

DAVID Y. IGE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



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DIRECTOR OF TAXATION

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DEPUTY DIRECTOR

STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
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To: The Honorable Angus L.K. McKelvey, Chair  
and Members of the House Committee on Consumer Protection & Commerce

Date: Tuesday, February 14, 2017

Time: 2:00 P.M.

Place: Conference Room 329, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: H.B. 1471, H.D. 1, Relating to Taxation

The Department of Taxation (Department) provides the following comments on H.B. 1471, H.D. 1 for your consideration.

H.B. 1471, H.D. 1, permits a transient accommodations broker to register as a tax collection agent on behalf of its operators and plan managers. The bill has a defective effective date of July 1, 2117, applies to taxable years beginning after December 31, 2017, and sunsets on December 31, 2022. The following is a summary of key provisions of the bill:

#### Duties as Tax Collection Agent

- The registered agent will be required to report, collect, and pay general excise tax and transient accommodations tax on behalf of all of its operators and plan managers for transient accommodations booked directly through the registered agent.
- The registered agent's operators and plan managers will be deemed to be licensed under chapters 237 and 237D, Hawaii Revised Statutes (HRS), for business activities conducted directly through the broker.
- The registered agent will assume all obligations, rights, and responsibilities imposed on operators and plan managers for business activities conducted directly through the registered agent and will be personally liable for all taxes due and collected.

#### Reporting

- The Director of Taxation may require the registered agent to provide, with the annual return, a list of the federal tax identification numbers of all operators to whom the registered agent provided information returns under the Internal Revenue Code
- The registered agent shall provide the names or addresses of its operators to the Director of Taxation when requested through an administrative subpoena or upon waiver by the operator.

- The registered agent shall report annually to the Director on an aggregate basis the total number of operators and plan managers by county on whose behalf the registered agent collected and remitted taxes and the total taxes by county collected and remitted.

#### Disclosure

- All returns and return information shall be confidential, except that the names and addresses provided by a registered agent shall be disclosed to a county tax official for the limited purpose of real property tax administration.

#### Compliance with Land Use Laws

- Prior to advertising a property, the registered agent shall (1) notify the operator that the property is required to be in compliance with applicable land use laws and (2) require the operator to attest that the property is in compliance with applicable land use laws.

#### Allocation of Revenue

- Section 237D-6.5, HRS, is amended by allocating \$4,000,000 to the counties for compliance and enforcement of the tax.

First, the Department notes that, in general, permitting transient accommodations brokers to act as tax collection agents, similar to how multi-level marketing organizations may act as tax collection agents on behalf of their direct sellers, pursuant to section 237-9(e), HRS, eases the burden of reporting and remitting taxes for taxpayers and promotes efficient tax collection by easing the burden of processing, auditing, and collecting from individual taxpayers.

Second, the Department notes that in Section 2 of this bill, although section 237-\_\_\_\_(f)(2) allows return information provided by registered agents to be disclosed to county tax officials, no such exception is made in section 237-34, HRS, which makes it a class C felony for an officer or employee of the State to disclose tax return information to any person not listed in subsection (b). The Department therefore suggests that section 237-34(b), HRS, is amended by adding a new paragraph (14) as follows:

(14) With respect to returns and the names and addresses provided by a registered transient accommodations broker tax collection agent, a duly authorized county tax official for the limited purpose of real property tax administration.

Similarly, the Department suggests amending section 237D-13(a), HRS, by adding a new paragraph (13) as follows:

(13) With respect to returns and the names and addresses provided by a registered transient accommodations broker tax collection agent, a duly authorized county tax official for the limited purpose of real property tax administration.

Third, the Department recommends a technical amendment in subsection (g) of Sections 2 and 3 of the bill as follows:

The director may require [~~the~~] a transient accommodations broker [~~tax collection agent~~], as a condition of [~~obtaining a license,~~] registering as a tax collection agent, to furnish with an annual return, a list including the federal tax identification number of all operators and plan managers for the taxable year to whom the transient accommodations broker tax collection agent has provided information returns required under the Internal Revenue Code, and any other information that is relevant to ensure property payment of taxes under title 14.

Fourth, the Department notes that Section 5 of the bill allocates revenue from the transient accommodations tax to the counties “for compliance and enforcement of the tax” under chapter 237D, HRS. The counties, however, do not administer or enforce the transient accommodations tax.

Finally, if the Committee wishes to advance this measure, the Department notes that it will be able to implement the changes in this bill for tax years beginning after December 31, 2017.

Thank you for the opportunity to provide comments.



**HB1471 HD1  
RELATING TO TAXATION**

House Committee on Consumer Protection & Commerce

February 14, 2017

2:00 p.m.

Room 429

The Office of Hawaiian Affairs (OHA) Beneficiary Advocacy and Empowerment Committee will recommend that the Board of Trustees take a position of **COMMENT** on HB1471 HD1. Although HB1471 HD1 may help the state capture additional tax revenue, it may also frustrate the counties ability to meaningfully enforce pre-existing regulations on short-term vacation rentals.

Unfortunately, notwithstanding county land use ordinances that prohibit their operation in certain areas, illegal short term vacation rentals have proliferated throughout the state. Such vacation rentals may have removed much-needed units from the residential rental market, and exacerbated the rise in housing costs that now exceed what many state residents are able to afford. For example, a recent study by the Department of Business, Economic Development & Tourism (DBEDT) indicates that the recent increase in demand for single family vacation rentals has already contributed to the overall increase in demand for housing units in our islands.<sup>1</sup> An increase in short term vacation rental activity has also correlated with major drops in available residential rental listings, including those for increasingly rare single family units. Notably, the Hawai'i Tourism Authority report found 22,238 individually advertised units each day in Hawai'i for 2014—units that could otherwise provide residential housing for 117,607 individuals.<sup>2</sup> **The proliferation of unlawful vacation rentals particularly affects neighbor island communities, where more than 10% of the potential residential housing supply is advertised each day for short-term accommodations.**<sup>3</sup> Without meaningful enforcement of county land use laws, the potential impacts of illegal short term vacation rental operations on the long-term housing market will remain unaddressed. These impacts may particularly affect Native Hawaiians.

**Native Hawaiians are particularly disadvantaged by land uses that contribute to increased housing costs and rental housing shortages.** Native Hawaiians homeownership rate is significantly lower than the state average and must rely

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<sup>1</sup> See note 1, at 9.

<sup>2</sup> See INDIVIDUALLY ADVERTISED UNITS IN HAWAII'I (VACATION RENTALS) DECEMBER 2014, available at [http://www.hawaiitourismauthority.org/default/assets/File/research/accommodations%20studies/Individually%20Advertised%20Units%20in%20Hawaii%20\(Vacation%20Rentals\).pdf](http://www.hawaiitourismauthority.org/default/assets/File/research/accommodations%20studies/Individually%20Advertised%20Units%20in%20Hawaii%20(Vacation%20Rentals).pdf).

<sup>3</sup> See Id. at 4.

substantially on the rental housing market.<sup>4</sup> More than half of Native Hawaiian renters, many of whom already live in overcrowded situations, also live in homes they are struggling to afford. Furthermore, despite the fact that Native Hawaiians participate in the labor force at higher rates than the state average,<sup>5</sup> Native Hawaiians earn significantly less per capita than the average per capita income.<sup>6</sup>

**As drafted HB1471 HD1 may, albeit unintentionally, frustrate the counties ability to meaningfully enforce county land use laws relating to vacation rentals.** Instead of requiring proof of compliance or assistance with compliance, HB1471 HD1 would only require that a broker notify a vacation rental operator of the applicable county land use laws, and then require a simple attestation of compliance. As such, a broker could simply include this information as part of a long text disclosure for those signing on to use the service. HB1471 HD1 also does not include important enforcement provisions that might assist the counties in identifying those who post illegal listings or listings that commercialize public land and resources.

As it considers this measure, OHA respectfully urges the committee to include more robust enforcement language, and to continue seeking ways to better facilitate the meaningful enforcement of county land use regulations and to mitigate the impacts of unlawful short term vacation rentals on our beneficiaries and others seeking housing in our islands.

Mahalo for the opportunity to testify on this measure.

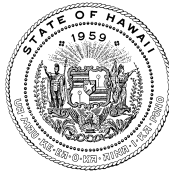
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<sup>4</sup> Out of 71,006 Native Hawaiian households, 37,562 households are owner-occupied. This figure is commonly used by most governmental agencies to represent the homeownership rate. Therefore, the homeownership rate for Native Hawaiians is 52.9% compared to the statewide average of 56.7% of households. See OFFICE OF HAWAIIAN AFFAIRS, OHA DATA BOOK HOUSING TENURE BY RACE-ETHNICITY IN HAWAII 2014, available at <http://www.ohadatabook.com/T02-131-15u.pdf>. This figure includes 8,329 DHHL residential lease "owner-occupied" property units. DHHL ANNUAL REPORT 2014, P. 48, available at <http://dhhl.hawaii.gov/wp-content/uploads/2011/11/DHHL-Annual-Report-2014-Web.pdf>. For non-DHHL properties, the Native Hawaiian homeownership rate is therefore 41.2%, 15.5 percentage points below the statewide rate.

<sup>5</sup> American Community Survey, 2013, Civilian Labor Force Datapoint, U.S. Census Bureau.

<sup>6</sup> In 2013, the per capita income for Native Hawaiians was \$9,105 less than the statewide per capita income. See OFFICE OF HAWAIIAN AFFAIRS, INCOME INEQUALITY AND NATIVE HAWAIIAN COMMUNITIES IN THE WAKE OF THE GREAT RECESSION: 2005 TO 2013 (2014) <http://www.oha.org/wp-content/uploads/2014/05/Income-Inequality-and-Native-Hawaiian-Communities-in-the-Wake-of-the-Great-Recession-2005-2013.pdf>.

DAVID Y. IGE  
GOVERNOR



WESLEY K. MACHIDA  
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DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII  
DEPARTMENT OF BUDGET AND FINANCE**

P.O. BOX 150  
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND  
MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

**WRITTEN COMMENTS**

TESTIMONY BY WESLEY K. MACHIDA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
ON  
HOUSE BILL NO. 1471, H.D. 1

**LATE**

**February 14, 2017**

**2:00 p.m.**

**Room 329**

RELATING TO TAXATION

House Bill No. 1471, H.D. 1, allows transient accommodations brokers to register as tax collection agents to collect and remit general excise and transient accommodations taxes (TAT) on behalf of operators and plan managers using their services; ensures that the subject property is in compliance with applicable land use laws; and allocates \$1,000,000 of TAT revenues to each county for FY 18. This measure will sunset on December 31, 2022.

The Department of Budget and Finance opposes the proposed amendment to Section 237D-6.5, HRS, which would allocate \$1,000,000 in TAT revenues to each county for compliance and enforcement of the TAT as these are functions of the State Department of Taxation.

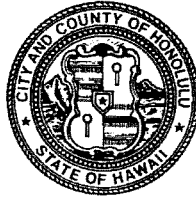
Thank you for your consideration of our comments.

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

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**LATE**

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KATHY K. SOKUGAWA  
ACTING DIRECTOR  
  
TIMOTHY F. T. HIU  
ACTING DEPUTY DIRECTOR

February 14, 2017

The Honorable Angus L. K. McKelvey, Chair  
and Members of the Committee on  
Consumer Protection and Commerce  
Hawaii House of Representatives  
Hawaii State Capitol  
415 South King Street  
Honolulu, Hawaii 96813

Dear Chair McKelvey and Committee Members:

Subject: House Bill No. 1471, HD 1  
Relating to Taxation

The Department of Planning and Permitting (DPP) **opposes, as drafted**, House Bill No. 1471, HD 1, which would allow transient accommodations brokers to register as tax collection agents to collect and remit general excise and transient accommodations taxes on behalf of operators and plan managers using their services.

We do not take a position on the means of collecting the taxes, and we support the Bill's intent to eliminate illegal short-term rentals, but we have concerns with the Bill as written.

With the popularity of transient accommodations websites, the number of transient vacation rental operators has ballooned. A report by the Hawaii Tourism Authority in 2014 showed that there were more than 4,400 units advertised on these online sites and we believe an overwhelming majority is operating without a valid permit. The DPP is charged with enforcing the county's transient vacation rental law, and we are finding it increasingly difficult to keep up with the number of illegal vacation rentals on the island.

The DPP's main concern with this Bill is the provision in Section 2, Paragraph (i), (1) and (2), which would require the operator or plan manager of the property being used for transient accommodations to attest that "the subject property is in compliance with applicable land use laws by using the following language: 'By accepting the Terms of Service, I agree and attest that I have reviewed all applicable laws and regulations and that my listing is in compliance.'"

As written, the operator or plan manager is left to basically self-certify, with no provisions for verification that he or she is in compliance with county laws. Our recommendation is that the operator or plan manager be required to obtain proof of compliance in the form of a certification document issued by the county's land use regulator. The certification can be in the form of a certificate or simply a letter of verification with a seal of the appropriate county agency. We

The Honorable Angus L. K. McKelvey, Chair  
and Members of the Committee on  
Consumer Protection and Commerce  
Hawaii House of Representatives  
House Bill No. 1471, HD 1  
February 14, 2017  
Page 2

would be happy to work with the State and registered hosting platforms in setting up this verification process.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Sokugawa". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Kathy Sokugawa  
Acting Director



The Twenty-Ninth Legislature  
Regular Session of 2017

THE HOUSE

Committee on Consumer Protection & Commerce  
Representative Angus L.K. McKelvey, Chair  
Representative Linda Ichiyama, Vice Chair  
State Capitol, Conference Room 329  
Tuesday, February 14, 2017; 2:00 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 1471 HD 1  
RELATING TO TAXATION**

The ILWU Local 142 supports H.B. 1471 HD 1, which allows transient accommodations brokers to register as a tax collection agent on behalf of all of its operators and plan managers. The bill further requires registered transient accommodations broker tax collection agent's operators and plan managers to obtain licensure. The bill also requires all registered transient accommodations broker tax collection agents to inquire and ensure that the transient accommodation is in compliance with all pertinent state and county land use laws.

H.B. 1471 HD 1 establishes a structure for a transient accommodations broker to collect GET and TAT taxes from its operators and plan managers. This would be done through a tax collection agreement or by submitting a transient accommodations broker tax collection agent registration statement to the tax director. This would assist the State by easing the burden of tax collection for the short-term rentals industry in Hawaii.

H.B. 1471 HD 1 further attempts to deal with the problem of illegal units on the market by requiring the broker to notify the operators and plan managers that the property on which the rental unit sits, must be compliant with all applicable state and county land use laws. In addition, each operator or plan manager is required to verify compliance with county land use laws in the form of a written certification, verification, or permit issued by the appropriate county agency.

H.B. 1471 HD 1 will improve the regulation of short-term rentals, vacation rentals, or bed and breakfast lodging, by (1) addressing the problem of illegal operators and plan managers, and (2) by providing additional revenues to address the many needs of our state.

