

**TESTIMONY**  
**HCR 348 HD1**

Council Chair  
G. Riki Hokama

Director of Council Services  
Ken Fukuoka



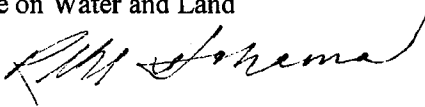
Vice-Chair  
Danny A. Mateo

Council Members  
Michelle Anderson  
Gladys C. Baisa  
Jo Anne Johnson  
Bill Kauakea Medeiros  
Michael J. Molina  
Joseph Pontanilla  
Michael P. Victorino

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov/council](http://www.mauicounty.gov/council)

April 18, 2008

TO: Honorable Clayton Hee, Chair  
Senate Committee on Water and Land

FROM: G. Riki Hokama   
Council Chair

SUBJECT: **HEARING OF APRIL 21, 2008; TESTIMONY IN OPPOSITION TO HCR 348, HD1,  
RELATING TO VACATION RENTAL USES IN STATE AGRICULTURAL  
DISTRICTS**

Thank you for the opportunity to testify in opposition to this measure. The purpose of this measure is to request the Attorney General to review and submit a legal opinion regarding whether vacation rental uses in single-family dwellings and farm dwellings in State Agricultural Districts are prohibited under Chapter 205, Hawaii Revised Statutes (HRS).

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I oppose this measure for the following reasons:

1. If the Legislature is not clear on the intent of its own law, then the Legislature should take steps to amend the law rather than seek a legal opinion. In lieu of adopting this measure, the Legislature should either make appropriate corresponding revisions to Chapter 205, HRS, or bring agricultural lands entirely within State jurisdiction, as proposed in SB 546, SD2, HD1.
2. In written testimony to the House Committee on Water, Land, Ocean Resources & Hawaiian Affairs for that body's hearing of April 4, 2008, the Chairperson of the Board of Agriculture stated: "[W]e support the counties['] efforts to regulate the establishment of transient vacation rentals on Agricultural District lands, and that the special permit (Section 2-506, HRS) remain the vehicle by which these uses may be approved". The Department of Agriculture is the agency with expertise and responsibility in this field, and its testimony should be accorded due weight.
3. The Legislature should be concentrating on critical issues facing the State, not wasting time on measures like this that appear to have the intent and possible effect of interfering with home rule on land use issues.

For the foregoing reasons, I oppose this measure.

## testimony

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**From:** sovereignty@aol.com  
**Sent:** Saturday, March 31, 2007 6:05 AM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 31, 2007 @ 8:05 am:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

Neither this section nor any ordinance enacted pursuant to this section shall prohibit the continued lawful use of any building or premises for any trade, industrial, residential, agricultural, or other purpose for which the building or premises is used at the time this section or the ordinance takes effect; provided that a zoning ordinance may provide for elimination of nonconforming uses as the uses are discontinued, or for the amortization or phasing out of nonconforming uses or signs over a reasonable period of time in commercial, industrial, resort, and apartment zoned areas only. In no event shall such amortization or phasing out of nonconforming uses apply to any existing building or premises used for residential (single-family or duplex) or agricultural uses.

We further ask that the county provides an Amnesty program, during which an appointed individual or group be sanctioned by the county as an Ombudsman designed to assist TVR's in their transition to compliance with the final bill when passed. The Ombudsman would be responsible for discussions with existing B&B, and vacation rental business owners on a one by one basis, by phone, email or with a personal appointment to answer pertinent questions about location, zoning, permitted use, and how to ensure their business continues to exist (grandfathering-in). This individual or group should clearly state to all parties that any information it gathers in an attempt to aid small businesses on Kauai will not be used to their detriment, by any other department.

To support this request, we hold the following statements to be true. Many Kauai residents depend on vacation rental businesses to either provide or supplement their monthly income to support their families. The vacation rental industry on Kauai, especially the many small Inns, cottages, vacation rentals, and B&B's support a variety of other small business and individuals working in the services industries for those properties. Most of the revenues earned from these vacation rental operations stays on Kauai and enriches everyone in our community.

To render, either intentionally or indirectly, any existing vacation rentals or B&B on Kauai illegal would put many of Kauai's families' livelihoods at stake and weaken our local economy. There is a fine balance between success and failure on Kauai. There is no industrial base to support the jobs and livelihoods that the mainland enjoys. Most people here have two or three jobs just to keep ahead of the mounting bills, many of which are amongst the highest in the nation. This fine balance creates a tipping point and a sudden rift in the economic fabric of Kauai could cause severe repercussions, the extent of which is hard to calculate. As multiple businesses, dependant upon vacation rentals, suddenly fold and homes must be sold, a local recession may be triggered with shock waves reverberating through Kauai, affecting Individuals, Real Estate companies, Stores, Banks, Small Support Businesses, and finally the tax base for the county and state. No-one wants that to happen, esp!

pecially the individuals elected by we, the people of this island, to serve us.

As we have heard voiced in the recent legal position from Jonathon Chun, "while nonconforming use of a property may be deemed to be undesirable by a small portion of the

community, it nonetheless constitutes a legitimate, vested property right and clearly enjoys broad constitutional protection...Vested property rights are not easily lost or voided".

It seems that one of America's greatest human rights and life treasures is at stake here: the right of an individual, to make his or her own fortune, to use his or her own land for whatever legal purposes he or she deems fitting and appropriate to suffice his or her family financially. To Be their own boss.

Isn't that the American Dream that "We The People" all aspire to finding?

Besides, who are we to restrict the accommodation choices to the over 1 million tourist visitors we share the island with each year. Vacation Rentals and the industry provide that simple, unique experience to those vacationers who by their own personal choice seek to stay at a vacation rental or B&B, live among the community, share the local experience, and live aloha for that short period of time they are with us. What is so wrong with working collaboratively in an attempt to partner with other industry stakeholders to resolve issues we are faced with today and get on with consensus building. As the people of Kauai, isn't our vision for a sustainable island the same?"

Name: Rocco Jones

City, State: Columbus, NJ

Email: sovereignty@aol.com

LINDA LINGLE  
Governor



SANDRA LEE KUNIMOTO  
Chairperson, Board of Agriculture

DUANE K. OKAMOTO  
Deputy to the Chairperson

State of Hawaii  
DEPARTMENT OF AGRICULTURE  
1428 South King Street  
Honolulu, Hawaii 96814-2512

TESTIMONY OF SANDRA LEE KUNIMOTO  
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON WATER AND LAND  
MONDAY, APRIL 21, 2008  
9:30 a.m.  
Room 016

HOUSE CONCURRENT RESOLUTION NO. 348, H.D. 1  
REQUESTING THE ATTORNEY GENERAL TO REVIEW AND SUBMIT A LEGAL  
OPINION REGARDING WHETHER VACATION RENTAL USES IN SINGLE-FAMILY  
DWELLINGS AND FARM DWELLINGS IN STATE AGRICULTURAL DISTRICTS ARE  
PROHIBITED UNDER CHAPTER 205, HAWAII REVISED STATUTES

Chair Hee, Vice-Chair Kokubun and Members of the Committee:

Thank you for the opportunity to testify on House Concurrent Resolution No. 348, House Draft 1. The Department of Agriculture supports the proposed review by the State Attorney General as described in the title of this resolution, but is dismayed that the intent of the Legislature as expressed in the body of the resolution is to give equal status to the promotion and utility of alternative visitor accommodations with the primary permissible use of agricultural land which is the cultivation of crops. Alternative visitor accommodations in the State Agricultural District, if left unregulated, may encourage the spread of "fake farms" or "gentlemen's estates" resulting in higher agricultural land prices and making the establishment of new farms less likely, they may increase the possibility of nuisance complaints from owners and renters of transient vacation rentals about bona fide agricultural production in the vicinity, and they may negatively affect the counties' efforts to identify important agricultural lands pursuant to Chapter 205. We strongly support the counties' efforts to regulate the establishment of transient vacation rentals on Agricultural District lands, and that the special permit (Section 205-6, HRS) remain the vehicle by which these uses may be approved.



Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; In Support of HCR 348.pdf



The Senate  
 24th Legislature, 2008  
 State of Hawaii  
 Date 4/19/08 - Time 10:00 PM  
 Attention: Senator Clayton Hee, Chair, and Committee Members.

Speaking in Support of HCR 348, HD1

**COMMITTEE ON WATER, LAND,**

**Speaking in Support of Bill HCR 348:**

**REQUESTING THE ATTORNEY GENERAL TO REVIEW AND  
 SUBMIT A LEGAL OPINION REGARDING WHETHER VACATION  
 RENTAL USES IN SINGLE-FAMILY DWELLINGS AND FARM  
 DWELLINGS IN STATE AGRICULTURAL DISTRICTS ARE  
 PROHIBITED UNDER CHAPTER 205, HAWAII REVISED STATUTES.**

All Hawaii 0440 Oloana Road  
 Hapa, HI 06740  
 Hawaii 808-822-5381

Email 1 of 8

Dear Committee Members

I speak in support of HCR 348 and submit as testimony the 1500 petitions emailed to KAVA by local residents (680) and visitors (820) in opposition to the strict regulations in the Kauai Bill 2204 that made Vacation Rentals on Ag land illegal. That bill is now law and has created a storm of opposition, some of which is determined to overthrow it in State or Federal Court. We implore you to clarify the situation on Ag land by approving HCR 348 to stop the certain madness that will ensue. As you know, the State has ordered a review of Ag land on all islands over the next three years, to determine Prime Ag land. This should be completed first to ensure that existing properties are protected, because they have operated businesses giving alternative accommodation to our much needed tourists who seek a different experience to a Hotel. In many situations, this alternative accommodation income is the difference between a viable small farm and bankruptcy. We understand the desire to regulate and control growth, but to make the law retroactive to apply to existing small businesses is wrong. From the beginning of the bills passage there was opposition and in March 2007 we started our first petition Web Site called WeThePeopleOfKauai.com and in just a few days collected these 1500 petitions which were submitted to the County Council. I now re-submit them as attachments to 8 emails.

Sincerely

Michael John Hough, President

4/19/2008

PART 1 OF 8 EMAILS



## testimony

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**From:** jmjburger@hawaiiink.net  
**Sent:** Tuesday, March 20, 2007 6:06 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 20, 2007 @ 8:05 pm:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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We further ask that the county provides an Amnesty program, during which an appointed individual or group be sanctioned by the county as an Ombudsman designed to assist TVR's in their transition to compliance with the final bill when passed. The Ombudsman would be responsible for discussions with existing B&B, and vacation rental business owners on a one by one basis, by phone, email or with a personal appointment to answer pertinent questions about location, zoning, permitted use, and how to ensure their business continues to exist (grandfathering-in). This individual or group should clearly state to all parties that any information it gathers in an attempt to aid small businesses on Kauai will not be used to their detriment, by any other department.

To support this request, we hold the following statements to be true. Many Kauai residents depend on vacation rental businesses to either provide or supplement their monthly income to support their families. The vacation rental industry on Kauai, especially the many small Inns, cottages, vacation rentals, and B&B's support a variety of other small business and individuals working in the services industries for those properties. Most of the revenues earned from these vacation rental operations stays on Kauai and enriches everyone in our community.

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As we have heard voiced in the recent legal position from Jonathon Chun, "while nonconforming use of a property may be deemed to be undesirable by a small portion of the

community, it nonetheless constitutes a legitimate, vested property right and clearly enjoys broad constitutional protection...Vested property rights are not easily lost or voided".

It seems that one of America's greatest human rights and life treasures is at stake here: the right of an individual, to make his or her own fortune, to use his or her own land for whatever legal purposes he or she deems fitting and appropriate to suffice his or her family financially. To Be their own boss.

Isn't that the American Dream that "We The People" all aspire to finding?

Besides, who are we to restrict the accommodation choices to the over 1 million tourist visitors we share the island with each year. Vacation Rentals and the industry provide that simple, unique experience to those vacationers who by their own personal choice seek to stay at a vacation rental or B&B, live among the community, share the local experience, and live aloha for that short period of time they are with us. What is so wrong with working collaboratively in an attempt to partner with other industry stakeholders to resolve issues we are faced with today and get on with consensus building. As the people of Kauai, isn't our vision for a sustainable island the same?"

I Am A: Kauai RESIDENT

Name: John R. Burger

City, State: Kapaa, HI 96746

Email: jmjburger@hawaiilink.net

**testimony**

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**From:** thayne@thayne.net  
**Sent:** Monday, March 19, 2007 10:09 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 19, 2007 @ 12:09 pm:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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I Am A: Kauai RESIDENT vacation rental owner

Name: Thayne and Lynn Taylor

City, State: Kalaheo, HI

Email: thayne@thayne.net

## testimony

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**From:** lauragoroza@hotmail.com  
**Sent:** Tuesday, March 20, 2007 5:29 PM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 20, 2007 @ 7:29 pm:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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I Am A: Kauai RESIDENT

Name: Laura Goroza

City, State: Kapa, Hawaii

Email: lauragoroza@hotmail.com

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## testimony

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**Sent:** Tuesday, March 20, 2007 6:06 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

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I Am A: Kauai RESIDENT

Name: John R. Burger

City, State: Kapaa, HI 96746

Email: jmjburger@hawaiiilink.net



## testimony

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**From:** shergowhar@yahoo.com  
**Sent:** Monday, March 19, 2007 10:11 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 19, 2007 @ 12:11 pm:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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We further ask that the county provides an Amnesty program, during which an appointed individual or group be sanctioned by the county as an Ombudsman designed to assist TVR's in their transition to compliance with the final bill when passed. The Ombudsman would be responsible for discussions with existing B&B, and vacation rental business owners on a one by one basis, by phone, email or with a personal appointment to answer pertinent questions about location, zoning, permitted use, and how to ensure their business continues to exist (grandfathering-in). This individual or group should clearly state to all parties that any information it gathers in an attempt to aid small businesses on Kauai will not be used to their detriment, by any other department.

To support this request, we hold the following statements to be true. Many Kauai residents depend on vacation rental businesses to either provide or supplement their monthly income to support their families. The vacation rental industry on Kauai, especially the many small Inns, cottages, vacation rentals, and B&B's support a variety of other small business and individuals working in the services industries for those properties. Most of the revenues earned from these vacation rental operations stays on Kauai and enriches everyone in our community.

To render, either intentionally or indirectly, any existing vacation rentals or B&B on Kauai illegal would put many of Kauai's families' livelihoods at stake and weaken our local economy. There is a fine balance between success and failure on Kauai. There is no industrial base to support the jobs and livelihoods that the mainland enjoys. Most people here have two or three jobs just to keep ahead of the mounting bills, many of which are amongst the highest in the nation. This fine balance creates a tipping point and a sudden rift in the economic fabric of Kauai could cause severe repercussions, the extent of which is hard to calculate. As multiple businesses, dependant upon vacation rentals, suddenly fold and homes must be sold, a local recession may be triggered with shock waves reverberating through Kauai, affecting Individuals, Real Estate companies, Stores, Banks, Small Support Businesses, and finally the tax base for the county and state. No-one wants that to happen, esp!

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It seems that one of America's greatest human rights and life treasures is at stake here: the right of an individual, to make his or her own fortune, to use his or her own land for whatever legal purposes he or she deems fitting and appropriate to suffice his or her family financially. To Be their own boss.

Isn't that the American Dream that "We The People" all aspire to finding?

