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**MAUI PLANNING COMMISSION  
REGULAR MINUTES  
SEPTEMBER 22, 2020**

Mr. Carnicelli: Aloha, everyone. Maui Planning Commission meeting of September 22, 2020 is now back in session. Director.

Ms. McLean: Thank you, Chair. This is your public, second public hearing item today, also transmitted by yours truly, 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.

**2. 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)**

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/1127/Legislation---Proposed> and is summarized as follows:

**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.**

Ms. McLean: I would like to note that the Chair, among others, expressed concerns about bringing some amendments forward when you had recently discussed the caps bill and conveyed your belief that further changes to STRHs and B&Bs shouldn't be considered at this time during the pandemic and the shutdown. I would like to note that a lot of these changes were in the works well before that happened and they're changes that we think are still worth putting forward. I would also like to note that we had a good meeting last week with the MVRA and Realtors Association, and we'll be proposing, as conveyed in the PowerPoint, several amendments based on that meeting, and so we feel pretty good about the proposals that we're putting for you. Certainly, there are still some points of contention, which I'm sure you've seen in the written testimony that was submitted and you'll probably hear in verbal testimony. But on those areas where there's consensus, we hope to have your support. So, with that Chair, if I could pass it on to Jacky to give that PowerPoint.

Mr. Carnicelli: Go ahead.

Ms. McLean: Thank you, Chair.

1 Ms. Jacky Takakura: Thank you, Chair. Commission members, hello again. So, I'm going to  
2 share screen again. So, bear with me for just a second. Can everyone see the light blue, thumbs  
3 up? Okay, I try to keep these short not, too long, but it is it does cover three chapters, and I'll just  
4 over each one briefly.

5  
6 So, as the Director had said, we're proposing to revise three chapters, 19.35, 19.64, and 19.65 of  
7 the Maui County Code, these are accessory dwellings, bed and breakfast home permits and  
8 short-term rental home permits. I'm going to briefly go over the proposed changes to these  
9 chapters, and the overall goal of the proposed bill is to allow for some flexibility in transient  
10 vacation rental use in accessory dwelling units while encouraging long-term occupancy, clarify  
11 trust and ownership requirements, expand vacation rental notification requirements to neighbors  
12 and other minor revisions to Chapters 19.64 and 65 for clarity and consistency purposes. We  
13 met with the Lanai Planning Commission last week, and tomorrow is the Molokai Planning  
14 Commission.

15  
16 So, we're proposing to revise three chapters to allow for some flexibility in transient vacation rental  
17 use in accessory dwellings while encouraging long-term occupancy. That's what you see here  
18 on the first item. We want to add some limits to permits per property and per applicant. We want  
19 to clarify trusts and ownership requirements. You're going to see some definitions revised in here.  
20 We want to expand vacation rental notification requirements to neighbors of properties. And then  
21 another thing you're going to see throughout is these revisions for consistency between 19.64  
22 and 19.65. As the Director mentioned, we are not proposing any changes to permit number limits  
23 for Maui and Molokai, however we are following the recent Planning Commission  
24 recommendations on permit numbers for Lanai, so you will see that for Lanai, but for Maui and  
25 Molokai, we are not proposing to permit number limits. And as the Director said, you know, these  
26 changes have been in the works for a while, so decided to move.

27  
28 Throughout this presentation, you're going to see some see some things in green and some things  
29 in red. The things that we think are more lenient are in green, and the ones that are more  
30 restrictive in red. And you're also going to see, you know things are always going to be a work in  
31 progress, we're getting better all the time, you're gonna see some things in italics that we have  
32 as revisions, and so you're going to see that and I'll bring those...I'll clarify those as we go through.

33  
34 Okay, so first chapter is accessory dwellings, and what we're proposing is that an accessory  
35 dwelling may only...we're proposing this new language that it may only be used as a short-term  
36 rental home if the main dwelling and other accessory dwelling, if applicable are occupied on a  
37 long-term residential basis, so that would be for short-term rental home. For bed and breakfast,  
38 it would be only one accessory dwelling per lot may be used as a bed and breakfast home. And  
39 so, what does this mean? This means that it would be okay for short-term rental home in an  
40 accessory dwelling if the main dwelling and any other accessory dwellings are used for long-term  
41 occupancy, and then for B&Bs, it can be...the B&B can be in one accessory dwelling. So, for  
42 short-term rental homes, if there's two dwellings on a property and the owner wants to do the

1 short-term rental home, then it might be...it'd be okay for them to do it in the ohana, and then rent  
2 the main house long-term. That could be more room for a local family. With the way the accessory  
3 dwellings chapter is now, they have to do the short-term rental home in the main house and rent  
4 the cottage long-term. So, this proposed change would give them some flex...flexibility they could  
5 do one of these. And I just want to clarify, when we say long-term occupancy, we mean owner  
6 occupied or in long-term rental or an owner's, you know, second home that they stay out at  
7 occasionally. So, that's the only change from 19.35, and you're going to see parallel language to  
8 this in 19.64 and 19.65.

9  
10 Okay so, the next chapter is 19.64, and that's the one for bed and breakfast homes. And so, like  
11 we have in the Accessory Dwellings Chapter, we're proposing that the bed and breakfast use may  
12 be permitted in no more than two single-family dwelling units per lot. And so, that means it would  
13 be okay for the bed and breakfast in the main dwelling and/or one accessory dwelling for a total  
14 of two dwelling units. Any other dwelling units must be occupied long-term. We do acknowledge  
15 that this could warrant some adjustments to property tax classes to recognize the long-term  
16 occupancy.

17  
18 So next part, originally, construction and ownership requirements are aimed to reduce speculation  
19 and encourage a connection to the neighborhood. Bed and Breakfast never had an ownership  
20 or construction requirement before, but short-term rental homes have had a five-year requirement,  
21 and that's what you see on this first item the proposal to include a limit, limitation of that it was  
22 constructed at least five years prior to the date of application, and it was owned prior to...five  
23 years prior to the date of application. We're open to revising this proposal to adjust the five-year  
24 construction requirement and eliminate the ownership requirement cause like I just mentioned,  
25 the goal here is to reduce the opportunity for speculation. So, this would confine bed and  
26 breakfast homes to homes that already exist. Not a top priority for the Department, though, given  
27 that families may wish to start bed and breakfast to generate more income. But we have seen  
28 inquiries about developing B&Bs for investment. So, the proposed revision for that is just a five-  
29 year construction requirement only.

30  
31 The next item, as I mentioned is that the Lanai Planning Commission had recommended a cap of  
32 21 bed and breakfast permits, and their bill is...actually was just received by County Council for  
33 their review and action. That one is already...(inaudible)...

34  
35 The last item you see in italics is a proposed addition that no bed and breakfast permit may be  
36 issued to anyone, any person who holds a valid short-term rental home permit or who has been  
37 banned from applying for a short-term rental home permit. We have parallel language already  
38 proposed in 19.6..., and so this would be consistent with what we have there. And this allows  
39 others an opportunity to profit from bed and breakfast investments, and it eliminates a loophole  
40 for rule breakers.

1 This is all regarding signs, and it's simply to make the sign requirements consistent with the Short-  
2 Term Rental Homes Chapter in terms of the size. Right now, for Maui and Molokai, the sign  
3 requirement is 16 square feet...I mean, for Maui and Lanai. So, we're proposing to make it four  
4 square feet and then also have the timing, the posting dates same as short-term rental homes.  
5 The two would be consistent. bed and breakfast home and short-term rental home. It just makes  
6 it easier for everybody.

7  
8 And this is another part that is also to make bed and breakfast homes consistent with short-term  
9 rental homes. If a public hearing...the Planning Commission public hearing review is required,  
10 the processing requirements can be the same as short-term rental home requirements because  
11 right now they're actually more complicated for bed and breakfast homes than they are for short-  
12 term rental homes.

13  
14 The public hearing requirement trigger would be, we're proposing it be for two or more existing  
15 B&Bs within a 500-foot distance, and this is the same as short-term rental homes. Right now. it's  
16 one for B&Bs.

17  
18 And then the last item you see here, we proposed adding that a property's real property tax  
19 classification would be prima facie evidence, just like how advertising is. However, you know it's  
20 not a priority for the Department as tax classes are established by the County. This was proposed  
21 because it would be a tool for our invest...inspectors to you know, pursue illegals, but we can live  
22 without this proposal.

