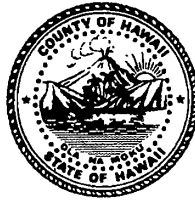


Susan L.K. Lee Loy
Council Member
District 3



Office: (808) 961-8396
Fax: (808) 965-8912
Email: sue.leeloy@hawaiiicounty.gov

HAWAI'I COUNTY COUNCIL
25 Aupuni Street, Hilo, Hawai'i 96720

2018 MAR -9 PM 1:19
COUNTY CLERK
COUNTY OF HAWAII

MEMORANDUM

DATE: March 9, 2018

TO: Valerie T. Poindexter, Council Chair; and
Members of the Hawai'i County Council

FROM: *SL* *for* Susan L.K. Lee Loy, Council Member

SUBJECT: Re: Communication No. 744: Discussion regarding short-term rental properties.

Attached is the PowerPoint file that will be presented by Mr. Stefan Buchta regarding short-term rental properties, pursuant to Communication No. 744.

Please distribute this for the Finance Committee meeting on March 13, 2018.

SL:ps

Comm. No. 744.3
Ref. To: P/FC
Ref. Date MAR 13 2018

Stefan Buchta, Leleiwi Community Association

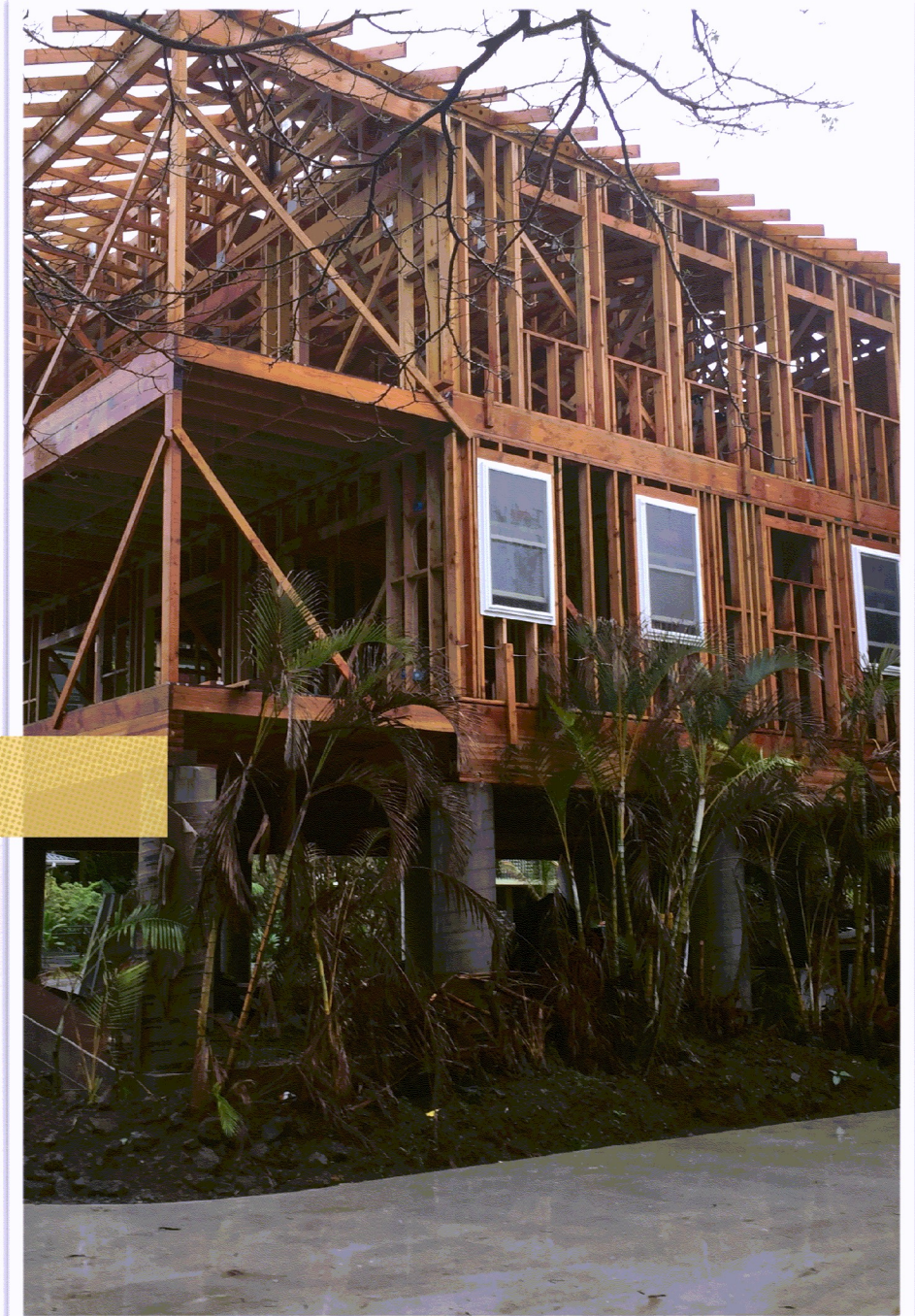
March 13, 2018

Short-Term Rentals

Effects on the Surrounding
Community, Tax Revenue,
and Tourism

“Why has government been instituted at all? Because the passions of men will not conform to the dictates of reason and justice, without constraint.”