Besides, who are we to restrict the accommodation choices to the over 1 million tourist visitors we share the island with each year. Vacation Rentals and the industry provide that simple, unique experience to those vacationers who by their own personal choice seek to stay at a vacation rental or B&B, live among the community, share the local experience, and live aloha for that short period of time they are with us.

What is so wrong with working collaboratively in an attempt to partner with other industry stakeholders to resolve issues we are faced with today and get on with consensus building. As the people of Kauai, isn't our vision for a sustainable island the same?"

I Am A: Kauai NON-RESIDENT vacation rental owner

Name: Jacquie

City, State: Long Beach

Email: shergowhar@yahoo.com

## testimony

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**From:** rschillinger@prusb.com  
**Sent:** Tuesday, March 20, 2007 5:37 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 20, 2007 @ 7:37 pm:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Name: Rick and Tana Schillinger

City, State: Kapaa,Hi

Email: rschillinger@prusb.com

## testimony

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**From:** Ifmalohakauai@hawaii.rr.com  
**Sent:** Tuesday, March 20, 2007 5:00 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 20, 2007 @ 6:59 pm:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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What is so wrong with working collaboratively in an attempt to partner with other industry stakeholders to resolve issues we are faced with today and get on with consensus building. As the people of Kauai, isn't our vision for a sustainable island the same?"

I Am A: Kauai RESIDENT

Name: Luigi Massello

City, State: Kilauea, Hawaii

Email: lfmalohakauai@hawaii.rr.com

## testimony

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**From:** roca@rocadesign.com  
**Sent:** Tuesday, March 20, 2007 5:53 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 20, 2007 @ 7:52 pm:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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I Am A: Kauai RESIDENT vacation rental owner

Name: Robert Roca

City, State: Kilauea, Hi

Email: roca@rocaesign.com



## testimony

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**From:** thayne@thayne.net  
**Sent:** Monday, March 19, 2007 10:09 AM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 19, 2007 @ 12:08 pm:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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I Am A: Kauai RESIDENT vacation rental owner

Name: Thayne and Lynn Taylor

City, State: Kalaheo, HI

Email: thayne@thayne.net

## testimony

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**From:** k8iefish@hotmail.com  
**Sent:** Tuesday, March 20, 2007 5:21 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 20, 2007 @ 7:21 pm:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Name: keli ranke

City, State: 5940 kaapuni rd kapaa, hi 96746

Email: k8iefish@hotmail.com

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## testimony

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**From:** Strunzie@aol.com  
**Sent:** Tuesday, March 20, 2007 8:01 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 20, 2007 @ 10:01 am:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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What is so wrong with working collaboratively in an attempt to partner with other industry stakeholders to resolve issues we are faced with today and get on with consensus building. As the people of Kauai, isn't our vision for a sustainable island the same?"

Favorite Kauai Lodging: Would like to have both options available for vacationing

Name: Jeff & Nancy Garber

City, State: Virginia Beach, Virginia

Email: Str







PART 2 OF 8 EMAILS

## testimony

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**From:** soscooper@sbcglobal.net  
**Sent:** Tuesday, June 05, 2007 6:13 AM  
**To:** mike@houghtomarket.com; martina@houghtomarket.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on June 5, 2007 @ 9:13 am:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

Neither this section nor any ordinance enacted pursuant to this section shall prohibit the continued lawful use of any building or premises for any trade, industrial, residential, agricultural, or other purpose for which the building or premises is used at the time this section or the ordinance takes effect; provided that a zoning ordinance may provide for elimination of nonconforming uses as the uses are discontinued, or for the amortization or phasing out of nonconforming uses or signs over a reasonable period of time in commercial, industrial, resort, and apartment zoned areas only. In no event shall such amortization or phasing out of nonconforming uses apply to any existing building or premises used for residential (single-family or duplex) or agricultural uses.

We further ask that the county provides an Amnesty program, during which an appointed individual or group be sanctioned by the county as an Ombudsman designed to assist TVR's in their transition to compliance with the final bill when passed. The Ombudsman would be responsible for discussions with existing B&B, and vacation rental business owners on a one by one basis, by phone, email or with a personal appointment to answer pertinent questions about location, zoning, permitted use, and how to ensure their business continues to exist (grandfathering-in). This individual or group should clearly state to all parties that any information it gathers in an attempt to aid small businesses on Kauai will not be used to their detriment, by any other department.

To support this request, we hold the following statements to be true. Many Kauai residents depend on vacation rental businesses to either provide or supplement their monthly income to support their families. The vacation rental industry on Kauai, especially the many small Inns, cottages, vacation rentals, and B&B's support a variety of other small business and individuals working in the services industries for those properties. Most of the revenues earned from these vacation rental operations stays on Kauai and enriches everyone in our community.

To render, either intentionally or indirectly, any existing vacation rentals or B&B on Kauai illegal would put many of Kauai's families' livelihoods at stake and weaken our local economy. There is a fine balance between success and failure on Kauai. There is no industrial base to support the jobs and livelihoods that the mainland enjoys. Most people here have two or three jobs just to keep ahead of the mounting bills, many of which are amongst the highest in the nation. This fine balance creates a tipping point and a sudden rift in the economic fabric of Kauai could cause severe repercussions, the extent of which is hard to calculate. As multiple businesses, dependant upon vacation rentals, suddenly fold and homes must be sold, a local recession may be triggered with shock waves reverberating through Kauai, affecting Individuals, Real Estate companies, Stores, Banks, Small Support Businesses, and finally the tax base for the county and state. No-one wants that to happen, esp!

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As we have heard voiced in the recent legal position from Jonathon Chun, "while nonconforming use of a property may be deemed to be undesirable by a small portion of the

community, it nonetheless constitutes a legitimate, vested property right and clearly enjoys broad constitutional protection...Vested property rights are not easily lost or voided".

It seems that one of America's greatest human rights and life treasures is at stake here: the right of an individual, to make his or her own fortune, to use his or her own land for whatever legal purposes he or she deems fitting and appropriate to suffice his or her family financially. To Be their own boss.

Isn't that the American Dream that "We The People" all aspire to finding?

Besides, who are we to restrict the accommodation choices to the over 1 million tourist visitors we share the island with each year. Vacation Rentals and the industry provide that simple, unique experience to those vacationers who by their own personal choice seek to stay at a vacation rental or B&B, live among the community, share the local experience, and live aloha for that short period of time they are with us.

What is so wrong with working collaboratively in an attempt to partner with other industry stakeholders to resolve issues we are faced with today and get on with consensus building. As the people of Kauai, isn't our vision for a sustainable island the same?"

I Am A: Kauai RESIDENT

Name: Sheila Cooper

City, State: Kilauea HI

Email: soscooper@sbcglobal.net

## testimony

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**From:** alan@SearchRentals.com  
**Sent:** Thursday, April 05, 2007 9:12 PM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on April 6, 2007 @ 12:11 am:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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I Am A: Kauai NON-RESIDENT vacation rental owner

Name: Alan Ferguson

City, State: Anahola, HI

Email: alan@SearchRentals.com

## testimony

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**From:** icingonthecake.kauai@gmail.com  
**Sent:** Wednesday, April 04, 2007 10:11 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on April 4, 2007 @ 1:11 pm:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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I Am A: Kauai RESIDENT

Name: Andrea Quinn

City, State: Kapa'a, HI

Email: icingonthecake.kauai@gmail.com

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**testimony**

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**From:** dgoodwin@cavlog.com  
**Sent:** Sunday, April 01, 2007 9:09 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on April 1, 2007 @ 12:09 pm:

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I Am A: Kauai NON-RESIDENT vacation rental owner

Name: DEBBIE GOODWIN

City, State: union, il

Email: dgoodwin@cavlog.com

Phone: 6306941606  
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## testimony

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**From:** jim@island-trust.com  
**Sent:** Monday, April 23, 2007 10:31 AM  
**To:** mike@houghtomarket.com; martina@houghtomarket.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on April 23, 2007 @ 1:31 pm:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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To support this request, we hold the following statements to be true. Many Kauai residents depend on vacation rental businesses to either provide or supplement their monthly income to support their families. The vacation rental industry on Kauai, especially the many small Inns, cottages, vacation rentals, and B&B's support a variety of other small business and individuals working in the services industries for those properties. Most of the revenues earned from these vacation rental operations stays on Kauai and enriches everyone in our community.

To render, either intentionally or indirectly, any existing vacation rentals or B&B on Kauai illegal would put many of Kauai's families' livelihoods at stake and weaken our local economy. There is a fine balance between success and failure on Kauai. There is no industrial base to support the jobs and livelihoods that the mainland enjoys. Most people here have two or three jobs just to keep ahead of the mounting bills, many of which are amongst the highest in the nation. This fine balance creates a tipping point and a sudden rift in the economic fabric of Kauai could cause severe repercussions, the extent of which is hard to calculate. As multiple businesses, dependant upon vacation rentals, suddenly fold and homes must be sold, a local recession may be triggered with shock waves reverberating through Kauai, affecting Individuals, Real Estate companies, Stores, Banks, Small Support Businesses, and finally the tax base for the county and state. No-one wants that to happen, esp!

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I Am A: Kauai RESIDENT vacation rental owner

Name: Jim Edmonds

City, State: Papa'aloa, HI

Email: jim@island-trust.com

## testimony

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**From:** foto1@w-link.net  
**Sent:** Thursday, April 05, 2007 8:14 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on April 5, 2007 @ 11:14 pm:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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I Am A: Kauai NON-RESIDENT vacation rental owner

Name: Kevin Hellriegel

City, State: Kent, WA

Email: fotol@w-link.net

## testimony

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**From:** icingonthecake.kauai@gmail.com  
**Sent:** Wednesday, April 04, 2007 10:11 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on April 4, 2007 @ 1:10 pm:

-----

Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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I Am A: Kauai RESIDENT

Name: Patrick Quinn

City, State: Kapa'a, HI

Email: icingonthecake.kauai@gmail.com

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**testimony**

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**From:** lustmanj001@hawaii.rr.com  
**Sent:** Saturday, March 31, 2007 9:14 AM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 31, 2007 @ 11:14 am:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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To render, either intentionally or indirectly, any existing vacation rentals or B&B on Kauai illegal would put many of Kauai's families' livelihoods at stake and weaken our local economy. There is a fine balance between success and failure on Kauai. There is no industrial base to support the jobs and livelihoods that the mainland enjoys. Most people here have two or three jobs just to keep ahead of the mounting bills, many of which are amongst the highest in the nation. This fine balance creates a tipping point and a sudden rift in the economic fabric of Kauai could cause severe repercussions, the extent of which is hard to calculate. As multiple businesses, dependant upon vacation rentals, suddenly fold and homes must be sold, a local recession may be triggered with shock waves reverberating through Kauai, affecting Individuals, Real Estate companies, Stores, Banks, Small Support Businesses, and finally the tax base for the county and state. No-one wants that to happen, esp!

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I Am A: Kauai RESIDENT

Name: Edith A. Lustman

City, State: Kalaheo, HI

Email: lustmanj001@hawaii.rr.com

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## testimony

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**From:** divers@makanahouse.com  
**Sent:** Saturday, April 21, 2007 7:23 PM  
**To:** mike@houghtmarket.com; martina@houghtmarket.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on April 21, 2007 @ 10:22 pm:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

Neither this section nor any ordinance enacted pursuant to this section shall prohibit the continued lawful use of any building or premises for any trade, industrial, residential, agricultural, or other purpose for which the building or premises is used at the time this section or the ordinance takes effect; provided that a zoning ordinance may provide for elimination of nonconforming uses as the uses are discontinued, or for the amortization or phasing out of nonconforming uses or signs over a reasonable period of time in commercial, industrial, resort, and apartment zoned areas only. In no event shall such amortization or phasing out of nonconforming uses apply to any existing building or premises used for residential (single-family or duplex) or agricultural uses.

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I Am A: Kauai RESIDENT vacation rental owner

Name: Suzanne M. Ellis

City, State: Kapaa, HI

Email: divers@makanahouse.com

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**testimony**

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**From:** barkin@usa.net  
**Sent:** Wednesday, April 04, 2007 9:04 PM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on April 5, 2007 @ 12:03 am:

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I Am A: Kauai NON-RESIDENT vacation rental owner

Name: Gene Barkin

City, State: Pleasant Hill, CA

Email: barkin@usa.net

Phone: 925 497 0467  
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**testimony**

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**From:** upfront@newmex.com  
**Sent:** Monday, April 02, 2007 1:15 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on April 2, 2007 @ 4:14 pm:

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I Am A: Kauai NON-RESIDENT vacation rental owner

Name: Bob Orner

City, State: Taos, N.M.

Email: upfront@newmex.com

Phone: 505-770-5247  
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## testimony

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**From:** sovereign@aol.com  
**Sent:** Saturday, March 31, 2007 6:05 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 31, 2007 @ 8:05 am:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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What is so wrong with working collaboratively in an attempt to partner with other industry stakeholders to resolve issues we are faced with today and get on with consensus building. As the people of Kauai, isn't our vision for a sustainable island the same?"

Name: Rocco Jones

City, State: Columbus, NJ

Email: sovereignt@aol.com

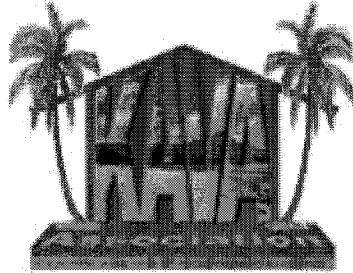
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Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; In Support of HCR 348.pdf



The Senate  
24th Legislature, 2008  
State of Hawaii  
Date: 4/19/08 - Time 10:00 PM  
Attention: Senator Clayton Hee, Chair, and Committee Members.

Speaking in Support of HCR 348, HD1

COMMITTEE ON WATER, LAND,

**Speaking in Support of Bill HCR 348:**

**REQUESTING THE ATTORNEY GENERAL TO REVIEW AND  
SUBMIT A LEGAL OPINION REGARDING WHETHER VACATION  
RENTAL USES IN SINGLE-FAMILY DWELLINGS AND FARM  
DWELLINGS IN STATE AGRICULTURAL DISTRICTS ARE  
PROHIBITED UNDER CHAPTER 205, HAWAII REVISED STATUTES.**

All these 0440 Oloheo Road  
Hapa, HI 96740  
Phone: 808-822-5381

Email 1 of 8

Dear Committee Members

I speak in support of HCR 348 and submit as testimony the 1500 petitions emailed to KAWA by local residents (680) and visitors (820) in opposition to the strict regulations in the Kauai Bill 2204 that made Vacation Rentals on Ag land illegal. That bill is now law and has created a storm of opposition, some of which is determined to overthrow it in State or Federal Court. We implore you to clarify the situation on Ag land by approving HCR 348 to stop the certain madness that will ensue. As you know, the State has ordered a review of Ag land on all islands over the next three years, to determine Prime Ag land. This should be completed first to ensure that existing properties are protected, because they have operated businesses giving alternative accommodation to our much needed tourists who seek a different experience to a Hotel. In many situations, this alternative accommodation income is the difference between a viable small farm and bankruptcy. We understand the desire to regulate and control growth, but to make the law retroactive to apply to existing small businesses is wrong. From the beginning of the bill's passage there was opposition and in March 2007 we started our first petition Web Site called WeThePeopleOfKauai.com and in just a few days collected these 1500 petitions which were submitted to the County Council. I now re-submit them as attachments to 8 emails.