The ILWU urges passage of H.B. 1471 HD 1. Thank you for the opportunity to share our views and concerns on this matter.



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February 13, 2017

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Angus I.K. McKelvey, Chair, Representative Linda Ichiyama, Vice Chair

Tuesday, February 14, 2017 at 2:00 PM  
Conference Room 329 State Capitol

Re; TESTIMONY ON BEHALF OF THE INTERNET ASSOCIATION  
RE: H.B. 1471 HD1

Dear Representatives:

I write on behalf of my client, the Internet Association. The mission of the Internet Association, whose membership includes the country's leading internet companies, is to foster innovation, promote economic growth, and empower people through the free and open internet.

I respectfully urge you to pass and approve H.B. 1471 HD1 and enact it into law.

**H.B. 1471 HD1**

H.B. 1471 HD1 is very similar to a bill which was adopted by the Legislature last year as H.B. 1850 but was vetoed by the Governor. There are many benefits to Hawai'i to be gained if H.B. 1471 HD1 becomes law.

There are also serious legal vulnerabilities the State could face if H.B. 1471 HD1 does not become law. Currently, Act 204 from the 2015 Legislative Session, is the only law which addresses the issue of regulating home sharing and the growing community of homeowners who generate supplemental income by providing their homes to transient guests. One of the expressed purposes of Act 204 is to attempt to address the substantial tax revenues which go uncollected from such transactions. However, you should be aware that significant portions of Act 204 conflict with and are likely preempted by the federal Communications Decency Act, 47 U.S.C. § 230 ("Section 230"), rendering it an unenforceable and invalid law.

H.B. 1471 HD1 addresses a number of legal issues related to Act 204 and corrects a number of the flaws contained in Act 204, thus providing substantial benefits to the State. H.B.

1471 HD1 will allow home sharing platforms to act as tax collection agents and assume full responsibility and liability for collecting general excise and transient accommodations taxes on behalf of hosts and visitors and remitting those taxes to the Department of Taxation. This is good for the State as it will generate substantial revenue that frequently goes uncollected.

Importantly, H.B. 1471 HD1 addresses and corrects a number of problems inherent with Act 204, which only recently took effect on June 30, 2016. Although the State may regulate in various areas, it must do so in a manner that does not conflict with federal law. Act 204 attempts to regulate internet platforms in an effort to address concerns regarding home sharing. However, Act 204 penalizes internet platforms for the actions of their users. This conflicts with, violates, and therefore is preempted by, Section 230. H.B. 1471 HD1 is a practical way to address these legal infirmities and effectuate the tax compliance goals of Act 204.

Section 230 is considered the cornerstone of the legal framework that has allowed the internet to thrive, and it “protects websites from liability for material posted on the website by someone else.” *Doe v. Internet Brands, Inc.*, No. 12-56638, 2016 WL 3067995, at \*3 (9th Cir. May 31, 2016). It does so through two key provisions. First, “[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” 47 U.S.C. § 230 (c)(1). Second, “[n]o liability may be imposed under any State or local law that is inconsistent with this section.” *Id.* at § 230 (e)(3). As the United States District Court for the District of Hawai‘i observed, “so long as a third party willingly provides the essential published content, the interactive service provider receives full immunity regardless of the specific editing or selection process.” *Sulla v. Horowitz*, No. CIV. 12-00449 SOM, 2012 WL 4758163, at \*2 (D. Haw. Oct. 4, 2012) (quoting *Carafano v. Metroplash.com, Inc.*, 339 F.3d 1119, 1124 (9th Cir. 2003)).

Accordingly, courts across the country have regularly found that Section 230 preempts state laws that attempt to hold websites liable for third-party content. *See, e.g., Backpage.com, LLC v. McKenna*, 881 F.Supp.2d 1262, 1273 (W.D. Wash. 2012). Section 230 also protects websites from being forced to screen or otherwise verify third-party content. *See, e.g., Doe v. Friendfinder Network, Inc.*, 540 F.Supp.2d 288, 295 (D.N.H. 2008) (“§ 230 bars the plaintiff’s claims that the defendants acted wrongfully by . . . failing to verify that a profile corresponded to the submitter’s true identity.”); *Doe v. MySpace, Inc.*, 474 F.Supp.2d 843, 850 (W.D. Tex. 2007) (Section 230 barred claims that MySpace was liable for policies relating to age verification); *Fair Hous. Council of San Fernando Valley v. Roommates.Com, LLC*, 521 F.3d 1157, 1180 (9th Cir. 2008) (“webhosts are immune from liability for . . . efforts to verify the truth of” third-party statements posted on the website); *Prickett v. InfoUSA, Inc.*, 561 F.Supp.2d 646, 651 (E.D. Tex. 2006) (“The Plaintiffs are presumably alleging that . . . the Defendant is liable for failing to verify the accuracy of the content. Any such claim by the Plaintiffs necessarily treats the Defendant as ‘publisher’ of the content and is therefore barred by § 230.”); *Mazur v. eBay Inc.*, No. C 07-3967 MHP, 2008 WL 618988, at \*9 (N.D. Cal. Mar. 4, 2008).

Significant portions of Act 204 conflict with and are likely preempted by Section 230. Specifically, Act 204 included language which provides that “[a]ny advertisement, including an online advertisement, for any transient accommodation or resort time share vacation interest, plan, or unit shall conspicuously provide” certain information, such as a registration identification number, and that failure to do so will result in “citations to any person, including operators, plan managers, and transient accommodations brokers” of up to \$500 per day, for a first violation, \$1,000 per day for a second violation, and \$5,000 per day for a third and any subsequent violation. Haw. Rev. Stat. § 237D-4(c), (d). A “transient accommodations broker” means “any person or entity, including but not limited to persons who operate online websites, online travel agencies, or online booking agencies, that offers, lists, advertises, or accepts reservations or collects whole or partial payment for transient accommodations or resort time share vacation interests, units, or plans.” Haw. Rev. Stat. § 237D-1.

Act 204 created a strict liability regime for both websites who host third-party content, as well as all platforms on which advertisers of short-term rentals might post, including newspapers such as the Honolulu Star-Advertiser, community publications, websites like Craigslist, real estate brokers’ websites, and resort timeshares in Hawai‘i such as Disney and Hilton. For example, if a third-party user fails to post any of the required information on a listing, liability would automatically attach to the website operator. As a result, the statute imposes liability on both websites and newspapers by treating them as the “publisher or speaker” of the information (or lack thereof) provided by another in direct contravention of Section 230. This impermissible conflict likely makes Act 204 unenforceable and invalid.

While Act 204 has not yet been challenged, suits have been filed over similar restrictions in other jurisdictions. If the State of Hawai‘i were to seek to enforce Act 204 against a platform like Airbnb, Expedia, VRBO or other similar website, such enforcement would be preempted by, and thus contrary to, federal law. The State would be left with a requirement to investigate every single individual operator to determine compliance, a virtually impossible task. H.B. 1471 HD1 provides a practical solution by allowing platforms to act as central agents to collect all state taxes. As such, the goals of the Legislature in passing Act 204 will not be met if H.B. 1471 HD1 does not become law, as the State has no realistic method for ensuring that the individual owners pay the appropriate tax. This could cost the State of Hawai‘i tens of millions of dollars annually.

Critics of H.B. 1471 HD1 may claim that it should not become law because there is a housing shortage in Hawai‘i and believe that home sharing takes units out of the available rental market. The housing shortage in Hawai‘i is a complex problem with many underlying causes, such as availability of land, zoning and inclusionary housing policies, employment patterns, public investment, and a number of other underlying factors. Individual home sharers and internet platforms should not be scapegoated. Instead, it is important to remember that H.B. 1471 HD1 is a State tax bill and should be considered solely on that basis. In looking at its impact, it is undisputed that H.B. 1471 HD1 will make it easier for the State to enforce Act 204 and will substantially increase the tax revenue collected.

Home sharing has been an important part of Hawai'i's economy for decades. H.B. 1471 HD1 has the potential to put Hawai'i in a better position than ever before to effectively and efficiently collect taxes from transient rentals, while reducing the potential for legal challenges regarding Act 204. The Internet Association supports H.B. 1471 HD1 and encourages you to pass the measure and enact it into law.

For the foregoing reasons, I respectfully urge that you pass and approve H.B. 1471 HD1. Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read 'David M. Louie', with a stylized flourish at the end.

DAVID M. LOUIE for  
KOBAYASHI, SUGITA & GODA



OAHU ALTERNATIVE  
LODGING ASSOCIATION  
CITIZENS FOR A SHARED ECONOMY

House of Representatives  
Consumer Protection and Commerce Committee

Tuesday, February 14, 2017, 2:00 p.m.  
Room 329

**SUPPORT: HB1471, HD1 RELATING TO TAXES**

Aloha Chair Rep. McElvy and members of the committee:

My name is Allison Pettersson, testifying on behalf of the Oahu Alternative Lodging Association (OALA). We represent operators and owners of short-term rentals on the island as well as associated members in housekeeping, gardening and other services. We are a non-profit organization that supports the responsible advancement of our island's short-term rental industry.

We strongly support HB1471, HD1. By allowing internet platforms to collect and remit GET and TAT for its users, the state will generate tens of millions of dollars in tax revenue while also ensuring all operators pay their share of taxes owed. Without a comprehensive, easy-to-use program like this, individual operators now face the complicated and daunting task of navigating Hawaii's tax codes for both GET and TAT. This is particularly challenging for the majority of short-term rental owners who only conduct the activity on an occasional basis to make ends meet.

At the same time, we recognize that many in the broader community might not have a strong understanding of the local industry and the important role it plays in our economy and the tourism sector.

**Short-Term Rentals are Vital to Hawaii's Economy**

- While visitor numbers have hit historic highs and airlift remains stronger than ever, it is important to recognize that the additional accommodations needed by these visitors is generated by short-term rentals.
- Increasingly, travelers want to live like locals and are seeking out opportunities to stay and eat in local communities – not necessarily in resorts and traditional accommodations.
- Guests at short-term rentals are more likely to spend at locally owned retail shops and restaurants, unlike other visitors who often dine and shop at resort establishments.
- A report last year from Airbnb, just the third largest travel platform in the islands, indicated their guests generated \$353 million in economic activity in Hawaii. If combined with other platforms, we might expect more than triple that figure in economic impacts from short-term rentals overall.

For these reasons, we hope that the Consumer Protection and Commerce Committee will pass this measure.



The House of Representatives  
The Twenty-Ninth Legislature  
Regular Session of 2017

To: Rep. Angus McKelvey, Chair  
Rep. Linda Ichiyama, Vice Chair

Date: February 14, 2017

Time: 2:00 p.m.

Place: Conference Room 329  
Hawaii State Capitol

**RE: House Bill 1471 HD1, Relating to Taxation**

Chair McKelvey and Members of the Committee:

*Rental By Owner Awareness Association (RBOAA) is a Hawaii non-profit corporation founded in 2011, with over 1000 members. Our mission is to provide Hawaii vacation-rental property owners with information to help them comply with the applicable State and County regulations, support the Hawaii economy by offering visitors choice in accommodation, and advocate for the rights of Hawaii vacation property owners. RBOAA members provide transient vacation rentals in full compliance with existing tax and County regulations. RBOAA fully supports enforcement of existing regulations.*

RBOAA supports proposals which assist in the collection of taxes without placing undue burden on the taxpayer or the state Department of Taxation (DoT).

While RBOAA welcomes the significant improvements made to this bill since the 2016 session, **many further improvements are necessary in order to protect consumers, travelers, vacation-rental property owners, the Counties and the State of Hawaii.** As currently drafted, this bill puts all these parties at significant risk.

The State of Hawaii is taking on responsibilities by signing this agreement

If the State of Hawaii is to entrust tax collection and remittance to a third-party corporation, the State must ensure the company has in place sufficient internal controls around record keeping, cash balances held, and protection of private information. The tax-collection agent will be holding funds on behalf of vacation-rental operators, travelers and the State of Hawaii, yet they are not banks, they are not insured by the travel industry, and may not operate under the regulations applicable to real-estate broker trust

funds. If the State of Hawaii is to entrust millions of dollars to these companies on the basis of a contract and an agreement to pay the tax-collection agent, the State is obligated to take on the requisite consumer-protection functions, including auditing the internal controls of the tax-collection agent.

The State must also ensure that funds held by the tax-collection agents are no less protected than funds held in a bank.

If the State is going to rely on the company to provide personal and tax information to the State, the State is obligated to ensure the company has adequate protection processes to secure the private information.

Who is responsible if the tax-collection agent defaults on payment? It is much easier to place a lien on a property located in Hawaii than it is to pursue legal action on a company based in another state. But the property owner will also be out of pocket if the agent defaults. The State must protect the Hawaii property owners in the event of default by their contracted tax collector.

There is a provision in this bill to allow accommodation brokers to act as tax-collection agents without signing a contract with the State. This deficiency opens the system up to significant risk of fraud and abuse.

#### Opt-Out Provision is Necessary

Many operators have been successfully collecting and remitting tax to the State of Hawaii for many years. Those operators should have the ability to opt out of the tax-collection agent program and continue to deal directly with the State of Hawaii. Not only do they fear being charged high fees for the tax-collection service, they don't want the advertising platform to hold their cash for long periods of time. (In Hawaii, unlike San Francisco, most bookings are made a year in advance.)

The DoT knows which operators are in compliance with TAT and GET filings and could issue tax certificates to those operators. The DoT is further protected by the right to request and receive 1099K and 1042S reports from the tax-collection agents. (Vacation-rental-operator GET and TAT numbers are cross-referenced to the respective federal tax identification numbers.) The bill already acknowledges that not all bookings are done through the advertising platforms, so the opt-out amendment is not a significant change to the bill as there is already provision for operators to self-report.

The benefit to the State of allowing operators to opt out of the tax collection agent program is that by not requiring operators to be part of the program, the consumer-protection requirements noted above are reduced.

#### Enforcement of County Zoning Compliance

The Counties will validly testify that the attestation requirement is not sufficient evidence to ensure compliance with County land-use regulations. Requiring the tax-collection agents to provide names and addresses to the Counties is a positive step to strengthening





enforcement of land-use regulations. RBOAA hopes the Counties will utilize that information when received.

The bill provides that the tax-collection agent provides “returns, names and addresses” to the Counties. The Counties do not need tax-return information. More importantly, under US tax law, the Counties are not permitted access to tax-return information. Only the Hawaii Department of Taxation and the IRS are permitted that information.

RBOAA **OPPOSES** the bill as drafted, and respectfully requests that **six amendments** be made:

Add wording stating:

1. “The tax-collection agent shall permit and facilitate an annual audit of its internal controls. The audit shall be designed and conducted by the Office of the Auditor of the State of Hawaii. The Office of the Auditor, at its sole discretion, may accept an audit report of internal controls conducted by an independent third party. Further, the tax-collection agent shall comply with all recommendations and address all deficiencies identified in the report of the Office of the Auditor as a condition of retaining the license as a tax-collection agent.”
2. “Upon presentation of a tax certificate issued by the Hawaii Department of Taxation, the advertising platform shall permit any operator to opt out of the tax collection agent program. The operator will then be solely responsible for collecting and remitting all applicable taxes and filing all required tax returns.”
3. “No transient accommodation broker, acting as a tax-collection agent, may charge a fee to an operator for providing the tax-collection service when the tax collection agent is paid by the State of Hawaii for the tax-collection service.”
4. “The tax-collection agent shall notify all operators and plan managers of all information provided to the Director and the County Tax Official.”

