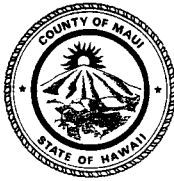


CHARMAINE TAVARES  
Mayor  
JEFFREY S. HUNT  
Director  
COLLEEN M. SUYAMA  
Deputy Director



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COUNTY OF MAUI  
**DEPARTMENT OF PLANNING** OFFICE OF THE MAYOR

July 2, 2007

Honorable Charmaine Tavares  
Mayor, County of Maui  
200 South High Street  
Wailuku, Maui, Hawaii 96793

*Charmaine Tavares 07/02/07*

For Transmittal to:

Honorable Gladys Baisa, Chair  
Planning Committee  
Maui County Council  
200 South High Street  
Wailuku, Maui, Hawaii 96793

OFFICE OF THE  
COUNTY COUNCIL  
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Dear Chair Baisa:

**SUBJECT: ENFORCEMENT POLICIES RELATING TO TRANSIENT VACATION RENTALS (PC-6)**

Planning Committee Report No. 07-27, which was adopted at the March 16, 2007 Council Meeting, recommended that "the matter of the Department of Planning's enforcement policies relating to transient vacation rentals be referred to [the] Committee for further consideration." This recommendation formed the basis for the review of this matter before the Planning Committee. The Department of Planning (Department) offers the following comments on this matter subject to Planning Committee review.

During discussion on January 30, 2007 of a proposed Transient Vacation Rentals (TVRs) bill, many citizens, as well as members of the Planning Committee, expressed concern with enforcement of regulations of unpermitted TVRs. In response to these concerns, on February 13, 2007, the Department presented a memo to the Planning Committee which discussed options that the Department, as part of a new administration, was considering with regard to the enforcement of unpermitted TVRs. The Planning Committee expressed no major concerns about these options. On February 15, 2007, as noted in Committee Report No. 07-27, the Planning Committee again "expressed serious concerns about the Department of Planning's enforcement policies relating to transient vacation rentals under several different administrations." The proposed TVR bill was filed by the County Council at the March 16, 2007 Council Meeting.

The Department is preparing a new proposed bill that would affect the permitting of TVRs and Bed & Breakfasts. Along with this bill, the Department has been preparing to change, and has already changed, the manner in which the enforcement of unpermitted TVRs is pursued.

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The issue of enforcement against unpermitted TVRs is a complex one. Previous administrations apparently granted a so-called "amnesty" where enforcement against an illegal TVR was not pursued if an application was submitted. This is contrary to County regulations that require the approval of a permit prior to operating a TVR. This approach resulted in many TVRs operating for years without the required permits. Therefore, the Department discontinued the granting of amnesty on February 13, 2007. As of that date, anyone who submitted an application for a TVR would have to stop operating until the permit is actually approved.

In order to provide adequate time to cancel reservations, make other plans and get their affairs in order, the Department will not pursue enforcement against any applicant who was granted amnesty until January 1, 2008. After this date, however, all applicants who received amnesty will be required to cease their operations or be subject to enforcement. The Department hopes that long-term rentals for residents will be provided instead.

There are also people who have voluntarily submitted applications for a TVR after February 13, 2007. The Department wants to encourage operators of illegal TVRs to cooperate by submitting an application without waiting to be prodded by enforcement officers. Given this situation, the Department will try to determine a reasonable timeline for these operators to shut down their TVR operation.

Apparently, past administrations in the County only pursued enforcement of illegal TVRs if a complaint was filed. Again, due to the numerous concerns expressed by citizens and County officials, and the proliferation of illegal TVRs (a recent study estimates that there are 800 on Maui), the Department will soon be initiating enforcement of illegal TVRs even if no complaint has been filed. The Department has been working on this initiation for the past few months. For example, in late May, the Department received approval of two additional enforcement officers through the County Council's adoption of the Fiscal Year 2008 budget. The Department has also been coordinating its efforts with other agencies such as the Maui Visitors Bureau.

In addition, the Department has a large back-log of TVR applications that have accumulated because previous administrations had not processed them if the applicant requested that their application be put on hold. The Department is gearing up to start moving forward with these applications by sending them to the Planning Commission and eventually the County Council. This will take time due to existing workloads of our Department's staff.

It should be noted that State law requires that adequate warning be provided prior to issuing a Notice of Violation (NOV). The Department supports the idea of giving a violator a reasonable amount of time in which to correct the situation before a NOV is issued. Therefore, the Department will pursue illegal TVRs, but it will allow a brief timeline during which the violation can be corrected. This timeline will be much shorter than the timeline that is used for those who have voluntarily submitted their applications. Administrative rules also allow for the consideration of how cooperative a violator has been in settling fines that have been imposed. The Department will consider reducing the amount of fines for those violators who have been cooperative.

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There are many challenges in getting the TVR enforcement program back on track. As previously noted, based on complaints already submitted this year, the Department estimates that it will receive 1,200 complaints of all types. This leaves the Department with limited resources to pursue non-complaint driven violations. Even if the budget includes two more enforcement officers, it is not a glamorous job that attracts many applicants. However, the Department is looking into creative methods of recruitment in order to fill vacant enforcement officer positions so it can better pursue non-complaint driven violations.

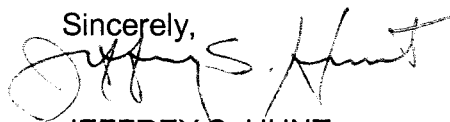
The Department believes that with limited resources, the highest priority for enforcement should be aimed at those TVR operators who have not submitted any application. The next priority for enforcement should be those who never received amnesty. And finally, the lowest priority for enforcement should be for those who did receive amnesty.

Some people might suggest that the Department should delay the enforcement until the bill that is being drafted is actually passed. But, no one knows what form the final bill will take, how long it will take to get the bill passed, or whether the bill will even be passed. Others might suggest that the Department should continue some form of amnesty for submitted applications. Either of these options would put the County back into the messy situation that we are starting to extricate ourselves from, and it would be unfair to those operators who have complied with the regulations. Besides, both options are contrary to existing County regulations that require approval of a permit before operating a TVR.

In summary, the Department will pursue a course of action with regard to the enforcement of illegal TVRs based on County regulations that are in effect at the time of the violation. The Department will work with TVR operators and it will establish a fair and reasonable approach to ensure that these operators have obtained the necessary planning permits prior to operating.

Thank you for your consideration of this matter. Should further clarification be necessary, please contact me at Ext. 7735.

Sincerely,



JEFFREY S. HUNT  
Planning Director

xc: Honorable Michelle Anderson, Council Member  
Colleen Suyama, Deputy Planning Director  
Aaron Shinmoto, Zoning Administration and Enforcement Program Administrator  
Clayton Yoshida, Planning Program Administrator

JSH:atw

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