–Alexander Hamilton



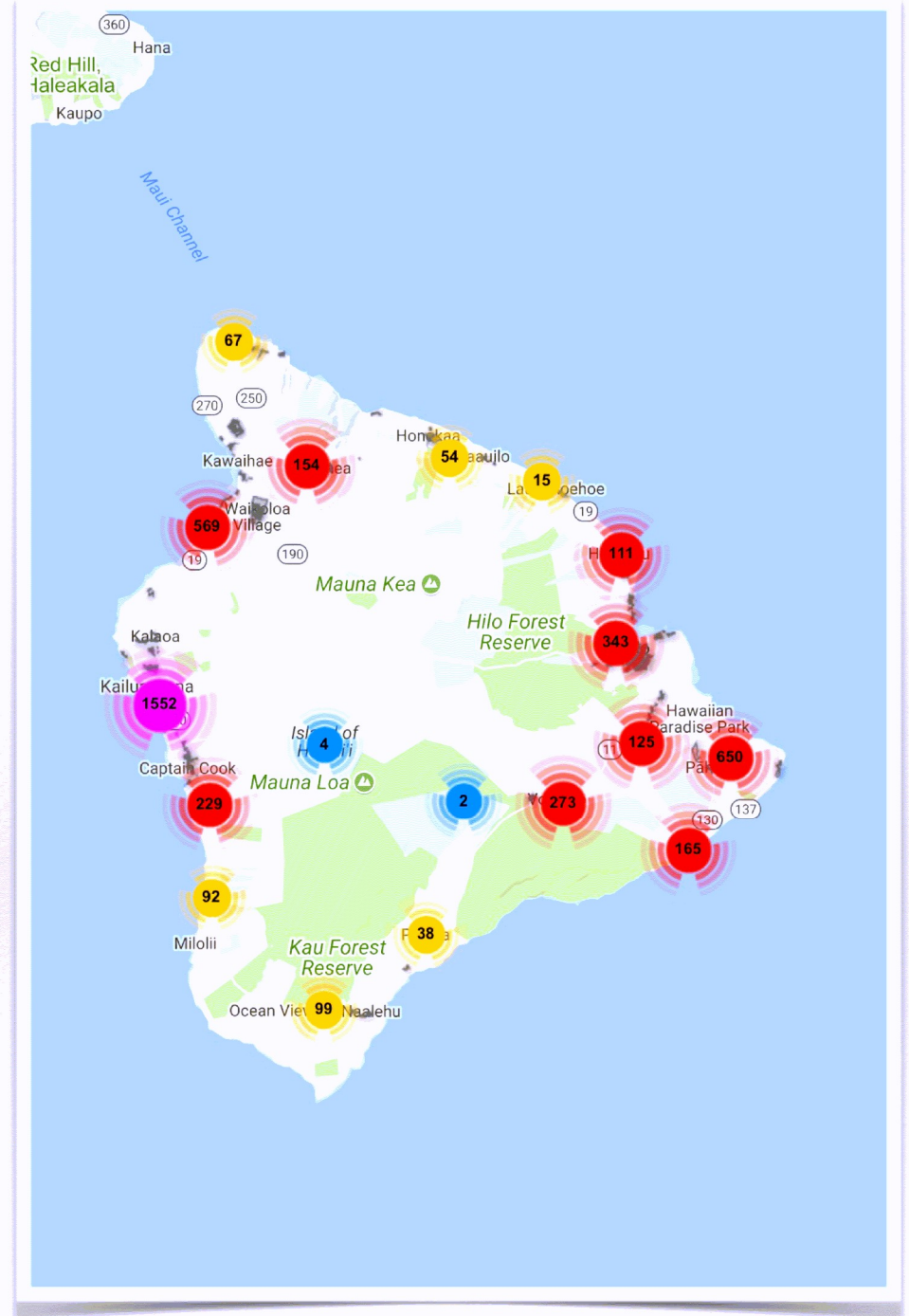
The Problem

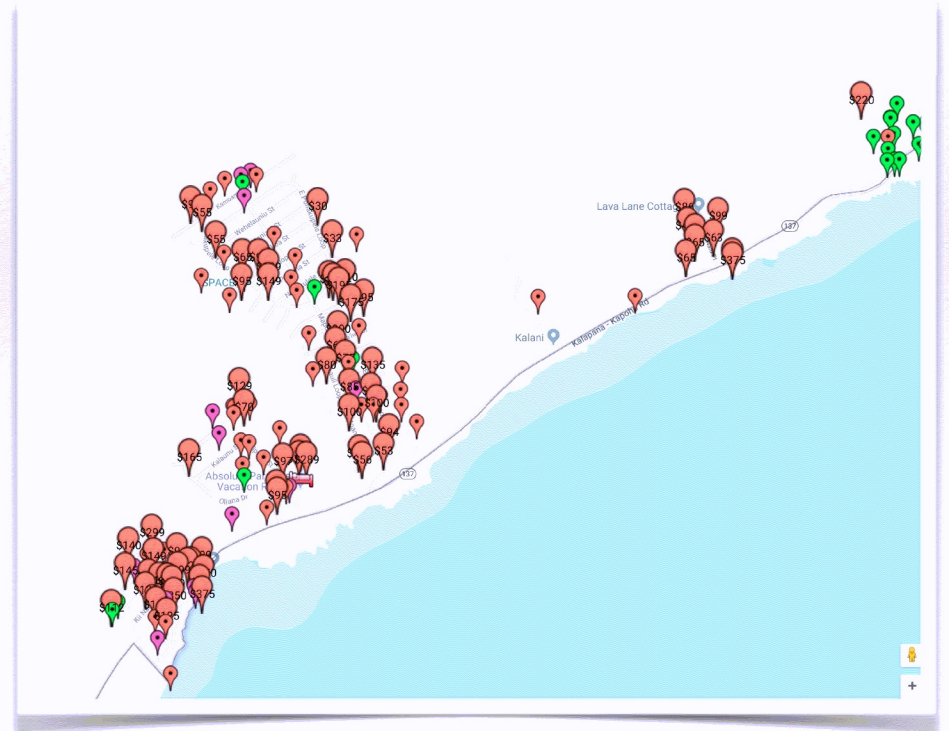