23  
24 So that's it for bed and breakfasts. So, we're winding down just one last to go, 19.65 short term  
25 rental homes. This first item you see in green is the part about the accessory dwellings, which  
26 you saw in 19.35, short-term rental home or short-term rental home use would be permitted in no  
27 more than one single-family dwelling unit per lot on Maui and Lanai. So, it could be the main  
28 dwelling or the accessory dwelling. Anything would have to be occupied long-term. As noted,  
29 before, like with a bed and breakfast the tax implications for this could be discussed by the Council  
30 to encourage long-term occupancy, not tax, but the short-term rental tax.

31  
32 Okay, the next part is a proposed...some revisions for definitions, and this part about trusts would  
33 require that trustees belong to the family of the family trust. And we worked with Corporation  
34 Counsel on the trust language after struggles with two short-term rental home applications from  
35 trusts. And what we're saying here is that the trust must be in the name of the applicant and  
36 there's a definition now we're proposing for family trust, and that would be as a self-settled  
37 revokable trust where the trustees is also the trustors or grantors or is related by blood, adoption,  
38 marriage or civil union to the beneficiaries. This language clarifies how trusts work as ownership  
39 entities for short-term rental homes. Existing ones would be allowed to continue grandfathered if  
40 they don't fit with this definitions, new ones though, would have to comply.

1 Next item is only one permit per applicant, regardless of wealth, right? This would allow others  
2 an opportunity to profit from short-term rental home investments. Right now, we have some  
3 language in the Code about being allowed to have more than one if the short-term rental home is  
4 valued over 3.2 million dollars, so just deleting that part or proposing to delete that part and just  
5 have one permit per applicant period.

6  
7 And then the last part here, that the permit not be transfer...transferable in any way and that would  
8 eliminate loopholes that may be used for investment purposes. However, we would like to  
9 propose that we add this language, "or in the instance of a trust to the beneficiary of the trust".

10  
11 So, we're also proposing to add additional criteria to assist the applicant in conforming to the  
12 character of the existing neighborhood and being part of the community. And that would be  
13 considering the benefits that the short-term rental home will bring to the community and  
14 justification and reasons for applying for the short-term rental home. This will help the applicants  
15 in getting approved when they go to the Planning Commission, and this information often comes  
16 out at the hearings, but it should be included upfront in the report and analysis.

17  
18 The item on the bottom that you see and red, the proposal is to limit short-term rental homes to  
19 dwelling units constructed at least fifteen, 15 years prior to the date of the permit application, and  
20 also, the dwelling unit be owned by the applicant for at least 15 ...(inaudible)...and this 15 year  
21 requirement was requested by the Mayor, and we understand this may not be a  
22 ...(inaudible)...proposal, but...(inaudible)...

23  
24 Just a few more things, like with the bed and breakfast, the Lanai Planning Commission  
25 recommends a cap of 21 short-rental home permits. This next item, the experimental and  
26 demonstration housing projects, the purpose of those projects is to reduce the cost of  
27 housing...housing in the state in accordance with HRS 46-15 and it's kind of similar to affordable  
28 housing and workforce housing, and just like what those types of housing, vacation rentals are  
29 inconsistent with the purpose of this kind of housing projects.

30  
31 The third item, no short-term rental home permit may be issued to any person who is holding a  
32 valid B&B permit or who has been banned from applying for B&B permit. Like I mentioned, when  
33 we were...(inaudible)...the B&B like to have that in both sections, and this allows others an  
34 opportunity to participate in the short-term rental home investment market, and it also eliminates  
35 a loophole for rule breakers.

36  
37 We're proposing, we propose to include that ads must include physical street address. However,  
38 we'd like to change that and just use a tax map key number instead. That's enough information  
39 for us for verification and enforcement without compromising safety.

1 Last item we're proposing, right now, it already says that an owner cannot have a financial interest  
2 in another short-term rental home. We'd like to say that can't have a financial interest in another  
3 B&B or short-term...short-term rental home that way, others can participate.

4  
5 Okay, so this is regarding notification. Existing notification procedures include owners and  
6 lessees who are often nonresidents and neighbors are currently excluded. So, what we're  
7 proposing here is that the physical addresses be included when notification has to go out, and  
8 that way the people who live nearby can be informed. And a question came this about...came up  
9 about this, well, you know, how many says does each lot get? But as it is now, each what gets  
10 one say and this wouldn't change and we can include language to clarify that.

11  
12 Second item, advertising. We're proposing to include the real property tax classification as prima  
13 facie evidence, but like I mentioned, with the B&B's, you know we can remove this if you prefer.  
14 It was just a proposal as another tool for our enforcement.

15  
16 And then I have an error in the draft that you received, and I'm sorry there was a typo on the  
17 bottom of Page 22. I must have copied and pasted without realizing it. The only change that  
18 should be in that portion is changing the shall to the must, so I apologize for that. That is changing  
19 shall to must, and be a lot of that shall to must throughout this proposal, and that's just consistent  
20 with the general goal of the County Council to make the Unicode more, you know, readable and  
21 just regular language.

22  
23 So, in summary, what we're proposing is that accessory dwellings be allowed to be used for short  
24 term rental homes and bed and breakfasts if other dwellings are occupied long-term, we want  
25 definitions in there, family trust clarified. We would like to update the ownership requirements.  
26 We'd like to limit short-term rental home permits to one per property and per applicant. We'd like  
27 some consistency between the bed and breakfast and the short-term rental home rules.  
28 Consistency is good for the applicants, for the public, for the staff who have to implement, and for  
29 the commission, too. We'd like to include neighbors in the communication. And so, we're trying  
30 to offer some options to the permit holders and also help protect the character of the neighborhood  
31 in which vacation rentals operate. Like I mentioned, you know, consistency that's always a goal,  
32 better notification, and addressing snags that we have seen in the process really that benefits  
33 everyone.

34  
35 The proposal doesn't affect existing permits. However, we would like to propose that existing  
36 permits would have to follow whatever rules are in place at the time they apply for renewal. It  
37 would be easier for the public, permit holders, the neighbors, the staff to follow the same set of  
38 rules, and you know, the goal is always compliance. The only change for existing permit holders  
39 at time of renewal would be the notification requirements to the neighbors, and we can make sure  
40 that's clarified. Upon renewal, they would be allowed to continue as they were approved unless,  
41 of course, they want to make changes which they could they could initiate.

1 So, that's it in a nutshell. You have options and we're hoping that you approve with some revisions  
2 that we've proposed in here the bill for ordinance, and I'd like to thank the Maui Vacation Rental  
3 Association and the Realtors Association of Maui for working with us. You know, hopefully there  
4 aren't more changes, but if they are, we will continue to work with them so that we can have  
5 changes that, you know, we can all approve and get better all the time. So that's it, I'm going to  
6 stop sharing the screen, and then...(inaudible)...Thank you very much.

7  
8 Mr. Carnicelli: Thank you, Jacky. Director, how many people do we have signed up to testify on  
9 this item right now?

10  
11 Ms. McLean: Chair, right now we have 14 people.

12  
13 Mr. Carnicelli: Okay, so Commissioners, I think that what I'd like to do is just ask the testifiers if  
14 they would like changes to specifically go to, you know, the number, right, and ask what change  
15 they would like, cause is, just...for those of you that are here on the call, you would like to testify,  
16 would you like to give your manao, what we do here is do nothing more than give a  
17 recommendation back to the County Council. That's what it is that we're going to do. So those  
18 of you that understand that, so the more specific and pointed you can be with your testimony, the  
19 more valuable it is to us. So instead of just going like, hey, listen, I'd like this or I don't like that  
20 about it or what it is...you can say like, hey, listen, 19.030.070 says, and I think it should be  
21 changed to...that would be very, very helpful to us just so you guys know. Commissioners, is  
22 there anything else that you would like to say to testifiers that you would like or need as we go for  
23 this recommendation? Commissioner Pali.

24  
25 Ms. Pali: One that helps me often is to lead if you're in agreeance or opposing and then blah,  
26 blah, blah, blah, because we hear this story, blah, blah, blah, blah, and you don't know which way  
27 they go and then they reveal it at the end, but then I've lost the content. So, they could lead with  
28 I agree with this and then or I don't agree that would really help me.

29  
30 Mr. Carnicelli: Great. Anybody else have anything that they, they need from testifiers to help  
31 them in this process? Okay, seeing none, also just so testifiers do know you have up to three  
32 minutes not, three minutes and 20 seconds, not three minutes and forty-five seconds, just to be  
33 fair to everybody, we do want to hear what you have to say, however, please limit your testimony  
34 to exactly three minutes. At the three-minute mark, you'll hear in your ear, Carolyn say three  
35 minutes and I will say thank you. Commissioner Pali.

