  
20 Ms. McLean: So the short cut language that we provided on Page 3 is better than the actual bill's  
21 Section of Page 25 of the bill.

22  
23 Ms. Pali: Better than the legal jargon.

24  
25 Mr. Carnicelli: Any objections to Kellie's change? Seeing none, we'll go ahead and say it was  
26 adopted via consensus.

27  
28 Ms. Pali: That's all I got.

29  
30 Mr. Carnicelli: There we go. Who else has changes that they would like to propose? Michele,  
31 I've got a question about the TMK. I get why we're going away from addresses, right, 'cause you  
32 don't want, you don't want houses to get broken into and hit and whatever else it is. I mean,  
33 there's a lot of bad things that happen, but TMK kind of can still do the same thing. Is there, is  
34 providing a GET or a TAT number valid or because it's not tied to an address that that kind of falls  
35 on its face? I'm just, I'm just afraid of tying it to an address, right, 'cause you can still look up a  
36 TMK number and find out where the house is.

37  
38 Ms. McLean: We don't have access to GET and TAT files so we couldn't cross-reference the  
39 GET or TAT number to...for to find an address.

40  
41 Mr. Carnicelli: Right.

42  
43 Ms. McLean: For enforcement purposes, we want to know where the property is located and  
44 actually on the web site we have listings of all permitted B&Bs and STRHs with their physical



1 address and TMK. So, it's the permitted ones that information's already out there. This will help  
2 us control the unpermitted ones.

3  
4 Mr. Carnicelli: Okay, okay, and that's fine. And I think that the State requires TATs anyways, but  
5 the thing is you could have, you could have one TAT license and six different vacation rentals off  
6 of one TAT license. So, that's the other part that becomes a little bit crazy.

7  
8 Just a comment on the five years versus 15 years. Again, I kind of go back to...I'm in favor of  
9 leaving it at five. So, this isn't a revision, it's just a comment and the reason why is if you go to 15  
10 years, we're now putting STRHs in 15-year old neighborhoods, right, and that's where like people  
11 live, right. So, in a way, you're going like, okay I get the intent is you don't want speculators, but  
12 I think just being in the real estate industry for over 20 years, five years is enough to kill a  
13 speculator. Nobody is going to sit on a vacant house for five years to say, like okay, five years to  
14 now I potentially have the, you know, ability to, to at least in my I haven't seen it, you know, say  
15 okay, I'm gonna do a vacation rental. I'm gonna eat it for five years to possibly maybe do a  
16 vacation rental, get a permit for it in five years, and so I'd rather see okay, and if somebody is  
17 gonna do that then again, I'd rather see that five-year house potentially be a vacation rental rather  
18 than the 15-year house that's been in somebody's neighborhood for that long. So that's just a  
19 comment on the difference between the fives and the 15s. Any other changes? Commissioner  
20 Tackett.

21  
22 Mr. Tackett: Yea, I'm a 15-year guy all day long, every day. I think that, I think the demise of  
23 what we have and the reason why the prices are the way they are is because so many years ago  
24 we implemented residential as a business and now people are defending residential as a  
25 business, and you wonder why everybody doesn't have a place to live because the single-family  
26 residence is a million dollars right now. And why is it a million dollars, because now it's tied to  
27 business. Land should never be tied to business and it's the best thing that you guys can do, in  
28 my opinion, is get it back to you buy it to live in it. You buy it because you want to live here and,  
29 and if you make money along the way at a B&B that's your profit, you know what I mean, you  
30 don't, you don't get to sell it to somebody else so that the property values get even bigger from  
31 there.

32  
33 What...when you, when you look at the people that come before us, when you look at the people  
34 that talk to us in this thing, how many of them you think were raised on Maui and that purchased  
35 the house? How many of us, you know, I know a couple maybe in this process that are from Maui  
36 that earned a house and that are here. So, I think the Mayor, when he said 15 years and Molokai  
37 and Lanai, I said 15 years what they did is they stepped up big to protect the local people that's  
38 what they did. And every time you chop that down, you chop that away and we're a planning  
39 commission. We're planning for the future. So, if the plan is for all the local people to split and  
40 all the people that made their money somewhere else or grew up somewhere else to come here,  
41 if that's the plan, then short-term rentals and bed and breakfast that's a great avenue to that.