Sincerely

Michael John Hough, President

PART 3 OF 8 EMAILS

## testimony

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**From:** aliicleaning@hawaii.rr.com  
**Sent:** Monday, March 19, 2007 9:59 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 19, 2007 @ 11:58 am:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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To support this request, we hold the following statements to be true. Many Kauai residents depend on vacation rental businesses to either provide or supplement their monthly income to support their families. The vacation rental industry on Kauai, especially the many small Inns, cottages, vacation rentals, and B&B's support a variety of other small business and individuals working in the services industries for those properties. Most of the revenues earned from these vacation rental operations stays on Kauai and enriches everyone in our community.

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Besides, who are we to restrict the accommodation choices to the over 1 million tourist visitors we share the island with each year. Vacation Rentals and the industry provide that simple, unique experience to those vacationers who by their own personal choice seek to stay at a vacation rental or B&B, live among the community, share the local experience, and live aloha for that short period of time they are with us. What is so wrong with working collaboratively in an attempt to partner with other industry stakeholders to resolve issues we are faced with today and get on with consensus building. As the people of Kauai, isn't our vision for a sustainable island the same?"

I Am A: Kauai RESIDENT

Name: Andre Zina (Ali'i Cleaning Service, Owner)

City, State: Lihue

Email: aliicleaning@hawaii.rr.com

## testimony

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**From:** karleemartin@aol.com  
**Sent:** Monday, March 19, 2007 9:49 AM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 19, 2007 @ 11:48 am:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Name: Jared Espina

City, State: Kapaa, HI

Email: karleemartin@aol.com

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## testimony

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**From:** gina@calisher.com  
**Sent:** Monday, March 19, 2007 9:34 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 19, 2007 @ 11:33 am:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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I Am A: Kauai NON-RESIDENT vacation rental owner

Name: Gina D Calisher

City, State: Huntington Beach California

Email: gina@calisher.com

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## testimony

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**From:** ginilmartin@msn.com  
**Sent:** Monday, March 19, 2007 9:17 AM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 19, 2007 @ 11:17 am:

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I Am A: Kauai RESIDENT

Name: Gini Martin

City, State: Kapaa, HI

Email: ginilmartin@msn.com

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## testimony

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**From:** kendall@kekahaoceansidekauai.com  
**Sent:** Monday, March 19, 2007 9:56 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 19, 2007 @ 11:55 am:

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I Am A: Kauai RESIDENT

Name: Rachel Walker

City, State: Kekaha HI

Email: kendall@kekahaoceansidekauai.com

## testimony

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**From:** rosemarydm@aol.com  
**Sent:** Monday, March 19, 2007 9:39 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 19, 2007 @ 11:38 am:

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I Am A: Kauai RESIDENT vacation rental owner

Name: Rosemary D Miller

City, State: Kilauea, Hawaii

Email: rosemarydm@aol.com

## testimony

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**From:** karleemartin@aol.com  
**Sent:** Monday, March 19, 2007 9:27 AM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 19, 2007 @ 11:26 am:

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Name: Karlee Espina

City, State: Kapaa, HI

Email: karleemartin@aol.com



## testimony

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**From:** canditom@hotmail.com  
**Sent:** Monday, March 19, 2007 9:14 AM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 19, 2007 @ 11:14 am:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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I Am A: Kauai RESIDENT vacation rental owner

Name: Lanez C. LaCour

City, State: Hanalei, HI. 96714

Email: canditom@hotmail.com

## testimony

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**From:** kendall@kekahaoceansidekauai.com  
**Sent:** Monday, March 19, 2007 9:55 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

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I Am A: Kauai RESIDENT

Name: kendall Koetje

City, State: Kekaha HI

Email: kendall@kekahaoceansidekauai.com

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## testimony

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**From:** mdyer@hawaiian.net  
**Sent:** Monday, March 19, 2007 9:38 AM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

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I Am A: Kauai RESIDENT

Name: Michael Dyer

City, State: Princeville, Kaua'i, Hawai'i

Email: mdyer@hawaiian.net

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**testimony**

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**From:** ginilmartin@msn.com  
**Sent:** Monday, March 19, 2007 9:26 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 19, 2007 @ 11:26 am:

-----  
Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

Neither this section nor any ordinance enacted pursuant to this section shall prohibit the continued lawful use of any building or premises for any trade, industrial, residential, agricultural, or other purpose for which the building or premises is used at the time this section or the ordinance takes effect; provided that a zoning ordinance may provide for elimination of nonconforming uses as the uses are discontinued, or for the amortization or phasing out of nonconforming uses or signs over a reasonable period of time in commercial, industrial, resort, and apartment zoned areas only. In no event shall such amortization or phasing out of nonconforming uses apply to any existing building or premises used for residential (single-family or duplex) or agricultural uses.

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To support this request, we hold the following statements to be true. Many Kauai residents depend on vacation rental businesses to either provide or supplement their monthly income to support their families. The vacation rental industry on Kauai, especially the many small Inns, cottages, vacation rentals, and B&B's support a variety of other small business and individuals working in the services industries for those properties. Most of the revenues earned from these vacation rental operations stays on Kauai and enriches everyone in our community.

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I Am A: Kauai RESIDENT

Name: Steve Martin

City, State: Kapaa, HI

Email: ginilmartin@msn.com



## testimony

---

**From:** alwaysbringyourtowel@gmail.com  
**Sent:** Monday, March 19, 2007 9:01 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 19, 2007 @ 11:00 am:

-----

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I Am A: Kauai RESIDENT

Name: Sky Roversi-Deal

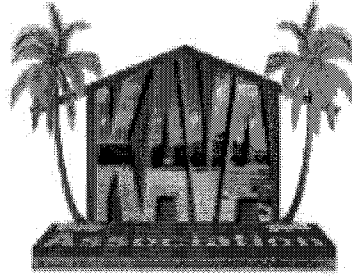
City, State: Kilauea, Hawaii

Email: [alwaysbringyourtowel@gmail.com](mailto:alwaysbringyourtowel@gmail.com)





Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; Petition to Kauai County Council - Kauai Residents; In Support of HCR 348.pdf



The Senate  
 24th Legislature, 2008  
 State of Hawaii  
 Date 4/19/08 - Time 10:00 PM  
 Attention: Senator Clayton Hee, Chair, and Committee Members.

Speaking in Support of HCR 348, HD1

COMMITTEE ON WATER LAND.

Speaking in Support of Bill HCR 348:

**REQUESTING THE ATTORNEY GENERAL TO REVIEW AND  
 SUBMIT A LEGAL OPINION REGARDING WHETHER VACATION  
 RENTAL USES IN SINGLE-FAMILY DWELLINGS AND FARM  
 DWELLINGS IN STATE AGRICULTURAL DISTRICTS ARE  
 PROHIBITED UNDER CHAPTER 205, HAWAII REVISED STATUTES.**

All Hawaii 6440 Oloheua Road  
 Hapa, HI 96740  
 Phone 808-822-6381

Email 1 of 8

Dear Committee Members

I speak in support of HCR 348 and submit as testimony the 1500 petitions emailed to KAMA by local residents (680) and visitors (820) in opposition to the strict regulations in the Kauai Bill 2204 that made Vacation Rentals on Ag land illegal. That bill is now law and has created a storm of opposition, some of which is determined to overthrow it in State or Federal Court. We implore you to clarify the situation on Ag land by approving HCR 348 to stop the certain madness that will ensue. As you know, the State has ordered a review of Ag land on all islands over the next three years, to determine Prime Ag land. This should be completed first to ensure that existing properties are protected, because they have operated businesses giving alternative accommodation to our much needed tourists who seek a different experience to a Hotel. In many situations, this alternative accommodation income is the difference between a viable small farm and bankruptcy. We understand the desire to regulate and control growth, but to make the law retroactive to apply to existing small businesses is wrong. From the beginning of the bills passage there was opposition and in March 2007 we started our first petition Web Site called WeThePeopleOfKauai.com and in just a few days collected these 1500 petitions which were submitted to the County Council. I now re-submit them as attachments to 8 emails.

Sincerely

Michael John Hough, President

PART 4 OF 8 EMAILS

4/19/2008

## testimony

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**From:** skrbec@msn.com  
**Sent:** Tuesday, March 20, 2007 8:56 AM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 20, 2007 @ 10:56 am:

-----

Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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To support this request, we hold the following statements to be true. Many Kauai residents depend on vacation rental businesses to either provide or supplement their monthly income to support their families. The vacation rental industry on Kauai, especially the many small Inns, cottages, vacation rentals, and B&B's support a variety of other small business and individuals working in the services industries for those properties. Most of the revenues earned from these vacation rental operations stays on Kauai and enriches everyone in our community.

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Besides, who are we to restrict the accommodation choices to the over 1 million tourist visitors we share the island with each year. Vacation Rentals and the industry provide that simple, unique experience to those vacationers who by their own personal choice seek to stay at a vacation rental or B&B, live among the community, share the local experience, and live aloha for that short period of time they are with us. What is so wrong with working collaboratively in an attempt to partner with other industry stakeholders to resolve issues we are faced with today and get on with consensus building. As the people of Kauai, isn't our vision for a sustainable island the same?"

I Am A: Kauai RESIDENT

Name: Bart Skrbec

City, State: Kapaa, HI

Email: skrbec@msn.com



## testimony

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**From:** j.peck@mac.com  
**Sent:** Tuesday, March 20, 2007 8:53 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 20, 2007 @ 10:52 am:

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I Am A: Kauai NON-RESIDENT vacation rental owner

Name: Jesse Peck

City, State: Topanga, CA

Email: j.peck@mac.com

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## testimony

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**From:** kauaigoddess@gmail.com  
**Sent:** Tuesday, March 20, 2007 8:35 AM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 20, 2007 @ 10:35 am:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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I Am A: Kauai RESIDENT

Name: Christine Carlson

City, State: Kilauea, HI.

Email: kuaigoddess@gmail.com

## testimony

---

**From:** POIPU52@YAHOO.COM  
**Sent:** Tuesday, March 20, 2007 8:26 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 20, 2007 @ 10:25 am:

-----

Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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I Am A: Kauai NON-RESIDENT vacation rental owner

Name: Nancy Huffman

City, State: Chatsworth, Ca 91311

Email: POIPU52@YAHOO.COM

## testimony

---

**From:** skrbec@msn.com  
**Sent:** Tuesday, March 20, 2007 8:56 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 20, 2007 @ 10:55 am:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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To support this request, we hold the following statements to be true. Many Kauai residents depend on vacation rental businesses to either provide or supplement their monthly income to support their families. The vacation rental industry on Kauai, especially the many small Inns, cottages, vacation rentals, and B&B's support a variety of other small business and individuals working in the services industries for those properties. Most of the revenues earned from these vacation rental operations stays on Kauai and enriches everyone in our community.

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Besides, who are we to restrict the accommodation choices to the over 1 million tourist visitors we share the island with each year. Vacation Rentals and the industry provide that simple, unique experience to those vacationers who by their own personal choice seek to stay at a vacation rental or B&B, live among the community, share the local experience, and live aloha for that short period of time they are with us.

What is so wrong with working collaboratively in an attempt to partner with other industry stakeholders to resolve issues we are faced with today and get on with consensus building. As the people of Kauai, isn't our vision for a sustainable island the same?"

I Am A: Kauai RESIDENT

Name: Laura Skrbec

City, State: Kapaa, HI

Email: skrbec@msn.com



## testimony

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**From:** ken@koakauai.com  
**Sent:** Tuesday, March 20, 2007 8:44 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 20, 2007 @ 10:43 am:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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I Am A: Kauai RESIDENT

Name: Ken Attix

City, State: Kilauea Hi.

Email: ken@koakauai.com

## testimony

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**From:** thejackbakers@msn.com  
**Sent:** Tuesday, March 20, 2007 8:29 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 20, 2007 @ 10:28 am:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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I Am A: Kauai RESIDENT

Name: Laurent Baker

City, State: Princeville, HI

Email: thejackbakers@msn.com

## testimony

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**From:** dnd@aloha.net  
**Sent:** Tuesday, March 20, 2007 8:24 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 20, 2007 @ 10:23 am:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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I Am A: Kauai RESIDENT vacation rental owner

Name: david carswell

City, State: princeville,hi

Email: dnd@aloha.net

## testimony

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**From:** realtorinparadise@gmail.com  
**Sent:** Tuesday, March 20, 2007 8:54 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 20, 2007 @ 10:54 am:

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I Am A: Kauai RESIDENT

Name: Jody Lyon, RA

City, State: Princeville, HI

Email: realtorinparadise@gmail.com

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## testimony

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**From:** beachbums@hawaiian.net  
**Sent:** Tuesday, March 20, 2007 8:42 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 20, 2007 @ 10:42 am:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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I Am A: Kauai RESIDENT

Name: Patricia Ochoa

City, State: Kilauea, HI

Email: beachbums@hawaiian.net

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## testimony

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**From:** ijkkauai1@gmail.com  
**Sent:** Tuesday, March 20, 2007 8:27 AM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 20, 2007 @ 10:26 am:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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I Am A: Kauai RESIDENT

Name: Diane Ton

City, State: Kapaa

Email: [ijkauail@gmail.com](mailto:ijkauail@gmail.com)

## testimony

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**From:** info@junglehideaway.com  
**Sent:** Tuesday, March 20, 2007 8:24 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 20, 2007 @ 10:23 am:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

Neither this section nor any ordinance enacted pursuant to this section shall prohibit the continued lawful use of any building or premises for any trade, industrial, residential, agricultural, or other purpose for which the building or premises is used at the time this section or the ordinance takes effect; provided that a zoning ordinance may provide for elimination of nonconforming uses as the uses are discontinued, or for the amortization or phasing out of nonconforming uses or signs over a reasonable period of time in commercial, industrial, resort, and apartment zoned areas only. In no event shall such amortization or phasing out of nonconforming uses apply to any existing building or premises used for residential (single-family or duplex) or agricultural uses.

We further ask that the county provides an Amnesty program, during which an appointed individual or group be sanctioned by the county as an Ombudsman designed to assist TVR's in their transition to compliance with the final bill when passed. The Ombudsman would be responsible for discussions with existing B&B, and vacation rental business owners on a one by one basis, by phone, email or with a personal appointment to answer pertinent questions about location, zoning, permitted use, and how to ensure their business continues to exist (grandfathering-in). This individual or group should clearly state to all parties that any information it gathers in an attempt to aid small businesses on Kauai will not be used to their detriment, by any other department.

To support this request, we hold the following statements to be true. Many Kauai residents depend on vacation rental businesses to either provide or supplement their monthly income to support their families. The vacation rental industry on Kauai, especially the many small Inns, cottages, vacation rentals, and B&B's support a variety of other small business and individuals working in the services industries for those properties. Most of the revenues earned from these vacation rental operations stays on Kauai and enriches everyone in our community.

To render, either intentionally or indirectly, any existing vacation rentals or B&B on Kauai illegal would put many of Kauai's families' livelihoods at stake and weaken our local economy. There is a fine balance between success and failure on Kauai. There is no industrial base to support the jobs and livelihoods that the mainland enjoys. Most people here have two or three jobs just to keep ahead of the mounting bills, many of which are amongst the highest in the nation. This fine balance creates a tipping point and a sudden rift in the economic fabric of Kauai could cause severe repercussions, the extent of which is hard to calculate. As multiple businesses, dependant upon vacation rentals, suddenly fold and homes must be sold, a local recession may be triggered with shock waves reverberating through Kauai, affecting Individuals, Real Estate companies, Stores, Banks, Small Support Businesses, and finally the tax base for the county and state. No-one wants that to happen, esp!

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community, it nonetheless constitutes a legitimate, vested property right and clearly enjoys broad constitutional protection...Vested property rights are not easily lost or voided".