36  
37 Ms. Pali: Is there a web site people can go to find the actual document we're referencing.

38  
39 Mr. Carnicelli: Maui Planning Commission, it's part of the agenda. Yeah, if they go to the Planning  
40 Department web site, there is a Planning Commission Page which then leads you to all of the  
41 agendas and all of the resources on there. So, yeah, that is...we have our own page on the  
42 County web site. I guess that being said, Director.

1  
2 Ms. McLean: Thank you, Chair, before we start with testimony, I just want to say a couple brief  
3 things.

4  
5 Mr. Carnicelli: Oh sure.

6  
7 Ms. McLean: First, we did not revise the bill based on the proposed revisions that we have in the  
8 slide set. It gets too confusing when there are multiple versions of a bill. Only one bill was posted  
9 for public hearing and we're working off of that bill. So, the revisions that we noted in the slide  
10 said have not been incorporated into the bill. That's something we're proposing today for the  
11 Commission's consideration. Two items that were highlighted in the slide, one is the ownership  
12 requirement and the construction requirement. Right now, there's no ownership or construction  
13 age requirement for B&Bs. There is a five-year ownership and construction requirement for  
14 STRHs. The Department's original proposal was to put the same five-year requirement for B&Bs  
15 so that they would be in parity with STRHs. Based on the discussion with the realtors and MVRA  
16 that five-year restriction, construction and ownership was a concern to them, and so we are  
17 agreeable to removing that. I believe the slide said just the construction requirement, but we don't  
18 have a major concern with removing both. And as Jacky mentioned, the Mayor is requesting that  
19 the five years for STRHs be changed to 15 years, that's a mayoral requirement and that's why  
20 we're putting that out there.

21  
22 The other item that was highlighted in the slide set is what the Department can use as evidence  
23 for STRH violations. And right now, for B&B and STRHs advertising is evidence of operation.  
24 The original proposal calls for also including the STRH tax class as evidence, but in discussions  
25 with MVRA and the realtors, there were reasons why that might not be the best course of action.  
26 So, we're also agreeable to removing that as well. So I just want to clarify those, they  
27 weren't...that wasn't clear enough in the slide set and then it's also very important to note, as  
28 Jacky did talk about right at the end, existing permits can continue to operate as they are  
29 permitted, even though the rules might be changing for B&Bs and STRHs, existing permits can  
30 continue to operate as they are. The only change that would happen is the requirement to notify  
31 for STRHs to notify neighbors if there's a change in the manager. So that would be the only, the  
32 only change to existing operations. So, I just wanted to make those clarifications.

33  
34 Mr. Carnicelli: Yeah, that's helpful. Thank you, Director, and I think that that'll be helpful for the  
35 people that want to come forward and give testimony as well. So, they, hopefully they understood  
36 all of that as well. So, thank you.

37  
38 Ms. McLean: Okay, Chair, the first person to testify is Kathleen Gildred, and she will be followed  
39 by Colleen Medeiros. Kathleen, you can unmute your audio, and if you wish to, you can, unmute  
40 your video.

41



1 Ms. Kathleen Gildred: And let's see, I'm not sure how I unmute, oh, I see, it's up here. Okay, hi  
2 there.

3  
4 Mr. Carnicelli: Good morning.

5  
6 Ms. Gildred: Nice to see you all. I have been a part-time resident of Maui for many years now. I  
7 bought my home Hake Alana in 1994, and it's has been vacation rental ever since 1995. I was  
8 required to go through the permitting process when a neighbor reported me. I, of course didn't  
9 know there even was a permitting process. I don't know that anybody else did either because I  
10 got most of the way through the permitting process and then the County stopped it, and said we  
11 don't have a procedure now for doing this, we're going to wait till we streamline the process, so I  
12 got a call a couple years later to continue going through the process, and I ended up getting permit  
13 number two. So, I am permit number two on the island. And in the twenty-five years we've been  
14 in business, we have employed many people like at least ten people on a regular basis. We  
15 have...we have given salaries to...you know, provided employment for all of these people and  
16 their families and et cetera, et cetera and with the current climate of, you know, what's going on  
17 in the economy right now, I don't feel it's a good time to change the process. I think for right now,  
18 we should keep it as it is so that the permitting that's in place can continue as it is and the  
19 employment can continue, and I know also many people coming to the island who'd only want to  
20 stay in a beautiful home and my home would not be a vacation rental...it would not be a long term  
21 rental. I do have a long-term rental in my cottage. So, I'm just voicing to keep it as it is for right  
22 now to not extend the time requirement to 15 years cause that would really interfere with other  
23 people being able to function as I've been as bed and breakfast there and ...(inaudible)...So,  
24 thank you for hearing my testimony and I will now let you go on to other people cause I know  
25 there are many of us who want to testify. Thank you for your work.

26  
27 Mr. Carnicelli: Thank you, Ms. Gildred. Any need for clarification of the testimony? Seeing none,  
28 thank you very much. Appreciate it.

29  
30 Ms. Gildred: Thank you.

31  
32 Mr. Carnicelli: Director.

33  
34 Ms. McLean: Chair, the next testifier is Colleen Medeiros and she'll be followed by Kimberly Lee.

35  
36 Ms. Colleen Medeiros: Good morning, everyone, I'm Colleen Medeiros.

37  
38 Mr. Carnicelli: Good morning.

39  
40 Ms. Medeiros: I'd just like to speak to two of the changes. The first one is the change regarding  
41 the trusts. It sounds like it's going to be shifted a little bit so that I would agree with it. Basically,  
42 I've been holding off, putting my property into my trust because I just didn't know what the

1 implications would be for my permit. But as I understand it just now, it sounds like if I transfer my  
2 property into the trust, it should, it should, I should be able to keep my permit. And if I die, my  
3 permit would transfer to either my husband or my beneficiary is if I understand it correctly that  
4 sounds good, and that is how I think it ought to be designed.  
5

6 Let's see here, the second, the second point is the extension of the time frame for building an  
7 ownership from five years to 15 years. I would like to understand what the intention is in extending  
8 that to fifteen years. As far as...so, I oppose, I oppose extending it to 15 years because it seems  
9 to me that with the five-year timeframe coupled with just this, the caps that are...that we have on  
10 permits, those two items together effectively limit the number of permits, so I don't understand the  
11 need for the 15 years, and I oppose that.  
12

13 And again, just sort of in conclusion, just to remind everybody that we are a group of several  
14 hundred local full-time Maui resident owners here trying to operate these businesses. I feel like  
15 people really lose sight of the fact that there are many hundreds of local owners and we would  
16 like to be supported to the greatest degree possible, you know, as a business, as a small  
17 business, and to date, we, we specifically, our business type has been exclusively cut out of any  
18 of the Cares Act money that that other businesses are getting. And I just kind of feel like it's  
19 important for you folks to, to know that if you don't already, maybe you know that, but—  
20

21 Ms. Takayama-Corden: Three minutes.

22  
23 Mr. Carnicelli: Thank you.

24  
25 Ms. Medeiros: All right, thank you. Thank you so much.  
26

27 Mr. Carnicelli: Thank you, Ms. Medeiros, do you have...is there...Commissioners is there any  
28 need for clarification from the testifier? Seeing none, thank you very much for your manao.  
29 Director.  
30

31 Ms. Medeiros: Okay, thank you, bye.  
32

33 Ms. McLean: Thank you, Chair. The next testifier is Kimberly Lee, and she will be followed by  
34 Greg Mebel.  
35

36 Ms. Kimberly Lee: Aloha, Commissioners, my name is Kimberly Lee. This is my husband Keith.  
37 We have a second home in Kihei, it's a condo. We've owned it for 17 years, and I know you want  
38 to know if we support or oppose, but really, I don't feel like we have enough information to be able  
39 to tell you that with this, this bill for the ordinance. As I read it, there's a lot of parts of it to me that  
40 are confusing. For example, we have G.E. and TAT tax permit. We have a W number, I'm not  
41 even sure if that means that we have a short-term rental permit. I'm assuming under the way that  
42 we're operating that we do, but I don't even know if that is the case because we have a condo

1 versus a single-family home. I am, I am confused about the 15-year, five-year timeline. So,  
2 there's a lot in this ordinance that we are trying to read through and understand, and I'm assuming  
3 that if we can't read through it and understand it, that all those who are impacted by it should be  
4 able to understand it. I'm not opposed to having some kind of guidelines. We have another  
5 property in the City of Henderson in Nevada, and it's very streamlined and very understandable,  
6 and we're in compliance with that. I don't mind being in compliance. I think it's a win-win if the  
7 jurisdiction has, has regulations and rules that we can operate under.

