

**COUNCIL OF THE COUNTY OF MAUI**  
**LAND USE COMMITTEE**

June 17, 2005

**Committee**  
**Report No.**

\_\_\_\_\_05-73\_\_\_\_\_

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Land Use Committee, having met on June 1, 2005, makes reference to County Communication No. 01-333, from the former Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO VALERIE LEWIS OKAMURA FOR THE OPERATION OF MAUI BY THE SEA, A VACATION RENTAL WITHIN THE R-1 RESIDENTIAL DISTRICT, FOR PROPERTY SITUATED AT 523 HANA HIGHWAY, KUAU, PAIA, MAUI, HAWAII". The purpose of the proposed bill is to grant Valerie Lewis Okamura a one-year Conditional Permit to operate a vacation rental known as "Maui by the Sea" in a one-bedroom second dwelling on approximately 14,321 square feet of land at 523 Hana Highway, Kuau, Paia, Maui, Hawaii (TMK: 2-6-009:008).

Your Committee notes that the Maui Planning Commission met on the application for a Conditional Permit on November 13, 2001.

Your Committee further notes that the Maui Planning Commission, after reviewing the findings presented in the documents entitled "MAUI PLANNING DEPARTMENT'S REPORT TO THE MAUI PLANNING COMMISSION NOVEMBER 13, 2001 MEETING" and "MAUI PLANNING DEPARTMENT'S RECOMMENDATION TO THE MAUI PLANNING COMMISSION NOVEMBER 13, 2001 MEETING", voted to recommend approval of the proposed Conditional Permit.

Your Committee notes that County Communication No. 01-333 was referred to the Council's Land Use Committee at the Council meeting of December 17, 2001 (2001-2003 Council term).

By correspondence dated February 19, 2002, the Council Chair transmitted correspondence dated February 13, 2002, from the former Planning Director, transmitting the relevant portion of the minutes of the November 13, 2001 Maui Planning Commission meeting.

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At its meeting of January 10, 2003, the Council referred County Communication No. 01-333 to the former Council's Planning and Land Use Committee (County Communication No. 03-10).

At its meeting of January 21, 2005, the Council referred County Communication No. 01-333 to your Land Use Committee (County Communication No. 05-13).

By correspondence dated May 6, 2005, the Chair of your Committee requested that the Department of the Corporation Counsel make technical revisions to the proposed bill.

By correspondence dated May 10, 2005, the Department of the Corporation Counsel transmitted a revised proposed bill incorporating the requested technical revisions, entitled "A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO VALERIE LEWIS OKAMURA FOR THE OPERATION OF MAUI BY THE SEA, A TRANSIENT VACATION RENTAL WITHIN THE R-1 RESIDENTIAL DISTRICT, FOR PROPERTY SITUATED AT 523 HANA HIGHWAY, KUAU, PAIA, MAUI, HAWAII".

At its meeting of June 1, 2005, your Committee met with the Planning Director; a Planner, Department of Planning; the Deputy Director of Public Works and Environmental Management; a Captain, Department of Fire and Public Safety; a Deputy Corporation Counsel; and Valerie Lewis Okamura, the applicant.

There was no public testimony.

Ms. Okamura informed your Committee that she inherited the subject property five years ago when her mother passed away. She then built a house and cottage on the vacant lot. She and her family live in the house. The cottage is used as a vacation rental, which is rented for \$150 per day plus taxes.

Your Committee questioned whether Ms. Okamura had considered offering the cottage as a long-term rental, noting the shortage of rentals available for residents. Ms. Okamura stated that she would not receive the same income if she offered the cottage as a long-term rental and she would need to have a second job, which would in turn prevent her from staying at home with her children.

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The Planner provided your Committee with background information, noting the conditions recommended by the Maui Planning Commission.

Ms. Okamura informed your Committee that she has complied with all conditions, including insurance and requirements of the Department of Fire and Public Safety.

The Planner informed your Committee that compliance with County or State requirements is not checked unless complaints are received. The Department does not typically enforce applicable Maui County Code requirements when applicants are in the process of obtaining the necessary approvals. If a complaint is filed with the Department, the complaint is investigated and may then be resolved if the property owner applies for a permit.

The Planning Director informed your Committee that legislation is pending before the Planning Committee to address issues relating to transient vacation rentals. In addition, a transient vacation rental study is being conducted for the entire island.

Your Committee questioned the appropriate tax rate for transient vacation rental operations and whether they could be assessed at the time share rather than the hotel rate. Your Committee discussed whether the use of residential property for transient vacation rentals is driving property valuations, and hence, real property tax assessments, higher than they should be.

The Planner noted that she is not aware of any complaints concerning the property.

The Planner further noted that, typically, such Conditional Permits are initially granted a one-year term to ensure that permittees are in compliance with the conditions imposed. The Department usually requests that the permittee provide documentation establishing compliance with the conditions. Only after the initial one-year term does the Department usually recommend a longer duration for the permit.

The Planner informed your Committee that the bed and breakfast ordinance contains restrictions concerning the distance within which operations can be located. There is no corollary ordinance for transient vacation rentals. However, this is the first transient vacation rental application the Department has received for the Kuau area.

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Your Committee discussed the desirability of encouraging voluntary compliance with County permitting requirements for transient vacation rental operations.

Your Committee voted to recommend passage of the revised proposed bill and filing of the communication.

Your Land Use Committee RECOMMENDS the following:

1. That Bill No. \_\_\_\_\_ (2005), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE GRANTING A CONDITIONAL PERMIT TO VALERIE LEWIS OKAMURA FOR THE OPERATION OF MAUI BY THE SEA, A TRANSIENT VACATION RENTAL WITHIN THE R-1 RESIDENTIAL DISTRICT, FOR PROPERTY SITUATED AT 523 HANA HIGHWAY, KUAU, PAIA, MAUI, HAWAII", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 01-333 be FILED.

Adoption of this report is respectfully requested.

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**ROBERT CARROLL** **Chair**

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**DAIN P. KANE** **Member**

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**JOSEPH PONTANILLA** **Vice-Chair**

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**DANNY A. MATEO** **Member**

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**MICHELLE ANDERSON** **Member**

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**MICHAEL J. MOLINA** **Member**

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**G. RIKI HOKAMA** **Member**

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**CHARMAINE TAVARES** **Member**

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**JO ANNE JOHNSON** **Member**