

LATE



SCR84/SR52

URGING EACH COUNTY TO DEVELOP AND ADMINISTER A PERMITTING SYSTEM FOR NON-PERMITTED OWNER-OCCUPIED TRANSIENT VACATION UNITS AND A LAND USE AMNESTY PROGRAM TO WAIVE OUTSTANDING LIABILITIES FOR ILLEGAL TRANSIENT VACATION UNITS THAT OBTAIN A PERMIT BY A CERTAIN DATE.

Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Senate Committee on Economic Development, Tourism, and Technology
Senate Committee on Commerce, Consumer Protection, and Health

March 28, 2018

10:10 a.m.

Room 229

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SCR84/SR52, which urges each county to develop and administer a permitting system for non-permitted owner-occupied transient vacation units and a land use amnesty program to waive outstanding liabilities for illegal transient vacation units that obtain a permit by a certain date. **Given the impact of unlawful transient vacation rentals on housing opportunities for Native Hawaiians and other Hawai'i residents, OHA recommends the establishment of strong and much-needed enforcement mechanisms, such as those found in HB2605 HD2 SD1, rather than the permitting and amnesty approach contemplated in this measure.**

As home prices, rental prices, and homelessness continue to increase, and as the State anticipates additional population growth and an associated demand for more housing over the next decade,¹ land-use planning that ensures housing affordability and availability is more critical now than ever before. As the legislature recognizes, Hawai'i is in the midst of an affordable housing crisis: recent research indicates a need for 65,000 more housing units by 2025, with half of this demand for units at or below 60% of the Area Median Income (AMI);² only 11 percent of this demand is for housing units at or above 140% AMI, or for units that do not meet the State's current definition of "affordable housing."³ **With 48% of households in the State already unable to afford basic household necessities including housing, food, transportation, health care, and child care,⁴ the lack of affordable housing and rising housing costs require bold and aggressive policies that meaningfully prioritize the housing needs of local residents.**

¹See SMS, HAWAII HOUSING PLANNING STUDY, at 34 (2016), available at https://dbedt.hawaii.gov/hhfdc/files/2017/03/State_HHPS2016_Report_031317_final.pdf

² See *id.*

³ See *id.* at 34.

⁴ ALOHA UNITED WAY, ALICE: A STUDY OF FINANCIAL HARDSHIP IN HAWAII (2017).

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Native Hawaiians are particularly disadvantaged by land uses that contribute to our residential housing challenges, including increased rental housing costs and shortages in our rental housing supply in particular. Notably, Native Hawaiians are less likely to own a home and, therefore, disproportionately rely on the rental housing market.⁵ Native Hawaiian households are also much more likely to be “doubled up,” with multi-generational or unrelated individuals living together in single households,⁶ and Native Hawaiian households are more than three times more likely have a “hidden homeless” family member than all state households.⁷ Accordingly, increases in rental housing costs and shortages in affordable residential rental opportunities may have a particularly high impact on the housing and financial security of the Native Hawaiian community.

Unfortunately, the unaddressed proliferation of illegal vacation rentals may exacerbate the rise in rental housing costs beyond what Honolulu residents and Native Hawaiians are able to afford, and has directly removed much-needed housing units from the residential rental market. The 2016 Hawai‘i Housing Planning Study estimates that there are now 28,397 non-commercial vacation rentals, located in nearly all communities in Hawai‘i.⁸ Not surprisingly, the proliferation of such units, which generate nearly 3.5 times more income than the average long-term residential rental,⁹ has correlated with substantially increased housing costs throughout the islands; Honolulu in particular had the highest rates of increase in average monthly rent and average daily rent over the past several years.¹⁰ In addition to raising the costs of available long term rental units, the proliferation of illegal vacation rentals also represents a direct loss of housing units from the long-term residential rental market.¹¹

⁵ See OFFICE OF HAWAIIAN AFFAIRS, NATIVE HAWAIIAN HOMEOWNERSHIP HO‘OKAHUA WAIWAI FACT SHEET VOL.2016, NO. 1, page 3, *available at* <https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/NH-Homeownership-Fact-Sheet-2016.pdf>. This figure includes 8,329 DHHL residential lease “owner-occupied” property units. DHHL ANNUAL REPORT 2014, at 47, *available at* <http://dhhl.hawaii.gov/wpcontent/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.

⁶ 24.8% of Native Hawaiian households, compared to 9.6% of state households include more than two generations or unrelated individuals. SMS, *supra* note 1, at 70.

⁷ 14.1% of Native Hawaiian households, compared to 4.2% of state households have a hidden homeless family member. *Id.*

⁸ There are an estimated 45,075 total vacation rental units measured by the study. The study estimates that at least 37% of these rentals are “commercial” rentals, or resort condominium and condominium hotel properties which are legally permitted commercial operations. As such, the study estimates that 28,397 units are non-commercial, i.e. unlawful, transient vacation rentals. SMS, *supra* note 1, at 58.

⁹ SMS, *supra* note 1, at 55.

