

# **SB 409**

## **RELATING TO ZONING**

Clairfies county zoning by allowing amortization or phasing out of nonconforming single-family transient vacation rentals over a reasonable period of time.

PSM/TSI

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

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KIRK CALDWELL  
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DIRECTOR

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DEPUTY DIRECTOR

February 19, 2015

The Honorable Will Espero, Chair  
and Members of the Committee on Public  
Safety, Intergovernmental and Military Affairs  
The Honorable Gilbert Kahele, Chair  
and Members of the Committee on Tourism  
Hawaii State Senate  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chairs Espero, Kahele, and Members:

SUBJECT: Senate Bill No. 409  
Relating to Zoning

The Department of Planning and Permitting (DPP) **supports, with comments,** Senate Bill No. 409, which authorizes the counties to permit the amortization or phasing out of nonconforming single-family transient vacation rental units, or nonconforming single-family transient vacation units, over a reasonable period of time.

As written, the Bill preserves and strengthens the provisions of homerule by providing the counties with an ability to distinguish single-family residential use from single-family vacation rental use, and thereby allowing for the phasing out of the single-family vacation rentals at the county and not the State level.

However, the City and County of Honolulu already has a program in place that provides for the phasing out of nonconforming vacation rental operations. As a testament to the success of this program, when the nonconforming status of the vacation rentals was established in 1990, the operators of the vacation rental units were issued a Nonconforming Use Certificate (NUC). To maintain the nonconforming status, the operator of the vacation rental must qualify for renewal of the NUC by satisfying certain requirements. As an indication that the NUC program is successfully phasing out the nonconforming uses, the number of NUCs issued when the program began was

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Re: Senate Bill No. 409  
February 19, 2015  
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approximately 2,600 certificate holders. Today, after completion of the 2014 NUC  
Renewal Cycle, there are only 820 NUC certificate holders remaining.

Although the proposals of this Bill may assist the other counties with the phasing  
out or amortization of single-family transient vocational rental units over a reasonable  
period of time, the City and County of Honolulu is comfortable with staying the course  
by adhering to the existing procedures outlined in its program for establishing  
conforming use islandwide.

Thank you for this opportunity to testify on Senate Bill No. 409.

Very truly yours,



George I. Atta, FAICP  
Director

GIA:fmt  
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Hawai'i State Association of Counties (HSAC)  
Counties of Kaua'i, Maui, Hawai'i & City & County of Honolulu

February 18, 2015

TESTIMONY OF MEL RAPOZO  
PRESIDENT, HAWAII STATE ASSOCIATION OF COUNTIES  
ON  
SB 409, RELATING TO ZONING  
Committee on Tourism and International Affairs  
Committee on Public Safety, Intergovernmental and Military Affairs  
Thursday, February 19, 2015  
1:15 p.m.  
Conference Room 229

Dear Chair Kahele, Chair Espero, and Members of the Committee:

Thank you for this opportunity to submit testimony in strong support for SB 409, Relating to Zoning. My testimony is submitted in my capacity as President of the Hawai'i State Association of Counties (HSAC).

SB 409 is a proposal submitted by HSAC, and has been agreed upon by all four County Councils to be included in the 2015 HSAC Legislative Package. This measure clarifies County zoning authority by allowing amortization or phasing out of non-conforming single-family transient vacation rentals over a reasonable period of time.

Over the years, the Counties have experienced the growth and expansion of single-family transient vacation rental units. However, because of the ambiguity in the Counties zoning authority, the Counties are faced with defending against operators who claim their use is more residential than commercial. This allows them to circumvent many established regulatory controls. Clarifying this issue will eliminate some of the enforcement challenges the Counties are facing and will properly align non-conforming vacation rental units in their correct categories.

For the reasons stated above, I respectfully ask the Senate Joint Committee to approve this measure. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188.

Sincerely,



MEL RAPOZO  
HSAC, President

AB:mn