8  
9 I specifically don't know, on Page 14 under Section R, one part it says that the Kihei-Makena area  
10 is limited to a hundred permits, but in the intention of this bill, it says that there's no limits on  
11 permits. So that's one of the areas that I'm, I'm not saying I don't understand. You know, I know  
12 our place has been sitting empty for six months. the County is losing tax revenue. We bought  
13 this property with the understanding that we could have rent it on a short term to offset our costs  
14 on it and we are very concerned about losing the property if we're not able to do that as well as  
15 I'm sure many other people in the same situation are concerned. I'm also concerned about our,  
16 we're not allowed to have people quarantine in our property when it is a very safe alternative to  
17 motels and hotels because you can have separate access, entry, people can stay and cook, it's  
18 a lot less expensive. It could be for residents as well as people coming in. So, with that, I think  
19 with the, the bill, the ordinance needs further clarification so that we owners can understand it  
20 better. Thank you very much.

21  
22 Mr. Carnicelli: Thank you, Ms. Lee. Is there any need for clarification from the testifier? I just  
23 have one point of clarification. So, you, your, your vacation rental is a condo, correct?

24  
25 Ms. Lee: Yes.

26  
27 Mr. Carnicelli: It's not a single-family resident, okay.

28  
29 Ms. Lee: Yes.

30  
31 Mr. Carnicelli: Okay.

32  
33 Ms. Lee: And that's...that part is not laid out well to me. In this ordinance is a condo it says a  
34 lot...so I don't know maybe you can answer that question, is a condo defined in this bill?

35  
36 Mr. Carnicelli: Well, you know, unfortunately, this is not a time where you ask us questions is for  
37 you to provide your manao, but STRH, STRH permits are for single-family residences it's not for  
38 condos, so yours is...anyways I don't give you legal advice, I don't want to tell you what yours is  
39 or isn't, but just, just wanted to make sure I understood what it is that you have, so thank you.  
40 Thank you very much. Any other need to clarify from Ms. Lee? Thank you both for showing up.  
41 I appreciate it. Director.

42

1 Ms. McLean: Thank you, Chair, and, and, if there are others who wish to testify like the Lees, I  
2 would like to clarify that this does not affect condominiums that can lawfully operate as vacation  
3 rentals. It's not in the bill because they're not affected at all by the proposed changes. The next  
4 testifier is Greg Mebel, and he will be followed by Katherine Trotsuk.

5  
6 Mr. Greg Mebel: Okay, am I with you?

7  
8 Mr. Carnicelli: Yes.

9  
10 Mr. Mebel: Okay, great. Thank you. So, my name is Greg Mebel and I am actually  
11 recommending that we deny or defer this ordinance. The reason being that there are a lot of  
12 things actually that are excellent in the ordinance, and as Planning discussed, they were very  
13 open to changing some of the problem areas which I think people in Maui are very appreciative  
14 about, but to give some color, this industry is crippled right now. It's not happening. There are  
15 problems where we have not been able operate since April. So, the idea of putting some of these  
16 things out there, specifically, I think one of the Commissioners lost 19.65.030, Paragraph O, talks  
17 about raising the requirement to 15 years, 19.64.0...and that's for STRHs, 19.64.030, Paragraph  
18 N, raises the requirement to five years for B&Bs. What these do is these put obstacles in the way  
19 of these small businesses and that especially now is really a problem just to give a little color. I've  
20 had a...I've worked with the property manager here at Molly ...(inaudible)... who has been there  
21 for 30 years and has three kids who were born and raised here, and she could not be on this call.  
22 She usually testifies in front of you guys. You would with her because she is preparing to go, to  
23 leave Maui. So, there's two equation's and are parts of the housing equation as we know, it's the  
24 economy and housing units. We represent a very small amount of housing units, but represent a  
25 decent amount of what, of Maui County economy. So that's where we are.

26  
27 Just to, just to...and there was one more thing, I know that the Planning Director did clarify this at  
28 the end, but the slide when I read it, looked like it said something, sorry, I'm looking, looked like it  
29 said something different. What it said, I think when I read it was that renewal people who renew  
30 would need to renew under the current ordinance that would actually, it would cripple a lot or  
31 make a lot of people's permit...they couldn't have a permit anymore, they couldn't renew. So,  
32 more things that would cripple this program that really was meant to take short-term rentals that  
33 were underground, untaxed, unregulated, uninsured, bring them into the sunlight, it would cripple  
34 that exact program that was trying to do that and we'd be moving backwards. So, I might...there  
35 may be some clarification there for that last portion, I think it was in the Deputy Planning Director's  
36 summary, and that's all I have. Are there any questions for me?

37  
38 Mr. Carnicelli: Thank you, Mr. Mebel. Any need for clarification from the testifier? Seeing none,  
39 thank you. However, at this point, Director, I'm going to go ahead just based on his testimony.  
40 I'm going to have you clarify his testimony for him as far as him speaking to what it is that you  
41 may or may not have said, so if you would go ahead and address that before we take other  
42 testifiers and they might have the same question.

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Ms. McLean: Relating to renewals?

Mr. Carnicelli: Yeah.

Ms. McLean: And that's what Jacky, Jacky did say, that that renewals would be able to continue to operate under their...how they're permitted today. It wouldn't have to change. For example, if someone has two permits and the bill gets adopted to say you can only have one permit. They can still keep their two permits and continue operating. So, we'll have to clarify that language.

Mr. Carnicelli: Right.

Ms. McLean: When it comes to renewals, the only provision in the renewal language has to do with notifying not just surrounding owners, but also the actual residences, the physical addresses so neighbors know of any change in management that I believe that's the only thing that would change for existing permit holders. But we will have to work on that language before...not to get too far off track, but after commissions review a bill, we take all those comments into consideration and revise the bill and have Corp Counsel review it and sign off on it. And so, we will work on that language before we transmit it to Council to make sure that that's perfectly clear cause that's absolutely what the intent is. It's not to change the standards for any existing operation.

Mr. Carnicelli: Okay, but to further clarify what Mr. Mebel's talking about, we see all the time people that let their permit expire and then they reapply, you get your permit expire, you reapply, you're under the new rules, not your old rules? Correct?

Ms. McLean: That is true. That is true. So, if the Commission wants to allow expired permits to reapply under the provisions that were in effect at the time, then you can make that recommendation and we can put that into the bill. We're not proposing that 'cause if a permit expires, it expires, and this is an industry that's driven by the calendar. So, it's astonishing when people don't renew, but nonetheless, if that's what the Commission wants in that renewal or expiration, you can make that recommendation.

Mr. Carnicelli: Great, fair enough. Thank you, Mr. Mebel, appreciate your comments.

Mr. Mebel: Thank you.

Mr. Carnicelli: Director.

Ms. McLean: Thanks, Chair, the next justifier is Katherine Trotsuk, and she will be followed by Denise Tjarks, and I apologize if I'm mispronouncing your last names Katherine, if you'd like to unmute your audio.

1 Ms. Katherine Trotzuk: Yeah, I think I am. Can you hear me?

2

3 Mr. Carnicelli: We can.

4

5 Mr. Trotzuk: Okay, perfect. Thank you, first. Good morning and thanks for your time and for  
6 allowing us all to testify. I'll try and make it short. I want to say ditto to the previous testifier. I  
7 just think this is, this is not the time to start to look at making more changes and to, to making  
8 things even more difficult for B&B and short-term vacation permit holders. If you have to go  
9 forward with something, just, just work with the green pieces in that presentation and leave the  
10 rest until we know where we stand. We are small businesses and we have had zero, zero income  
11 in the last six months, and yet I would say that the B&B that...the permit that we have, you know,  
12 we have continued to employ and pay the vast majority of people who work for us, and with us.  
13 And I think that is what's missed in some of this because, you know, hotels have let people go  
14 left, right and center, but when you're a small business and you know these people individually  
15 and you care about them and you need your property to be maintained in a certain way with the  
16 expectation that you'll be able to be back and running your business again as soon as possible,  
17 you know you keep those people. They're part of your community, your ohana, and so it's... we,  
18 we care, and we certainly have made that commitment to many of the people who work for us.  
19 So, at this point, after six months of zero income, but still many, many bills to, to hear that, that  
20 there would be additional restrictions is, is really frustrating and disappointing. So, I do hope that  
21 you will just defer this and say we don't know enough about the economy, about the future to be  
22 able to make any recommendations on tightening these restrictions. And, and if anything, let's  
23 make things a little bit easier, and then reassess in a year or so as to what needs to change. I  
24 thank you to the Planning Commission for the some of the suggestions that you did make in the  
25 PowerPoint presentation. I think some of those were great improvements on the original  
26 language, but even so, I have all kinds of issues around, you know, this fifteen year thing for short-  
27 term home rentals that's not what we have, we don't intend to buy one, we don't know anybody  
28 who's going to buy one, I just think it's so punitive and so unnecessary. The language that exists  
29 is already sufficient. So, thank you for your time.

