

WRITTEN TESTIMONY IN STRONG SUPPORT OF BILL 9

Submitted to: Maui County Council – Housing and Land Use Committee

Hearing Date: June 23, 2025

From: Edward Codelia

Aloha Chair Kama, Vice-Chair, and Honorable Councilmembers,

Mahalo for your tireless commitment to the people of Maui. I write in **unshakable support of Bill 9**, which rightly seeks to close the apartment zoning loophole and restore the integrity of your land use laws. This legislation is a long-overdue course correction — not just a zoning amendment, but a **turning point for Maui's future**.

Bill 9 Is a Necessary Reset — Not an Overreach

For over a decade, a legal fiction known as the *Minatoya List* has allowed apartment-zoned properties to operate as short-term vacation rentals (STVRs), distorting the purpose of residential zoning and stripping your people of badly needed housing. These properties were **never zoned for commercial hotel use**, and the County's complicity has created a shadow market of luxury hotel units embedded in your residential fabric.

The *Minatoya Opinion*, issued in July 2001 by Deputy Corporation Counsel Richard K. Minatoya, acknowledged approximately 83 apartment-zoned properties islandwide that operated as STRs prior to April 1989. This accommodation was codified in Maui County Code §19.12.020(G), but was never intended to permanently exempt these units from their fundamental residential zoning purpose.

Bill 9 stops this abuse.

This isn't about punishing success or removing rights — it's about upholding the law, reclaiming your neighborhoods, and prioritizing the needs of those who live, work, and raise families here.

The Fiscal Reality: Smart Short-Term Pain, Long-Term Resilience

Opponents emphasize lost revenue — yes, Maui County may initially lose **\$15 to \$28 million annually** in Transient Accommodations Tax, General Excise Tax, and inflated investor property tax premiums when STVRs in apartment zones are phased out.

However, this revenue is **not sustainable**. It is **volatile**, tied to **global tourism cycles, market speculation, and geopolitical factors** beyond your control. Maui's overreliance on speculative STVR income places your fiscal foundation at risk, especially amid:

- **Rising inflation** averaging 3–5% annually since 2022
- **Federal program cutbacks** amid national deficit debates
- **Tariffs and trade tensions** impacting visitor economies
- **Slowing mainland economies** reducing discretionary travel spending

Betting your county's solvency on investor profit margins and vacation occupancy rates is a precarious strategy.

Long-Term Economic Recovery Through Stability, Not Speculation

Within 2–3 years, you can fully recover and even **surpass lost revenue** by fostering:

- **\$10–17 million annually** in long-term income tax and property tax gains from residential leasing and owner-occupancy
- **200–400 new local jobs** in property management, construction, eldercare, maintenance, and related services
- **HOA cost savings** through reduced turnover, less property damage, and lower security costs — some Associations of Apartment Owners could see **10–25% reductions** in monthly fees
- **Increased federal and state housing grants** tied to demonstrated local housing availability and stability

Building your revenue base on the stability of local tenants and working families, rather than the volatility of tourism and investment speculation, creates economic resilience and community wellbeing.

Investment Properties Are Not Homes. They Are Financial Instruments

The units in question are not family homes but business operations. Their owners:

- Use **1031 exchanges** to defer capital gains and cycle profits
- Claim full depreciation and tax write-offs on expenses
- Employ **hotel-like pricing software** to maximize nightly rates
- Pay management companies rather than local workers
- Sell properties rapidly when profits decline, as seen during **the 2008 foreclosure wave**

When the market dips — and it inevitably will — these units will not house your people. They will be **dumped, warehoused, or converted** to other non-residential uses until the next cycle.

That is not housing. That is extraction.

Maui's Housing Crisis Is a Direct Result of This Loophole

While these STVRs generated private wealth, Maui experienced:

- **A workforce exodus** of teachers, healthcare workers, public safety personnel, and other essential workers
- **Skyrocketing rents and near-zero vacancy rates**
- **Local families forced into overcrowding or forced off-island**
- **Critical job vacancies in sectors reliant on local workers**

Yet, thousands of units remain vacant, awaiting the next booking rather than a long-term tenant. How can you justify this when nurses commute from off-island, and families are displaced?