Delete the word “**not**” from the following clause:

5. Execution of a tax-collection agreement shall **[not]** be a requirement for registration as a transient-accommodations broker tax-collection agent

Delete the words “**returns and**” from the following clause (237- f(2)):

6. All **[returns and]** the names and addresses provided by a registered transient-accommodations broker tax-collection agent shall be disclosed to a duly authorized County tax official for the limited purpose of real-property tax administration.

Thank you for the opportunity to testify on this measure.

Sincerely,

Neal Halstead  
President, Rental by Owner Awareness Association

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, TRANSIENT ACCOMMODATIONS, Transient Accommodations Brokers as Tax Collection Agents

BILL NUMBER: HB 1471, HD-1

INTRODUCED BY: House Committee on Tourism

EXECUTIVE SUMMARY: Allows a transient accommodations broker to serve as a collection agent for general excise and transient accommodations taxes. This type of arrangement would probably enhance collection of taxes because of the difficulty of policing individual owners.

BRIEF SUMMARY: Adds a new section each to HRS chapter 237 and chapter 237D allowing the director of taxation to permit a transient accommodations broker to register as a tax collection agent on behalf of all of its operators and plan managers. Defines “operator,” “plan manager,” and “transient accommodations broker” the same as in the TAT law.

Upon successful registration as a tax collection agent, the broker shall report, and collect, and pay over the tax due on behalf of all of its operators and plan managers as it relates to activity booked through the broker. Registration does not relieve the broker from any of its own tax obligations, and the operators and plan managers are not protected as to any business activity other than that booked through the broker.

A registered broker shall be issued separate licenses with respect to taxes payable on behalf of its operators and plan managers in its capacity as a registered transient accommodations broker tax collection agent and, if applicable, with respect to any taxes payable under this chapter for its own business activities. The broker is to file periodic returns reporting income and exemptions as collection agent separately from its own business activity.

A broker may cancel its registration by delivering a written cancellation notice to the department and its customers; the cancellation will be effective no earlier than 90 days after delivery of the notice. The department may also cancel a registration for any cause, including violations of the tax laws or a breach of the registration agreement.

Provides that returns filed on behalf of an operator are confidential tax returns, except that they shall be disclosed to a duly authorized county tax official for the limited purpose of real property tax administration.

All brokers shall (1) prior to advertising on behalf of an operator or plan manager, notify the operator or plan manager that the subject property is required to be in compliance with applicable land use laws prior to retaining the services of the broker; and (2) require the operator or plan manager to attest that the subject property is in compliance with applicable land use laws by using the following language: "By accepting the Terms of Service, I agree and attest that I have reviewed all applicable laws and regulations and that my listing is in compliance."

Amends HRS section 237-30.5, relating to rental collection agents, and section 237D-8.5, relating to collecting TAT for the same residents, to clarify that those provisions do not apply to registered transient accommodation brokers.

Makes a conforming amendment to HRS section 237D-4(c).

Amends HRS section 237D-6.5 to allocate an additional \$1 million to each county for compliance and enforcement of the tax.

EFFECTIVE DATE: Takes effect on July 1, 2117, and applies to taxable years beginning after December 31, 2017. Repealed on December 31, 2022.

STAFF COMMENTS: Act 143, SLH 1998, amended HRS section 237-9 to allow multi-level marketing companies to act as agents to collect and pay over GET on behalf of their independent entrepreneurs. At the time, it was considered beneficial for the marketing companies to collect and pay over tax as opposed to having the Department of Taxation chase down a myriad of independent owners with varying degrees of tax compliance among them.

This bill presents an opportunity for the same logic and policy considerations to apply to transient vacation rental (TVR) activity operating through transient accommodation brokers such as AirBnB, Flipkey, Homeaway, and VRBO, except that the stakes may be a little higher because TAT as well as GET is being collected. This bill would appear to be necessary or desirable to enhance the Department's collection ability given the limited resources available for all of state government including the Department.

TVR activity is a business and the dollars earned in that business are subject to Hawaii state taxes. Specifically, General Excise Tax (GET) and Transient Accommodations Tax (TAT) both apply, so those hosts that are in this business need to register appropriately and pay these taxes. But alas, not everyone does. So the bill proposes to allow the broker to register with the Department of Taxation and to remit the GET and TAT to the State on behalf of the hosts. Once registered, any time a host earns money on the broker's platform, the broker will pay the taxes and will pay over the balance to the host. The concept is like withholding, with which those of us who receive a paycheck are quite familiar: we work for an employer, the employer pays us our wages, but the employer deducts some taxes and pays them to the Department of Taxation and IRS.

A similar measure, HB 1850 (2016), passed last year but was vetoed by Governor Ige. The principal objection concerns county-level restrictions on property use. Some TVR activity violates county zoning laws. Some counties, as well as neighboring residents, see withholding as described in this bill as enabling hosts to hide illegal activities from county law enforcement. Some people have gone further. They blame TVR hosts for wrecking the sanctity of neighborhoods with an unending stream of tourists or for yanking housing units off the market in the name of greed, resulting in stratospheric housing prices that are yet another crippling blow to hardworking families struggling to make ends meet. Then, they turn to the brokers and demand that the brokers stop encouraging and facilitating such illegal, anti-societal, and morally depraved activity.

But do we really want a withholding agent to be our brother's keeper? Is it right to ask our employers to call up our banks and credit card companies to see if we are current on our mortgage and paying our bills on time? If we aren't timely or break the law, should we blame our employers for facilitating illegal or immoral activity by paying us our wages (after the tax authorities have, of course, gotten their share) instead of first making sure that those monies are applied to payment of our debts?

At some point, we need to recognize that TVR hosts, like most employees, are adults. They have chosen to go into business, and they are responsible for running their business and all that it entails. They, as the property owners, are answerable to the counties for the use or misuse of those properties. Certainly, the brokers need to be aware of and compliant with laws that pertain to their business if they are going to be doing business here. But it seems a bit much to ask the brokers to be policemen for the counties when the counties, for whatever reason, can't or won't enforce their own zoning laws.

Ultimate responsibility as to both State tax and county zoning laws rests with the owners of the accommodations, not the broker. This bill requires the broker to inform the owner or plan manager about county level compliance, and requires the owner or plan manager to attest to that compliance. In fact, owners may be in varying degrees of compliance with the zoning laws just as they are in varying degrees of compliance with the tax laws. The broker is not in an efficient position to police the former, but effectively can do something about the latter because money from the transient guests flows through the broker's system. That is all this bill tries to address.

Digested 2/12/2017



COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
Rep. Angus L.K. McKelvey, Chair; Rep. Linda Ichiyama, Vice Chair

**LATE**

Rep. Henry J.C. Aquino  
Rep. Chris Todd  
Rep. Ken Ito  
Rep. Ryan I. Yamane

Rep. Calvin K.Y. Say  
Rep. Beth Fukumoto  
Rep. Gregg Takayama

Tuesday, February 14th, 2017 2:00 PM  
House Conference Room 329 State Capitol

**TESTIMONY ON BEHALF OF AIRBNB RE: [HB1471 HD 1](#)**

Dear Chair McKelvey, Vice Chair Ichiyama, and Members of the Committee:

I write in support of HB1471 HD 1.

This bill is nearly identical to that which was adopted by the Legislature last year as HB1850 but vetoed by the Governor, with the addition of an allocation of some of the proceeds going to County government. The bill before this committee would enable Airbnb and similar platforms to collect and remit Transient Accommodations Tax (TAT) and General Excise Tax (GET) on behalf of our host communities.

Hawaii has a vibrant Airbnb community of responsible hosts and guests. Home sharing is an increasingly popular accommodations option, and the significant benefits it provides to both local businesses and thousands of local residents by generating supplemental income highlight the importance of this emerging economic sector. Airbnb's mission is to democratize travel by allowing anyone to belong anywhere. We make this happen through our people-to-people platform that connects hosts and guests in 191 countries and 50,000 cities around the world.

Currently, Airbnb and similar platforms are neither allowed nor legally obligated to collect and remit these taxes on behalf of their hosts in Hawaii. Airbnb voluntarily stepped forward to support this legislation.

HB1471 would enable Airbnb to ensure full tax compliance and maximum tax revenue collection on all bookings conducted through our platform. It would also simplify administration for both the Department of Taxation and our host community and reduce the State of Hawaii's enforcement burden in ensuring tax compliance. Airbnb first began collecting and remitting hotel and tourist taxes from guests on behalf of hosts in San Francisco and Portland in 2014. We are now successfully collecting and remitting taxes in more than 220 jurisdictions across the world, including San Francisco, Los Angeles, Amsterdam, Chicago, Malibu, Oakland, Washington D.C., Palo Alto, Paris, Philadelphia, San Diego, San Jose, and nearly 20 states, including Washington, Colorado, Oregon, Connecticut, North and South Carolina, Vermont, Florida, and

Arizona. Attached is a study we conducted this year that discusses how much revenue we have generated globally for jurisdictions with whom we have reached an agreement.

When we were before the Legislature last year, we noted that if we had been allowed to collect taxes on behalf of our host community we would have remitted to the state approximately \$15 million in 2015. Today I can share with you that if we had been allowed to collect taxes on behalf of our host community in 2016, we would have remitted \$26 million. Combined over the year two period, we would have remitted more than \$40 million to Hawaii. We want to pay taxes, we believe that there is value to this to all parties, and we hope you will agree with us and adopt legislation allowing us to do it this year.

I would also like to share an additional statistic with the committee that is worth noting. While use of Airbnb in Hawaii is robust, it is also a favorite of Hawaii residents. In 2016 alone, Hawaii residents used Airbnb to travel more than 110,000 times including more than 11,000 inter-island trips within the state. Put simply, Hawaii residents like to use Airbnb, both to host guests and to travel themselves.

Let me transition to some concerns that critics raised about short term rentals and the potential impact on on housing affordability. We commissioned a housing impact study by respected Hawaii housing analyst Paul Ricky Cassidy. The study showed that Airbnb has no material impact on the Hawaii housing market, representing only 1.5% of the Hawaii housing stock. Of all the “entire home” listings on Airbnb, the majority (61%) are rented fewer than 60 days a year, and the vast majority (88%) are rented fewer than 180 days a year.<sup>1</sup> This indicates most of these units are otherwise used by owners and would not be on the long term market, with or without Airbnb. In fact, the study showed that for many Hawaii residents, Airbnb is a valuable tool that makes their housing *more* affordable. Additionally, 65% percent of Hawaii hosts have told us that the additional income they get from hosting helps them stay in their homes and 21% said that it helped them to avoid eviction or foreclosure. The average host earned \$9,000 last year, the equivalent of a 12% raise to the median household income in Hawaii. The fastest growing demographic of Hawaii hosts is women over 60. Local businesses and jobs are also supported by Airbnb visitors. Joe Toy, in a study conducted last year, found that Airbnb visitors spent more per day than guests of any other accommodations category in Hawaii, contributing a total of \$353 million to the state economy in 2015.

Next, during the last session opponents alleged that the legislation would not ensure proper accountability. The Department of Taxation (DOTAX) addressed this issue by stating the following: “Auditing [under the bill] is actually made simpler as there is only one source to request documentation to initiate an audit.” Under HB1471, Airbnb would register as the single taxpayer, assuming full responsibility with respect to applicable taxes on its platform and using its tax ID number to meet Act 204’s posting requirement. The bill would actually give greater

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<sup>1</sup> The study’s findings are specific only to Airbnb because Airbnb could only provide Mr. Cassidy with access it its own data.

transparency and create new enforcement tools for the state it would not otherwise have. For example, it gives DOTAX authority to obtain names and federal tax ID numbers of platform users, as well as the ability to audit the platform and administratively subpoena other user information for enforcement purposes.

Others have alleged this bill would somehow shield users from county land use enforcement, thus interfering with the intent of Act 204. This is patently false. HB1471 is a tax bill designed to allow Airbnb to help its community pay its fair share of taxes. The legislative history of Act 204 demonstrates that the purpose of the law was ensuring tax assessment and payment, not DOTAX's enforcement of county land use laws. Tax payment does not impact a user's county land use liability. Moreover, taxpayer information is already confidential under state law.

As we move forward, we are 100% committed to working with local leaders on common sense rules for home sharing. We are confident that we can work together on sensible and modern regulations that reflect the new economy, facilitate compliance, and make local communities stronger.

We remain committed to partner with the state and local governments. We are hopeful that you will adopt HB1471 that will allow our hosts to pay their fair share of taxes. At the same time we are committed to working with all interested parties to make home sharing work for local communities and our hosts to the benefit of everyone.

Regards,

A handwritten signature in black ink, appearing to read 'Matt Middlebrook', with a long horizontal flourish extending to the right.

Matt Middlebrook  
Public Policy Manager





# Airbnb: Generating \$2.5 Billion in Potential Tax Revenue for America's Cities



## Introduction

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Airbnb is a people-to-people platform—of the people, by the people and for the people—that was created during the Great Recession to help people around the world use what is typically their greatest expense, their home, to generate supplemental income. Today, Airbnb is the world’s leading community-driven hospitality company, with over 3 million listings in 50,000 cities and more than 190 countries across the globe, and our online platform is:

- Democratizing travel by helping everyday people visit places they might have missed, including places they otherwise could not afford.
- Democratizing capitalism by expanding the economic pie for ordinary people, allowing them to use their home to help pay for costs like food, rent, and their children’s education.
- Democratizing revenue by generating new tax dollars for governments all over the world.

In 2015, Airbnb launched the Community Compact, a document based on our core principles that guides how we partner with cities. In 2016, we released the new Airbnb Policy Tool Chest, a resource informed by hundreds of successful discussions with local policymakers for use by other governments that likewise want to smartly regulate the sharing economy.

In early 2016, our team visited the U.S. Conference of Mayors annual meeting and urged communities to work with us to collect more tax revenue from the Airbnb community. As Airbnb’s Head of Global Policy and Communications Chris Lehane said at that meeting:



**Read my lips: we want to pay taxes.”**

Since that time, we have continued to expand our programs to collect and remit hotel, occupancy, and tourist taxes on behalf of our hosts and guests. This report updates information we released in 2016 and offers new data regarding the tax revenue opportunity Airbnb presents to cities in the United States, while demonstrating how Airbnb strengthens city economies. The report also discusses how cities that are already collecting this tax revenue are using it to support a range of progressive programs and services.

## Summary of key findings

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Airbnb has already remitted \$175 million in hotel, tourist and occupancy taxes to more than 220 cities and communities around the world—up from \$42.6 million in taxes remitted in 20 cities as of our report in January 2016.