30

31 Mr. Carnicelli: Thank you, Ms. Trotzuk.

32

33 Ms. Trotzuk: Yeah, close enough.

34

35 Mr. Carnicelli: Okay, any need for clarification? Seeing none, thank you very much for your input.

36

37 Ms. Trotzuk: Thank you.

38

39 Mr. Carnicelli: Director.

40

41 Ms. McLean: Chair, the next testifier is Denise Tjarks, and she will be followed by Rann Watamull.

42

1 Ms. Denise Tjarks: Thank you, Director McLean. I just wanted to also thank you for meeting with  
2 the MVRA, as well as the Realtors Association last Friday. For this exact reason, I would ask that  
3 the Commission vote number three to send the bill back with further revisions and changes to be  
4 made in collaboration with our groups. I also agree right now is an extremely difficult time for  
5 many of our small business owners and that giving a lot of changes at this time would be, wouldn't  
6 be prudent. I would just ask that you consider moving more slowly. The original bill was crafted  
7 out of eleven planning commission meetings and city council meetings. And I specifically have  
8 concerns about the trust language, the 15-year construction requirement, the five years B&B  
9 permit, and the requiring the physical address which you have addressed some of those issues,  
10 and I just would ask that a bill be brought forward that has these all clarified before a vote is taken.  
11 That's all I have. Thank you very much for all your hard work. You have a hard job.

12  
13 Mr. Carnicelli: We get paid well, though. Thank you, Ms. Tjarks. Any need for clarification?  
14 Seeing none, thank you. Also, let the record show that Commissioner P. Denise La Costa is also  
15 on. Director. Good morning P. D.

16  
17 Ms. McLean: The next testifier is Rann Watamull, and he will be followed by Susan Deloria.

18  
19 Mr. Rann Watamull: Good morning Commissioners. Hi, how are you doing? Thanks, Chairman  
20 and Commissioners, and Director McLean. My concern as you said Commissioner, I'll be exact,  
21 19.65.030.G.2, I have concerns with the language regarding the definition of family trust, and I  
22 submitted written testimony so I won't read it, but I'll just kind of summarize it for you. I've been  
23 in the trust business for about 26 years, helping families in Hawaii with their trusts, administer  
24 trusts, and so, what I find is this language is much more restrictive and is not neutral at all. I have  
25 some real concerns, in fact, kind of flies in the face of established hundreds of years of trust law,  
26 and let me explain.

27  
28 First of all, requiring that the trust be a self-trusteed trust, who is going to discriminate against  
29 Maui families because one of the most popular forms of trust to use is called the irrevocable trust.  
30 An irrevocable trust means the grantor or trustor cannot change it during his lifetime, and these  
31 trusts are especially popular for people who want to avoid estate tax, avoid and avoid family  
32 conflict issues and also liability issues. So, this language would prevent many families would  
33 arbitrarily discriminate against families who need to use an irrevocable trust.

34  
35 Okay, number two is when you say the definition of family trust must be that the settlor must be  
36 the trustee or related to the beneficiaries. Never, in my experience, of any thing I've ever dealt  
37 with or I've talked to attorneys across the country have they ever seen a requirement like this in  
38 any trust, in any language for anything because on the contrary, most trusts have provisions for  
39 trustees who are not family members because it's more common to have a unrelated trustee than  
40 a family member.

41

1 In addition, the proposed definition would arbitrarily discriminate against...discriminate against  
2 Maui families who do not have a family member who has the ability, the knowledge, skills or  
3 inclination to serve as a trustee, and it will particularly harm those families with special needs  
4 beneficiaries who are unable to serve. So, of equal importance, an independent non-family  
5 trustee is often critical to preserving family relationships, because as many of you know, if you've  
6 gone through it, the settlement of our parent's estate often causes much family conflict and outside  
7 independent trustees can be a valuable resource.

8  
9 So, I've got a suggestion for you rather than circumventing well-known trust law and discriminate  
10 against Maui families. How about this, follow the lead of what counties do when they want to  
11 consider granting a homeowner's exemption. What they do simply is required that the  
12 beneficiaries be named in the trust. So how it would work would be is that the...simply you would  
13 say that the family members and heirs would be the sole beneficiaries of the trusts. This would  
14 work for you because it would preclude, it would exclude corporate or business, STRH permit  
15 applicants without arbitrarily harming and discriminating against Maui's families. So anyway,  
16 that's why I have problems with the language of family trust just cause my 26 years-experience  
17 of administering these trusts for families, and of course--

18  
19 Ms. Takayama-Corden: Three minutes.

20  
21 Mr. Watamull: Yes, okay, thank you.

22  
23 Mr. Carnicelli: Thank you, Mr. Watamull. Any need for clarification from the testifier? I actually  
24 just to clarify, what it is that you're saying is if because okay, here's what we're trying to accomplish  
25 cause this is like one of the things that we're, we're, you know, tasked with is I don't want  
26 somebody to put this in a trust that's going to be able to get a get around to be able to then  
27 somehow sell this. It's not a business, right. This is not something that you can then transfer to  
28 somebody else, and...so, part of what I think the intent of this is that if we use so...you're saying  
29 named sole beneficiaries in the trust would be the way to do this.

30  
31 Mr. Watamull: Yes.

32  
33 Mr. Carnicelli: You're saying as an expert rather than—

34  
35 Mr. Watamull: Sole beneficiaries and heirs, name them, and that's what we do with in order to  
36 get a homeowner's exemption for property tax. The beneficiaries have to be named in the trust,  
37 so you name the beneficiary and the heirs as a sole beneficiary so it couldn't go to a corporation,  
38 it couldn't go to somebody else. So, if you did that, then that would...I think that would solve your  
39 issue without discriminating against those that have to use outside trustees.



1 Mr. Carnicelli: Right. No, I get it because I am, I'm actually one of those people to have one of  
2 those irrevocable trusts, so, I get it. No, I understand. So, any other need to clarify the testimony?  
3 Thank you. I appreciate your expertise.

4  
5 Mr. Watamull: Thank you very much.

6  
7 Mr. Carnicelli: Director.

8  
9 Ms. McLean: Chair, the next testifier is Susan Deloria, and she will be followed by Jen Russo.

10  
11 Ms. Susan Deloria: Hi, good morning.

12  
13 Mr. Carnicelli: Good morning.

14  
15 Ms. Deloria: Can you hear me?

16  
17 Mr. Carnicelli: Yes.

18  
19 Ms. Deloria: Hi, good morning, I just want to say again, thank you so much for the opportunity  
20 and for doing what you do. So, to keep this short, I think what I would like to point to is 19.65.030,  
21 the limitation of or the more restrictive 15 years. I just think that is way too long of a, of a restriction.  
22 I think currently right now, the five years, and I do think keeping it consistent between B&B and  
23 STR, I think is a good idea. I understand that the B&B doesn't have that at the moment, I think  
24 as far as I can, could understand, but I, that was my, that's my only point is to oppose the 15  
25 years, and again, just, just another clarification to some of the testifiers that had come before me  
26 is that please understand, not understand, please remember that each permit number  
27 is...represents a small business in our community. Every single permit number there is a small  
28 business and it's been very hard. You know, businesses are still paying higher property taxes.  
29 They're paying their G.E.T., they're paying their T.A.T., and that's I think the only clarification that  
30 I wanted to point out, and that's it. Thank you.

31  
32 Mr. Carnicelli: Thank you, Ms. Deloria. Any need for clarification? Seeing none, thank you very  
33 much, we appreciate it. Director.

34  
35 Ms. McLean: The next testifier is Jen Russo, and she will be followed by Amy Bond.

36  
37 Mr. Carnicelli: You are on.