It seems that one of America's greatest human rights and life treasures is at stake here: the right of an individual, to make his or her own fortune, to use his or her own land for whatever legal purposes he or she deems fitting and appropriate to suffice his or her family financially. To Be their own boss.

Isn't that the American Dream that "We The People" all aspire to finding?

Besides, who are we to restrict the accommodation choices to the over 1 million tourist visitors we share the island with each year. Vacation Rentals and the industry provide that simple, unique experience to those vacationers who by their own personal choice seek to stay at a vacation rental or B&B, live among the community, share the local experience, and live aloha for that short period of time they are with us.

What is so wrong with working collaboratively in an attempt to partner with other industry stakeholders to resolve issues we are faced with today and get on with consensus building. As the people of Kauai, isn't our vision for a sustainable island the same?"

I Am A: Kauai RESIDENT vacation rental owner

Name: samshun and peter thayer

City, State: kilauea,hi

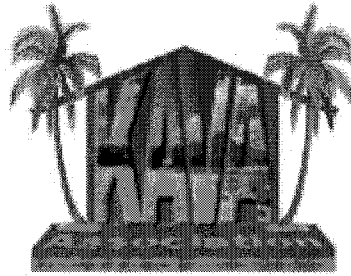
Email: info@junglehideaway.com







348.pdf



The Senate  
 24th Legislature, 2008  
 State of Hawaii  
 Date 4/19/08 - Time 10:00 PM  
 Attention: Senator Clayton Hee, Chair, and Committee Members.

Speaking in Support of HCR 348, HD1

COMMITTEE ON WATER, LAND,

**Speaking in Support of Bill HCR 348:**

**REQUESTING THE ATTORNEY GENERAL TO REVIEW AND  
 SUBMIT A LEGAL OPINION REGARDING WHETHER VACATION  
 RENTAL USES IN SINGLE-FAMILY DWELLINGS AND FARM  
 DWELLINGS IN STATE AGRICULTURAL DISTRICTS ARE  
 PROHIBITED UNDER CHAPTER 205, HAWAII REVISED STATUTES.**

All Hawaii 04400 Kihuna Road  
 Hapa, HI 00740  
 Phone 808-822-5381

Email 1 of 8

Dear Committee Members

I speak in support of HCR 348 and submit as testimony the 1500 petitions emailed to KAVA by local residents (680) and visitors (820) in opposition to the strict regulations in the Kauai Bill 2204 that made Vacation Rentals on Ag land illegal. That bill is now law and has created a storm of opposition, some of which is determined to overthrow it in State or Federal Court. We implore you to clarify the situation on Ag land by approving HCR 348 to stop the certain madness that will ensue. As you know, the State has ordered a review of Ag land on all islands over the next three years, to determine Prime Ag land. This should be completed first to ensure that existing properties are protected, because they have operated businesses giving alternative accommodation to our much needed tourists who seek a different experience to a Hotel. In many situations, this alternative accommodation income is the difference between a viable small farm and bankruptcy. We understand the desire to regulate and control growth, but to make the law retroactive to apply to existing small businesses is wrong. From the beginning of the bills passage there was opposition and in March 2007 we started our first petition Web Site called WeThePeopleOfKauai.com and in just a few days collected these 1500 petitions which were submitted to the County Council. I now re-submit them as attachments to 8 emails.

Sincerely

Michael John Hough, President

4/19/2008

PART 5 OF 8 EMAILS

## testimony

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**From:** blocherc@snip.net  
**Sent:** Tuesday, March 20, 2007 11:11 PM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 21, 2007 @ 1:11 am:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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To render, either intentionally or indirectly, any existing vacation rentals or B&B on Kauai illegal would put many of Kauai's families' livelihoods at stake and weaken our local economy. There is a fine balance between success and failure on Kauai. There is no industrial base to support the jobs and livelihoods that the mainland enjoys. Most people here have two or three jobs just to keep ahead of the mounting bills, many of which are amongst the highest in the nation. This fine balance creates a tipping point and a sudden rift in the economic fabric of Kauai could cause severe repercussions, the extent of which is hard to calculate. As multiple businesses, dependant upon vacation rentals, suddenly fold and homes must be sold, a local recession may be triggered with shock waves reverberating through Kauai, affecting Individuals, Real Estate companies, Stores, Banks, Small Support Businesses, and finally the tax base for the county and state. No-one wants that to happen, esp!

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Besides, who are we to restrict the accommodation choices to the over 1 million tourist visitors we share the island with each year. Vacation Rentals and the industry provide that simple, unique experience to those vacationers who by their own personal choice seek to stay at a vacation rental or B&B, live among the community, share the local experience, and live aloha for that short period of time they are with us. What is so wrong with working collaboratively in an attempt to partner with other industry stakeholders to resolve issues we are faced with today and get on with consensus building. As the people of Kauai, isn't our vision for a sustainable island the same?"

Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Connie Blocher

City, State: Cape May, NJ

Email: blocherc@snip.net

## testimony

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**From:** gordon.joly@pobox.com  
**Sent:** Tuesday, March 20, 2007 11:01 PM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 21, 2007 @ 1:01 am:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Gordon Joly

City, State: London, England, UK

Email: gordon.joly@pobox.com

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## testimony

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**From:** iplayhoops22@yahoo.com  
**Sent:** Tuesday, March 20, 2007 7:47 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 20, 2007 @ 9:46 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Would like to have both options available for vacationing

Name: Colleen Eckenroad

City, State: Carlsbad, CA

Email: [iplayhoops22@yahoo.com](mailto:iplayhoops22@yahoo.com)



## testimony

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**From:** sultankeco@yahoo.com  
**Sent:** Tuesday, March 20, 2007 6:42 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 20, 2007 @ 8:41 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Jesse Coronado

City, State: Bothell, WA

Email: sultankeco@yahoo.com

## testimony

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**From:** aitourdja@free.fr  
**Sent:** Tuesday, March 20, 2007 11:04 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 21, 2007 @ 1:03 am:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: AIT OURDJA Mohamed

City, State: Paris, France

Email: aitourdja@free.fr

**testimony**

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**From:** sibylle.zimmermann.waser@bluewin.ch  
**Sent:** Tuesday, March 20, 2007 10:30 PM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 21, 2007 @ 12:29 am:

-----  
Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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We further ask that the county provides an Amnesty program, during which an appointed individual or group be sanctioned by the county as an Ombudsman designed to assist TVR's in their transition to compliance with the final bill when passed. The Ombudsman would be responsible for discussions with existing B&B, and vacation rental business owners on a one by one basis, by phone, email or with a personal appointment to answer pertinent questions about location, zoning, permitted use, and how to ensure their business continues to exist (grandfathering-in). This individual or group should clearly state to all parties that any information it gathers in an attempt to aid small businesses on Kauai will not be used to their detriment, by any other department.

To support this request, we hold the following statements to be true. Many Kauai residents depend on vacation rental businesses to either provide or supplement their monthly income to support their families. The vacation rental industry on Kauai, especially the many small Inns, cottages, vacation rentals, and B&B's support a variety of other small business and individuals working in the services industries for those properties. Most of the revenues earned from these vacation rental operations stays on Kauai and enriches everyone in our community.

To render, either intentionally or indirectly, any existing vacation rentals or B&B on Kauai illegal would put many of Kauai's families' livelihoods at stake and weaken our local economy. There is a fine balance between success and failure on Kauai. There is no industrial base to support the jobs and livelihoods that the mainland enjoys. Most people here have two or three jobs just to keep ahead of the mounting bills, many of which are amongst the highest in the nation. This fine balance creates a tipping point and a sudden rift in the economic fabric of Kauai could cause severe repercussions, the extent of which is hard to calculate. As multiple businesses, dependant upon vacation rentals, suddenly fold and homes must be sold, a local recession may be triggered with shock waves reverberating through Kauai, affecting Individuals, Real Estate companies, Stores, Banks, Small Support Businesses, and finally the tax base for the county and state. No-one wants that to happen, esp!

pecially the individuals elected by we, the people of this island, to serve us.

As we have heard voiced in the recent legal position from Jonathon Chun, "while nonconforming use of a property may be deemed to be undesirable by a small portion of the

community, it nonetheless constitutes a legitimate, vested property right and clearly enjoys broad constitutional protection...Vested property rights are not easily lost or voided".

It seems that one of America's greatest human rights and life treasures is at stake here: the right of an individual, to make his or her own fortune, to use his or her own land for whatever legal purposes he or she deems fitting and appropriate to suffice his or her family financially. To Be their own boss.

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Besides, who are we to restrict the accommodation choices to the over 1 million tourist visitors we share the island with each year. Vacation Rentals and the industry provide that simple, unique experience to those vacationers who by their own personal choice seek to stay at a vacation rental or B&B, live among the community, share the local experience, and live aloha for that short period of time they are with us.

What is so wrong with working collaboratively in an attempt to partner with other industry stakeholders to resolve issues we are faced with today and get on with consensus building. As the people of Kauai, isn't our vision for a sustainable island the same?"

Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Sibylle C. Zimmermann

City, State: Zuerich, Switzerland

Email: sibylle.zimmermann.waser@bluewin.ch

## testimony

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**From:** blchawaii@yahoo.com  
**Sent:** Tuesday, March 20, 2007 7:33 PM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 20, 2007 @ 9:33 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Would like to have both options available for vacationing

Name: Lisa Cockrell

City, State: Honolulu, Hi

Email: blchawaii@yahoo.com

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## testimony

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**From:** cfmosher@charter.net  
**Sent:** Tuesday, March 20, 2007 6:28 PM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 20, 2007 @ 8:27 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: David Mosher

City, State: CA

Email: cfmosher@charter.net

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## testimony

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**From:** emandrez@aol.com  
**Sent:** Tuesday, March 20, 2007 11:03 PM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 21, 2007 @ 1:02 am:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: ANDREZ Emmanuelle

City, State: Paris, France

Email: emandrez@aol.com

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## testimony

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**From:** levtov@ucalgary.ca  
**Sent:** Tuesday, March 20, 2007 9:11 PM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 20, 2007 @ 11:10 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: vladimir levtov

City, State: calgary, alberta, canada

Email: levtov@ucalgary.ca

## testimony

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**From:** tiggerca2004@yahoo.com  
**Sent:** Tuesday, March 20, 2007 6:46 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 20, 2007 @ 8:46 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Victor Gonzales

City, State: Pomona, CA

Email: tiggerca2004@yahoo.com

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## testimony

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**From:** amylittleneck@yahoo.com  
**Sent:** Tuesday, March 20, 2007 6:27 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 20, 2007 @ 8:26 pm:

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What is so wrong with working collaboratively in an attempt to partner with other industry stakeholders to resolve issues we are faced with today and get on with consensus building. As the people of Kauai, isn't our vision for a sustainable island the same?"

Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Amy Chang

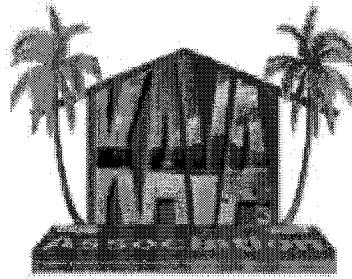
City, State: New York, NY

Email: amylittleneck@yahoo.com





Council - Visitors; In Support of HCR 348.pdf



The Senate  
24th Legislature, 2008  
State of Hawaii  
Date: 4/19/08 - Time: 10:00 PM  
Attention: Senator Clayton Hee, Chair, and Committee Members.

Speaking in Support of HCR 348, HD1

COMMITTEE ON WATER, LAND,

**Speaking in Support of Bill HCR 348:**

**REQUESTING THE ATTORNEY GENERAL TO REVIEW AND  
SUBMIT A LEGAL OPINION REGARDING WHETHER VACATION  
RENTAL USES IN SINGLE-FAMILY DWELLINGS AND FARM  
DWELLINGS IN STATE AGRICULTURAL DISTRICTS ARE  
PROHIBITED UNDER CHAPTER 205, HAWAII REVISED STATUTES.**

All Hopes 6440 Oluhana Road  
Kapaa, HI 96740  
Phone: 809-822-6381

Email 1 of 8

Dear Committee Members

I speak in support of HCR 348 and submit as testimony the 1500 petitions emailed to KAWA by local residents (680) and visitors (820) in opposition to the strict regulations in the Kauai Bill 2204 that made Vacation Rentals on Ag land illegal. That bill is now law and has created a storm of opposition, some of which is determined to overthrow it in State or Federal Court. We implore you to clarify the situation on Ag land by approving HCR 348 to stop the certain madness that will ensue. As you know, the State has ordered a review of Ag land on all islands over the next three years, to determine Prime Ag land. This should be completed first to ensure that existing properties are protected, because they have operated businesses giving alternative accommodation to our much needed tourists who seek a different experience to a Hotel. In many situations, this alternative accommodation income is the difference between a viable small farm and bankruptcy. We understand the desire to regulate and control growth, but to make the law retroactive to apply to existing small businesses is wrong. From the beginning of the bills passage there was opposition and in March 2007 we started our first petition Web Site called WeThePeopleOfKauai.com and in just a few days collected these 1500 petitions which were submitted to the County Council. I now re-submit them as attachments to 8 emails.

Sincerely

Michael John Hough, President

4/19/2008

PART 6 OF 8 EMAILS

## testimony

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**From:** bmorgan@morganrealestate.net  
**Sent:** Wednesday, September 19, 2007 10:38 AM  
**To:** mike@houghtomarket.com; martina@houghtomarket.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on September 19, 2007 @ 1:37 pm:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

Neither this section nor any ordinance enacted pursuant to this section shall prohibit the continued lawful use of any building or premises for any trade, industrial, residential, agricultural, or other purpose for which the building or premises is used at the time this section or the ordinance takes effect; provided that a zoning ordinance may provide for elimination of nonconforming uses as the uses are discontinued, or for the amortization or phasing out of nonconforming uses or signs over a reasonable period of time in commercial, industrial, resort, and apartment zoned areas only. In no event shall such amortization or phasing out of nonconforming uses apply to any existing building or premises used for residential (single-family or duplex) or agricultural uses.

We further ask that the county provides an Amnesty program, during which an appointed individual or group be sanctioned by the county as an Ombudsman designed to assist TVR's in their transition to compliance with the final bill when passed. The Ombudsman would be responsible for discussions with existing B&B, and vacation rental business owners on a one by one basis, by phone, email or with a personal appointment to answer pertinent questions about location, zoning, permitted use, and how to ensure their business continues to exist (grandfathering-in). This individual or group should clearly state to all parties that any information it gathers in an attempt to aid small businesses on Kauai will not be used to their detriment, by any other department.

To support this request, we hold the following statements to be true. Many Kauai residents depend on vacation rental businesses to either provide or supplement their monthly income to support their families. The vacation rental industry on Kauai, especially the many small Inns, cottages, vacation rentals, and B&B's support a variety of other small business and individuals working in the services industries for those properties. Most of the revenues earned from these vacation rental operations stays on Kauai and enriches everyone in our community.

To render, either intentionally or indirectly, any existing vacation rentals or B&B on Kauai illegal would put many of Kauai's families' livelihoods at stake and weaken our local economy. There is a fine balance between success and failure on Kauai. There is no industrial base to support the jobs and livelihoods that the mainland enjoys. Most people here have two or three jobs just to keep ahead of the mounting bills, many of which are amongst the highest in the nation. This fine balance creates a tipping point and a sudden rift in the economic fabric of Kauai could cause severe repercussions, the extent of which is hard to calculate. As multiple businesses, dependant upon vacation rentals, suddenly fold and homes must be sold, a local recession may be triggered with shock waves reverberating through Kauai, affecting Individuals, Real Estate companies, Stores, Banks, Small Support Businesses, and finally the tax base for the county and state. No-one wants that to happen, esp!