By partnering with Airbnb to create clear tax rules for home sharing, the 50 largest cities in the United States could have collected a total of \$250 million in hotel, tourist and occupancy taxes from Airbnb in 2016—up from \$200 million estimated for 2015 due to the growth of our community in these cities.

The Airbnb community is growing incredibly fast, and more and more travelers are using Airbnb to see the world. But even in the extremely unlikely event that the Airbnb community remains static at its current size, this would represent a total of \$2.5 billion over 10 years in tax revenue for the 50 largest cities in the United States.

Communities that are collecting tax revenue from the Airbnb community are using the resources to support a range of progressive programs and services, including aid for the homeless and new housing construction.

## The Airbnb community strengthens cities

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Across the United States, the Airbnb community is making cities stronger and generating much needed revenue for families and communities. While governments are debating the best way to support the middle class, Airbnb is generating real money for families right now. The typical host in the United States earns \$6,100 every year. There's no other government or private sector program we know of that's putting a 14 percent raise in middle-class families' pockets.

Most hosts earn this significant economic boost by occasionally sharing the home in which they live. The typical host in the United States shares their listing 39 days per year. Their guests are visiting neighborhoods and local businesses that haven't benefited from tourism in the past. Historically underserved neighborhoods are among the fastest growing part of our host community. In New York City's 50 majority-minority zip codes, we have seen year-over-year growth of over 70 percent and in most cities, over 75 percent of Airbnb listings are outside the main hotel districts.

Travelers go on to spend their dollars in these communities: typically, up to 50 percent of Airbnb guest spending occurs in the neighborhoods where they stay. For example, the Airbnb community generated \$12 million in economic activity in Queens, New York, in one year. In San

Francisco, Airbnb guests spent \$4.4 million at shops and restaurants in the Inner and Outer Sunset. And data shows that Airbnb guests stay longer and spend more money in the communities they visit than a typical hotel guest: 31 percent of the people who travel on Airbnb say they would have stayed home or wouldn't have stayed as long but for Airbnb.

Additionally, more of this spending goes directly to the citizens of the city they're visiting: Airbnb hosts keep 97 percent of what they charge for their listing. According to The Economist, hotels spend just 30 to 35 percent of their revenue on local labor<sup>1</sup>.

We have issued detailed reports outlining the Airbnb community's substantial positive economic impact in Chicago, Washington, D.C., New Orleans, and Austin, and recent estimates indicate that the Airbnb community will continue to generate substantial economic activity.

City	Estimated Airbnb economic impact
New York City	Over \$1.7 billion
Los Angeles	Over \$600 million
San Francisco	Over \$500 million

## Airbnb is committed to partnering with cities

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Airbnb first began collecting and remitting these taxes in San Francisco and Portland in 2014. Since then, we have worked together with forward-thinking authorities on similar initiatives in cities and jurisdictions around the globe, including:

- Ajaccio, France
- Amsterdam
- Alabama
- Anchorage, AK
- Annecy, France
- Antibes, France
- Arizona
- Avignon, France
- Biarritz, France
- Boulder, CO
- Bordeaux, France
- Cannes, France
- Chamonix-Mont-Blanc, France
- Cleveland, Cuyahoga County, Ohio
- Colorado Springs, CO
- Connecticut
- District of Columbia
- Florida (as well as over 35 individual county tax authorities in Florida)
- Humboldt County, CA
- Idaho

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<sup>1</sup><http://www.economist.com/news/finance-and-economics/21685502-services-airbnb-are-altering-economics-hotel-business-buffetts>

- Illinois and Chicago, IL
- India
- Jersey City, NJ
- Kansas
- La Rochelle, France
- Lille, France
- Lisbon, Portugal
- Louisiana
- Los Angeles, CA
- Lyon, France
- Malibu, CA
- Marseille, France
- Montgomery County, MD
- Montpellier, France
- Nantes, France
- New Orleans, LA
- Nice, France
- North Carolina (as well as 150 individual local tax jurisdictions in North Carolina)
- Oakland, CA
- Oregon
- Palo Alto, CA
- Paris, France
- Pennsylvania and Philadelphia, PA
- Phoenix, AZ
- Portland, OR
- Reno, NV
- Rhode Island
- Saint-Malo, France
- San Diego, CA
- San Francisco, CA
- San Jose, CA
- Santa Clara, CA
- Santa Cruz County, CA
- Santa Fe, NM
- Santa Monica, CA
- South Carolina
- Strasbourg, France
- Taos, NM
- Toulouse, France
- Utah
- Vermont
- Washington State

These taxes can be a significant source of revenue for city governments. All told, the Airbnb community has contributed \$175 million in additional tax revenue to the more than 220 jurisdictions where we have launched this initiative.

Much of this tax revenue has been collected through the establishment of Voluntary Collection Agreements (VCAs). Because collecting and remitting taxes can be a challenge for the regular people who host through Airbnb, Airbnb developed a tool, the VCA, to ensure that proper taxes are collected and remitted while relieving hosts of onerous tax filings and governments of the burden of collection and enforcement. When a jurisdiction signs a VCA with Airbnb, we collect appropriate local taxes from guests as part of their booking transactions and remit the tax revenue directly to the proper tax administrator on behalf of hosts.

# Contributing an additional \$2.5 billion in tax revenue

This tax initiative could generate substantial revenue that some cities may not be collecting today. We are eager to partner with more U.S. cities to establish this initiative and help make the most of this new economic opportunity.

This chart outlines tax revenue Airbnb has generated for a series of select cities in 2016:

City	Total taxes city collected in 2016 by partnering with Airbnb <i>(does not include any county- or state-level taxes that may apply)</i>
San Francisco, CA	\$19 million
Los Angeles, CA	\$13 million (began collecting 8/1/2016)
San Diego, CA	\$7 million
Portland, OR	\$4 million
Chicago, IL	\$3 million

According to our analysis of Airbnb booking data and local tax policies, by partnering with Airbnb to create clear tax rules for home sharing, the 50 largest U.S. cities would have collected a total of \$250 million in hotel, tourist and occupancy taxes from Airbnb in 2016. The chart below outlines a rough estimate of the amount of revenue selected cities could have collected in 2016:

City	Rough estimate of amount in hotel, tourist and occupancy tax a city could have collected in 2016 by partnering with Airbnb <i>(does not include any county- or state-level taxes that may apply)</i>
Austin, TX	\$6 million
Boston, MA	\$4 million
Denver, CO	\$4 million
Nashville, TN	\$3 million
Las Vegas, NV	\$3 million

Markets are always fluid and economics can change over time. The Airbnb community is growing incredibly fast, and more and more travelers are using Airbnb to see the world. But even in the extremely unlikely event that the Airbnb community remains static at its current size, this would represent a total of **\$2.5 billion over 10 years** in additional tax revenue for the 50 largest cities in the United States. The chart below outlines a rough estimate of the amount of revenue selected cities could collect over 10 years:

City	Rough estimate of amount in hotel, tourist and occupancy tax that city could collect over coming decade by partnering with Airbnb
Austin, TX	\$60 million over 10 years
Boston, MA	\$40 million over 10 years
Denver, CO	\$40 million over 10 years
Nashville, TN	\$30 million over 10 years
Las Vegas, NV	\$30 million over 10 years

## Supporting progressive policies and programs

The new tax revenue has the potential to support a range of progressive policies and services and many communities already have worked to put these resources to good use.

In Chicago for example, a portion of the new revenue is going to support affordable housing and aid for the homeless, funding supportive services attached to permanent housing for homeless families.

In Los Angeles, a voluntary collection agreement (VCA) was executed in August 2016 and has generated significantly more revenue for the city than anticipated. Mayor Eric Garcetti has expressed that the city plans to use this money in part to help with their serious homelessness problem via affordable and low-income housing initiatives. A vast majority of the funds collected so far have been used for “rapid rehousing” programs for the homeless.

In Portland, Airbnb tax revenue has been dedicated to the city’s Housing Investment Fund, which was used to secure an affordable housing bond.

Some governments have considered using these resources to support tourism. In both France

and Florida, tax dollars collected from Airbnb are supporting destination-marketing efforts and tourism infrastructure.

## Working together to deliver more revenue to more cities

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Airbnb works to implement these tax programs in partnership with cities, but even with our team working to expand this initiative, figuring out how the different tax rules apply can be a challenge and putting this program in place isn't a matter of merely flipping a switch. In a limited number of jurisdictions including New York and Hawaii, existing laws limit Airbnb's and local tax collectors ability to enter into a tax agreement. We encourage governments to lift these restrictions. We are also reaching out to city and state leaders and are eager to work with them to expand this program. Community leaders interested in working with Airbnb to implement this initiative in their hometown can reach out to Airbnb by emailing [taxfacts@airbnb.com](mailto:taxfacts@airbnb.com).

We look forward to working with city officials to establish programs for collecting and remitting tourist taxes, helping them realize the economic benefits of home sharing, and strengthening the cities and communities that Airbnb hosts call home.



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**Ricky Cassidy**  
rcassiday@me.com

# Airbnb & Hawaii Housing

January 9th, 2017

## OVERVIEW

Paul Richard Kauanahoakalani Cassidy Jr. (Ricky), a researcher who specializes in analyzing residential real estate markets, was retained by Airbnb to examine the potential impact of short-term rentals and home sharing on the Hawaii housing market.

This report dovetails with Cassidy's extensive work on affordable housing for the Hawaii Housing Finance & Development Corporation and the Hawaii Department of Health Services, as well as the City and County of Honolulu, Maui County, Hawaii County, and Kauai County, the Department of Hawaiian Homelands and the Office of Hawaiian Affairs.

For purposes of the analysis, Airbnb provided zip code-level listing and booking data for Hawaii for the 12 month period ending October 1st, 2016. This data was directly compared with other housing data, including that of the U.S. Census Bureau, City and County of Honolulu, the state Bureau of Conveyances, the Realtor's Multiple Listing Service, and the Craigslist listing data base.

## EXECUTIVE SUMMARY

1. **Airbnb's activity in the state is so small that it has no material impact on the availability of housing for local families.** Airbnb entire home listings represent a miniscule percentage of Hawaii's housing stock, and they are largely studio and one bedroom apartments in multi-unit buildings in traditional tourist areas. These units are often built as second homes for owners that live in them for only part of the year, and would not otherwise be on the long-term housing market. Many units are also primary residences rented only on an occasional basis. The vast majority of entire home listings are booked fewer than 180 days a year, suggesting these listings are being used otherwise, and would not be available for a long-term tenant.
  - a. In the State of Hawaii, there were **8,134 entire home listings on Airbnb** with at least one booking during this time period, **representing 1.53% of the statewide housing stock**. More than 61% of those listings were only rented infrequently

(less than 60 days per year). Only 949 of those units (0.18% of housing stock, or less than 1/5 of 1%) were rented more than 180 days.

- b. On Oahu, there were **3,185 booked entire home listings representing 0.93% of Oahu housing stock**. More than 52% of those listings were only rented infrequently (less than 60 days per year). 83% of those Airbnb listings were rented between 1 and 180 days per year. Only 550 listings, or 0.16% of total housing stock, were rented more than 180 days per year.
  - c. Maui had **2,383 entire home listings** with at least one booking during this time period, representing 3.3% of Maui housing stock. However, only 173 of those units (0.24% of housing stock) were rented more than 180 days. More than 68% were rented infrequently (less than days per year).
  - d. Hawaii Island had **1,827 entire home listings** with at least one booking during this time period, **representing 2.21% of Hawaii Island housing stock**. However, only 129 of those units (0.15% of housing stock) were rented more than 180 days. Nearly 66% were only rented infrequently (less than 60 days per year).
  - e. Kauai had **739 entire home listings** with at least one booking during this time period, **representing 2.42% of Kauai housing stock**. However, only 97 of those units (0.32% of housing stock) were rented more than 180 days. Nearly 65% were only rented infrequently (less than 60 days per year).
2. **Housing availability and affordability is not impacted by these very small number of short-term rentals, but instead by complex housing market regulations, conditions, and interactions.** These factors include zoning laws, mainland and foreign direct investment, limited supply, lack of public investment, policy, economic opportunity, lack of infrastructure, cost of production, and other dynamics.
- a. At a fundamental level, **housing demand is growing much faster than supply:** Honolulu gains 1,300 new households per year, yet only builds 970 new housing units. The projected three-year outlook shows this disparity growing, with household growth increasing to 1,475 families per year.<sup>1</sup> A study from the state's Department of Business, Economic Development & Tourism on housing for 2015-2025 projects a demand for housing units up to 66,000 over this 10-year period.<sup>2</sup>

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<sup>1</sup> [https://www.huduser.gov/publications/pdf/HonoluluHI\\_comp.pdf](https://www.huduser.gov/publications/pdf/HonoluluHI_comp.pdf)

<sup>2</sup> <http://files.hawaii.gov>

- b. Honolulu has far more regulation of residential development than any other US metropolitan area. **An index measuring land use regulation in U.S. cities—the Wharton Residential Land Use Regulatory Index— ranks Honolulu as the most regulated U.S. city.**<sup>3</sup> Its high score stems from multiple layers of rigorous, lengthy review by both state and county governments for all new development projects. This impedes development of new supply and drives up housing prices.
3. **Vacation rentals have been a part of the Hawaii housing stock for decades.** Census data shows a relatively static proportion of the Hawaii housing stock has been historically dedicated to vacation rentals. The market entry of Airbnb in 2008 did not result in a correlating spike in vacation rental inventory, or a correlating loss in long-term rental housing. Instead, the existing alternative accommodations inventory was redistributed across the platforms/intermediaries.
  - a. Between 2009 and 2014, the number of vacation rentals in Hawaii grew by a maximum of 4% each year, while the number of Airbnb booked entire home listings increased by an annual average of over 100%.
  - b. Airbnb listings are primarily concentrated in traditional tourist destination areas, so it is unlikely they were units converted for short-term use from units that were part of the long-term affordable housing stock. Only 550 Airbnb entire home listings on Oahu were rented over 180 days. Of those, nearly 60% were located in Waikiki (many are former hotel buildings that obsolesced from their original purpose of accommodating visitors).
4. **Overregulation of short-term rentals and home stays could have a net negative impact on the economy and housing affordability.** According to the State Department of Business, Economic Development & Tourism, 31.7% of Hawaii households with mortgages and 48% of Hawaii renter households are housing cost-burdened.<sup>4</sup> The opportunity to generate additional household income from existing assets would have a tangible positive financial impact. Therefore, an immaterial impact on the long-term rental market from home sharing should be balanced against the number of local families who derive income from the practice and are able to achieve affordability.
  - a. In many cases, Airbnb income provides economic stability for people to stay in their homes: in a 2016 Airbnb survey, **65% of Oahu hosts said that income from**

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<sup>3</sup> [http://www.uhero.hawaii.edu/assets/LaCroix-Land\\_Housing.1.27.pdf](http://www.uhero.hawaii.edu/assets/LaCroix-Land_Housing.1.27.pdf)

<sup>4</sup> DBET Research and Economic Analysis, 2014, <http://dbedt.hawaii.gov/economic/ranks/>

**Airbnb helped them afford to stay in their home, and 21% said the income they earned on Airbnb helped them avoid eviction or foreclosure.**

- b. Restricting home sharing, therefore, could create more Hawaii households that are housing cost-burdened. Similarly, enabling accessory dwelling unit (ADU) construction and short-term rental of these units unlocks rental income opportunities for homeowners and promotes affordability by creating both new housing supply and new income streams.
- c. Households who occasionally rent their home on Airbnb can significantly supplement their income: **a typical Airbnb listing in Hawaii earns close to \$9,000 in a year, equivalent to a 12% raise for the local median household.** Restricting the ability for people to home share would decrease income and hurt the livelihood of these casual hosts, and could extinguish what could one day be an important financial safety net in Hawaii. In a state-funded effort to keep families in their homes, Aloha United Way found that a one-time payment of only \$1,046,<sup>5</sup> on average, was enough to keep at-risk families from becoming homeless. This amount could be quickly earned by renting a home when unused, and survey data suggests that residents are using the service in such a way.
- d. Furthermore, overregulation may have an adverse effect on the economy. According to an earlier study by Hospitality Advisors,<sup>6</sup> **Airbnb guests contributed \$353 million to Hawaii's economy in 2015.**
- e. Nevertheless, the short-term rental industry should be subject to reasonable regulation. Hawaii's short-term rental regulations are outdated and in need of modernization to reflect changing technology and evolving travel and economic trends. Updated short-term rental regulations should follow best practices implemented by other governments, including: distinguishing between the local resident that rents his or her home out occasionally to supplement income and the dedicated commercial operator; requiring minimum insurance coverage and smoke and carbon monoxide alarms; and ensuring short-term rental platforms are paying requisite taxes.