38  
39 Ms. Jen Russo: Thank you so much for what you do here at the commission. Commissioners, I  
40 know you've been putting in long days and ...(inaudible)...shut down. and I appreciate that, and  
41 thank you to Jacky and Michele for reviewing and clarifying the amendments. I feel that similar  
42 to reducing the caps legislation that you saw a few months back, we are in a period of uncertainty

1 and we need more information and context. The procedural changes to the bill aren't terrible, but  
2 we feel that the additional five years construction and five years ownership to apply for a B&B are  
3 over the top. And in addition, the 15-year ownership requirement on the STRH permit is way too  
4 long. We just changed the ordinance a year or so back to add the five years, and do we have  
5 data that shows that that did not accomplish what it intended? And if we have that data, why is  
6 that not in the report? I think these new restrictions are creating a huge barrier for small  
7 businesses to flourish in Maui County. Small businesses that support diversification, regenerative  
8 tourism and raise funds for our largest tax base in the county, and pay a large chunk to the  
9 affordable housing fund through property tax

10  
11 There are some other issues that could be addressed if we are requiring long-term residents with  
12 the accessory dwelling, there may be the case where one of the dwellings is doing long-term  
13 rental. I think we have to create a special consideration, a tax category, tax rate or tax exemption  
14 for those folks doing long-term rental. I think that would really support and encourage the long-  
15 term rental use that we want to see.

16  
17 Using the tax classification as prima facie evidence of operation is problematic. The County  
18 controls the tax classification. The Planning Department updates Real Property Tax Division with  
19 what permits have been added or given up, et cetera. So, if you give up your permit and the  
20 County still has you classified as short-term and then they use that as evidence to send you notice  
21 a violation that seems backward. And if you sold your property and someone new bought it and  
22 it was still classified as short-term from the previous owner, then the County sends out a notice  
23 of violation to this new homeowner, then there are flags on this property that the new owner has  
24 to clear up, but they were never in the wrong. I just think that that sets a bad precedent, and I  
25 know we kind of stand on the precipice of the unknown right now, but maybe we want to create a  
26 situation where the ordinance supports more young people getting permits or more Maui residents  
27 doing short-term rental and B&B or how about a grace period for those expired permits? This is  
28 already a highly regulated industry and I don't think we've seen it grow out of control. We have it  
29 in tight control, according to the Planning Department, and we've made strides with the illegals. I  
30 think these huge restrictions during this time could possibly reverse that work and drive more folks  
31 and operations underground. And we know there are pros and cons to this industry, but I think  
32 we've created a situation where we have a win-win.

33  
34 Ms. Takayama-Corden: Three minutes.

35  
36 Ms. Russo: Our heavily regulated permit scheme is not easy to get into. There are a lot of rules  
37 to follow.

38  
39 Mr. Carnicelli: Thank you, Jen.

40  
41 Ms. Russo: And this industry as a whole raises 60 percent of the visitor accommodations.

42

1 Mr. Carnicelli: Thank you.

2

3 Ms. Russo: Thank you.

4

5 Mr. Carnicelli: Appreciate that.

6

7 Ms. Russo: I hope you think this is the right time to defer.

8

9 Mr. Carnicelli: Any need for clarification from the testifier? Seeing none, thank you, Ms. Russo.

10

11 Ms. Russo: Thank you.

12

13 Mr. Carnicelli: Director.

14

15 Ms. McLean: Chair, the next testifier is Amy Bond, and she will be followed by Francine Aarona,  
16 also known as Aunty Mopsey.

17

18 Ms. Amy Bond: I don't know if you guys can see me.

19

20 Mr. Carnicelli: We can hear you.

21

22 Ms. Bond: I'm just seeing how to turn...oh, wait there it is hold on a second. Hi, good morning,  
23 Commissioners and Planning Director. Thank you for this time. I appreciate seeing you all again.  
24 I have to agree with everything that Jen Russo said. I just want to take a minute to tell you that  
25 without...I have a short-term rental home permit and of course, I've not been operating for seven  
26 or eight, six or seven months now. I'm home schooling three children virtually. I did apply for the  
27 CARES Act money, but because I'm a short-term rental home that didn't work out. I also applied  
28 for the Kokua Grant Program through the Maui Business and was also told that I was ineligible  
29 because I was a short-term rental home. So, that was heartbreaking.

30

31 So anyway, in discussion with these changes, I really don't agree with changing anything at this  
32 point due to the Covid. I feel like all these small businesses are, hui and networks of people that  
33 are holding their hands together trying to get through this, and I do feel that in the future, our small  
34 businesses in this community are what gonna pull us out of this recession, because we are in a  
35 recession. I mean, Da Kitchen, 24-Hour Fitness, the Harley Store, Luna Tide, Mermaid's Tail,  
36 Paia Mercantile, Maui Tropical Plantation, the lavender farm, Cheeseburgers in Paradise, Ruth  
37 Chris Lahaina, possibly Mama's Fish House, all of these places are gone, maybe to open again,  
38 maybe not. So, I just wanted to make that point.

39

40 So, in discussion about these charters, the 15-year on a short-term rental home is way too long  
41 for someone to apply for that permit, it's just ridiculous, 15 years is like three presidents later. I

1 mean, I just can't even believe someone would even recommend 15 years. I mean, I have a  
2 baby, they go to college, I can apply for a permit, that's crazy.

3  
4 Oh, the trust information really needs to be cleaned up. I have a trust. I would like my permit to  
5 go to my children if I can still have the permit by then, who knows? But that would be nice if there  
6 was true clarification on what happens with that because that's really important. Also, I have a  
7 short-term rental home permit and I would, you know, it would be nice if I could have the flexibility  
8 to be able to apply for a bed and breakfast permit down the road if I chose to do so. I'm an  
9 entrepreneur, I'm a small business owner, and I don't think by saying one person can only have  
10 one or the other is really a legitimate reason to say that they can't. I just don't think it's a good  
11 reason to, to say that you can only have one or the other. I just feel like that's kind of biased and-

12 -  
13  
14 Ms. Takayama-Corden: Three minutes.

15  
16 Ms. Bond: And that's it. Thank you for your time. I'm hoping that you'll make great decisions  
17 going forward.

18  
19 Mr. Carnicelli: Thank you, Ms. Bond. Any need for clarification of the testimony? Seeing none,  
20 thank you.

21  
22 Ms. Bond: Thanks a lot.

23  
24 Mr. Carnicelli: Director.

25  
26 Ms. McLean: Chair, the next testifier is Francine Aarona, and she will be followed by Netra  
27 Halperin.

28  
29 Ms. Francine Aarona: Aloha, can you hear me?

30  
31 Mr. Carnicelli: We can. Good to hear you.

32  
33 Ms. Aarona: I'm sorry, I'm not great at this, operating this iPad, so you can't see me, but you can  
34 hear me.

35  
36 Mr. Carnicelli: Yes.

37  
38 Ms. Aarona: And I promise to tell the truth. You know, my testimony comes today in protecting  
39 our aina, and that's the very reason that I'm testifying today. We have allowed gentrification to  
40 overpower our way of life, a way of thinking and our respect for each other. We have really lost  
41 sight of what is important, and it's time to say no more. I, I sent in a written and testimony, but I

1 would like to highlight certain things listening to the other testifiers. I can speak for what I say  
2 because I'm completely surrounded by vacation rentals.

3  
4 The collaboration of the MVRA feel that this is not a good time to be talking about modifications  
5 to this ordinance. They feel that there are bigger fish to fry. During this pandemic, it's the perfect  
6 time to clean house, and fry that big fish. We have been talking about this for a while already,  
7 you know, it's not something new. The small fish has grown and we as a community need to have  
8 a clear understanding of the language that are defined in the chapters regarding rentals and  
9 B&Bs. Yes, they are against 15-year requirements for short-term rent renter and five-year  
10 requirement for B&B. This requirement, however, encourages long-term rental and is a  
11 connection to the neighborhood. We have allowed this permitting to get away from us and even  
12 though it seems like 15 years, 15 years goes by real fast.

13  
14 This proposed revisions allows tracking to be done by requiring physical addresses to prevent  
15 false advertisement for duplicate operations of short-term rental and B&Bs, and allows a clear  
16 effort for enforcement to be done. This is one area that we are weak and we need to step up to  
17 the plate. Now is the time to correct the system and also be sure that the neighborhood knows  
18 what's going on. Economic opportunities come to those who do the right things. I ask that this  
19 Planning Commission recommend this approval even with the changes. The trust can be looked  
20 at, but amending the Chapters 19.35, 64 and 65 to the Maui County Council. If I approved, I ask  
21 that the presentation of the new language is made clearer as to the old. So, I mahalo you for all  
22 that you do. Please stay safe and healthy in this time, but I think that we need to move forward  
23 even though we're in this predicament of the pandemic. It's been a hundred years. What's going  
24 to happen the next hundred years? Did we learn from the last past...