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I Am A: Kauai NON-RESIDENT vacation rental owner

Name: Bill Morgan

City, State: Del Mar, CA

Email: bmorgan@morganrealestate.net

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## testimony

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**From:** irenee@aloha.net  
**Sent:** Saturday, May 26, 2007 10:25 PM  
**To:** mike@houghtomarket.com; martina@houghtomarket.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on May 27, 2007 @ 1:25 am:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Irene Yudko

City, State: Hawaii

Email: irenee@aloha.net

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## testimony

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**From:** jkbjeff@cox.net  
**Sent:** Friday, May 04, 2007 1:30 PM  
**To:** mike@houghtomarket.com; martina@houghtomarket.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on May 4, 2007 @ 4:30 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Jeff K Bender

City, State: Tempe, AZ

Email: jkbjeff@cox.net

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## testimony

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**From:** danjm@houston.rr.com  
**Sent:** Monday, April 23, 2007 7:18 PM  
**To:** mike@houghtomarket.com; martina@houghtomarket.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on April 23, 2007 @ 10:17 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Would like to have both options available for vacationing

Name: Daniel Martinez

City, State: Houston, Texas

Email: danjm@houston.rr.com

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## testimony

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**From:** chrismdoyle@comcast.net  
**Sent:** Wednesday, September 05, 2007 6:26 PM  
**To:** mike@houghtomarket.com; martina@houghtomarket.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on September 5, 2007 @ 9:25 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Would like to have both options available for vacationing

Name: Chris Doyle

City, State: Buckley, WA

Email: chrismdoyle@comcast.net



## testimony

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**From:** AndrewSunderland37@gmail.com  
**Sent:** Thursday, May 10, 2007 9:41 AM  
**To:** mike@houghtomarket.com; martina@houghtomarket.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on May 10, 2007 @ 12:41 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Would like to have both options available for vacationing

Name: Andrew Sunderland

City, State: Catonsville, Maryland

Email: AndrewSunderland37@gmail.com

**testimony**

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**From:** daveclauden@comcast.net  
**Sent:** Thursday, April 26, 2007 5:46 PM  
**To:** mike@houghtomarket.com; martina@houghtomarket.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on April 26, 2007 @ 8:45 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

Neither this section nor any ordinance enacted pursuant to this section shall prohibit the continued lawful use of any building or premises for any trade, industrial, residential, agricultural, or other purpose for which the building or premises is used at the time this section or the ordinance takes effect; provided that a zoning ordinance may provide for elimination of nonconforming uses as the uses are discontinued, or for the amortization or phasing out of nonconforming uses or signs over a reasonable period of time in commercial, industrial, resort, and apartment zoned areas only. In no event shall such amortization or phasing out of nonconforming uses apply to any existing building or premises used for residential (single-family or duplex) or agricultural uses.

We further ask that the county provides an Amnesty program, during which an appointed individual or group be sanctioned by the county as an Ombudsman designed to assist TVR's in their transition to compliance with the final bill when passed. The Ombudsman would be responsible for discussions with existing B&B, and vacation rental business owners on a one by one basis, by phone, email or with a personal appointment to answer pertinent questions about location, zoning, permitted use, and how to ensure their business continues to exist (grandfathering-in). This individual or group should clearly state to all parties that any information it gathers in an attempt to aid small businesses on Kauai will not be used to their detriment, by any other department.

To support this request, we hold the following statements to be true. Many Kauai residents depend on vacation rental businesses to either provide or supplement their monthly income to support their families. The vacation rental industry on Kauai, especially the many small Inns, cottages, vacation rentals, and B&B's support a variety of other small business and individuals working in the services industries for those properties. Most of the revenues earned from these vacation rental operations stays on Kauai and enriches everyone in our community.

To render, either intentionally or indirectly, any existing vacation rentals or B&B on Kauai illegal would put many of Kauai's families' livelihoods at stake and weaken our local economy. There is a fine balance between success and failure on Kauai. There is no industrial base to support the jobs and livelihoods that the mainland enjoys. Most people here have two or three jobs just to keep ahead of the mounting bills, many of which are amongst the highest in the nation. This fine balance creates a tipping point and a sudden rift in the economic fabric of Kauai could cause severe repercussions, the extent of which is hard to calculate. As multiple businesses, dependant upon vacation rentals, suddenly fold and homes must be sold, a local recession may be triggered with shock waves reverberating through Kauai, affecting Individuals, Real Estate companies, Stores, Banks, Small Support Businesses, and finally the tax base for the county and state. No-one wants that to happen, esp!

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As we have heard voiced in the recent legal position from Jonathon Chun, "while nonconforming use of a property may be deemed to be undesirable by a small portion of the

community, it nonetheless constitutes a legitimate, vested property right and clearly enjoys broad constitutional protection...Vested property rights are not easily lost or voided".

It seems that one of America's greatest human rights and life treasures is at stake here: the right of an individual, to make his or her own fortune, to use his or her own land for whatever legal purposes he or she deems fitting and appropriate to suffice his or her family financially. To Be their own boss.

Isn't that the American Dream that "We The People" all aspire to finding?

Besides, who are we to restrict the accommodation choices to the over 1 million tourist visitors we share the island with each year. Vacation Rentals and the industry provide that simple, unique experience to those vacationers who by their own personal choice seek to stay at a vacation rental or B&B, live among the community, share the local experience, and live aloha for that short period of time they are with us.

What is so wrong with working collaboratively in an attempt to partner with other industry stakeholders to resolve issues we are faced with today and get on with consensus building. As the people of Kauai, isn't our vision for a sustainable island the same?"

Name: David Itrace

City, State: Lockport IL

Email: daveclaudean@comcast.net

## testimony

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**From:** frankklenner@msn.com  
**Sent:** Tuesday, April 17, 2007 4:42 PM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on April 17, 2007 @ 7:42 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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To render, either intentionally or indirectly, any existing vacation rentals or B&B on Kauai illegal would put many of Kauai's families' livelihoods at stake and weaken our local economy. There is a fine balance between success and failure on Kauai. There is no industrial base to support the jobs and livelihoods that the mainland enjoys. Most people here have two or three jobs just to keep ahead of the mounting bills, many of which are amongst the highest in the nation. This fine balance creates a tipping point and a sudden rift in the economic fabric of Kauai could cause severe repercussions, the extent of which is hard to calculate. As multiple businesses, dependant upon vacation rentals, suddenly fold and homes must be sold, a local recession may be triggered with shock waves reverberating through Kauai, affecting Individuals, Real Estate companies, Stores, Banks, Small Support Businesses, and finally the tax base for the county and state. No-one wants that to happen, esp!

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Favorite Kauai Lodging: Would like to have both options available for vacationing

Name: Frank Klenner

City, State: Carefree, AZ

Email: frankklenner@msn.com

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## testimony

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**From:** suzipolkittle@yahoo.com  
**Sent:** Thursday, June 21, 2007 3:13 PM  
**To:** mike@houghtomarket.com; martina@houghtomarket.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on June 21, 2007 @ 6:12 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Would like to have both options available for vacationing

Name: Susan Little

City, State: Woodland Hills, CA

Email: suzipolklittle@yahoo.com

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## testimony

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**From:** hammerkv@aol.com  
**Sent:** Monday, May 07, 2007 1:38 PM  
**To:** mike@houghtomarket.com; martina@houghtomarket.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on May 7, 2007 @ 4:37 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Would like to have both options available for vacationing

Name: Verlyn Hammerstrom

City, State: Colorado Springs, Colorado

Email: hammerkv@aol.com

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## testimony

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**From:** gkflies4aa@hotmail.com  
**Sent:** Tuesday, April 24, 2007 8:51 AM  
**To:** mike@houghtomarket.com; martina@houghtomarket.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on April 24, 2007 @ 11:50 am:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Gladis Soyomayor

City, State: Tampa, Florida

Email: gkflies4aa@hotmail.com

## testimony

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**From:** clair.michel@videotron.ca  
**Sent:** Monday, April 16, 2007 2:45 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on April 16, 2007 @ 5:44 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Michel Clair

City, State: Quebec Canada

Email: clair.michel@videotron.ca







PART 7 OF 8 EMAILS

## testimony

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**From:** fijileslie@hotmail.com  
**Sent:** Monday, March 19, 2007 7:25 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 19, 2007 @ 9:25 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Besides, who are we to restrict the accommodation choices to the over 1 million tourist visitors we share the island with each year. Vacation Rentals and the industry provide that simple, unique experience to those vacationers who by their own personal choice seek to stay at a vacation rental or B&B, live among the community, share the local experience, and live aloha for that short period of time they are with us. What is so wrong with working collaboratively in an attempt to partner with other industry stakeholders to resolve issues we are faced with today and get on with consensus building. As the people of Kauai, isn't our vision for a sustainable island the same?"

Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Leslie Eisen

City, State: Seattle, WA

Email: fijileslie@hotmail.com

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## testimony

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**From:** jenniferrolloff@yahoo.com  
**Sent:** Monday, March 19, 2007 6:49 PM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 19, 2007 @ 8:48 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

Neither this section nor any ordinance enacted pursuant to this section shall prohibit the continued lawful use of any building or premises for any trade, industrial, residential, agricultural, or other purpose for which the building or premises is used at the time this section or the ordinance takes effect; provided that a zoning ordinance may provide for elimination of nonconforming uses as the uses are discontinued, or for the amortization or phasing out of nonconforming uses or signs over a reasonable period of time in commercial, industrial, resort, and apartment zoned areas only. In no event shall such amortization or phasing out of nonconforming uses apply to any existing building or premises used for residential (single-family or duplex) or agricultural uses.

We further ask that the county provides an Amnesty program, during which an appointed individual or group be sanctioned by the county as an Ombudsman designed to assist TVR's in their transition to compliance with the final bill when passed. The Ombudsman would be responsible for discussions with existing B&B, and vacation rental business owners on a one by one basis, by phone, email or with a personal appointment to answer pertinent questions about location, zoning, permitted use, and how to ensure their business continues to exist (grandfathering-in). This individual or group should clearly state to all parties that any information it gathers in an attempt to aid small businesses on Kauai will not be used to their detriment, by any other department.

To support this request, we hold the following statements to be true. Many Kauai residents depend on vacation rental businesses to either provide or supplement their monthly income to support their families. The vacation rental industry on Kauai, especially the many small Inns, cottages, vacation rentals, and B&B's support a variety of other small business and individuals working in the services industries for those properties. Most of the revenues earned from these vacation rental operations stays on Kauai and enriches everyone in our community.

To render, either intentionally or indirectly, any existing vacation rentals or B&B on Kauai illegal would put many of Kauai's families' livelihoods at stake and weaken our local economy. There is a fine balance between success and failure on Kauai. There is no industrial base to support the jobs and livelihoods that the mainland enjoys. Most people here have two or three jobs just to keep ahead of the mounting bills, many of which are amongst the highest in the nation. This fine balance creates a tipping point and a sudden rift in the economic fabric of Kauai could cause severe repercussions, the extent of which is hard to calculate. As multiple businesses, dependant upon vacation rentals, suddenly fold and homes must be sold, a local recession may be triggered with shock waves reverberating through Kauai, affecting Individuals, Real Estate companies, Stores, Banks, Small Support Businesses, and finally the tax base for the county and state. No-one wants that to happen, esp!

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As we have heard voiced in the recent legal position from Jonathon Chun, "while nonconforming use of a property may be deemed to be undesirable by a small portion of the

community, it nonetheless constitutes a legitimate, vested property right and clearly enjoys broad constitutional protection...Vested property rights are not easily lost or voided".

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Jennifer Roloff

City, State: Oakland, CA

Email: jenniferrolloff@yahoo.com

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## testimony

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**From:** deb@debunger.com  
**Sent:** Monday, March 19, 2007 6:24 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 19, 2007 @ 8:24 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Would like to have both options available for vacationing

Name: deborah borkowski

City, State: Chevy Chase, MD

Email: deb@debunger.com

## testimony

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**From:** mryland21@yahoo.com  
**Sent:** Monday, March 19, 2007 6:14 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 19, 2007 @ 8:13 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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To support this request, we hold the following statements to be true. Many Kauai residents depend on vacation rental businesses to either provide or supplement their monthly income to support their families. The vacation rental industry on Kauai, especially the many small Inns, cottages, vacation rentals, and B&B's support a variety of other small business and individuals working in the services industries for those properties. Most of the revenues earned from these vacation rental operations stays on Kauai and enriches everyone in our community.

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What is so wrong with working collaboratively in an attempt to partner with other industry stakeholders to resolve issues we are faced with today and get on with consensus building. As the people of Kauai, isn't our vision for a sustainable island the same?"

Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Michelle R. Ryland

City, State: Oregon, IL

Email: mryland21@yahoo.com

## testimony

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**From:** ltaylor@sc@aol.com  
**Sent:** Monday, March 19, 2007 7:23 PM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Kauai Residents

The following information was submitted on March 19, 2007 @ 9:22 pm:

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Petition: "We, the people of Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Name: Elizabeth M. Tiernan

City, State: San Carlos CA

Email: ltaylorsc@aol.com

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## testimony

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**From:** beth\_mccleary@hotmail.com  
**Sent:** Monday, March 19, 2007 6:28 PM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 19, 2007 @ 8:27 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Beth McCleary

City, State: Berkeley, CA

Email: beth\_mccleary@hotmail.com

## testimony

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**From:** jacki.fromme@comcast.net  
**Sent:** Monday, March 19, 2007 6:19 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 19, 2007 @ 8:19 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Jacki Fromme

City, State: Mill Valley, CA

Email: jacki.fromme@comcast.net

## testimony

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**From:** kauailu@aol.com  
**Sent:** Monday, March 19, 2007 6:10 PM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 19, 2007 @ 8:09 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Would like to have both options available for vacationing

Name: luane peterson

City, State: hcr3 box 10090 keaau, hi 96749`

Email: kauailu@aol.com

## testimony

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**From:** john0829@cox.net  
**Sent:** Monday, March 19, 2007 6:52 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 19, 2007 @ 8:51 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Would like to have both options available for vacationing

Name: John M. Phillips

City, State: Chandler, AZ

Email: john0829@cox.net

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## testimony

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**From:** sean\_mccleary500@hotmail.com  
**Sent:** Monday, March 19, 2007 6:27 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 19, 2007 @ 8:27 pm:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Sean McCleary

City, State: Berkeley, CA

Email: sean\_mccleary500@hotmail.com

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## testimony

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**From:** MAURAMAX@COMCAST.NET  
**Sent:** Monday, March 19, 2007 6:15 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 19, 2007 @ 8:15 pm:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: maura al-nouri

City, State: brier, WA

Email: MAURAMAX@COMCAST.NET

## testimony

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**From:** mona\_lisa49@hotmail.com  
**Sent:** Monday, March 19, 2007 6:08 PM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 19, 2007 @ 8:08 pm:

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Favorite Kauai Lodging: Would like to have both options available for vacationing

Name: mona rinaldo

City, State: oregon,il 61061

Email: mona\_lisa49@hotmail.com

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The Senate  
 34th Legislature, 2008  
 State of Hawaii  
 Date 4/19/08 - Time 10:00 PM  
 Attention: Senator Clayton Hee, Chair, and Committee Members.