42  
43 As a matter of fact, if I cannot, if I cannot continue to make my, my house payment because I'm  
44 currently unemployed due to the situation there is I will sell my house for a million bucks and I'll  
45 go live like a king anywhere else in the world, but I wouldn't surf the beaches, I surf. I won't see

1 the people I went to school with. I won't be around anybody or anything that I know, you know,  
2 but that's what's on the table for me. And I think that until we put it into perspective, that, that  
3 residential should not be a business, and I know it got tossed on to us and it is a business now,  
4 and I'm willing to look at it open-minded as a business, and I'm willing to weigh everything as the  
5 commissioner for the positive and the negatives and try to put the best people in the right places  
6 with the right intentions. But I do not believe that, that lessening the amount of years that people  
7 live here is going to change whether or not an old neighborhood or a new neighborhood goes into  
8 bed and breakfast. I think the longer you make it or in short-term rental, I think the longer you  
9 make people own something that the lesser you're going to make the property values, the lesser  
10 you make the property values, the more working class people are going to be able to afford them,  
11 and the more you're going to be able to retain a normal type of community which, which Maui  
12 hasn't been a normal type of community shoot since I got out of high school in the 90s. You know,  
13 in the 90s, it was normal like you saw normal people, you know what I mean? You saw, like,  
14 people that grew up here or tourist that came here, but, but it hasn't been like that for a really long  
15 time, you know. All the richest people in the world own a piece of this rock. Almost everybody  
16 wants a piece of this rock. They can afford multiple things, five, six, seven, ten, fifteen homes  
17 almost all of them have one of them here, and that's why we're in this situation that we're in.

18  
19 So, I think that it's a...I think that it's a...it's a big mistake to not go with the 15 years. I'm, I'm, I'm  
20 a it, it hurts me, you know, to see that that people think that the business is okay, and I understand  
21 that some local people are running the business, you know, and, and all I got to say, is the reason  
22 why they're running the business is because it got to a point where they had no other choice.  
23 They have to run the business or they got to split just like everybody else that left. And when I  
24 leave, if I leave, if I sell my house and split and go somewhere else where I can retire, I can almost  
25 guarantee the next person that steps in and pays the million dollars, bucks for my house he didn't  
26 go to Wailuku Elementary, he didn't go to Lao School, he didn't go to Baldwin either, you know,  
27 he didn't go to any school on Maui. Whoever pays the million bucks for my house not going to be  
28 here, from here either. So I think that's what we're touching on and that's what's important and  
29 I'm in favor of the 15, and I think that we should reconsider the 15, and I think that the Mayor had  
30 good reasoning behind asking for the 15. So anyways, what I, what hope is to put the 15 back in  
31 like Maui and Molokai...or to make Maui, Molokai and Lanai the same. Thank you for my rant.

32  
33 Mr. Carnicelli: Thank you, Christian. I, I appreciate your passion. I appreciate your, your wearing  
34 your heart on your sleeve and saying what you feel, and feeling what you mean, and so anyways,  
35 I appreciate that. So is your, is your...are you proposing to move it back to 15 years?

36  
37 Mr. Tackett: That is my proposal.

38  
39 Mr. Carnicelli: Okay, so, so, I guess that would be Page 14, right? So, we're talking about Page  
40 14 of the packet which is 19.65.030. I'm losing track here, Letter O, you guys with me, 'cause it's  
41 like it's either the five or 15. Am I in the right spot Jackie?

42  
43 Ms. Takakura: Yes, Chair that is correct.

44  
45 Mr. Carnicelli: Okay, What Christian's trying to?

1  
2 Ms. Takakura: Page 14, Item O.

3  
4 Mr. Carnicelli: Right. Item O on Page 14. So, are there any objections to moving from 15 back  
5 to 5 back to 15? Any objections to that? Okay, so we do have objections. So, we'll go ahead  
6 and say Christian has a motion on the floor to move it to 15, do we have a second? Okay,  
7 seconded by Commissioner Castro. So, we've got a motion on the floor to move it back to 15.  
8 Discussion on the motion. I think Christian, I think you spoke to the motion unless you want to it  
9 to do it again? Okay, Christian's good. Stephen you want to speak to the motion?

