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June 23, 2025

The Honorable Richard T. Bissen, Jr.
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Dear Mayor, Council Members, Planning Director, Planning Commissioners, and HLU Committee Members:

Please accept this correspondence as a follow up to our June 24, 2024, and June 5, 2025, letters sent to you in our capacities as the presidents of the Kapalua Bay Villas, Kapalua Ridge Villas, and Kapalua Golf Villas. Our last correspondence asked you to clarify the proposed ordinance to unambiguously exempt the Kapalua Resort. This correspondence provides a further explanation of the reasons for our request.

Section 5 of Bill 9 (2025) amending 19.32.040 states:

SECTION 5. Section 19.32.040, Maui County Code, is amended by amending Subsection I to read as follows: "1. Transient vacation rentals are permitted in planned developments, except for developments that have been publicly funded, if: [1. The planned development received a planned development site plan approval that was lawfully issued by and valid on April 20, 1989, and the land is zoned A-1 or A-2 apartment district; or] [2.] .L The planned development meets all of the following: a. The planned development received final approval as provided in this chapter, and at least one unit in the planned development was operating as a vacation rental on or before April 20, 1981. - 4- b. The planned development is located on parcels with at least some residential district zoning. c. The planned development consists of only: i. Duplexes or [multi-family] multifamily dwelling units; or ii. A combination of single-family dwelling units and duplexes or [multi-family] multifamily dwelling units. (3.) 2. Existing transient vacation rentals may be reconstructed, renovated, or expanded if no new rooms or transient vacation rental units are added.

The proposed ordinance deletes a portion of this section while still exempting certain properties where a "planned development" received final approval and at least one unit was operating as a vacation rental on or before April 20, 1981; the planned development is located on parcels with at least some residential district zoning; and the planned development consists of only duplexes or multifamily dwelling units or a combination of single-family, duplexes, or multifamily dwellings. It is vague and ambiguous how this remaining exemption will apply to certain resort area properties, including properties in the Kapalua Resort, that were approved, built, and always used to include transient vacation rental.

The proposed ordinance seems to distinguish between certain properties without a public purpose for doing so. For example, there is no public purpose in differentiating between historical variations in the plan approval process or because a particular development plan includes residential zoning, or a hotel, while another does not. The review and approval process means that the proposed project uses were considered and determined to be appropriate for those parcels. As related to the Kapalua Resort, when approved for development approximately 50 years ago, the resort plan comprised a mix of uses including hotels, single family residences, and multifamily buildings approved for transient vacation rental.

Legislation needs to be appropriately tailored to advance a proper public purpose. Here, the stated public purpose is to increase affordable long-term family housing on Maui, however, this purpose is not achieved by banning short-term rentals in resort areas that are not suitable for affordable family housing. Resort properties have high purchase costs and homeowners' association fees, huge maintenance expenses, significant resort-area community use restrictions (no pets, parking restrictions, noise limitations, etc.), and vacation-oriented construction and amenities. This is certainly true in the Kapalua Resort where the Kapalua Villas were approved, built, sold, and continuously used for almost 50 years to include short-term rentals. Banning short-term rentals in the Kapalua Villas will not achieve any public purpose in providing affordable housing, because these properties are neither affordable nor suitable for long-term family housing.

Proposed legislation may impact multiple public purposes, and when it does, those competing public interests must be carefully balanced. Accordingly, our original correspondence encouraged the County to approach this legislation with a scalpel rather than an ax. Here, these interests include affordable housing availability, protecting Maui's tourism-based economy, and directing tourism to Maui's resort areas. If applied to resort areas like the Kapalua Resort, the proposed legislation will not advance the public purpose of increasing affordable housing and will only harm other important public interests such as protecting the tourism industry and directing tourism to Maui's resort areas.

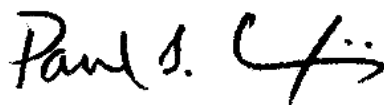
Maui has long recognized a public purpose of directing tourists to Maui's primary resort areas so other areas can remain more focused on local resident use. The Maui General Plan, the Community Plans, and the Maui Island Plan all work to direct short-term dwelling accommodations to the resort areas of Kapalua, Kaanapali, Wailea, and Makena. For obvious reasons, not each parcel within a resort area is zoned as hotel. Some parcels are zoned for multifamily use, some are zoned for commercial use, and some are zoned for single family use. This mixture of zoning supports a public purpose of providing a range of short-term vacation accommodations in these identified geographic areas. Modifying that planning determination to ban short-term rentals in these properties will only undermine the longstanding island-wide policy of consolidating tourism in Maui's resort areas.

For these obvious reasons, it has been widely recognized that short-term rentals are appropriate in resort areas. While the Mayor and certain Council Members have expressly acknowledged this, they have encouraged zoning changes to a "hotel" classification, which the County has not facilitated and at best is very slow to achieve, expensive, and uncertain. Also, not all property owners in resort areas participate in short-term rentals, and taxes on property classified "TVR-STRH" already significantly

exceed the “hotel” tax rate.¹ For these additional reasons, there is no public purpose in banning short-term rentals in resort areas.

The current proposed ordinance is not appropriately tailored to the stated public purpose of reducing the Maui housing shortage. Nor does it maintain Maui’s resort area status, value, and purpose. By all accounts, unless appropriately amended, the proposed ordinance will severely damage Maui’s tourism-based economy. As written, the proposed ordinance is unclear and inadequate in exempting short-term rentals in resort area properties. For these reasons, we ask that you either reject the legislation entirely or clarify it by amendment to expressly exempt resort areas such as the Kapalua Resort, including the Kapalua Bay, Ridge, and Golf Villas.

Respectfully submitted,



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¹ For 2025-2026, the “Hotel and Resort” tax rate per \$1,000 of assessed value is \$11.25. The “TVR-STRH” rate ranges from \$12.50 to \$15.00