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<sup>5</sup><https://www.auw.org/more-families-risk-homelessness-expected-dan-nakaso-honolulu-star-advertiser>

<sup>6</sup> <http://www.bizjournals.com/pacific/news/2016/05/03/airbnb-visitors-spent-353m-in-hawaii-in-2015.html>

## EXISTING HOUSING MARKET CONDITIONS

At a fundamental level, housing demand in Hawaii is growing much faster than supply.

**Honolulu gains 1,300 new households per year, yet only builds 970 new housing units.** The projected three-year outlook shows this mismatch being exacerbated, with household growth increasing to 1,475 families per year.<sup>7</sup> DBEDT's study of housing for 2015 -2025 projects a demand for housing units up to 66,000 over this 10-year period). Indeed, the Hawaii real estate market has been and remains characterized by tight supply and high demand – and, because of this, Hawaii median house prices have been about three times U.S. mainland median prices. As strong demand leaks from outside the islands, the market has and will experience volatility upwards. Unlike most residential markets, this offshore demand is both for short and long-term stays (vacations, second-home ownership and permanent relocations). Simply put, the high quality of life, especially in comparison with other locations, is the foundation of this strong demand from current residents, tourists, investors, short-term migrants, and long-term immigrants.

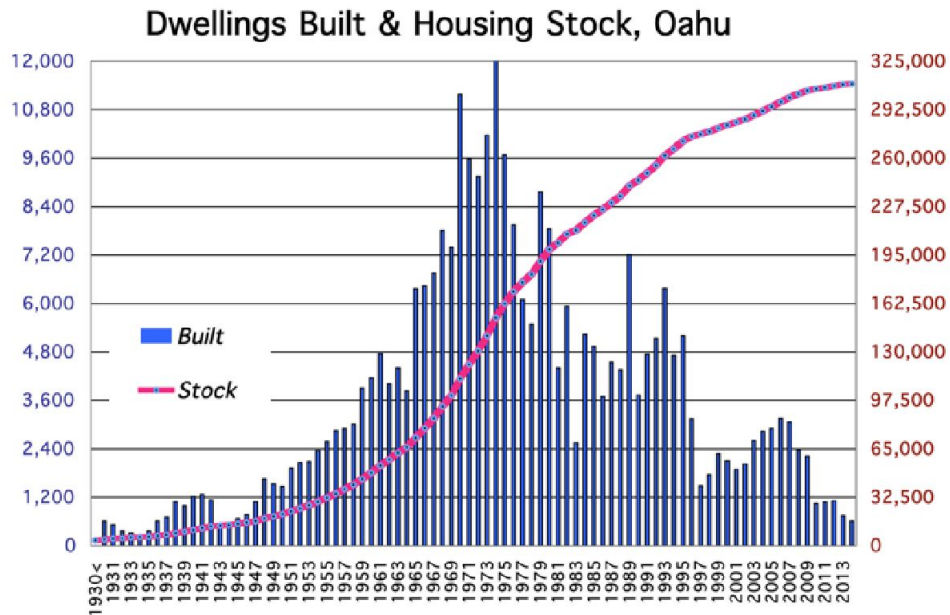
Hawaii's quality of life is its global economic comparative advantage. One manifestation is the large size and high quality of its visitor industry. Another is its growing residential population. A third is its large second home industry. A fourth is the large military population (Hawaii is home to more US servicemen than any other location globally, save Okinawa), though this is driven by strategic positioning and global politics. This advantage is based on a unique combination of attributes, which include temperate climate, beautiful surroundings, accommodating society and culture, the safety of American jurisprudence and security of a dollar-denominated economy.

The housing development process in Hawaii and Oahu is extremely restrictive: it is costly, time-consuming, and politically and economically uncertain. The cost is high because land is limited, rugged and isolated, labor is in short supply, a long supply chain and expensive warehousing drive up costs of inputs, and there is overregulation of land use. The housing development process is especially time-consuming due to rigorous regulations that often require numerous public hearings, environmental review, and multiple government approvals. The cost and time involved in developing housing in Hawaii combine to create high-risk investment conditions, particularly for housing for local consumers (market, workforce, or affordable housing) where margins are lower (as opposed to luxury or visitor-related

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<sup>7</sup> DBEDT Research and Economic Analysis, 2014

developments with potentially higher margins for investors). Honolulu is the most regulated city in the United States, according to the Wharton Residential Land Use Regulatory Index. This impedes supply growth and drives up housing prices.



With the goal of determining how Airbnb fits into this bigger picture, this study considers the magnitude of the impact of home stay business on our community. Indeed, the largest consideration would be the potential impact on our community’s largest problem, the lack of shelter (and affordable shelter), but it also considers the significant contributions to the local economy, including increasing household incomes for hosts and deepening the tax base of the counties and the state.

## DATA AND ANALYSIS

The methodology used below was very similar to the Honolulu Rental Market study, starting with quantifying the total number of homes in the market. Airbnb provided zip code level listing and booking data for Hawaii for the 12 month period ending October 1st, 2016. This data was directly compared with other housing data, including those of the U.S. Census Bureau, City and County of Honolulu, the state Bureau of Conveyances, the Realtor’s Multiple Listing Service, and the Craigslist listing data base. This provided a baseline percentage of homes that are being rented to guests at least once per year.

### Minimal Housing Impact

The US census' latest estimate of the total number of housing units on Oahu (July 15, 2015) is 344,108. The number of booked listings on Airbnb (their count) is 3,185 entire home listings in the 12 months ending October 1, 2016. **Thus, only 0.93% of total Oahu housing stock hosted a guest in the one year study period for one day or more.**

Assuming that these homes are not available for long-term rental means assuming that demand for the one is exactly the same as the other. But they are completely different: home sharing happens in short-term, and is usually infrequent and occasional; home renting happens long-term, and is done consistently. This became apparent when I analyzed how the hosts shared their homes -- specifically the number of days they were occupied.

It also became apparent that one entire home listing is not equivalent to one unit of long-term housing taken off the market. This is because the unit may not have amenities required for long-term tenants such as a kitchen (e.g., ohana unit), may be reserved for visiting friends and family, or is poorly located in terms of commuting to work, medical and other services, etc.

It turns out that 52% of the 3,185 entire home listings on Oahu were shared for 60 or fewer days a year. So, a majority of these units were occupied by short-term renters less than 16% of the year.

Deducting those units from the total number of units absorbed by this business model, and comparing that with the total housing stock, reveals that **0.44% of the housing stock was rented for more than 60 days on Airbnb.**

In fact, of the Oahu entire home listings with a trip in the 12 month period, 83% were rented 180 days or less. 35% were rented between 1 and 30 days. Only 550 units were rented more than 180 days, representing just 0.16% (or one-sixth of one percent) of the housing stock. This data suggests that most Airbnb hosts are casual operators, renting space that would not likely be available on the long-term market.

Of Airbnb's 550 entire home listings rented over 180 days in the 12 months ending October 1st, 2016, 400 are attached dwelling units (apartments and condos) — of these, 185 are studios and 160 are 1 bedroom apartments. Many of these are studio and one bedroom apartments located in Waikiki that owners occupy only seasonally and stand empty for many parts of the year (i.e., not owner-occupants). These apartment units typically have higher maintenance fees, higher property taxes, and resort-like amenities making them less than ideal for locals. By filling the units while owners are away, short-term rentals have the potential to attract visitor spending that sustains neighborhood businesses and supports local jobs.

### Hawaii Entire Home Listings by County

County	Booked Entire Home Listings	1 to 30 nights	31 to 60 nights	61 to 90 nights	91 to 180 nights	Over 180 nights	Housing Units (2015 Census Estimate)	All Booked Entire Homes as % of Housing Stock	Over 180 Days as % of Housing Stock
Hawaii	1,827	920	283	193	302	129	86,009	2.21%	0.15%
Oahu	3,185	1,158	508	332	637	550	344,108	0.93%	0.16%
Kauai	739	376	103	68	95	97	30,503	2.42%	0.32%
Maui	2,383	1,228	398	226	358	173	71,722	3.32%	0.24%
Statewide Total	8,134	3,682	1,292	819	1,392	949	532,342	1.53%	0.18%

Waikiki has 47% of all entire home listings on the island, or 1,494 of the 3,185 total units on Oahu (of entire home/apts), for the 12 months ending in October 1, 2016. This equates to **0.43% of the housing stock**, and that reduces to **0.49% the percent of Oahu's housing stock** that is on Airbnb outside of Waikiki (without considering bedroom count or frequency of time usage). More than half of those 1,494 Waikiki units, or 690 units, were studios. Only 168 (or 0.05% percent of the housing stock) of those were rented out more than half of the year, while 522 were rented out for less than half the year. These Waikiki units are already a major part of the existing vacation rental market and are in a visitor destination area. They are an important part of the hospitality ecosystem and likely have not been part of the long-term housing supply for decades.

On Maui, there were 2,383 entire home listings with at least one booking during this time period, representing 3.3% of Maui housing stock. However, only 173 of those units (0.24% of housing stock) were rented more than 180 days.

Given the history of tourism in Hawaii, the data indicates that Airbnb is a new overlay on an existing market, but one that has improved the visitor experience and empowered local



homeowners to become hosts. Furthermore, Airbnb and other similar platforms serve a vital role in providing additional inventory for a visitor accommodations market that has experienced record high occupancy levels for traditional hotels and resorts<sup>8</sup> over the past few years. Many of Airbnb's listings in popular visitor destinations were already being rented out to vacationers, usually through the yellow pages or the classified section of newspapers. The demand for short-term rentals predated the hotel industry on Oahu (sailors on shore leave) and represents a legitimate supply option for visitors seeking affordable accommodation in a desirable location. Visitor shelter and accommodation has long been supplied by the Hawaii tourism industry, which ended in the late 1970s when public sentiment turned against building more hotels. The commercial activity of home stay and accommodation rental is a logical result of that undersupply. The participants in this market included hotel visitors who determined to extend and expand their time in Hawaii by buying a small unit in or around Waikiki, and then renting it out when they were not there. A number of rental agencies and agents grew up in order to assist. This was well established before the turn of the century. With the arrival of the internet, this activity responded by moving from advertising in the newspaper to advertising on the internet, mainly Craigslist. As the internet economy matured, companies sprang up to aid and service both the suppliers and their customers.

The late market entry of Airbnb in 2008 did not result in a correlating increase of vacation rental units, as they simply were in different locales, different usages, and different time frames. Instead, this small number of accommodations simply switched, going from one business model using agents and classified advertising to 'doing it yourself' using the internet. These units were redistributed across the platforms/intermediaries, but they were a small number to begin with and remain relatively small in number, particularly in comparison to the larger market. Airbnb remains a minority market participant, following VRBO and Homeaway.

Airbnb listings are primarily concentrated in traditional tourist destination areas, meaning they are less likely to be conversions of what would be considered long-term affordable housing stock. Only **550 Airbnb entire home listings on Oahu** were rented over **180 days**. Of those, **327 (59%) were located in Waikiki**. **1,494, or 47% of all Airbnb booked entire home listings on Oahu, were located in Waikiki**. While many zip codes in urban Honolulu do have a number of Airbnb entire home listings, the zip codes making up urban Honolulu outside of Waikiki only contain 549 (17%) of the Airbnb entire home listings on Oahu.

## **Beneficial Income for Local Residents and Revenue for Local Businesses**

Income from Airbnb may also help residents afford their homes. Households who rent their home on Airbnb casually are meaningfully supplementing their income (**e.g., a typical Airbnb**

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<sup>8</sup> Hawaii Department of Business, Economic Development and Tourism, Quarterly Visitor Statistics

**listing in Hawaii earns close to \$9,000 in a year, equivalent to a 12% raise for the median household).** Overregulation would decrease income and hurt the livelihood of these casual hosts, and could extinguish what could one day be an important financial safety net in Hawaii. As mentioned above, Aloha United Way found that a one-time payment of only \$1,046, on average<sup>9</sup>, was enough to keep at-risk families from becoming homeless. This amount could be quickly earned by renting a home if a household could find temporary housing with family or friends or rent their home while they are traveling for work or visiting family or friends, and Airbnb host survey data suggests that residents are using the service in such a way: **65% of hosts on Oahu say that income from Airbnb has helped them afford to stay in their home, and 21% of hosts on Oahu say that the income they have earned on Airbnb helped them to avoid eviction or foreclosure.**<sup>10</sup>

### Typical Host Earnings

County	Typical <sup>11</sup> Listing Annual Earnings	Median Household Income <sup>12</sup>	Equivalent to % Raise for Median Household
Hawaii	\$5,505	\$60,033	9.2%
Oahu	\$11,358	\$77,273	14.7%
Kauai	\$10,966	\$77,140	14.2%
Maui	\$9,002	\$70,497	12.8%
Statewide	\$8,842	\$73,486	12.0%

### Appropriate Regulation

Additionally, over-regulation of the short-term rental market will neither solve Hawaii’s housing crisis nor increase housing affordability. There are much larger forces affecting supply and demand in Oahu’s historically volatile housing market, including restrictive zoning laws, high costs of development, low wages and low alternative economic opportunities, and a simple lack of infrastructure.