25  
26 Ms. Takayama-Corden: Three minutes.

27  
28 Ms. Aarona: So, I thank you very much for listening.

29  
30 Mr. Carnicelli: Thank you, Aunty Mopsey. Any need for clarification of the testimony? Seeing  
31 none, always good to hear from you. Be well and be safe, be well and be safe yourself as well.

32  
33 Ms. Aarona: Okay, mahalo.

34  
35 Mr. Carnicelli: Thank you. Director.

36  
37 Ms. McLean: Oh, excuse me, the next testifier is Netra Halperin, and she will be followed by  
38 Michael Russell.

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40 Mr. Carnicelli: Ms. Halperin, you unmute yourself and for your—

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42 Ms. Netra Halperin: Okay, can you see and hear me now?

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Mr. Carnicelli: Yes.

Ms. Halperin: Okay, great. Okay, so I am Netra Halperin and I am the owner of Opulent Design, a vacation rental and B&B consulting application. So, I am a consultant that helps people get permits. And so, I think it's a good time for all of the things that are making it easier. As many of the testifiers have already mentioned, we are going into a recession, so now is not the time to make it more difficult for people to earn a living. So, I support...I'm sorry, I don't have the numbers, but I will say what I support in the beginning. So, I do support the accessory dwelling be allowed in B&Bs. First of all, it's too restrictive to not allow it, and it also would be too many things happening on one property. So, if you had a main house with an owner and some short-term guests and then the ohana with long-term renters, that's just too much mixing and matching and it's way too complex. It's better that the whole thing, the whole property be a B&B with the owner living in either the ohana or the main house, and then they have their guests in the other spaces that aren't occupied.

And I also oppose to B&B, five-year construction or ownership. Again, it's not the time to be making things more difficult for people to survive. I agree definitely with the smaller signs. Those big signs were, they were just ridiculous. They should be the same, and obviously as a consultant for me, my life would be easier if there's consistency between the B&B permit and the STRH, and the B&B permit was created first, then therefore if it was more stringent and I think that after a year or two that operating the Planning, the County Council realized that some of those restrictions were not necessary, and so it's a little bit more loose with the STRH, and so I think that those...the B&B should have the more loose, unrestrictive requirements of the STRH when the ones you discussed. I absolutely oppose 15 years, I mean, the 15...the house is starting to get old by then and it's just way too restrictive. Again, people need to earn a living, people are, you know, crashing and burning economically right now.

And then the other thing and it's not in the bill, but I'm just going to mention it anyway, property tax. People are paying property tax that is totally appropriate when they are doing short-term rental, but when they are not and they're paying 30, 40 thousand a year and these are high end STRHs in property tax for a building that is sitting empty is completely unfair. It's just not fair.

Ms. Takayama-Corden: Three minutes.

Ms. Halperin: Is completely unfair. It's just not, not fair.

Mr. Carnicelli: Thank you, Ms. Halperin. Any need for clarification of the testifier? Seeing none, thank you very much for your testimony, appreciate it.

Ms. Halperin: Okay, thank you.

1 Mr. Carnicelli: Director.

2

3 Ms. McLean: Chair, the last person we have signed up to testify is Michael Russell. So, if there  
4 is anyone else who wishes to testify on this item, please use the chat function to let me know.  
5 Michael Russell, you're up. Michael Russell, unmute your audio.

6

7 Mr. Michael Russell: Hi, sorry about that.

8

9 Mr. Carnicelli: There we go.

10

11 Mr. Russell: Okay, here's a redo. All right, basically I would like to ask the Planning Committee  
12 to oppose recommending this bill. Mostly because I feel like there's just way too much uncertainty  
13 in some of the provisions, namely, we need to clarify what exactly these provisions mean for, you  
14 know, for putting our properties in a trust. The renewals language is still unclear. And the part  
15 on taxes, you know, this needs to be tightened up before, before I would ask the Planning  
16 Committee to make a recommendation. I think we can revisit this later. I understand there are  
17 some things, some, some, some language in there that, that is healthy that makes sense, but  
18 there's also a lot of language in there that is frankly, ridiculous. I feel 15 years is way too restrictive  
19 and I feel like that right now given all of this uncertainty we, we need some time. We need to let  
20 the dust settle a little bit. We already have extremely restrictive policies in place, and I just don't,  
21 I would ask again the Planning Committee to defer on making a recommendation on this at this  
22 point. That's it. Thank you.

23

24 Mr. Carnicelli: Thank you, Mr. Russell. Any need for clarification from the Commission? Seeing  
25 none, thank you, Mr. Russell. Appreciate you giving your testimony.

26

27 Mr. Russell: Thank you.

28

29 Mr. Carnicelli: Director, anybody else sign up at the last minute?

30

31 Ms. McLean: Yes, Mr. Croly.

32

33 Mr. Carnicelli: The ever present, Tom Croly.

34

35 Mr. Tom Croly: The infamous, right. Okay—

36

37 Mr. Carnicelli: We should actually put your name on the Planning Commission page, right?

38

39 Mr. Croly: Thank you for your attention today. I know you have a long agenda, and I really don't  
40 want to drag it out. You've heard, you've heard all of the issues to this point. I would like to go  
41 down the list and say I agree with this one, I disagree with that one, but that in and of itself would  
42 take me more than three minutes. However, what we did hear was some agreement today

1 between some of the testifiers who had issues with the bill and the Department. So, I really might  
2 encourage you to ask the Department to bring this back to you at another time once they have  
3 worked out those issues of agreement where people can come in and say, I agree, I agree and  
4 just work it down to the areas maybe that are left of disagreement.

5  
6 There are some issues with what's being proposed here from a practical sense. For example, if  
7 we say we want to notify all of the neighbors at a physical address, you can't send a certified mail  
8 to a physical address. You can only send certified mail to an individual, okay, and if that individual  
9 is a renter in that property, we don't know who they are. I think about the property across the  
10 street from me that has five dwellings on it. Of course, only two of them are legal, but who do I  
11 send it to? You know, so there's, there's a problem with just that. You heard about the problems  
12 with the trust. It took into account one type of trust and excluded a whole bunch of other types of  
13 trusts without, you know, a justification. You heard the issues against the five-year ownership  
14 requirement for B&Bs and against the 15-year ownership requirement for short-term rentals.

15  
16 So, if you're going to have a discussion on this, I hope that you're not going to take this whole  
17 thing and say, hey, pass it on, yes or no, but that that we get some, some more feedback between  
18 the people who are concerned about this and the Planning Department and then maybe bring it  
19 back to you.

20  
21 My wife fell off a ladder last week and broke her foot. Tomorrow, she has surgery for that. We're  
22 facing very, very uncertain future with that, it's overwhelming me right now, but I bring this up from  
23 the standpoint of we're not going to make plans for next year because I don't know what's going  
24 to happen with her ability to walk in and so forth, and I think Maui is in the same situation right  
25 now. Our entire economic engine has broken more than just its foot and we don't know what it's  
26 going to look like a year from now. So, I would encourage you not to take any action that would  
27 in any way limit what we may be able to do a year from now or not. Thank you, Chair.

28  
29 Mr. Carnicelli: Thank you, Mr. Croly. Any need to clarify the testifier? Seeing none, thank you,  
30 Tom.

31  
32 Mr. Croly: Thank you.

33  
34 Mr. Carnicelli: Director, anybody else sign up?

35  
36 Ms. La Costa: Excuse me, Chair.

37  
38 Mr. Carnicelli: Oh, P. D.

39  
40 Ms. La Costa: Thank you, Chair. I just wanted to say best wishes to Mrs. Croly for her surgery  
41 tomorrow.

42



1 Mr. Carnicelli: Director, did anybody else sign up, I didn't hear you.

2

3 Ms. McLean: No, Chair, no one else has signed up to testify.

4

5 Mr. Carnicelli: Okay, so if anybody would like—oh, I heard a voice.

6

7 Ms. Julie Williams: Excuse me, pardon me, yeah, I'm sorry, I was able, I could unmute myself  
8 but I couldn't say that I wanted to testify.

9

10 Mr. Carnicelli: That's okay, what's your name?

11

12 Ms. Williams: My name is Julie Williams. I am short-term rental person and I have a condo that  
13 is zoned for vacation rental, so my understanding if I heard correctly earlier that this does not  
14 pertain at all to the ones that are zoned for commercial or for short-term rental? Is that correct?