10  
11 Mr. Castro: Well, I concur with brother Tackett, and you know, I think if you're gonna be in the  
12 business, get into some other business. You know, the purpose here is to get, get your home.  
13 I've been blessed and very fortunate, waited a long time and got my home and I've been in it for  
14 39 years, so I don't see my children getting a home anytime soon until I croak you know, and that  
15 will be my house, yeah that they're gonna get, but I think 15 years is good enough.

16  
17 Mr. Carnicelli: Okay, thank you. Anybody else like to speak to the motion?  
18 Commissioner Freitas.

19  
20 Mr. Freitas: Thank you, Chair. Vice-Chair. Tackett said it quite beautifully, kind of answered my  
21 question that I asked Mr. Croly earlier today, what are we here for? And what you shared on one  
22 part of what we're talking about is exactly why we are here. Chair Carnicelli had shared that, you  
23 know, waiting 15 years, you're going to be you might be, you might be in a old, decrepit  
24 subdivision, but if I remember, we had applicants for B&Bs that the homes were pretty old. I  
25 remember one, you had to go through the bathroom to get to the room. I mean, it's, it's, it's okay,  
26 and the way I look at it is people buy their homes, they live in it for 15, 20 years and then their  
27 children move out and then they need income to fill the empty rooms and that's how they can help  
28 make their payments. I really agree with Vice-Chair Tackett in everything that he said and I  
29 support that going back to 15 and that we're also consistent with Lanai and Molokai and I'm sure  
30 our Mayor had probably a lot of advice from his staff about this too. So, I support that.

31  
32 Mr. Carnicelli: Commissioner Pali.

33  
34 Ms. Pali: So, I like that last phrase Commissioner Freitas said about painting the picture of getting  
35 your home, raising your family, families go, you're older now, maybe you can't physically work  
36 and then having the opportunity. I definitely agree with you there. I guess the question that I can't  
37 run from is why is only that age group allowed to have that scenario? What about a single mom  
38 with children that got blessed with a house? Maybe her father passed down a family home to  
39 her, but she still can't make ends meet and she certainly can't wait till 15 years go by to be able  
40 to take that little ohana unit and maybe vacation rental it. I don't think that for me as a  
41 commissioner, I want to determine who gets to have this this gem of an opportunity and who  
42 doesn't. I don't think that I want to choose today and sort of discriminate on who gets to  
43 participate. So that would be the reason why I'm against the 15-year.

44

1 I also think that we have to separate the people groups we're talking to. I must admit that I'm  
2 guilty of kind of when I hear vacation rental or B&B, I don't know if this is okay to say, but I see a  
3 person who is not from here applying. They don't have roots. That's kind of what the applicant  
4 looks like. So, I feel like our attention is geared to that person. But maybe we need to grow.  
5 Maybe we need to say, hey, let's teach our local people on how they can have multiple opportunity  
6 to make this island not just their home, but, but a home and potential income so we can all benefit  
7 from it. Why is it just that one people group that are taking advantage of it? Why aren't we  
8 teaching our young kids on what that looks like, property management?  
9

10 And so, those are all the reasons why I think that 15 years we were trying to protect the locals,  
11 we can do it, but not by limiting opportunity. So, I'm an opportunist and I think this could provide  
12 much opportunity for our locals if we tabled it up. And I also think that even no matter what  
13 changes we make today, in most cases, the applicant will come to us anyway for permission. And  
14 all of us can, can have our deeply rooted passion in certain areas, we can take it case by case  
15 and look at the applicants, and at that point we can make a decision, but to just cut it off and say  
16 no now and eliminate all the different opportunities and people groups, I'm not for it. I'm okay with  
17 the five years.

18  
19 Mr. Carnicelli: Thank you, would anybody else like to speak to the motion?  
20 Commissioner La Costa.

21  
22 Ms. La Costa: Thank you. Chair. I was looking for some statistics and I couldn't find the definitive  
23 proof, but I have heard that the average person owns a home on Maui just shy of eight years, so  
24 I have been in my home ten years now. If I decide to retire next year, which I'm wondering about  
25 doing, I couldn't, I couldn't short-term my house because I haven't owned it for 15 years. I've  
26 been on Maui 31 years, but I couldn't to Kellie's point, I couldn't short-term my house because I  
27 fall outside the parameters. So, I think five years is, is a sufficient amount. Like you said, Chair,  
28 you're not going to buy a place, let it sit empty and then wait for that five-year mark when the  
29 entire economy could have changed by that time. So, I think that I'm against the 15 years and I  
30 am for the leaving it at the five-year mark. Thank you.