<sup>9</sup> “Rent funding through AUW makes a dent in evictions,” Dan Nakaso, Honolulu Star-Advertiser, December 22, 2016

<sup>10</sup> Airbnb Survey Data, 2016

<sup>11</sup> A “typical listing” is defined as a listing that was first active before the start of the 12 month study period, and had a booking during the 12 month study period.

<sup>12</sup> American Community Survey 2015, Median Income in the Past 12 Months, 1 Year Estimates (Table S1903)

Given the strong growth of the homestay and short-term rental industry, it is time to give thought to new regulation that is both reasonable and fair. And, as Hawaii's current short-term rental regulations are outdated, the rules on the books should be modernized. New rules should reflect changing technology, as well as evolving travel preferences and lifestyle trends. They should protect and enhance Hawaii's position globally as a premium place to visit and enjoy recreation. And they should balance the needs of the hosts with the wants of the guests, in a win-win fashion. If done with foresight and common sense, these regulatory updates and changes will preserve and encourage the success of this new business model, while boosting Hawaii's economy and enhancing consumer choice.

Modern short-term rental regulations should follow best practices implemented by other governments. These include suggestions that governments and regulators:

1. Establish regulations that distinguish between the local resident that rents his or her home out occasionally to supplement income, and dedicated commercial vacation rental operators;
2. Allow primary residents to share their homes without limitation and with low regulatory burden, because these are homes that would not otherwise be on the long-term market;
3. Create a streamlined, online permit system for vacation rental operators and second home owners to legitimize a market that has existed for decades and is an important part of Hawaii's economy, supporting local jobs and neighborhood businesses;
4. Create safety and insurance standards such as minimum coverage limits for liability, fire extinguishers and smoke and CO alarms on site; and
5. Enable all short-term rental platforms to pay taxes on behalf of their users.

## **ABOUT THE AUTHOR**

Ricky Cassidy is a market researcher who specializes in analyzing residential real estate markets. He was retained by Airbnb to examine the impact on the housing market of their business model – the home stay or home sharing business – which effectively enables homeowners to shelter guests on a short-term basis for a fee.

The data and statements herein are based on independent research by Ricky Cassidy and are in no way contingent upon outside findings or recommendations. He has spent 18 years as an independent, third party consultant doing supply and demand, feasibility, long-range planning and pricing and absorption studies on for-sale and rental housing. Before that, he had eight

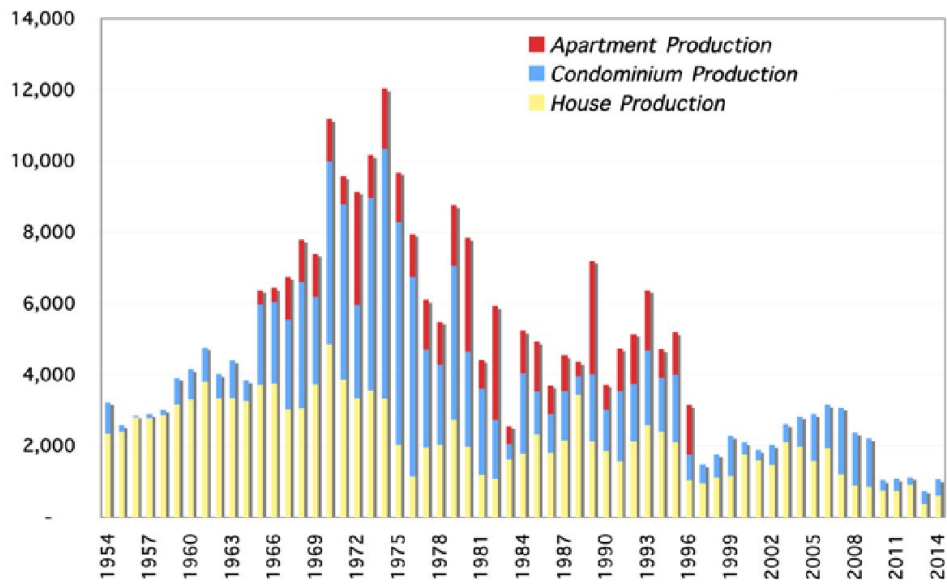
years of experience as the in-house market analyst for the two largest residential developers in Hawaii. This experience informed his creation of several extensive databases of proprietary data that includes for-sale transactional (sales) data, for-sale and rental listing (offering) data, housing stock or housing inventory data, future project and entitled land data and, most uniquely, in-house developer data on sales and prices over the last 25 years.

In addition to working with the private sector, he has worked with public agencies on their analysis and forecasting needs, including all four counties, the state housing finance agency, and two of the three branches of military services.

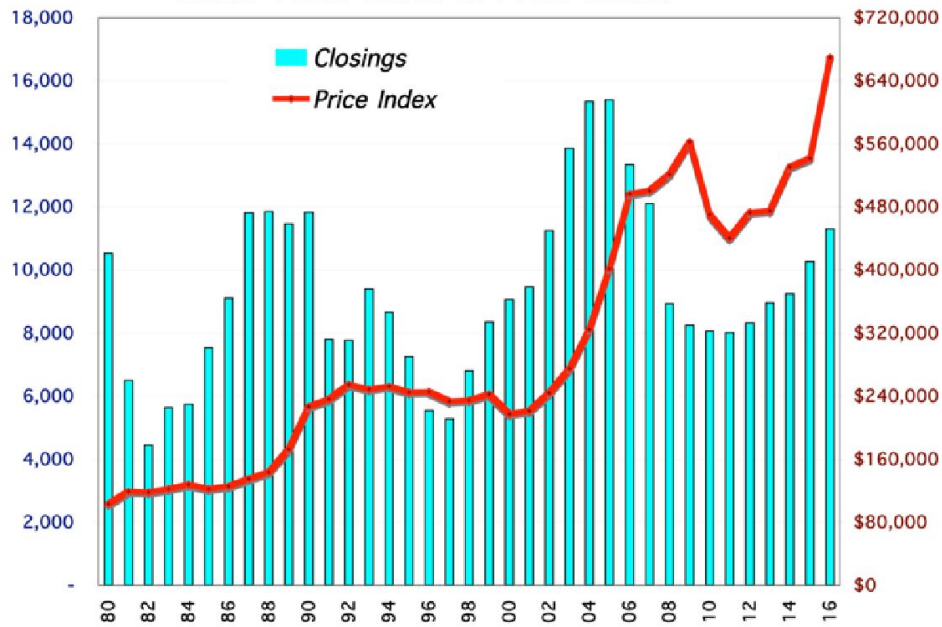
This examination dovetails with his extensive work on affordable housing for the [Hawaii Housing Finance & Development Corporation](#) and the Hawaii Information Service, plus the four counties, the Department of Hawaiian Homelands and the Office of Hawaiian Affairs, all of whom clearly have an interest in both the issue of the lack of shelter in the community, and the solution. This resulted in the Honolulu Rental Market Study (<http://dbedt.hawaii.gov/hhfdc/files/2015/02/RENTAL-HOUSING-STUDY-2014-UPDATE-CITY-COUNTY-OF-HONOLULU.pdf>).

APPENDIX A. Supplementary Figures

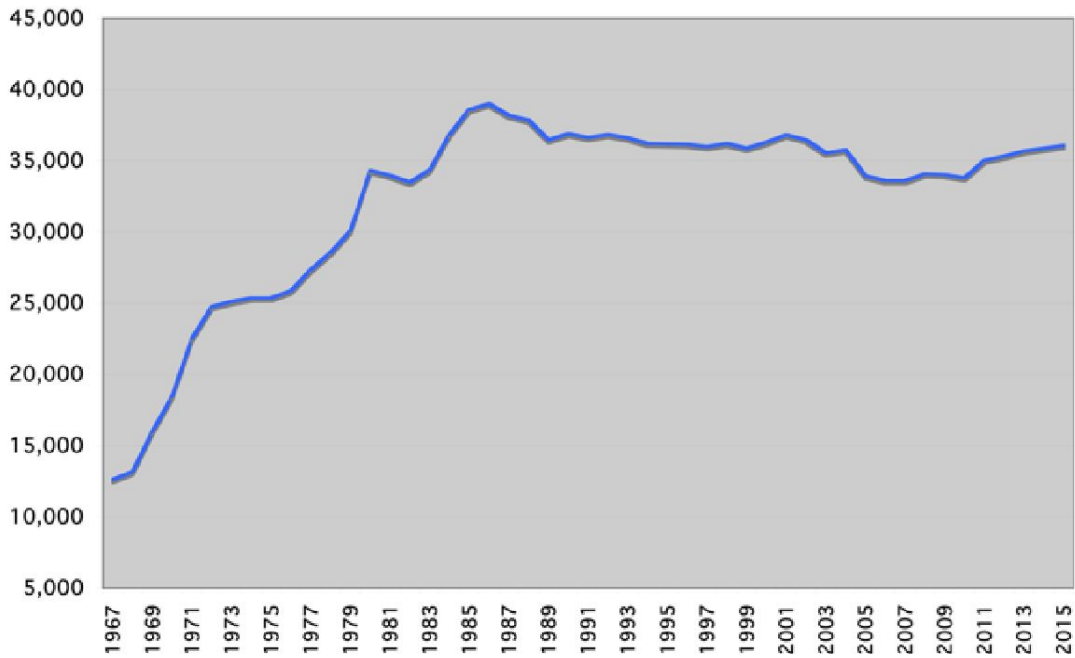
Annual Production, Pre-Statehood to 2014



Oahu Total Sales & Price Index



## Hotel Room Inventory Oahu



### APPENDIX B. Supplementary Tables

#### HAWAII ISLAND AIRBNB LISTINGS WITH TRIP IN YEAR PERIOD, BY ROOM TYPE

Listing Type	Number of Listings with Trip in 12 Months Ending October 1st, 2016	Share of Listings
Entire Home/Apt	1,827	74%
Private/Shared Room	653	26%

#### OAHU AIRBNB LISTINGS WITH TRIP IN YEAR PERIOD, BY ROOM TYPE

Listing Type	Number of Listings with Trip in 12 Months Ending October 1st, 2016	Share of Listings
Entire Home/Apt	3,185	66%
Private/Shared Room	1,611	34%

**KAUAI AIRBNB LISTINGS WITH TRIP IN YEAR PERIOD, BY ROOM TYPE**

Listing Type	Number of Listings with Trip in 12 Months Ending October 1st, 2016	Share of Listings
Entire Home/Apt	739	77%
Private/Shared Room	222	23%

**MAUI AIRBNB LISTINGS WITH TRIP IN YEAR PERIOD, BY ROOM TYPE**

Listing Type	Number of Listings with Trip in 12 Months Ending October 1st, 2016	Share of Listings
Entire Home/Apt	2,383	82%
Private/Shared Room	431	18%

**STATEWIDE AIRBNB LISTINGS WITH TRIP IN YEAR PERIOD, BY ROOM TYPE**

Listing Type	Number of Listings with Trip in 12 Months Ending October 1st, 2016	Share of Listings
Entire Home/Apt	8,134	74%
Private/Shared Room	2,917	26%

**DAYS OF OCCUPANCY, ATTACHED AIRBNB ENTIRE HOME LISTINGS, BY BEDROOMS**

Bed	0-3 Mo.	4-6 Mo.	7-9 Mo.	10-12 Mo.
0	436	205	116	72
1	542	196	106	54
2	219	69	34	15
Bed	0-3 Mo.	4-6 Mo.	7-9 Mo.	10-12 Mo.
0	53%	25%	14%	9%
1	60%	22%	12%	6%
2	65%	20%	10%	4%

**DAYS OF OCCUPANCY, DETACHED AIRBNB ENTIRE HOME LISTINGS, BY BEDROOM**

Bed	0-3 Mo.	4-6 Mo.	7-9 Mo.	10-12 Mo.
0	48	20	21	13

1	123	49	31	18
2	198	39	27	7
3	174	37	16	4
Bed	0-3 Mo.	4-6 Mo.	7-9 Mo.	10-12 Mo.
0	47%	20%	21%	13%
1	56%	22%	14%	8%
2	73%	14%	10%	3%
3	75%	16%	7%	2%

## APPENDIX C. Discussion of Housing Stock Numbers and Owner Occupancy

### HOUSING STOCK, OR TOTAL INVENTORY OF RESIDENTIAL UNITS

There are two different indices of housing inventory or the stock of dwellings in the City and County of Honolulu: US Census and the city’s tax assessor.

The US Census shows that there are some 344,108 housing units, as of July 1, 2015. Their definition is: “A housing unit is a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied (or if vacant, is intended for occupancy) as separate living quarters. Separate living quarters are those in which the occupants live and eat separately from any other persons in the building and which have direct access from the outside of the building or through a common hall.”

The 2010 number is drawn from their Census survey instrument, and I find that a pretty robust number. That said, the 2015 number is less so. That’s because it is a calculation, taking into account a number of different variables, including jobs, incomes, and economic growth. What’s one man’s house is another man’s shack. That said, here are the counts.

### RESIDENTIAL DWELLING UNITS COUNTS & TRENDS, US CENSUS

	Count
Housing units, July 1, 2015	344,108
Housing units, April 1, 2010	336,899

The following table shows the total housing stock in Honolulu, as best defined and described by the state sponsored study on housing, in 2010. It is drawn from the City & County’s database used by the tax assessor to assess property tax on the property owner. It is data that is a bit more robust if it comes from the tax assessor. The city’s revenues depend on it. The table describes the data historically.

### RESIDENTIAL DWELLING UNITS COUNTS & TRENDS, HONOLULU TAX DATA

Year	1992	1997	2003	2006	2010	2016
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Single family	137,299	145,078	150,957	160,686	165,440	170,748
Condominium	81,293	92,503	91,913	94,640	100,438	106,731
Apartment	40,535	43,732	39,602	43,275	43,424	43,573
Military/Student	26,430	28,160	28,994	20,804	20,422	20,422
Total	285,557	309,473	311,466	319,405	329,724	341,474
Percentage Increase		8.4%	0.6%	2.5%	3.2%	3.6%

Note that the 2016 dwelling unit counts are an estimate, one that I made by using the actual closing counts of newly built or developer units to increase the total amount for the housing stock on the island. Additionally, I used a small factor to decrease the total housing counts in order to account for the few units that were destroyed by natural or other events.

Note that the two numbers for housing stock or total dwellings on the island are similar in size, in count. I opt to use the US Census estimates for the analysis, because they are transparent and easily verified.

Non-owner occupants are comprised of some local investors, but significantly more investor-owners living elsewhere, or offshore buyers. For instance, around 70% of all Maui Condos are owned by non-owner occupants, many of which are offshore investors. This is also true for Waikiki and other Oahu resort areas. The table below shows this for Downtown to Waikiki, as well as for just Waikiki and just the Kapiolani area (location of the development).

#### **INVESTOR OWNED UNITS (NON-OWNER OCCUPANTS) BY PERCENTAGE**

Beds	Downtown-Waikiki	Waikiki
Studio	90%	94%
1	72%	85%
2	60%	72%
3	51%	64%
4	64%	100%

The next table shows the total inventory of attached residential units on Oahu, broken out into owner occupants (OO) and non-owner occupants (Non-OO).