15

16 Mr. Carnicelli: Director, I'll let you go ahead and chime in.

17

18 Ms. McLean: Yes, Chair, that is correct. This doesn't affect vacation rentals. So, the proposal  
19 that operators can have only one permit that would not preclude them from also having a vacation  
20 rental condo.

21

22 Ms. Williams: Okay, is there any chance that maybe the wording can put...be put there to reflect  
23 that or is there someplace that I can go because I'm afraid that some of the people in the  
24 condominium may decide that, oh, look, they made these changes and now you cannot rent, and  
25 I need to be able to provide something that shows that, no, I can, that makes sense? I'm sorry,  
26 I'm all new to this.

27

28 Mr. Carnicelli: That is, is being new is quite okay. Is that all you have as far as your testimony?

29

30 Ms. Williams: Yes, as far as if this isn't pertaining to vacation rentals that are in place that was  
31 my main concern.

32

33 Mr. Carnicelli: This is not, this does not have to do with condos. The STRH and the B&B  
34 ordinance are for single-family residences.

35

36 Ms. Williams: Okay, I guess it was confusing because it says condos in it, so I thought it pertained  
37 to us as well, but thank you.

38

39 Mr. Carnicelli: You bet. Any need for clarification to Ms. Williams? Hearing none, thank you very  
40 much for coming forward, we appreciate it. If there's anybody else that would like to testify on  
41 this particular item, please unmuted yourself, and if you also wish unmute your video as well.

1 Going once, going twice, okay, so if there are no objections, we'll go ahead and close public  
2 testimony on this item. Seeing no objections, public testimony is now closed.

3  
4 It is 12:01, Commissioners, I think we should go ahead and take a lunch before we dive into this.  
5 Half hour, okay? You guys want 45 minutes, half-hour, you tell me. Let's do 45 minutes. Let's  
6 do 45 minutes. Okay, so we will come back at 12:45. So Maui Planning Commission meeting of  
7 September 22nd is now in recession till 12:45. Thank you everyone.

8  
9 A recess was called at 12:02 p.m., and the meeting was reconvened at 12:48 p.m.

10  
11 Mr. Carnicelli: Aloha, good afternoon everybody. The Maui Planning Commission meeting of  
12 September 22, 2020 is now back in session. I believe we're in the midst of Item B.2. Director,  
13 I'm going to go ahead and pass the ball to you, straight away.

14  
15 Ms. McLean: Thank you, Chair. Commissioners, I had a brief discussion with the Chair and also  
16 based on the written testimony and the verbal testimony today, I'd like to suggest that the  
17 Commission defer this item today and that would allow Jacky and me to work on a revised bill  
18 that includes the major changes that we talked about in the PowerPoint that would include  
19 eliminating the proposed change to B&Bs to have the five-year ownership and construction  
20 requirement, removing the 15-year requirement for STRHs and leaving it as is with the five years,  
21 removing the property tax as evidence of operation from B&Bs and STRHs, working some more  
22 with Corp. Counsel on the trust language taking into account some of the testimony that we saw,  
23 clarifying that ads should use TMKs, not physical addresses.

24  
25 I went through my notes from when we met with RAM and the MVRA, there was something else  
26 relating to neighbor notification, when there are triggers to go to the Planning Commission that  
27 each lot gets one vote. So, if there are three different people that all submit testimony in  
28 opposition, that's still one lot in opposition, and clarifying what the changes mean for existing  
29 permit holders and renewals. Those were the main takeaways that I got from the discussion and  
30 the testimony. If there are any other issues that you would like to see addressed in a revised bill,  
31 please let me know. And so, what we would do is work on that bill and coordinate one last time  
32 with the MVRA and RAM, and then we'd be able to post that and then schedule it again at a future  
33 meeting. Thank you, Chair.

34  
35 Mr. Carnicelli: Commissioners, is there anything other than the items that the Director had  
36 mentioned that she's going to go back with and then try to come back with a bill that we can just,  
37 you know, say be okay with, that all the stakeholders that are okay with rather than us trying to  
38 wordsmith it. Is there anything else that you would like to add or you need clarification on from  
39 the Director at this point or Jacky?

40  
41 Okay, Director, I have one, I have one just clarification, and I think we've talked about it in this  
42 commission before where we kind of separate B&Bs from STRHs, you know B&B, someone that

1 lives here, right, someone's part of community, STRHs are, you know, can be somebody lives  
2 here and some are and a lot are others, so but when we said, okay, the five-year requirement for  
3 B&Bs and then the 15 for STRHs I get that we're saying, okay, not the 15, but the whole point of  
4 this is to eliminate speculation, right? Like that's the, that's what we're trying to do. So, in just  
5 trying to look at the B&B permit, my first question is before I go any further is do you have to be  
6 qualified under real property tax to get your homeowner's exemption before you can apply?  
7 Because those rules changed, right? We're just like in order to get your homeowner's exemption,  
8 you now have to have filed Hawaii State property tax or it's like Hawaii income taxes last year.  
9 So like, if I moved here in 2020, I'm probably not going to file property tax or you know, I'm sorry,  
10 income taxes until 21 or maybe 20, and then my property taxes kick in the next year after that.  
11 So, in that requirement for B&Bs, is that same kind of requirement there or somebody can move  
12 here today, say, oh now I live here, I'm now a resident and I can apply for B&B.

13

14 Ms. McLean: For the ownership requirement for B&Bs, we just look for a deed.

15

16 Mr. Carnicelli: Okay.

17

18 Ms. McLean: We don't go into the homeowner's exemption or anything like that. We only look at  
19 a deed to see that the owner is the applicant.

20

21 Mr. Carnicelli: Okay. So, when you go back and meet with MVRA and RAM about this, that's  
22 something for me that I think is important, because if we're saying, hey, listen, we want to give  
23 somebody B&B license, that means they live here. So, I think that there's got to be I mean, even  
24 if you go to Chapter 2.96 has a definition of like who can qualify for you know, workforce housing.  
25 So, like we have a couple places in the...you know, in our own ordinances that define what a  
26 resident is or how it qualifies. I would like to see something like that proposed. I'm not saying  
27 that, you know, I have to get my way. I'm not saying that it has to be in there. But I think that,  
28 you know, beyond just, okay, your name's on the deed and you, and you're doing this because,  
29 again, if what we're trying to do is squelch speculation, if that was what the intent of the five-year,  
30 15-year or whatever it is, you know, mark is then I think that that's something that's not  
31 unreasonable to ask. And that's just the only thing that I'll float out there for the conversation that  
32 you then have with the stakeholders moving forward.

33

34 Ms. McLean: Okay, we can look into that too.

35

36 Mr. Carnicelli: Okay, yeah, so I don't know if it's an income tax return or whatever it might be.  
37 So, but yeah, just some sort of requirement that you are in fact a resident, not just the deed owner.  
38 So, anything else, Commissioners? So, I guess I'll entertain a motion to defer.

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40 Mr. Edlao: So move.

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42 Mr. Carnicelli: Who was that? Oh, Commissioner Edlao moved.

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Ms. La Costa: Second.

Mr. Carnicelli: Seconded by Commissioner La Costa. Discussion on the motion?

Mr. Edlao: I think this is a good idea because there were a lot of comments, a lot of, a lot of concerns even in my mind with the changes, you know the five and the 15-year, and the trustee thing. I think we need to further discuss and come out with more clarification so everybody knows exactly where they're at. And again, I agree with everybody this is trying times, maybe it's time to just step back a little bit and look at it real hard before we move forward into something that may cause more problems. Okay.

Mr. Carnicelli: Great. Thank you, Commissioner. Would anybody else like to speak to the motion? Okay, Director.

Ms. McLean: Thank you, Chair. The motion is to defer so that the Planning Department can produce a revised bill based on the discussion and testimony.

Mr. Carnicelli: Great. All those in favor, please raise your hand. Let the record show that it's unanimous, 8-0.

**It was moved by Mr. Edlao, seconded by Ms. La Costa, then**

**VOTED: To Defer the Matter in Order for the Department Produce a Revised Bill Based on the Discussion and Testimony Received.  
(Assenting – J. Edlao, P. D. La Costa, S. Castro, K. Freitas,  
M. Hipolito, K. Pali, C. Tackett, D. Thompson)**

Mr. Carnicelli: Thank you, Director, for that. I also want to say thank you to all the testifiers, everybody that submitted written and oral testimony, it's greatly appreciated. It's always good to see the community come out and have their voices heard and try to make a better mousetrap. Thank you to everybody.

Respectfully Submitted by,

CAROLYN TAKAYAMA-CORDEN  
Secretary to Boards and Commissions II