31  
32 Mr. Carnicelli: Anybody else like to speak to the motion? So, I'll just say that I think that Director,  
33 how many STRHs are there on the island?

34  
35 Ms. McLean: Gosh, I can check—

36  
37 Mr. Carnicelli: Three hundred and something, 280 something like that.

38  
39 Ms. McLean: I think, 250, 300 in that range.

40  
41 Mr. Carnicelli: Okay, right. So, I get that people like to make STRHs the boogieman, but the  
42 reason why we have a housing crisis is because we're not building homes, not because of  
43 rampant, I know that people will disagree with me, but it's not because of rampant legal vacation  
44 rentals. And I don't want them in our neighborhoods, I don't want them in the, in the 20-year, and  
45 it's not decrepit neighborhoods. I'm talking about established neighborhoods that's what I'm

1 talking about, 'cause I would rather see them in a neighborhood that's less established. Now, if  
2 it is established, that's fine, and that neighborhood would have to do it. But we're going to force  
3 it into established neighborhoods, whether it's a decrepit house or whether it's wherever it is, I  
4 mean, that's a whole nother story, but the reality of what it is that we're talking about here is just,  
5 okay, we've got a cap of whatever the number is, 384, 350 units, and where do we want them and  
6 who do we want to have them that's basically what this comes down to. So, I've said my piece.  
7 Anybody else want to say anything else?

8  
9 Okay, so the motion is change on Page 14, Section O, is essentially change it back to everybody's  
10 15 years including Maui instead of Maui being five and Molokai and Lanai being 15. All those in  
11 favor of changing it to 15 please raise your hand. That's one, two, three, four, five. Opposed?  
12 Three. So, the motion passes. So, we're gonna go ahead, move it back to 15. Done.

13  
14 **It was moved by Mr. Tackett, seconded by Mr. Castro, then**

15  
16 **VOTED: To Change Section 19.65.030, Item O on Page 14, to 15 years for Maui.**  
17 **(Assenting – C. Tackett, S. Castro, J. Edlao, K. Freitas, M. Hipolito,**  
18 **C. Tackett)**  
19 **(Dissenting – K. Pali, P. D. La Costa, D. Thompson)**  
20

21 Mr. Carnicelli: Any other changes? Anybody else got anything else? Okay, so I guess at this  
22 point in time, then I will entertain a motion to let's see let me get the exact language here.  
23 Recommend approval of the proposed bill, the proposed amended bill to Maui County Council so  
24 that will include the changes that we made, including the 15 years that we just did, and then, you  
25 know, the irrevocable trust language, and then, you know, the fact that we're going to wordsmith  
26 trust before it goes to Council and try to work that out before Council, so is everybody clear, so  
27 that's, that's essentially what I'm looking for a motion to transmit that. Moved by Commissioner  
28 Pali. Do I have a second? Seconded by Commissioner Hipolito. Discussion on the motion? All  
29 those in favor? That's six. All those opposed? Dissenting is Commissioner La Costa. Motion  
30 passes.

31  
32 **It was moved by Ms. Pali, seconded by Mr. Hipolito, then**

33  
34 **VOTED: To Recommend Approval to the County Council of the Proposed**  
35 **Amended Bill as Discussed and Amended by the Commission.**  
36 **(Assenting – K. Pali, M. Hipolito, J. Edlao, K. Freitas, C. Tackett,**  
37 **D. Thompson)**  
38 **(Dissenting – P. D. La Costa)**  
39

40 Mr. Carnicelli: So, we will transmit this as amended to the County Council and we'll take a little  
41 bit of air out of the room. That was a little bit passionate. I like it. I like that we can disagree and  
42 get a vote move on. Thank you, Jackie  
43  
44  
45

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3  
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5

Respectfully Submitted by,

CAROLYN TAKAYAMA-CORDEN  
Secretary to Boards and Commissions II