¹⁰ Honolulu’s average monthly rent growth rate was 26.1%, and the six-year growth rate of average daily rental rate was 47%. SMS, THE IMPACT OF VACATION RENTAL UNITS IN HAWAI‘I, 2016, at 8, *available at* <http://www.hawaiitourismauthority.org/default/assets/File/Housing%20and%20Tourism%20113016.pdf>.

¹¹ The Hawai‘i Tourism Authority’s 2016 study found that vacation rentals increased by 34% per year between 2005 and 2015. Further investigation found that between 2011 and 2014, units held for seasonal use and not available for long term rent increased by 12%. *See id.* at 3.

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Clearly, allowing the continued illegal use of housing units for vacation rentals will only exacerbate our housing crisis. Without more meaningful regulatory and enforcement mechanisms, there is nothing to stop the negative impacts of illegal vacation rentals on housing opportunities for Native Hawaiians and other local residents. In contrast, each and every illegal vacation rental unit that is returned to long-term residential use is one more unit that can help meet our existing housing demand.¹² **Accordingly, OHA has advocated for regulatory and enforcement approaches that may systemically curb and reverse the impact that illegal vacation rentals continue to have on residential housing opportunities in Hawai‘i.**

In light of the above, OHA respectfully recommends that the Committees consider and support the robust enforcement framework proposed in other measures, such as HB2605 HD2 SD1. HB2605 HD2 SD1 includes mandatory compliance monitoring and reporting requirements for transient vacation rental brokers who wish to act as tax collection agents on behalf of rental operators; the requirement that brokers remove listings for illegal vacation rentals; and strict penalties for noncompliance by both brokers and operators that will deter further unlawful land uses. **Such provisions will appropriately hold those most responsible for our transient vacation rental problem directly accountable for their actions, and subject them to strict penalties that reflect the magnitude of our growing housing crisis.**

As a final note, research shows that vacation rental activity in the State generally is not likely to provide meaningful and long-term economic benefits to Hawai‘i or its residents, including Native Hawaiians. Data has shown that **70% of properties listed as vacation rentals in Hawai‘i are owned by out-of-state property owners** who do **not** reside in the islands.¹³ Native Hawaiians in particular are less likely to benefit directly from a transient vacation rental operation; with Native Hawaiian homeownership rates significantly lower than the state average, they are less likely to own second or additional homes that could be rented as vacation units.¹⁴ As previously mentioned, Native Hawaiians also often live in overcrowded households, without the extra rooms needed to operate an owner-occupied vacation rental. As such, while some Hawai‘i residents may be able to earn extra income from the use of a property as a vacation rental, vacation rental operations primarily benefit nonresident property owners and real estate speculators – who may also seek to buy out any vacation rentals owned by local residents, now and in the future.

In addition, other jurisdictions have found that any economic benefits gained from permitted short-term vacation rental operations are far outweighed by the larger social and

¹² See generally SMS, *supra* note 1.

¹³ Notably, the Hawai‘i Tourism Authority report found that 45,075 total properties are available for short term vacation rentals, with between 21,295 and 23,002 as non-commercial vacation rental units advertised in 2016. 70% of these properties are offered by out-of-state property owners. SMS, *supra* note 10, at 5-6.

¹⁴ For non-DHHL properties, the Native Hawaiian homeownership rate is 41.2%, 15.5 percentage points below the statewide rate. See *supra* note 5.

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economic costs of removing long term rentals from the housing market. **For example, an economic analysis by the City of San Francisco found a negative economic impact of \$300,000 for each housing unit used as a vacation rental, exceeding any economic benefits from visitor spending, hotel tax, and associated revenues.**¹⁵ Again, the short-term benefits of vacation rental units to some property owners, including non-resident property owners and corporate vacation rental operators, are likely to be substantially outweighed by the fiscal impacts on Honolulu and its residents from increased housing costs, increased real estate speculation, and the need for more social services and housing subsidies. **Accordingly, OHA strongly believes that robust land use enforcement mechanisms, such as those proposed in HB2605 HD2 SD1, rather than this measure's suggested permitting and amnesty program, will best mitigate the impacts of illegal transient vacation rentals, and provide much-needed housing relief for Native Hawaiians and all Hawai'i residents.**

Mahalo nui for the opportunity to testify on this measure.

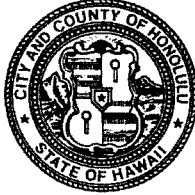
¹⁵ See CITY OF SAN FRANCISCO, OFFICE OF THE CONTROLLER, AMENDING THE REGULATION OF SHORT-TERM RESIDENTIAL RENTALS: ECONOMIC IMPACT REPORT, May 2015, available at http://sfcontroller.org/sites/default/files/FileCenter/Documents/6458150295_economic_impact_final.pdf?documentid=6457.

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March 28, 2018

The Honorable Clarence K. Nishihara, Chair
and Members of the Committee on Public Safety,
Intergovernmental, and Military Affairs
The Honorable Glenn Wakai, Chair
and Members of the Committee on Economic
Development, Tourism, and Technology
The Honorable Rosalyn H. Baker, Chair
and Members of the Committee on Commerce,
Consumer Protection, and Health
Hawaii State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chairs Nishihara, Wakai and Baker, and Committee Members:

Subject: Senate Concurrent Resolution 84
Senate Resolution 52
Relating to Transient Vacation Rentals Amnesty

The Department of Planning and Permitting (DPP) appreciates the suggestions reflected in the proposed resolutions. They outline a strategy for counties in the regulation of illegal transient vacation units that includes a deadline for implementation, the hiring of an advertising agency, and an "amnesty" program for owner-occupied units.