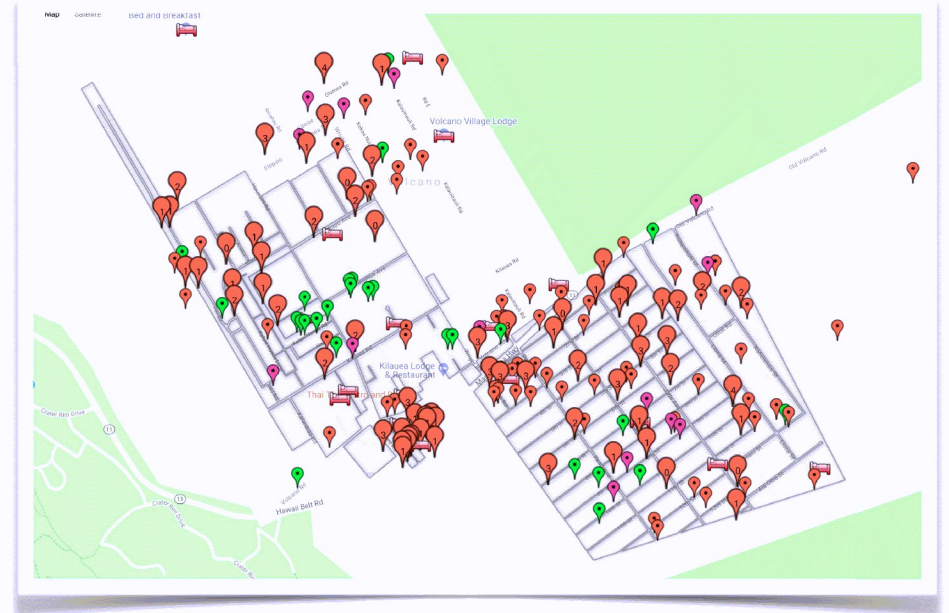
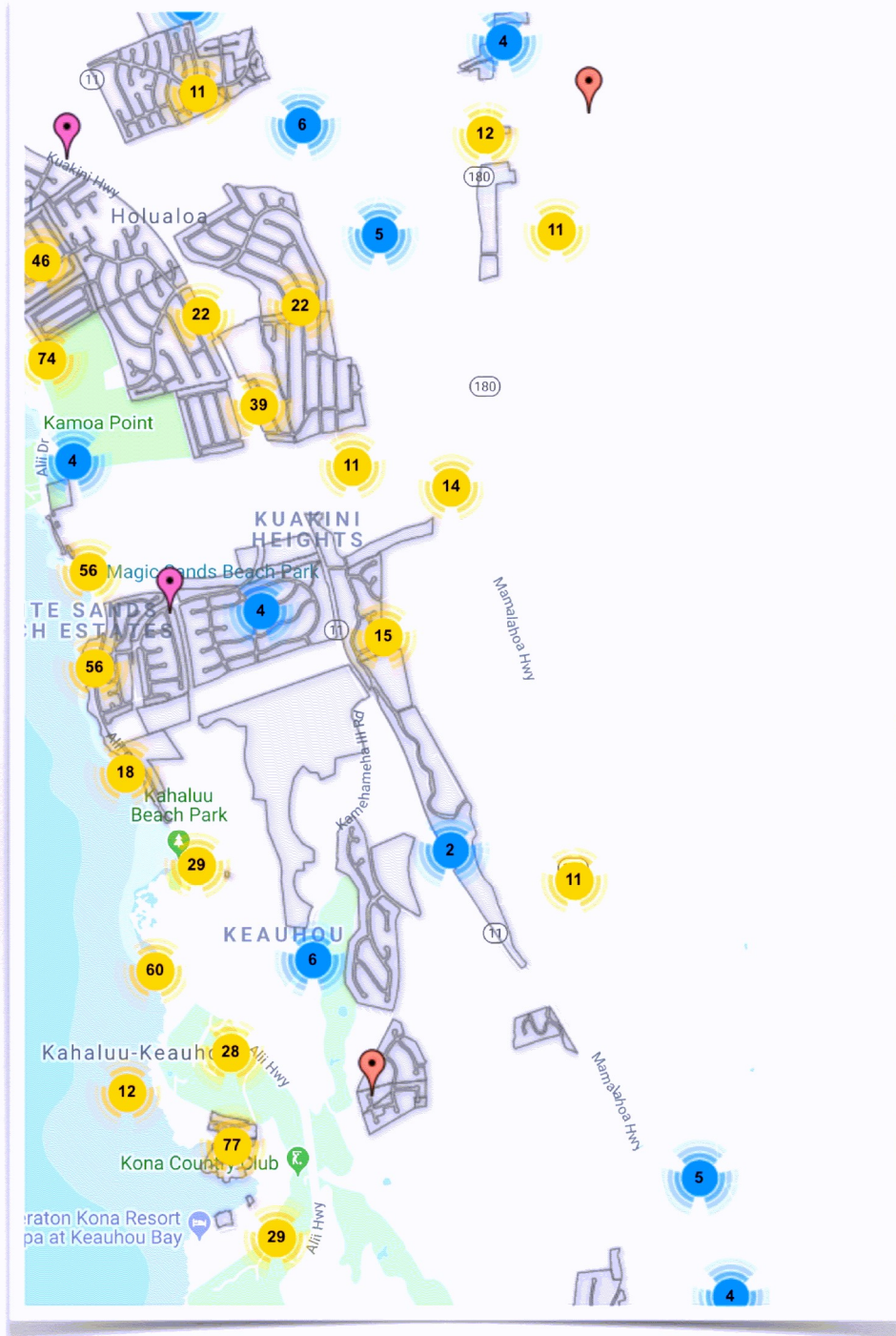
AirBnB, VRBO, and HomeAway began as a way for people to garner extra income by renting out their home or an extra room. But,