#### **TOTAL ATTACHED DWELLING UNITS ON OAHU, BY OWNER OCCUPANCY**

Beds	Non-OO	OO	Total
Studio	24,197	1,290	25,487

1	33,601	7,732	41,333
2	40,015	20,558	60,573
3	12,005	9,119	21,124
4	749	979	1,728
5	29	30	59
6	-	1	1

The next table shows the total inventory of detached residential units on Oahu, broken out into owner occupants (OO) and non-owner occupants (Non-OO). However, note that these numbers do not capture all of the accessory dwelling units existing, as the dwelling data is defined by being on separate properties.

**TOTAL DETACHED DWELLING UNITS ON OAHU, BY OWNER OCCUPANCY**

Beds	Non-OO	OO	Total
Studio	522	92	614
1	2,190	556	2,746
2	7,526	3,477	11,003
3	48,203	20,420	68,623
4	34,752	13,391	48,143
5	11,639	4,573	16,212
6	4,776	2,159	6,935

RE: **HB 1471; Relating to Taxation**

House Committee on Consumer Protection and Commerce

Dear Chair McKelvey and Vice Chair Ichiyama and Committee Members

On behalf of the Coalition for Equal Taxation, we support prudent and expeditious methods of payment of GET and TAT for transient accommodations, however, this Bill is of great concern and we must **OPPOSE** it.

This Bill presents a number of inconsistencies with the structure of Hawaii licensing, payment of taxes and responsibilities of tax payers.

This Bill does not provide for consumer protection in its current form. It is a tax payer's **responsibility to pay taxes** in the amounts and time due as prescribed by law. Also, fundamental is a **tax payer's right, to pay to the taxing authority tax due on their own behalf**. This proposed Bill in its present form abridges a tax payer's right to pay their own taxes. As a consumer protection, there needs to be a provision for an option for the tax payer to exercise their right to pay their own taxes.

In the event the operator selects to pay their own taxes, the platform tax broker should be required to provide a 1099 or other statement that the State of Hawaii would also receive. This assures the State they are receiving all tax information for that operator as required.

Even with the platform tax broker, the individual operator is still subject to the Hawaii tax codes which provide for assessments of penalties and interest. The codes provide for a levy to be placed upon real property and assets. In the extreme, it also provides for prison sentencing. No tax payer should be required to forego control over paying their own taxes when the consequences are as serious as listed above. Prudent tax payers want to be assured of compliance through their own payment and filing of taxes or retaining their own accounting professionals to act on their behalf. Operators should not be deprived of that fundamental right as this Bill does.

The sponsor of this Bill built its business upon a host renting a couch or bedroom. It is very understandable that many hosts would find the tax payment feature offered of great benefit. However, Hawaii is one of the most established transient accommodation rental areas in the United States. Many operators have been licensed and paying taxes for decades and there should be provision for that in this Bill.

It is also of concern for consumer protection as well as protection for the State of Hawaii, that there be established transparency of what happens to funds when they are collected by the platform tax broker. In many reservations, the platform will be holding money for as long as a year. What are the standards for safeguarding this money. Is it segregated? Again, the sponsor of this Bill is only eight (8) years old and is a privately held company with no public disclosure or SEC filings required. What are the consumer safeguards regarding their solvency since they do not have the regulations of a bank or an insurance company who must pay in the event of a disaster. They are not even held to the standard of a property manager who is required to hold and account for monies on behalf of others by utilizing a trust fund.

Hawaii also needs to consider that on all monies that the platform tax broker collects they will receive a fee for doing so. In other jurisdictions they receive 5% of all tax money they collect. Which, of course, means that Hawaii is receiving 5% less than what they would be receiving otherwise. That 5% sum that will not be received by Hawaii could have been used to pay for jobs at the Department of Taxation.

Thank you for the opportunity to testify.

John Chang  
Coalition for Equal Taxation



HAWAI'I LODGING & TOURISM  
ASSOCIATION

**LATE**

Testimony of

Mufi Hannemann  
President & CEO  
Hawai'i Lodging & Tourism Association

House Committee on Consumer Protection & Commerce  
House Bill 1471, House Draft 1 – Relating to Taxation

Chair McKelvey, Vice Chair Ichiyama and committee members, we would like to **offer comments** on this measure on behalf of the more than 700 members of the Hawai'i Lodging & Tourism Association.

One of the major priorities of the Hawai'i Lodging & Tourism Association this legislative session is to create a level playing field between the short term online rental market and traditional visitor industry accommodations . This session House Bill 1470, which addresses the short term online rental parity issue, is our priority bill. However we do not object to the intent of HB1471 as long as it addresses some of the concerns we raised through HB 1470. For instance, we appreciate the amendments that are offered in this bill's house draft 1, as it proposes another step towards the furnishing of information on transient vacation rental operators. However, the amendment is written as such that the information is supplied within the limited purpose of real property tax administration.

We would like to propose that further amendments be considered in creating more transparency, openness and accountability within the bill. We ask that the legislature look into strengthening provisions on the hosting platforms to further provide detailed information to the department of taxation on the operators they are collecting on behalf of. We also ask that provisions be reinforced in holding the operators and hosting platforms more accountable for their registration with the department of taxation as well as their compliance with state and county laws.

One of the visitor industry's overarching objectives is for the state to start collecting the estimated \$100 million in taxes now being avoided, but with ample transparency as to where the taxes are coming from. We also support the additional language provided in this bill that would allocate \$4 million from the general TAT coffers to support the counties (\$1 million to each county) in the compliance and enforcement of illegal short term rentals.

Thank you for the opportunity to offer comments.

**LATE**



## Maui Hotel & Lodging

ASSOCIATION

Testimony of

**Lisa H. Paulson**

Executive Director

Maui Hotel & Lodging Association

on

**HB1471 HD1**

**Relating To Taxation**

COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

**Tuesday, February 14, 2017, 2pm**

**Conference Room 329**

Dear Chair McKelvey, Vice Chair Ichiyama and Members of the Committee,

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes over 175 property and allied business members in Maui County – all of whom have an interest in the visitor industry. Collectively, MHLA's membership employs over 25,000 residents and represents over 19,000 rooms. The visitor industry is the economic driver for Maui County. We are the largest employer of residents on the Island - directly employing approximately 40% of all residents (indirectly, the percentage increases to 75%).

**MHLA supports HB1471 HD1**, which allows transient accommodations brokers to register as tax collection agents to collect and remit general excise and transient accommodations taxes on behalf of operators and plan managers using their services. Ensures that the subject property is in compliance with applicable land use laws. Allocates \$1,000,000 of TAT revenues to each county for FY 2017-2018.

MHLA is in support of establishing a level playing field for all visitor accommodations. There are more than 25,000 alternative accommodations in the Hawaiian Islands competing with hotels, resorts, timeshares, and bed-and-breakfasts, with many them likely avoiding the 9.25 percent transient accommodations and general excise taxes. This Bill would simplify administration for both the Department of Tax and the alternative accommodations, and reduce the State's enforcement burden in ensuring individual tax compliance.

MHLA also supports the additional language provided in this bill that would allocate \$4 million from the general TAT coffers to support the counties (\$1 million to each county) in the compliance and enforcement of illegal short term rentals.

Thank you for the opportunity to testify.

**LATE**



*Eric W. Gill, Financial Secretary-Treasurer*

*Gemma G. Weinstein, President*

*Godfrey Maeshiro, Senior Vice-President*

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Monday, February 13, 2017

House Committee on Consumer Protection & Commerce  
Hawaii State Legislature  
State Capitol  
415 South Beretania Street

Re: HB 1471, HD 1

Aloha Chair McKelvey, Vice Chair Ichiyama and committee members,

UNITE HERE Local 5 – a local labor organization representing 11,000 hotel, health care and food service workers throughout Hawaii would like to register our strong opposition to HB 1471, HD 1.

This measure is almost exactly the same as last year's HB1850 in its final form. There is no language in this bill addressing the governor's or our concerns regarding housing and should not be supported by this Committee.

Any measure passed related to vacation rentals should at a minimum address the following four points – all of which HB 1471, HD 1 fails to address.

- We must not preempt the counties' ability to enact good regulations and such language should be clearly stated as such in any bill;
- Rental operators must be required to certify to the tax collection broker that they are operating legally and provide documentation to back that up;
- We should ensure that any measure complements – and does not nullify – Act 204 in allowing the state to hold operators accountable; and
- Tax collection brokers must be required to operate transparently by providing lists of names and addresses of operators to the State so the State can verify the money it is collecting reflects reality.

Thank you.

CPCtestimony

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From: mailinglist@capitol.hawaii.gov  
Sent: Sunday, February 12, 2017 1:15 PM  
To: CPCtestimony  
Cc: uncleabeswaimanalo@gmail.com  
Subject: Submitted testimony for HB1471 on Feb 14, 2017 14:00PM

**HB1471**

Submitted on: 2/12/2017

Testimony for CPC on Feb 14, 2017 14:00PM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Abraham Aiona	Individual	Support	No

Comments: We need to rent out a portion of our house. It makes sense for short term rentals have taxes collected and paid to the state and AIRBNB is trying to do this. Why not make all who advertise on any site have taxes collected and paid to the state. We all need the extra money homeowners and the state. Mahalo Abe Aiona Waimanalo

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12 February 2017

Honolulu, Hawaii

Testimony of Mark R. Hagadone, Ph.D., FACFE

Chairs Senator Wakai, Senator Baker and honorable members of the Committees:

My name is Mark Hagadone and I am testifying **in support** of HB1471HD1 Relating to Taxation. For the past year, I have rented an *'ohana* unit on my property when it isn't being used by my adult children in college or my extended family, when visiting. Doing so provides us with extra income that I use to make ends meet. It helps to pay for our children's college, my mortgage and property taxes. This is especially important since I am 65 and will soon retire.

Additionally our Ohana unit used in this manner places **less** of an impact on our neighbors and neighborhood resources than the full time rental unit used to in the past. We have on property parking and are always present onsite during our rentals. Our guests are well mannered and world class travelers. They utilize the local economy, the stores, the shops and the shopping malls and warehouses while visiting our beautiful and vibrant community. They have an opportunity to really see the human and aloha side of Honolulu, and speak highly of it when they leave, promoting our travel industry. It is a positive win/ win, sustainable situation which works for all parties both local and overseas.

I was raised in the islands and we all know how difficult it can be to make ends meet on a fixed income. I urge you to pass HB1471. The revenue generated can help the State to meet its budget shortfall and ensure everyone in this vibrant industry pays their fair share of taxes in an efficient and accurate way.

Thank you for the opportunity to testify.

Mark R. Hagadone  
3900 Niele Place  
Honolulu, Hawaii 96816



To Committee: Consumer Protection

SUPPORT for HB 1471

February 14, 2017 at 2 p.m.

Testimony of Kathleen Dinman  
(808)780-6325

To Chairperson:

My name is Kathleen Dinman. Thank you for the opportunity to testify in support of HB 1471. Please consider allowing short term rental accommodations.

I have been a widow for over 6 years and have two children. The only way I can pay for college tuition at UH and keep paying for repairs and maintenance on my home in Kailua is to share my home with visitors for additional income.

I contribute to the community by using the services of pool cleaner, house cleaner, and airport shuttle. I encourage my guests to dine at nearby restaurants and shop for locally grown produce.

I live on the same property and make sure the visitors do not bother my neighbors, I provide a parking stall on my property, and I supervise the noise level.

Most of these visitors said they would not travel to Hawaii if they had to stay in a hotel in Waikiki. Either they have experienced that part of Hawaii on a previous trip or they prefer to be outside a major city.

How can you legalize marijuana and not legalize short term rentals? I support the idea of taxing the income on short term rentals and using part of that to help homeless families. Thank you for consideration short term rentals.

Aloha,  
Kathleen Dinman  
(808)780-6325

CPCtestimony

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From: mailinglist@capitol.hawaii.gov  
Sent: Saturday, February 11, 2017 2:41 PM  
To: CPCtestimony  
Cc: cherimichel99@gmail.com  
Subject: \*Submitted testimony for HB1471 on Feb 14, 2017 14:00PM\*

**HB1471**

Submitted on: 2/11/2017

Testimony for CPC on Feb 14, 2017 14:00PM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Cheri Michel	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov  
Sent: Saturday, February 11, 2017 4:39 PM  
To: CPCtestimony  
Cc: azlinah483@gmail.com  
Subject: Submitted testimony for HB1471 on Feb 14, 2017 14:00PM

**HB1471**

Submitted on: 2/11/2017

Testimony for CPC on Feb 14, 2017 14:00PM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Azlina Harun	Individual	Support	Yes

Comments: I am submitting testimony in support of HB 1471. First, a housekeeping matter: SECTION 9. states: This Act shall take effect on July 1, 2117, and shall apply to taxable years beginning after December 31, 2017, and: I assume July 1, 2117 is an error. The correct date is July 1, 2017. As written, this bill attempts to establish a simplified tax collecting channel to help ease the burden of tax collection on the State, while simultaneously generating additional revenue. While many operators of short term rentals already currently collect and submit the taxes due, some small operators, generally the users of platforms like AirBNB, may have not been able to navigate the complicated requirements of obtaining the necessary registration to collect and remit taxes to the State. The creation of a tax collection agent solves this problem.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 13, 2017 6:56 AM  
**To:** CPCtestimony  
**Cc:** mcohen1412@gmail.com  
**Subject:** Submitted testimony for HB1471 on Feb 14, 2017 14:00PM

**HB1471**

Submitted on: 2/13/2017

Testimony for CPC on Feb 14, 2017 14:00PM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michal Cohen	Individual	Support	No

Comments: I support HB 1471. This bill will make it easier for those of us who offer short term rentals to pay our taxes. It is a win win situation for the state and for those who offer short term rentals.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 12, 2017 8:01 PM  
**To:** CPCtestimony  
**Cc:** kathyreed808@gmail.com  
**Subject:** Submitted testimony for HB1471 on Feb 14, 2017 14:00PM

**HB1471**

Submitted on: 2/12/2017

Testimony for CPC on Feb 14, 2017 14:00PM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kathryn Reed	Individual	Comments Only	No

Comments: I fully support HB1471 and ask that you support the bill. I am 67 years old and have been able to share an empty bedroom for the last 4 years. It has been a wonderful supplement to my income. I pay my GET and TA taxes, but it would be helpful if AIRbnb could pay that for me. This is a growing business worldwide. Many tourists say if it wasn't for AIRbnb, they would not be able to afford to visit our State. Hawaii needs to find ways to keep tourism affordable. The guests also support local businesses. It is vacationing of the future. My guests are pleasant and accountable to be respectful of our Aina. Thank you for your time and consideration. Kathryn Reed

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 13, 2017 9:04 AM  
**To:** CPCtestimony  
**Cc:** evmcgowan@gmail.com  
**Subject:** Submitted testimony for HB1471 on Feb 14, 2017 14:00PM

**HB1471**

Submitted on: 2/13/2017

Testimony for CPC on Feb 14, 2017 14:00PM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Evans	Individual	Support	No