Speaking in Support of HCR 348, HD1

COMMITTEE ON WATER, LAND.

**Speaking in Support of Bill HCR 348:**

**REQUESTING THE ATTORNEY GENERAL TO REVIEW AND  
 SUBMIT A LEGAL OPINION REGARDING WHETHER VACATION  
 RENTAL USES IN SINGLE-FAMILY DWELLINGS AND FARM  
 DWELLINGS IN STATE AGRICULTURAL DISTRICTS ARE  
 PROHIBITED UNDER CHAPTER 205, HAWAII REVISED STATUTES.**

Address: 6440 Olohana Road  
 Kapaa, HI 96746  
 Phone: 808-822-5381

Email 1 of 8

Dear Committee Members

I speak in support of HCR 348 and submit as testimony the 1500 petitions emailed to KAVA by local residents (680) and visitors (820) in opposition to the strict regulations in the Kavaa Bill 2204 that made Vacation Rentals on Ag land illegal. That bill is now law and has created a storm of opposition, some of which is determined to overthrow it in State or Federal Court. We implore you to clarify the situation on Ag land by approving HCR 348 to stop the certain madness that will ensue. As you know, the State has ordered a review of Ag land on all islands over the next three years, to determine Prime Ag land. This should be completed first to ensure that existing properties are protected, because they have operated businesses giving alternative accommodation to our much needed tourists who seek a different experience to a Hotel. In many situations, this alternative accommodation income is the difference between a viable small farm and bankruptcy. We understand the desire to regulate and control growth, but to make the law retroactive to apply to existing small businesses is wrong. From the beginning of the bills passage there was opposition and in March 2007 we started our first petition Web Site called WeThePeopleOfKauai.com and in just a few days collected these 1500 petitions which were submitted to the County Council. I now re-submit them as attachments to 8 emails.

Sincerely

Michael John Hough, President

PART 8 OF 8 EMAILS

4/19/2008

## testimony

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**From:** boehm.m@gmx.at  
**Sent:** Tuesday, March 20, 2007 7:14 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 20, 2007 @ 9:13 am:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Michael Boehm

City, State: Austria

Email: boehm.m@gmx.at

## testimony

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**From:** Web Run user [www@alpha4.interworld.net]  
**Sent:** Tuesday, March 20, 2007 7:10 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 20, 2007 @ 9:09 am:

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To render, either intentionally or indirectly, any existing vacation rentals or B&B on Kauai illegal would put many of Kauai's families' livelihoods at stake and weaken our local economy. There is a fine balance between success and failure on Kauai. There is no industrial base to support the jobs and livelihoods that the mainland enjoys. Most people here have two or three jobs just to keep ahead of the mounting bills, many of which are amongst the highest in the nation. This fine balance creates a tipping point and a sudden rift in the economic fabric of Kauai could cause severe repercussions, the extent of which is hard to calculate. As multiple businesses, dependant upon vacation rentals, suddenly fold and homes must be sold, a local recession may be triggered with shock waves reverberating through Kauai, affecting Individuals, Real Estate companies, Stores, Banks, Small Support Businesses, and finally the tax base for the county and state. No-one wants that to happen, esp!

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It seems that one of America's greatest human rights and life treasures is at stake here: the right of an individual, to make his or her own fortune, to use his or her own land for whatever legal purposes he or she deems fitting and appropriate to suffice his or her family financially. To Be their own boss.

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Besides, who are we to restrict the accommodation choices to the over 1 million tourist visitors we share the island with each year. Vacation Rentals and the industry provide that simple, unique experience to those vacationers who by their own personal choice seek to stay at a vacation rental or B&B, live among the community, share the local experience, and live aloha for that short period of time they are with us.

What is so wrong with working collaboratively in an attempt to partner with other industry stakeholders to resolve issues we are faced with today and get on with consensus building. As the people of Kauai, isn't our vision for a sustainable island the same?"

Favorite Kauai Lodging: Would like to have both options available for vacationing

Name: Shana McDavis-Conway

City, State: Washington, DC

Email: shanamcdavis@yahoo.com



## testimony

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**From:** daveyM001@hawaii.rr.com  
**Sent:** Tuesday, March 20, 2007 6:47 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 20, 2007 @ 8:47 am:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Melanie Davey

City, State: Honolulu HI

Email: daveyM001@hawaii.rr.com

## testimony

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**From:** lbkelly@comcast.net  
**Sent:** Tuesday, March 20, 2007 6:40 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 20, 2007 @ 8:39 am:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Lisa Kelly

City, State: Pleasanton, CA

Email: lbkelly@comcast.net

## testimony

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**From:** heather@simonza.com  
**Sent:** Tuesday, March 20, 2007 7:12 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 20, 2007 @ 9:11 am:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Heather Simmons

City, State: Los Angeles, CA

Email: heather@simonza.com

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## testimony

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**From:** bowes\_megan@freshstart.org  
**Sent:** Tuesday, March 20, 2007 7:08 AM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 20, 2007 @ 9:07 am:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Megan Aubrey

City, State: Carlsbad, Ca

Email: bowes\_megan@freshstart.org



## testimony

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**From:** daveym001@hawaii.rr.com  
**Sent:** Tuesday, March 20, 2007 6:47 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 20, 2007 @ 8:46 am:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Bernard Davey

City, State: Honolulu HI

Email: daveym001@hawaii.rr.com

## testimony

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**From:** gary.cederwall@thoratec.com  
**Sent:** Tuesday, March 20, 2007 6:37 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 20, 2007 @ 8:36 am:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Gary D. Cederwall

City, State: Walnut Creek, CA 94597

Email: gary.cederwall@thoratec.com

## testimony

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**From:** lia121471@aol.com  
**Sent:** Tuesday, March 20, 2007 7:10 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 20, 2007 @ 9:10 am:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

Neither this section nor any ordinance enacted pursuant to this section shall prohibit the continued lawful use of any building or premises for any trade, industrial, residential, agricultural, or other purpose for which the building or premises is used at the time this section or the ordinance takes effect; provided that a zoning ordinance may provide for elimination of nonconforming uses as the uses are discontinued, or for the amortization or phasing out of nonconforming uses or signs over a reasonable period of time in commercial, industrial, resort, and apartment zoned areas only. In no event shall such amortization or phasing out of nonconforming uses apply to any existing building or premises used for residential (single-family or duplex) or agricultural uses.

We further ask that the county provides an Amnesty program, during which an appointed individual or group be sanctioned by the county as an Ombudsman designed to assist TVR's in their transition to compliance with the final bill when passed. The Ombudsman would be responsible for discussions with existing B&B, and vacation rental business owners on a one by one basis, by phone, email or with a personal appointment to answer pertinent questions about location, zoning, permitted use, and how to ensure their business continues to exist (grandfathering-in). This individual or group should clearly state to all parties that any information it gathers in an attempt to aid small businesses on Kauai will not be used to their detriment, by any other department.

To support this request, we hold the following statements to be true. Many Kauai residents depend on vacation rental businesses to either provide or supplement their monthly income to support their families. The vacation rental industry on Kauai, especially the many small Inns, cottages, vacation rentals, and B&B's support a variety of other small business and individuals working in the services industries for those properties. Most of the revenues earned from these vacation rental operations stays on Kauai and enriches everyone in our community.

To render, either intentionally or indirectly, any existing vacation rentals or B&B on Kauai illegal would put many of Kauai's families' livelihoods at stake and weaken our local economy. There is a fine balance between success and failure on Kauai. There is no industrial base to support the jobs and livelihoods that the mainland enjoys. Most people here have two or three jobs just to keep ahead of the mounting bills, many of which are amongst the highest in the nation. This fine balance creates a tipping point and a sudden rift in the economic fabric of Kauai could cause severe repercussions, the extent of which is hard to calculate. As multiple businesses, dependant upon vacation rentals, suddenly fold and homes must be sold, a local recession may be triggered with shock waves reverberating through Kauai, affecting Individuals, Real Estate companies, Stores, Banks, Small Support Businesses, and finally the tax base for the county and state. No-one wants that to happen, esp!

pecially the individuals elected by we, the people of this island, to serve us.

As we have heard voiced in the recent legal position from Jonathon Chun, "while nonconforming use of a property may be deemed to be undesirable by a small portion of the

community, it nonetheless constitutes a legitimate, vested property right and clearly enjoys broad constitutional protection...Vested property rights are not easily lost or voided".

It seems that one of America's greatest human rights and life treasures is at stake here: the right of an individual, to make his or her own fortune, to use his or her own land for whatever legal purposes he or she deems fitting and appropriate to suffice his or her family financially. To Be their own boss.

Isn't that the American Dream that "We The People" all aspire to finding?

Besides, who are we to restrict the accommodation choices to the over 1 million tourist visitors we share the island with each year. Vacation Rentals and the industry provide that simple, unique experience to those vacationers who by their own personal choice seek to stay at a vacation rental or B&B, live among the community, share the local experience, and live aloha for that short period of time they are with us.

What is so wrong with working collaboratively in an attempt to partner with other industry stakeholders to resolve issues we are faced with today and get on with consensus building. As the people of Kauai, isn't our vision for a sustainable island the same?"

Favorite Kauai Lodging: Would like to have both options available for vacationing

Name: Magnolia Marcelo

City, State: Los Angeles, CA

Email: lia121471@aol.com

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## testimony

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**From:** scottcroydon@hotmail.com  
**Sent:** Tuesday, March 20, 2007 6:48 AM  
**To:** mike@adagencyinbox.com; martina@adagencyinbox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 20, 2007 @ 8:48 am:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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We further ask that the county provides an Amnesty program, during which an appointed individual or group be sanctioned by the county as an Ombudsman designed to assist TVR's in their transition to compliance with the final bill when passed. The Ombudsman would be responsible for discussions with existing B&B, and vacation rental business owners on a one by one basis, by phone, email or with a personal appointment to answer pertinent questions about location, zoning, permitted use, and how to ensure their business continues to exist (grandfathering-in). This individual or group should clearly state to all parties that any information it gathers in an attempt to aid small businesses on Kauai will not be used to their detriment, by any other department.

To support this request, we hold the following statements to be true. Many Kauai residents depend on vacation rental businesses to either provide or supplement their monthly income to support their families. The vacation rental industry on Kauai, especially the many small Inns, cottages, vacation rentals, and B&B's support a variety of other small business and individuals working in the services industries for those properties. Most of the revenues earned from these vacation rental operations stays on Kauai and enriches everyone in our community.

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What is so wrong with working collaboratively in an attempt to partner with other industry stakeholders to resolve issues we are faced with today and get on with consensus building. As the people of Kauai, isn't our vision for a sustainable island the same?"

Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Scott Croydon

City, State: La Jolla, California

Email: scottcroydon@hotmail.com

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## testimony

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**From:** kimberlycroydon@hotmail.com  
**Sent:** Tuesday, March 20, 2007 6:46 AM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 20, 2007 @ 8:45 am:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Kimberly Croydon

City, State: La Jolla, California

Email: kimberlycroydon@hotmail.com

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## testimony

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**From:** earnric@gmail.com  
**Sent:** Tuesday, March 20, 2007 6:33 AM  
**To:** mike@adagencyinabox.com; martina@adagencyinabox.com  
**Subject:** Petition to Kauai County Council - Visitors

The following information was submitted on March 20, 2007 @ 8:33 am:

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Petition By Kauai Visitors: "We, the many visitors and people who love Kauai, individually and jointly in the form of this notice, petition the Kauai County Council to carefully reevaluate and reconsider their currently proposed Bill No. 2204 regarding the regulation of a variety of kinds of vacation rental properties in Kauai. We specifically ask the county to clearly include in the bill and therefore reiterate the current Hawaii Revised Statutes ("HRS") Section 46-4, which expressly states:

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Favorite Kauai Lodging: Vacation Rentals & B&B

Name: Rick Sarmento

City, State: Tempe, AZ

Email: earnric@gmail.com

**testimony**

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**From:** Tony Lydgate [tony@steelgrass.org]  
**Sent:** Saturday, April 19, 2008 1:02 PM  
**To:** testimony  
**Subject:** Speaking in Support of Bill HCR 348

**STEELGRASS FARM**  
P.O. Box 68, Kapaa, HI 96746  
(808)821-1857 [info@steelgrass.org](mailto:info@steelgrass.org)

April 19, 2008

The Senate  
24th Legislature, 2008  
State of Hawaii  
Date 4/19/08 - Time 10:00 PM  
Attention:, Senator Clayton Hee, Chair, and Committee Members.  
Speaking in Support of Bill HCR 348, HD1:

**REQUESTING THE LAND USE COMMISSION AND THE COUNTY COUNCILS AND THE PLANNING COMMISSIONS OF MAUI AND KAUAI COUNTIES TO RECOGNIZE THAT VACATION RENTAL USES IN SINGLE-FAMILY DWELLINGS AND FARM DWELLINGS IN STATE AGRICULTURAL DISTRICTS ARE NOT PROHIBITED UNDER CHAPTER 205, HAWAII REVISED STATUTES.**

Dear Committee Members,

We speak in support of HCR 348 in opposition to the regulations in the Kauai Bill 2204 that made Vacation Rentals on Ag land illegal. That bill is now law and has created a storm of opposition, some of which is determined to overthrow this in State or Federal Court. We implore you to clarify the situation on Ag land by approving HCR 348.

As you know, the State has ordered a review of Ag land on all islands over the next three years, to determine Prime Ag land. This should be completed first to ensure protection for existing properties which have operated businesses that give alternative accommodation to our much needed tourists, many of whom seek alternative lodging experiences. In many situations, including our Farm, the income from this alternative accommodation income is the difference that allows us to continue as a viable small Farm.

We understand the desire to regulate and control growth, but to make the law retroactive to apply to existing small businesses is wrong.

Sincerely,

Emily Lydgate and Will Lydgate  
Steelgrass Farm, Kauai

4/20/2008

**testimony**

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**From:** Jim Stigler [stigler@ucla.edu]  
**Sent:** Saturday, April 19, 2008 11:10 AM  
**To:** testimony  
**Cc:** Lisle Staley  
**Subject:** Speaking in Support of HCR348, HD

The Senate  
24th Legislature, 2008  
State of Hawaii  
Date 4/19/08 - Time 3:00 PM  
Attention: Senator Clayton Hee, Chair, and Committee Members

**Speaking in Support of HCR348, HD1**

My name is Jim Stigler. My wife, Lisle, and I bought a home last year on Kauai. My wife's family was from Honolulu, and she had many emotional memories of being there with her grandparents and parents. My wife cried when she first saw the home we eventually would purchase: it reminded her of her grandmother. We are not wealthy people, but we managed to buy the home. We plan to move there full-time when we finish getting our six children through college!

When we purchased the house no one indicated that it was "Ag land." It certainly does not look agricultural. In fact, it looks like a housing development. The houses in this development all have been built with approval from the Kauai planning authorities. Only later did we learn of the controversy surrounding the use of agricultural lands. Some of what we have heard scares us: some have even suggested that it is illegal to not be actively farming the land. This strikes us as un-just. It is not fair to allow developers to build housing developments, only later to decide that the land must be farmed. By granting the building permits the county expressed their implicit approval of the obviously residential use. The county must now live with their actions. This is not some foreign country. This is the U.S., and we are citizens. It is not right to have allowed this ambiguity to continue, threatening the investments of property owners.