The DPP is preparing a bill to allow more "bed and breakfast homes" (owner-occupied) on Oahu through a permitting process. We are also considering allowing more transient vacation units, which are not owner-occupied units, and are rented out as "entire place" rentals. Given our new process, obtaining a permit is, in itself, amnesty. We have no objection to a publicity program on the proposed new permitting system, but we are not budgeted to hiring an advertising agency to do so.

Thank you for this opportunity to testify.

Very truly yours,

A handwritten signature in black ink that reads "Kathy K. Sokugawa".

Kathy K. Sokugawa
Acting Director

Keep It Kailua

Preserving Kailua's Character

March 26, 2018

To: COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS
Senator Clarence K. Nishihara, Chair; Senator Glenn Wakai, Vice Chair

COMMITTEE ON ECONOMIC DEVELOPMENT, TOURISM, AND TECHNOLOGY
Senator Glenn Wakai, Chair; Senator Brian T. Taniguchi, Vice Chair

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH
Senator Rosalyn H. Baker, Chair; Senator Jill N. Tokuda, Vice Chair

Re: **Oppose SCR 84/SR 52**

We adamantly oppose **SCR 84 / SR 52**. We believe it sends the wrong message to the counties and the public by encouraging the Counties to offer lucrative vacation rental permits and amnesty to law-breakers who have knowingly and intently violated County and State land-use and tax laws for years. Do we really want to be telling our youth that you can be rewarded for breaking the law?

Thank you for your consideration.

Keep it Kailua

Keep It Kailua is a grassroots community group founded in 2004 whose purpose is to retain Kailua's family-oriented residential character and quality of life.

Keep It Kailua's goals are to:

- *Protect residential zoning and promote permanent residency in our neighborhoods*
- *Preserve and enhance scenic, civic, recreational and cultural features that define Kailua's sense of place*
- *Protect water resources essential to the health of the environment*
- *Preserve trees and maintain open green space*
- *Promote walking and the use of non-motorized bicycles as alternatives to automobile transportation within and around the town*
- *Promote businesses that serve the residential community*
- *Support other community groups with similar goals*

Please visit us at www.keepitkailua.com

Or follow us on Facebook at *Keep it Kailua*

SCR-84

Submitted on: 3/25/2018 12:22:20 PM

Testimony for PSM on 3/28/2018 10:10:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Will Page	Testifying for Page Marketing, Inc.	Support	No

Comments:

Aloha Senators,

Thank you for introducing this measure. It is fair and reasonable. It does not take away county rights. I believe it will be well received by those in the community that it affects most. This will go a long way towards resolution of issues regarding short-stay rentals in our neighborhoods.

Mahalo,

Will Page

Kailua, HI

SCR-84

Submitted on: 3/26/2018 9:33:02 AM

Testimony for PSM on 3/28/2018 10:10:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Larry Bartley	Individual	Oppose	Yes

Comments:

A fair sounding resolution with profound negative consequences. On Oahu, the most egregious illegal short-term rental operators hide behind kuku wahine's muumuu and always support okay-sounding proposals such as this knowing that they will fashion themselves to fit the definition long enough to get a permit then go back to whole-house vacation rentals because there is no enforcement yet to vet them out. And once with a permit, they will be even more difficult to expose and clean up. If you really want owner-occupied one or two room STRs, SUPPORT ENFORCEMENT FIRST. Once we have enforcement that works, permitting options can be explored that allow owner-occupied B&Bs. EFFECTIVE ENFORCEMENT BEFORE ANY CONSIDERATION OF PERMITTING is the only reasonable approach that can gain public support and work.

SCR-84

Submitted on: 3/26/2018 2:49:43 PM

Testimony for PSM on 3/28/2018 10:10:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Stuart Simmons	Individual	Oppose	Yes

Comments:

Dear Senators;

I am appalled a resolution has been crafted that would encourage the Counties to "reward" illegal vacation rentals with lucrative permits and offer them amnesty because they were successful at breaking the law.

The notion that these wealthy property owners were forced to rent their properties as mini-hotels is ludicrous. The vast majority of these property owners could have legally rented their units as long-term rentals.

What type of ethics and values are we teaching our children with this proposed resolution? Breaking the law and greed prevails?

Stu Simmons

Oahu resident

SCR-84

Submitted on: 3/27/2018 10:13:14 AM

Testimony for PSM on 3/28/2018 10:10:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kandis McNulty	Individual	Oppose	No

Comments:

Every vacation rental is a displaced family! Please stop this madness!

SCR-84

Submitted on: 3/27/2018 10:44:11 AM

Testimony for PSM on 3/28/2018 10:10:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael McNulty	Individual	Oppose	No

Comments:

Please find a resort area for tourists to stay, but keep them out of our residential neighborhoods! They don't belong here!