Rebutting Opposition Testimony

Some opposition testimony claims that removing STVR permissions in apartment zones will not improve affordability because HOA fees, property taxes, and insurance costs make units too expensive, costing \$25,000 to \$30,000 annually per unit.

This argument misses the fundamental point. Bill 9 is not about guaranteeing affordability at every price point. It is about **returning housing units to long-term residential use**, which reduces displacement and rent pressure. Having more units available for long-term residents—even if HOA fees remain high—helps stabilize your community.

Moreover, the claim that STVRs "feed the community" through tax revenue ignores that tax revenue cannot substitute for shelter. The current system benefits investors but **displaces residents**. Affordable housing requires prioritizing people over profits.

Why Are Bill 9 Supporters a Minority on Granicus?

The public testimony portal may reflect an outsized voice from opponents because:

- Opponents are often well-funded, highly organized investor groups with a direct financial stake in maintaining the loophole, motivating them to flood testimony opposing the bill.
- Supporters—including renters, local workers, and displaced families—are less organized, less vocal, and often unaware that Bill 9 protects their interests.

- Testimony volume does not equate to majority opinion; it reflects who has resources and incentives to participate.

You must look beyond online testimony volume to the lived realities of those suffering displacement and housing insecurity.

The World Is Warning You — Will You Listen?

Major cities worldwide—from **Barcelona to Amsterdam to Vancouver**—have faced political unrest and community backlash due to unchecked short-term rental markets causing displacement and eroding neighborhoods.

Maui is next unless you act decisively.

Bill 9 is not radical; it is the **bare minimum** necessary to preserve the fabric of your communities and safeguard the island’s unique environmental and cultural heritage.

Environmental and Infrastructure Impacts

The environmental consequences of allowing hotel-level intensity of use in residential zones are acute and well-documented:

- **Wastewater infrastructure is overwhelmed**, contributing to coastal pollution that harms Maui’s coral reefs and marine ecosystems, vital to tourism and community health.
- **Water resources are stressed**, with aquifers overdrawn and Upcountry rationing intensified by the water-intensive needs of transient guests in units designed for families.
- **Increased traffic, noise, and parking congestion** erode quality of life and neighborhood cohesion.
- The cumulative impact of STRs threatens Maui’s sustainability and natural beauty.

The County’s constitutional public trust obligations demand that you weigh environmental stewardship equally with economic interests.

Legally Defensible. Economically Justifiable. Morally Imperative

Bill 9 rests on firm legal foundations:

- **Act 17 (2024)** affirms the County’s local control over transient accommodations, reaffirming your right to enforce zoning consistent with community welfare.

- Hawai‘i courts have upheld phase-outs of non-conforming uses where consistent with public interest (e.g., cases in 1997 and 2016).
- The reasonable sunset period in Bill 9 respects procedural due process and balances fairness with urgency.
- Zoning enforcement aligned with public welfare is not a regulatory “taking” and will withstand legal challenges.

You are not discriminating; you are governing responsibly.

Do Not Be Intimidated by Investor Lobbying or Legal Threats

The proposed 5-year phase-out and rezoning plan from investor coalitions is a delay tactic. It will:

- Encourage costly lawsuits and internal AOA in-fighting
- Force apartment complexes to undertake rezoning for rights they have already enjoyed
- Reward those who have exploited the loophole while punishing the compliant

You cannot outsource your kuleana over land use to investor interests or wait for perfect consensus. **Act now, or lose what remains of your community’s housing stock and environmental legacy.**

PASS BILL 9 — PROTECT MAUI’S FUTURE

This is more than legislation. It is a declaration that:

- **Zoning is not for sale**
- **Communities come before cash flow**
- **Apartment units should house people — not portfolios**

Yes, the bill will face legal and political challenges. Yes, some will lose revenue. But **that burden is not yours to bear**. Your duty is to uphold the public trust, protect local families, and defend Maui’s future.

Maui is watching. Hawai‘i is watching. Your constituents stand ready to support you — in court, at the ballot box, and in the community.

FINAL MAHALO

Thank you for your strength, your vigilance, and your vision. Please vote **YES on Bill 9** — not for the few who profited from loopholes, but for the many who were left behind.

Respectfully submitted,

Edward Codelia

Maui Resident/Realtor