We also have successfully vacation-rented our home 90% of the time since we purchased it. We have faithfully paid GET and TAT taxes to the State of Hawaii on all of our rentals. This has been a wonderful thing for us, for it gives us a way to manage the financial transition to our life on Kauai. But it also has been wonderful for the people who have rented our home. We do believe that the county should have the right to restrict vacation rentals so as to minimize any negative impact on the island. But, as with the issue of agriculture, the county has not done anything for years to restrict rentals on agricultural land: there are literally hundreds of houses on ag lands that are currently being rented. It seems un-fair, again, to allow something for so long and then suddenly say that it is not allowed. If we cannot rent our home it will be difficult for us to keep it and fulfill our dream of moving there.

At this point, we strongly support this resolution. The ambiguity that exists in the permissible uses of agricultural land seems indefensible. It is time to have some legal clarity. Please support this resolution.

Jim Stigler  
Kauai

4/20/2008

## testimony

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**From:** Patterson [tetoli@surewest.net]  
**Sent:** Saturday, April 19, 2008 11:10 AM  
**To:** testimony  
**Subject:** FW: Speaking in Support of HCR 348, HD1

-----Original Message-----

**From:** Patterson [mailto:tetoli@surewest.net]  
**Sent:** Saturday, April 19, 2008 11:27 AM  
**To: Subject:** Speaking in Support of HCR 348, HD1

The Senate  
24th Legislature, 2008  
State of Hawaii  
Date 4/19/08 - Time 10:00 PM  
Attention:, Senator Clayton Hee, Chair, and Committee Members.

Speaking in Support of **HCR 348, HD1**

I urge you to support HCR 348, HD1. I have owned a small (less than) 1/3 acre property for over 50 years which we have managed to keep in the family through the additional income from rental. We have paid our taxes and provide income to our support people for over 50 years.

Thank you

Terry N. Patterson

**testimony**

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**From:** Res. Manager Ileina's Property [infohanaleicottage@yahoo.com]  
**Sent:** Saturday, April 19, 2008 2:36 PM  
**To:** testimony  
**Subject:** HCR348HD1

The Senate  
24th Legislature, 2008  
State of Hawaii

**TO:** COMMITTEE ON WATER AND LAND  
Senator Clayton Hee, Chair  
Senator Russell S. Kokubun, Vice Chair

**RE:** HCR348HD1

**HEARING DATE:** APRIL 21, 2008  
**TIME:** 9:30 a.m.  
**PLACE:** Conference Room 016  
State Capitol  
415 So. Bertania Street

**SPEAKING IN SUPPORT OF HCR348HD1**

Dear Chair and Members:

We are IN FAVOR of having the Attorney General review and submit a legal opinion regarding whether vacation rental uses in state "agricultural" districts are prohibited under Chapter 205, Hawaii Revised Statutes.

Due to the changing nature of agriculture over the past 20 years, many people who own "ag" land have been able to supplement their income by offering alternative vacation rentals on their property. Many visitors prefer not to stay in hotels and many of them would, in fact, not visit Hawaii if it were not for these alternative vacation rental choices.

David and Elayne Larimer  
Hanalei

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**testimony**

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**From:** COK Council [cokcouncil@kauai.gov]  
**Sent:** Saturday, April 19, 2008 2:49 PM  
**To:** testimony  
**Subject:** TESTIMONY ON HCR 348, HD1 (REQUESTING ATTORNEY GENERAL TO OPINE ON WHETHER VACATION RENTAL USES IN SINGLE-FAMILY DWELLINGS AND FARM DWELLINGS IN STATE AGRICULTURAL DISTRICTS ARE PROHIBITED UNDER CH 205, HRS)  
**Importance:** High  
**Attachments:** TESTIMONY HCR348HD1.pdf

Attached are three (3) testimonies regarding HCR 348, HD 1 (requesting the Attorney General to review and submit a legal opinion regarding whether transient vacation rentals uses in single-family dwellings and farm dwellings in State Agricultural Districts are prohibited under Chapter 205, Hawai'i Revised Statutes) for:

**SENATE COMMITTEE ON WATER AND LAND  
MONDAY, APRIL 21, 2008 at 9:30 A.M.  
STATE CAPITOL CONFERENCE ROOM 016**

Mahalo for your assistance with distributing these three (3) testimonies.

Office of the Kaua'i County Clerk  
Council Services Division  
4396 Rice Street, Room 206  
Līhu'e, HI 96766  
Tel: 808-241-6371  
Fax: 808-241-6349  
E-mail: [cokcouncil@kauai.gov](mailto:cokcouncil@kauai.gov)

\*\*\*\*\*  
NOTICE: This communication and its attachments are confidential to our office and to the intended recipient of this e-mail.  
If you have received this e-mail in error, please advise the sender immediately and delete this message and any attachments. If you are not the intended recipient you are notified that any use, distribution, amendment, copying or any action taken or omitted to be taken in reliance of this message or attachments is prohibited. Mahalo.  
\*\*\*\*\*

## testimony

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**From:** info@kavaassociation.org  
**Sent:** Saturday, April 19, 2008 3:56 PM  
**To:** testimony  
**Subject:** Testimony in support of HCR 348

The Senate  
24th. Legislature, 2008  
State of Hawaii  
Date 4/19/2008 - Time 4:00 p.m.

Attention: Senator Clayton Hee, Chair, and Committee Members

I own 1/4 acre of ag land on which I grow some tropical flowers and fruit.  
There are a main house and a guest house on the land.  
It is tucked away within the tropical floral jungle.  
I clear and maintain my land and much of the land around it as well as a small cemetery nearby.  
This makes for a wonderful Hawaiian cultural experience for visitors.  
I could not possibly keep my land by traditional agricultural revenue.  
Please continue to allow legally operating vacation rentals on small plots of ag land.

Mahalo,

Richard Adkins

**testimony**

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**From:** martina@kauaicountryinn.com  
**Sent:** Saturday, April 19, 2008 5:34 PM  
**To:** testimony  
**Subject:** Speaking in Support of HCR 348, HD1

The Senate

24th Legislature, 2008  
State of Hawaii  
Date 4/19/08 - Time 5:00 PM  
Attention:, Senator Clayton Hee, Chair, and Committee Members.

Speaking in Support of **HCR 348, HD1**

To whom it may concern,  
My husband and I have bought an agricultural lot in Kauai (just over 2 acres in size) about 10 years ago. At the time of the purchase we were not advised that we had to farm the land. The property consisted of a 2,000 sf home. At the time (1997 – 2001) our main business income was from advertising & marketing which is both of our backgrounds. When 911 happened we lost 95% of our business income and were faced with great financial stress.

We decided to try our hand at vacation rental, which we knew the income from could cover our main living expenses. After checking into existing legislation, we found that there were no special permit requirements and also came across the Kobayashi opinion and the 2000 Kauai General Plan which both assured us that starting a vacation rental would be a legal business proposition. We decided to refinance our home, to allow us to build an ADU on our 2 acre lot, and turn our main house at great expense into a vacation rental.

We applied for a TAT tax license which we were granted, further assuming that our vacation rental was a perfectly legitimate legal enterprise. The Kauai Planning Department approved our plans and application for the ADU, and apparently the Director of Finance is aware that we are running a B&B in our main house, because we are charged a commercial rate on our property taxes not an agricultural rate.

The property has a total of 35 fruit trees and many flowers, both of which are sold to guests staying at our vacation rental. In fact, one of the main attractions for many of our guests is that they can pick their own fresh fruit right from our trees in the morning. Farm stays are popular all over Europe, and we find that there is a need for them here on the islands. Not all tourists want to stay at a cookie cutter hotel chain.

We have had nearly 1,600 reservations since we opened our doors in 2003, many of our guests choosing to come back year after year because of the personal attention they receive at our B&B. We have paid tens of thousands of dollars in both GE and TAT taxes and believe that B&Bs & vacation rentals on Ag land are a viable contribution to Hawaii's commerce and tourism industry.

We believe that because of missing or vague legislation in Kauai and on the state level, all currently existing vacation rentals in Kauai are legal and should be grand fathered. Good, hard working people are being put out of business and the County of Kauai is setting itself up for major litigation.

One other important aspect of the Ag land debate is that many ag plots subdivided by the planning department (or at least approved by the planning department), are too small or unfit for farming. One of our friends has a vacation rental on a 1/4 acre, how much farming income could he possibly produce? Certainly not enough to feed his family. The vacation rental is essential and necessary to subsidize his income.

Please debate this carefully as many good people's fortune's depend on this. After all this is America and entrepreneurs and small businesses should be rewarded, rather than shut down by uncaring bureaucrats.

Sincerely,  
Martina Hough

Martina Hough  
6440 Olohena Rd.  
Kapaa, Kauai, HI 96746

**testimony**

---

**From:** Tony Albertoni [drdrillandfill@yahoo.com]  
**Sent:** Saturday, April 19, 2008 7:35 PM  
**To:** testimony  
**Subject:** Speaking in Support of HCR 348-HD1

The Senate

24th Legislature, 2008

State of Hawaii

Date 4/19/2008--Time 10:30 pm  
Attention: Senator Clayton Hee, Chair and Committee Members.

Speaking in Support of HCR 348-HD1

Thank you for allowing me to voice my support for HCR 348-HD1 which will allow consideration for vacation rentals on AG land. The experience I have had with my vacation rental on our AG parcel which is 7/10 of an acre has been totally positive. With this small of a lot, there is not anything I could do commercial-wise as far as agriculture is concerned (although I am very much enjoying growing bananas, mangos and other fruits for the benefit of my guests), and my vacation rental allows me to actually keep this property. I have had my Transient Vacation Rental and General Excise Tax Certificates for seven years, and this well-kept property has been a positive benefit for the surrounding community. I can only see heartache and a violation of private property rights if this rental capability is taken away.

*Tony Albertoni*

---

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## testimony

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**From:** Claudia Herfurt [claudia@kauaistyle.com]  
**Sent:** Saturday, April 19, 2008 9:08 PM  
**To:** testimony  
**Subject:** In Support of HCR 348, HD1

The Senate  
24th Legislature, 2008  
State of Hawaii  
Date 4/19/08 - Time 10:00 PM  
Attention:., Senator Clayton Hee, Chair, and Committee Members.

### Speaking in Support of **HCR 348, HD1**

My name is Claudia Herfurt, and I have been a permanent, long term, and year-round resident on the North shore of Kauai since 1979.

In 1980 I built my permanent residence in Hanalei and have owned and operated a TVR or B&B in part of my home since 1987. For those 20 years I have paid tens of thousands of dollars to the State of Hawaii in GE and TA Taxes.

As a single mother I have raised my 2 sons Winston and Benjamin Welborn on the island, and both are respected members of our community. I am a senior now close to 70 and take some pride in the fact that by my hard labor I have been able to create a situation with my TVR to generate a sufficient income and take care of myself in my old age and be independent of my children and the government.

I moved from Hanalei to Kalihiwai Road in 2001 and built my new permanent residence to be on high ground and out of the threatened low tsunami impact zone in Hanalei. Part of my residence is a TVR or B&B again and provides my sole source of income.

My new home is on a hillside, and although it is zoned AG the terrain is too steep and the soil is too poor to conduct any kind of agriculture. My land is in category B&C and to the best of my knowledge has never been successfully farmed.

My TVR has no cumulative negative impact on this new neighborhood, nor has it reduced any preexisting long-term rental availability.

It is my sincere hope that I and many other residents on Kauai will be grandfathered in with our TVRs. If not, the new law will force me to sell my treasured home, which I have worked very hard with my own hands to build. Also, at my age I am not capable of starting a new career.

This will also be a lose/lose situation to my guests and myself as it is very unlikely that they will settle for a timeshare unit in Waipouli or a corporate and pricey resort elsewhere on the island. They told me they would opt to vacation somewhere else other than Kauai.

Sincerely,  
Claudia Herfurt

4/20/2008

## testimony

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**From:** Lauren Sharkey [LSHARKEY@caselombardi.com]  
**Sent:** Saturday, April 19, 2008 10:44 PM  
**To:** testimony  
**Subject:** Testimony on HCR 348 HD!  
**Attachments:** Senate Committee Testimony.pdf; Signature page of Testimony.pdf

Testimony for Senate Committee on Water & Land. Hearing on April 21, 2008 at 9:30 a.m.

Please see attached testimony. The signature page for the testimony is attached as a separate file. The 2 files combined are less than 5 pages. Please print both attachments. Thank you.

Lauren Sharkey  
Case Lombardi & Pettit  
Pacific Guardian Center, Mauka Tower  
737 Bishop Street, Suite 2600  
Honolulu, HI 96813  
(808) 547-5400 (main)  
(808) 547-5406 (direct)  
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# CASE LOMBARDI & PETTIT

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Bruce C. Bigelow (1946-2001)

April 19, 2008

The Honorable Clayton Hee, Chair  
and Members of the Committee on Water and Land,  
Senate  
State Capitol  
Honolulu, HI 96813

Re: House Concurrent Resolution 348 HD1

Dear Chair Hee and Members of the Committee:

We write to you on behalf of several landowners who operate single-family and farm dwelling vacation rentals in the State Land Use Agricultural district on the North Shore of Kauai.

We appreciate the opportunity to testify **in strong support** of House Concurrent Resolution 348 HD1 and offer comments. We believe a legal opinion from the Attorney General is needed to clarify the issue of whether single-family and farm dwelling transient vacation rentals (TVRs) are *per se* prohibited in the Agricultural district, and whether State law requires lawfully existing TVRs in the Agricultural district to be grandfathered in when a county adopts new restrictions on TVRs. This issue is important because many owners of properties within the Agricultural district rely upon TVRs in order to support the agricultural uses of their properties, particularly given that many properties in the Agricultural district have soil conditions that make it infeasible to conduct agricultural activities without another source of income.

The absence of clarity on this issue has led to a multiplicity of opinions on the legality of TVRs in the Agricultural district. Certain Kauai County Council members have taken the most extreme position and declared that under State law all TVRs in the Agricultural district are illegal, and therefore the County cannot grandfather existing TVRs with respect to the recently enacted Kauai County Ordinance 864, which prohibits transient vacation rentals outside of the Visitor Destination Areas on Kauai.

Ordinance 864 effectively prohibits the grandfathering of transient vacation rentals on lands in the Agricultural district outside of the Visitor Destination Areas on Kauai. Existing



vacation rentals on other lands were grandfathered in pursuant to Hawaii Revised Statutes ("HRS") § 46-4. The Kauai County Council discussed grandfathering of single-family TVRs on Agricultural lands. However, no grandfathering provision for such uses was included in the ordinance, because certain Kauai County Council members claimed that State law was clear that single-family TVRs on Agricultural lands were prohibited under HRS Chapter 205, with two extremely limited exceptions. The first exception allowed grandfathering of such uses if the property owner had previously obtained a special use permit.<sup>1</sup> The second exception applied only to TVRs that existed prior to the enactment of HRS Chapter 205 in 1976.

Additionally, in response to an informal inquiry by one of the Kauai County Council members, the former Land Use Commission ("LUC") Executive Officer, referring to Section 205-5(b), stated in his email that "Chapter 205 HRS clearly prohibits overnight accommodations (such as offered by vacation rentals) in the SLU Agricultural District". In his email, the Executive Officer, who does not express the opinion of the LUC and who is not a voting member of the LUC, did not rely upon any LUC rulings or case law, but instead relied upon 205-5(b)(2). However, this email makes no mention that HRS, Sec. 205-5(b)(2) was only enacted in the 2006 Haw. Sess. Laws, Act 250, effective June 29, 2006, and therefore does not affect uses existing prior to that date, which HRS Section 46-4 mandates must be grandfathered in under Section 205-5(b)(2). The Executive Officer's email also does not mention that 205-5(b)(2) relates to the regulation of agricultural tourism activities (not single-family TVRs). Furthermore, Section 205-5(b)(2) only applies to agricultural tourism activities where counties have specifically adopted ordinances to regulate agricultural tourism, and the County of Kauai has not done so.