Comments: House Consumer Protection and Commerce Committee SUPPORT for HB1471 HD1 RELATING TO TAXATION Testimony of Evans McGowan Aloha Chairs and members of the committees: My name is Evans McGowan and I am testifying in support of HB1471. For the past several years, I have occasionally rented an 'ohana unit on my property when it isn't being used by visiting friends and family. Doing so provides me and my family with extra income that I use to make ends meet. This is especially important since both my wife and I are working in preparation to start a family. I urge you to pass SB1087. The revenue generated can help the state to meet its budget shortfall and ensure everyone in this important industry pays its fair share of taxes. Thank you for the opportunity to testify.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Angus L.K. McKelvey, Chair

Rep. Linda Ichiyama, Vice Chair

Jacque Delaunay  
PO Box 790629  
Paia, HI 96779

Hearing Date  
2/14/2017

In favor of tax collection for TA  
HB1471, HD1 (HSCR180)

My name is Jacque Delaunay, and I am a Maui resident, and want to provide written testimony regarding House Bill 1471. I am in support of the collection of taxes as a positive step toward assuring that all people operating Vacation Rentals are paying their share of the GE and TAT on their rentals. I have been following this issue and it appears to be a small part of a bigger issue, which is even allowing people to operate vacation rentals. My testimony is primarily about why I feel TVR's should be allowed in the first place since this is what will be debated when this bill is on the floor. I operate a permitted vacation rental on Maui so I understand the issues on both sides. Since "alternative facts" seem to be okay in our present political environment, I do take exception to the current "sponsored ads" that want to make it look like thousands of rentals are being snatched from people that desperately need housing, in order to accommodate tourists. I saw a figure on one ad that said 40,000 homes in the next few years, would no longer be in the long term rental market. This is a gross exaggeration. Many of these vacation rentals are part of a home, generating additional income for the owner that shares their space with the visitor. None of these owners are going to provide long term housing situations for local families. I have quite a few friends renting out a portion of their home, all born and raised or have resided here over 50 years. They are not greedy investors as the opposition wants to claim. All are retirement age and supplementing income to allow them to stay in their homes. Since they make up a large part of the vacation rental statistics, it makes for great exaggerations. Out of state investors are also part of this group. Once again, these are homes that generally are not rented out long term, to allow the owners time in the home, throughout the year for their own use. The visitor industry has changed over the last 10 to 15 years and many of today's visitors do not want to or can't afford to stay in a hotel. Many of them are families that couldn't afford to come to Hawaii if they had only hotels to choose from. They have to

eat 3 meals out, pay for parking and resort fees in addition to expensive hotel rates. Then there are visitors that are surfers, windsurfers, bikers etc that need a home or residential accommodation so they can keep their equipment nearby and safe and also want to stay near the area that provides them the best location for their particular sport. This is an overview of most of my guests and they have told me they would not come here if they had to stay in a hotel. We would lose these visitors to other friendlier vacation rental destinations. Tourism is our biggest employer and if we were to lose a significant amount of these visitors it would hurt all of us financially.

The big issue is the amount of tax revenue that this TVR industry is providing. If you use the oppositions 40,000 TVR statistic and use a conservative average of \$200 a day and an 80% occupancy rate, this would generate over \$300,000,000 a year. between the GE and TAT.

In closing I would ask you to support HB 1471, allowing for this tax revenue to be collected, and please consider that we do live in a vacation destination and should not cut off a large source of revenue.

Sincerely,

Jacque Delaunay



**LATE**

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Angus L.K. McKelvey, Chair

Rep. Linda Ichiyama, Vice Chair

SUPPORT

for

HB 1471, HD1 RELATING TO TAXES

Testimony of Norm Nichols

Aloha Chairs Rep. Angus L.K. McKelvey, Chair Rep. Linda Ichiyama, Vice Chair and members of the committees:

My name is Norm Nichols and I am testifying in support of HB 1471,HD1. As a kamaaina and a responsible business owner for over forty years I hold tax licenses for several businesses. As I am now entering retirement and in order to sustain my ability to provide for myself and family we have engaged in an Owner/Operator Bed and Breakfast endeavor in our home to make ends meet. The above bill when passed will help promote the owner/operator in a responsible way and allow us to be able to provide our home for additional income. The provisions by the sponsors of HB 1471 to apply for a sudo tax collector status will help those individuals without business experience to engage in short term rental endeavors to supplement their income is a positive step to increase responsible individuals to work and compete in the ever increasing cost of living in Hawaii.

I was born and raised in the islands and we all know how difficult it can be to raise a family and make ends meet. I urge you to pass HB1471. The revenue generated can help the state to meet its budget shortfall and ensure everyone who wants to engage in this vibrant industry pays their fair share of taxes along with us who have been doing so.

Thank you for the opportunity to testify.

Committee of Consumer Protection & Commerce

**LATE**

Rep. Angus L.K. McKelvey, Chair  
Rep. Linda Ichiyama, Vice Chair

My name is Gina LeTourneur  
Ph# - 808-782-4867

Date of Hearing Feb 14, 2017  
Tuesday

I am in support of HB 1471.

My name is Gina LeTourneur. I am a single mother who supports HB 1471. The reason I support this bill is because I would like to do the right thing. I have a rental and would like to do short term rental. For the last ten years, I have tried to do long term rental and I have had to go to court over five times in which case, I have to say, justice ruled in my favor. I have had a squatter whom I had to go through the legal avenue of the sheriffs department. I had one person who had a great dane living in the house and tore up the walls and floors. I experienced a flood in which I did not get enough money to cover the costs to fix. I have had numerous renters move out and break their contract and leave me high and dry without the rent that I count on to pay my bills. I also have a daughter that is disabled that I support. In any case, short term renters are happy, appreciative vacationers who are pleasant and they would pay taxes up front which could help our counties and our state. I will save the rest of my testimony for tomorrow.

Thank you for listening to me. In closing, I support HB 1471.  
Gina LeTourneur

**LATE**

I am in support of HB1471 to allow transient accommodations brokers to collect and remit taxes on behalf of operators. This measure will bring in millions of dollars in tax revenue without spending a penny of taxpayer money. It is a common sense measure that will allow increased funding for other government programs to tackle the homeless and housing shortage issues. Thank you,

Jordan Moniuszko

**LATE**

I wish to speak in favor of **HB1471 HD1, RELATING TO TAXATION**.

First, I would like to ask a question.

When President Obama visits Hawaii, why doesn't he stay in a nice hotel in Waikiki?

I have been to the home where he stays.

It is a nice house on the beach.

Why does he only stay for two weeks and not for a full month?

Since the private residence where he and his family stays is not a registered as a B&B or a vacation rental, how is he able to do it when I cannot.

I travel all over the world. I always stayed in a hotel but once I was exposed to AirBNB I never stay in a Hotel again unless I go to conventions in Las Vegas because my hotel room is subsidized by the other people who gamble.

On Friday I will go to New York City to attend the giant Toy Fair. Will I pay over \$300 to stay in a hotel that is far from the venue? Not a chance. I am not necessarily a budget traveler, but I am a smart traveler. If I can stay in walking distance of the Convention Center, avoid the long freezing cab lines (actually a taxi has become a dinosaur now that there is a choice) and UBER is always better.

See what happens when things never change? More and more people are coming back to visit our island two, three, four or more times. Staying in Waikiki is fun the first time but the noise all night, the street fights, the horns honking, the sirens, expensive parking and of course the tall pretty girls that seem like they have no friends gets old after a little while.

Visitors have changed and if we don't change and become more accommodating, there are lots of other beautiful and fun destinations they can choose from.

The solution is simple:

- 1. Stop taking so much money from the hotel lobby.**
- 2. Make it easy for hosts to register so they can do what President Obama does.**
- 3. Allow platforms like AirBNB to collect GET and TAT on behalf of short-term operators.**

**When I stay at Air BNB's all over the world, the payment system is so automated. There are some locations when an extra line is inserted in the price. That money is going directly into the budget of whatever government agency is requesting it.**

**Our Governor had the opportunity last year to accept millions of dollars that was offered to be collected by AirBNB to help support the cost to run this state.**

**In today's world, anything can become a dinosaur quickly. If we don't evolve the millions of visitors who come to Hawaii will go elsewhere where they are welcome.**

**LATE**



February 14, 2017

**Testimony in Opposition to H.B. 1471 HD1**

Dear Chair McKelvey, Vice Chair Ichiyama, and Members of the House Committee on Consumer Protection & Commerce:

On behalf of the hotel industry, with 109,000 employees in Hawaii at 280 properties statewide, the American Hotel & Lodging Association (AHLA) urges opposition to HB 1471 HD 1, relating to taxation and transient accommodations brokers. AHLA supports legislation that fairly and effectively levels the playing field between our members and short-term rentals (STR) offered through online platforms. STR companies and hosts should have to follow the same basic rules as the rest of the industry in order to protect guests and support their communities. Unfortunately, HB 1471 falls far short.

First, the proposed legislation would hinder tax collection through a lack of data transparency. Under the proposed bill, transient accommodations brokers acting as tax collectors would be required to report only aggregate information about underlying transactions on tax returns. In addition, a transient accommodations broker acting as a tax collector would be required to provide the names and addresses of its operators only in response to an administrative request made by the Director of Taxation or upon waiver by the operator. Further, the proposed legislation prohibits disclosure of information about operators obtained from tax returns filed by transient accommodations brokers to certain tax officials – which disclosures would otherwise be permitted under existing Hawaii law. This lack of data transparency obstructs the State's ability to determine whether transient accommodations brokers acting as tax collectors are properly reporting and remitting all taxes due on the underlying transactions.

Second, the proposed legislation facilitates illegal short-term rentals by allowing transient accommodations brokers acting as tax collectors to comply with all obligations of operators under title 14. Specifically, by allowing operators whose taxes are being collected by a transient accommodations broker to post the transient accommodations broker's registration number instead of their own, and by providing that such operators will be "deemed licensed" or "deemed registered," as applicable, the proposed legislation allows operators to avoid existing registration requirements and hide behind brokers. As such, the proposed legislation has the potential to "legitimize" illegal rentals at the State level and to materially contribute to the serious shortage of affordable rental housing available for Hawaii's residents.

Finally, the proposed legislation creates different reporting rules for transient accommodations brokers acting as tax collectors. This lack of parity with hotels, motels, and other transient accommodations will potentially result in incongruous and weaker enforcement of tax and land use laws with respect to transient accommodations booked through tax-collector brokers.

Again, AHLA urges your opposition to HB 1471. Please contact us if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Troy Flanagan", with a stylized flourish at the end.

M. Troy Flanagan  
Vice President, State & Local Government Affairs



**OUTRIGGER**  
ENTERPRISES GROUP  
*Hospitality • Retail • Development*

**LATE**

HOUSE OF REPRESENTATIVES  
THE TWENTY-NINTH LEGISLATURE  
REGULAR SESSION OF 2017

COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
Representative Angus L K McKelvey, Chair

2/14/2017  
Rm. 329, 2:00 PM

HB 1471, HD 1  
Relating to Taxation

Chair McKelvey and Members of this Committee, my name is Max Sword, here on behalf of Outrigger Hotels Hawaii, to testify in opposition to HB 1471, HD 1 as presented.

Outrigger Hotels Hawaii does not oppose some reasonable self-collection of taxes authority for the TVU industry. What we do oppose is the industry combining this authority with measures that would legitimize practices making it easier to skirt the law and harder to identify and address illegal activities costing the state and counties millions in lost revenues.

On a few specific points, HB 1471 HD 1 still lacks the transparency needed to positively assure that each and every TVU owner is paying its fair share of TAT and other taxes owed to the State of Hawaii for transient accommodations business activity. For example, allowing the Transient Accommodations Broker (TAB) to collect and report all taxes in the aggregate does not permit anyone to know exactly who did or didn't pay taxes, how many have paid, and where they are located.

HB 1471 HD 1 also does not require owners to produce evidence of compliance with county law in their operations. They only have to "attest" that they comply.

Finally, HB 1471 HD 1 would gut the central requirement of HRS 237D-4, enacted just a few years ago, which requires that TABs must receive and post online a current TAT number for any unit listed. Instead, only the TAB number would be required. The obvious result of this change would be the continued listing online of suspected significant numbers of TVUs, which have not obtained TAT numbers and are not paying TATs.

To ensure equal treatment of hotels and TVUs and full enforcement of all applicable tax and other laws for our broader industry, may I offer additional language for your consideration.

Thank you for allowing me to testify.

# DID YOU KNOW?

**LATE**

there are an estimated

**33,000  
HOMES**

being used as vacation rentals  
in the state

We believe that there are four key elements that need to be included in any state legislation that gets passed:

- 1) We must not preempt the counties' ability to enact good regulations.
- 2) Rental operators should be required to certify to the tax collection broker that they are operating legally and provide documentation to back that up.
- 3) We should ensure that it complements—and does not nullify—Act 204 in allowing the state to hold operators accountable.
- 4) Tax collection brokers should be required to operate transparently by providing lists of names and addresses of operators to the State so the State can verify the money it is collecting reflects reality.

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**LATE**

House Consumer Protection and Commerce Committee  
SUPPORT  
HB 1471 HD1  
Tuesday, February 14th, 2017  
Brynn Rovito

Aloha Chair McKelvey and Members of the Committee,

I appreciate the opportunity to testify in support of HB1471 HD1.

My name is Brynn Rovito and I am the owner of three short-term rental accommodations in Hawaii. Two of my units are located in a residentially zoned building in Waikiki that carries a non-conforming use permit. Passage of this Bill would simplify the tax collection process for owners like me who are legally operating and for many other hosts willing to pay their fair share of taxes.

Many of my guests choose to stay in my units because they present an affordable alternative to a hotel. It is almost impossible to find a hotel room in Waikiki for less than \$300/night. My units provide which provide more living area, a full kitchen and have all of the amenities of a hotel, cost on average \$150/night. People save their entire lives to come to Hawaii and many of my guests are first-time visitors. The lack of affordable hotel accommodations makes coming to Hawaii cost-prohibitive for many people with the desire to visit the island.

I strongly encourage the Committee to pass this Bill and to include language that specifically recognizes the residentially-zoned properties in Waikiki that carry non-conforming use certificates.

In addition, I have a home in Portlock that I offer as a vacation rental. Similar to the units in Waikiki, many of my guests choose to stay in a home because of the lack of affordable options for people traveling to Hawaii in large groups. Many of my guests come back to Hawaii to visit family members; a large home allows them to spend quality time together in a private, comfortable and relaxing environment that is not available in a hotel setting.

I strongly believe that passing HB 1471 HD1 is a step in the right direction for the state of Hawaii. Through this Bill, lawmakers can easily set-aside much-needed money to aid in the development of affordable housing for Hawaii residents. Please pass this Bill to make it easy for willing taxpayers like myself who want to pay their fair share to strengthen the local economy.

Thank you for allowing me the opportunity to speak in support of this measure.

Brynn Rovito