Certain Kauai Council members have adopted this position as a statement of the law, as seen from recent testimony submitted by a Kauai Council member to the House of Representatives opposing this measure, in which a Council member stated "it is clear that under Haw. Rev. Stat. §205-5(b)(2) overnight accommodations statutorily cannot be permitted."

Based on the foregoing, an opinion from the Attorney General is needed to clarify that HRS Chapter 205 does not *per se* prohibit single-family TVRs on Agricultural lands, and that lawfully existing TVRs must, under State law, be grandfathered in.

Nothing in Chapter 205, which sets forth the permissible uses in the Agricultural district, expressly prohibits vacation rental uses in the Agricultural district. HRS § 205-4.5(a) sets forth the permissible uses on lands rated A/B. Among the permitted uses is a "farm dwelling", which is defined as "(4) . . . a single-family dwelling located on and used in connection with the farm, including clusters of single-family farm dwellings as permitted within agricultural parks developed by the State, or where agricultural activities provide income to the family occupying

---

<sup>1</sup> We understand that Kauai County has never previously required or issued a special use permit for TVRs, so this effectively prohibits any grandfathering of TVRs established after 1976.

the dwelling." This provision does not require that the farm dwelling unit be exclusively used for farm purposes, nor does it state that rental of such a building is prohibited.

Furthermore, with respect to lands that are not rated A/B, which comprise approximately 75% of the agricultural lands in Hawaii<sup>2</sup>, HRS § 205-5(b) applies. HRS § 205-5(b) provides that "uses compatible to the activities described in section 205-2 as determined by the commission shall be permitted." (Emphasis added) HRS § 205-2 contains eleven enumerated uses, including cultivation of crops, farming activities related to animal husbandry, aquaculture and wind generated energy. Vacation rental uses in structures that otherwise comply with Chapter 205 can easily be seen as "compatible" with the uses listed in HRS § 205-2. There does not appear to be any case law, declaratory or authoritative order or ruling prohibiting single-family TVRs on Agricultural lands.

Vacation rentals in the Agricultural district provide much-needed income to families who are struggling to maintain agricultural activities on their properties. This supports the long-term goals of achieving sustainability and agricultural use of their land. Without income from TVRs, owners with agricultural activities may be forced to substantially reduce agricultural activities or possibly forced off their land and required to sell their properties to purchasers with no interest in maintaining agricultural uses. Whether lands comply with Chapter 205 should be determined based upon the totality of the facts and circumstances of the specific use of an owner's property, which is consistent with how the LUC has addressed compliance with Chapter 205 in other circumstances,<sup>3</sup> and not based on an assumption that TVRs are *per se* prohibited on agricultural lands.

In addition, Act 186, Session Laws of Hawaii 1980, which authorized the counties to restrict timeshares and transient vacation rentals, defined "transient vacation rentals" as "rentals in a multi-unit building to visitors over the course of one or more years, with the duration of occupancy less than thirty days for the transient occupant." (Emphasis added). Therefore, Act 186 did not authorize restrictions on single-family TVRs. Similarly, prior to Ordinance 864, the Kauai County Code defined TVRs as those in multi-unit buildings and did not impose restrictions on single-family TVRs. Relying on this, many agricultural land owners have been operating single-family TVRs for years, paying state and county taxes, and this use has never been expressly prohibited by the Kauai County Code or HRS Chapter 205. Accordingly, pursuant to HRS section 46-4, grandfathering of lawfully existing TVRs is required, with respect to any ordinances prohibiting single-family and farm dwelling transient vacation rental uses in state agricultural districts. Failing to provide grandfathering as required under HRS, Sec. 46-4,

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<sup>2</sup> See Adrienne Iwamoto Suarez, *Avoiding the Next Hokuli'a: The Debate over Hawai'i's Agricultural Subdivisions*, 27 Hawaii L. Rev 441, 444 (2005).

<sup>3</sup> See generally, In the matter of the Petition of Kuleana Ku'ikahi, LLC, DR04-30 (April 10, 2006).

The Honorable Clayton Hee, Chair  
and Members of the Committee on Water and Land  
April 19, 2008  
Page 4

also raises questions as to constitutional issues, such as deprivation of landowners' vested rights and violations of their due process and equal protection rights.

We urge you to pass House Concurrent Resolution 348 HD1 to request an opinion from the Attorney General to clarify that such vacation rental uses in the Agricultural district are not prohibited under State law.

Very truly yours,

**CASE LOMBARDI & PETTIT**



Dennis M. Lombardi  
Lauren R. Sharkey

DML:lrs:kkg  
28492/1/818382.1

28492/1/818891.2

COUNTY COUNCIL  
BILL "KAIPO" ASING, CHAIR  
MEL RAPOZO, VICE CHAIR  
TIM BYNUM  
JAY FURFARO  
SHAYLENE ISERI-CARVALHO  
RONALD D. KOUCHI  
JOANN A. YUKIMURA



4396 RICE STREET, ROOM 206  
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E-mail: cokcouncil@kauai.gov

OFFICE OF THE COUNTY CLERK  
Council Services Division  
Elections Division  
Records Division  
PETER A. NAKAMURA, County Clerk  
ERNESTO G. PASION, Deputy County Clerk  
Telephone: (808) 241-6371  
Facsimile: (808) 241-6349

April 19, 2008

The Honorable Clayton Hee, Chair  
& Members of the Senate Committee on Water & Land  
State Capitol, Conference Room 016  
415 South Beretania Street  
Honolulu, HI 96822

Dear Chair Hee & Committee Members:

**SUBJECT: HCR NO. 348, HD1 (REQUESTING THAT THE ATTORNEY GENERAL  
OPINE ON VACATION RENTAL USES IN STATE AGRICULTURAL  
DISTRICTS)**

---

I am submitting this testimony as an individual member of the Kaua'i County Council ("Council").

While I understand that the actual HCR348, HD1 differs in language contained in the proposed HD1, I remain opposed to this measure.

Without the benefit of thorough legislative due diligence and a fully-noticed public deliberative process, HCR348, HD1 still attempts to state the Legislature's belief that "...chapter 205, Hawai'i Revised Statutes does not appear to prohibit these alternative forms of visitor accommodations in (State) agricultural districts."

I would ask that the Committee take into account the informed and exhaustive public deliberations conducted by our Council on this single aspect of the overall transient vacation rental issue.

In comparison, the narrow approach taken by HCR348, HD1 deprives both the Legislature and public of the careful evaluation necessary to understand the full range of impacts that vacation rental proliferation outside of specific County-designated locations has on our communities.

Thank you for your consideration of my testimony.

Sincerely,

*Mel Rapozo*  
MEL RAPOZO

Kaua'i County Council Vice Chair

D:\My Documents\06-08 COUNCIL\CLRK08\clrk08049.doc

COUNTY COUNCIL  
BILL "KAIPO" ASING, CHAIR  
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OFFICE OF THE COUNTY CLERK  
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April 18, 2008

The Honorable Clayton Hee, Chair  
& Members of the Senate Committee on Water & Land  
State Capitol, Conference Room 016  
415 South Beretania Street  
Honolulu, HI 96822

Dear Chair Hee & Committee Members:

**SUBJECT: HCR NO. 348, HD1; REQUESTING THAT THE ATTORNEY GENERAL  
OPINE ON VACATION RENTAL USES IN STATE AGRICULTURAL  
DISTRICTS**

---

Thank you for the opportunity to submit this testimony as an individual member of the Kaua'i County Council ("Council").

I respectfully urge the Senate Committee on Water & Land ("Committee") to oppose House Concurrent Resolution No. 342, House Draft 1 ("HCR348, HD1").

On February 7, 2008, our Council approved a bill regulating transient vacation rentals ("TVRs") in the County of Kaua'i ("County") after several years of research, public meetings, numerous draft bills, extensive open public debate, and consultation with legal counsel.

While I recognize the necessity for the "gut and replace" process given the time restrictions on State legislative sessions, it was clearly not beneficial to this historically complex issue, which in our experience required time for careful evaluation, thoughtful public input and reasoned legislative judgment.

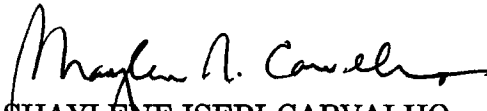
The condensed hearing of HCR348, HD1 denied a vast majority of the public sufficient notice and the opportunity to participate in, much less be aware of, the critical discussion being carried on by the Legislature on this important matter. The sheer volume of public testimony we received, the countless hours of open debate we conducted, and the hundreds of written testimonies submitted to our Council over the years on this single issue stand in stark contrast to the minimal amount of testimony submitted to and considered by the Legislature over the past few weeks. My understanding is that the Maui County Council has experienced similar levels of public debate and input on this same issue.

The Hon. Clayton Hee, Chair, & Members  
Senate Committee on Water and Land  
Page 2 of 2

HCR348, HD1 appears to urge a particular interpretation by the Attorney General that is contrary to the plain and unambiguous language of Chapter 205, Hawai'i Revised Statutes ("HRS"). In addition, the interpretation put forward by HCR348, HD1 further appears to sidestep the requirements of Sections 205-41 to 205-52, HRS ("Important Agricultural Lands"). It would be premature at best to risk a "blanket" interpretation that transient vacation rental uses are not prohibited in the State Agricultural Land Use District without completing the identification of important agricultural lands by the detailed public process originally envisioned by the Legislature in Act 183, Session Laws of Hawai'i 2005.

Again, thank you for your consideration of this testimony.

Sincerely,



SHAYLENE ISERI-CARVALHO

Kaua'i County Councilmember

**testimony**

---

**From:** Lee Roversi [ncfarms@aloha.net]  
**Sent:** Sunday, April 20, 2008 8:56 AM  
**To:** testimony  
**Subject:** COMMITTEE ON WATER AND LAND Monday, April 21, 2008 9:30AM

I bought my property here in Kilauea agricultural land in 1986. It has been run as an organic family farm since then, providing produce for fifty families and my local markets each and every week. It is a wonderful and important business, but not a vast money making endeavor. To offset that reality, I have run a B&B, an eco-tourism destination, for all these years. I have done so with tremendous pride and with open visibility. I have paid taxes yearly. I have promoted our local businesses with the same kind of pride. I have attempted to make my living both by being an integral part of my community and by providing visitors to our island with a glimpse into sustainability in practice. I am actually doing ag on ag land!--a novelty on our lovely northshore.

This is my home. This is not an investment. This is where I have raised my children. This is where I hope to grow old. This is where I hope to have my children always be able to come home.

However, if I am no longer able to run my B&B as part of my business, I will have to let go of this beautiful piece of paradise. And, I must say, I sincerely doubt it will be sold to a local family or to anyone interested in actually farming it.

Thank you for taking the time to think more clearly about the potential for appropriately combining agriculture endeavors and tourism. I respectfully ask you to take a look at my website (the link is at the bottom of this email). See who I am and what it is that I am doing. It is a right livelihood of which I am proud and for which I fear the future.

In aloha,  
Lee Roversi

NORTH COUNTRY FARMS  
~ an eco-tourism destination ~  
Organic Family Farm and Tropical B&B  
P.O. Box 723  
Kilauea, Kauai, HI 96754  
808.828.1513 phone and voice mail  
808.828.0805 fax  
[www.northcountryfarms.com](http://www.northcountryfarms.com)

*"I arise in the morning torn between a desire to save the world and a desire to savor the world. That makes it hard to plan the day." E.B. White*

**testimony**

---

**From:** Neil Clendeninn [cybermad@msn.com]  
**Sent:** Sunday, April 20, 2008 9:29 AM  
**To:** testimony  
**Subject:** In support of resolution HCR348 HD1  
**Importance:** High  
**Attachments:** in support of TVRs on Agricultural lands.doc

April 20, 2008 9:15am

THE SENATE  
THE TWENTY-FOURTH LEGISLATURE  
REGULAR SESSION OF 2008  
COMMITTEE ON WATER AND LAND

To: the Honorable: Senator Clayton Hee, Chair  
and Senator Russell S. Kokubun, Vice Chair

For: AMENDED NOTICE OF HEARING

DATE: Monday, April 21, 2008

TIME: 9:30 a.m.

PLACE: Conference Room 016

State Capitol

415 South Beretania Street

A G E N D A

**HCR 348, HD1**

(HSCR1878-08)

REQUESTING THE ATTORNEY GENERAL TO REVIEW AND  
SUBMIT A LEGAL OPINION REGARDING WHETHER VACATION  
RENTAL USES IN SINGLE-FAMILY DWELLINGS AND FARM  
DWELLINGS IN STATE AGRICULTURAL DISTRICTS ARE  
PROHIBITED UNDER CHAPTER 205, HAWAII REVISED STATUTES.

I would like to support this resolution. I am a struggling Farmer on Kauai and I believe the excuse the Council used to deny the existence of TVR on Agricultural lands never took into account the needs of farmers. They assumed that all TVR on Agricultural lands are on CPR lots and the owners of said lots are mainlanders who drive up prices by renting and selling homes with the right to vacation rental. In reality there are many legitimate farms whose livelihood depends on renting a portion of their property to tourist. Farming is extremely difficult and not currently cost effective. The supplemental income has allowed many farms and their families to survive. Additionally, the tourists appreciate their stays on farms as eco-tourism is quite popular. Certainly on Kauai the need for additional tourist accommodations is necessary with our limited visitor accommodation options.

I feel that the counties need to reexamine their laws and allow legitimate farmers to have the life sustaining TVR on their farms. These TVRs should be legal and pay all excise and visitor taxes. The



Counties need a simple amendment to their ordinances allowing a person on agricultural lands, who are permanent residents on the farm, to be able to renting part of their home, an ADU, Ohana unit or other residentially approved building, the right to use these as a TVR. The County's at present dodged this issue by stating that the state did not allow TVR so they are banned on agricultural land, end of discussion. At least that is way it came ended on Kauai.

I firmly believe this resolution is necessary to reopen the discussion and have farmers who legitimately need the TVR and visitors who want to stay on farms the ability to do so in a legal manner.

Thank you,

Neil J Clendeninn  
PO Box 1005, Hanalei, HI 96714  
808-294-0660  
[cybermad@msn.com](mailto:cybermad@msn.com)

April 20, 2008 9:15am

THE SENATE  
THE TWENTY-FOURTH LEGISLATURE  
REGULAR SESSION OF 2008  
COMMITTEE ON WATER AND LAND

To: the Honorable: Senator Clayton Hee, Chair  
and Senator Russell S. Kokubun, Vice Chair

For: AMENDED NOTICE OF HEARING

DATE: Monday, April 21, 2008

TIME: 9:30 a.m.

PLACE: Conference Room 016

State Capitol

415 South Beretania Street

A G E N D A

**HCR 348, HD1**

(HSCR1878-08)

REQUESTING THE ATTORNEY GENERAL TO REVIEW AND  
SUBMIT A LEGAL OPINION REGARDING WHETHER VACATION  
RENTAL USES IN SINGLE-FAMILY DWELLINGS AND FARM  
DWELLINGS IN STATE AGRICULTURAL DISTRICTS ARE  
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Thank you,

Neil J Clendeninn  
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808-294-0660  
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**TESTIMONY**  
**HCR 348 HD1**  
**(END)**