- ❖ Commercial operators are increasingly bastardizing the system. Buy entire blocks of residential neighborhoods, rent them like hotels. Have no supervision on site, often live out of state
- ❖ Vastly increased number of 'Zombie Residents' maintaining properties from out-of-state. AirBnB / VRBO / HomeAway solved the booking problem!
- ❖ Tax collection is random
- ❖ Both groups permanently withdraw properties from the market, make housing more expensive, and make it harder to buy a house or condo

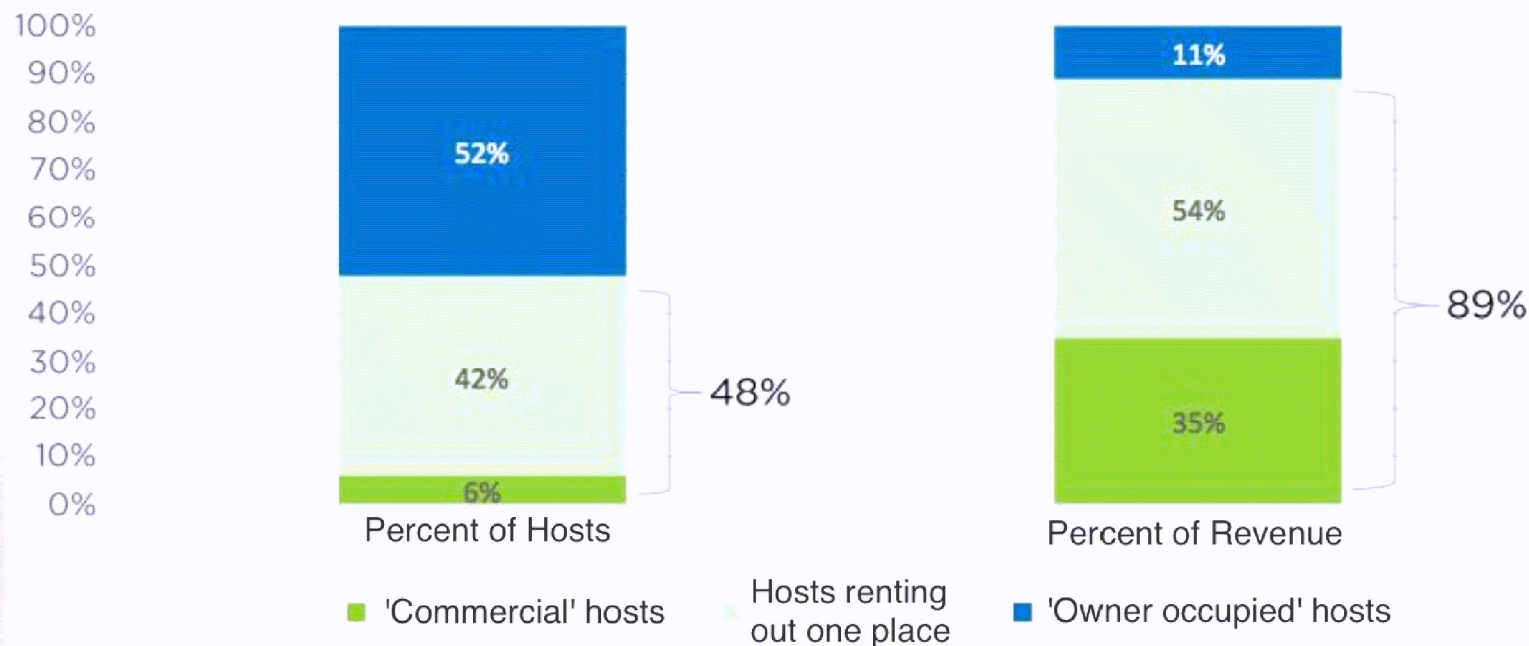
We are rapidly losing our residential communities, ag lands, and beaches!

Raging Popularity





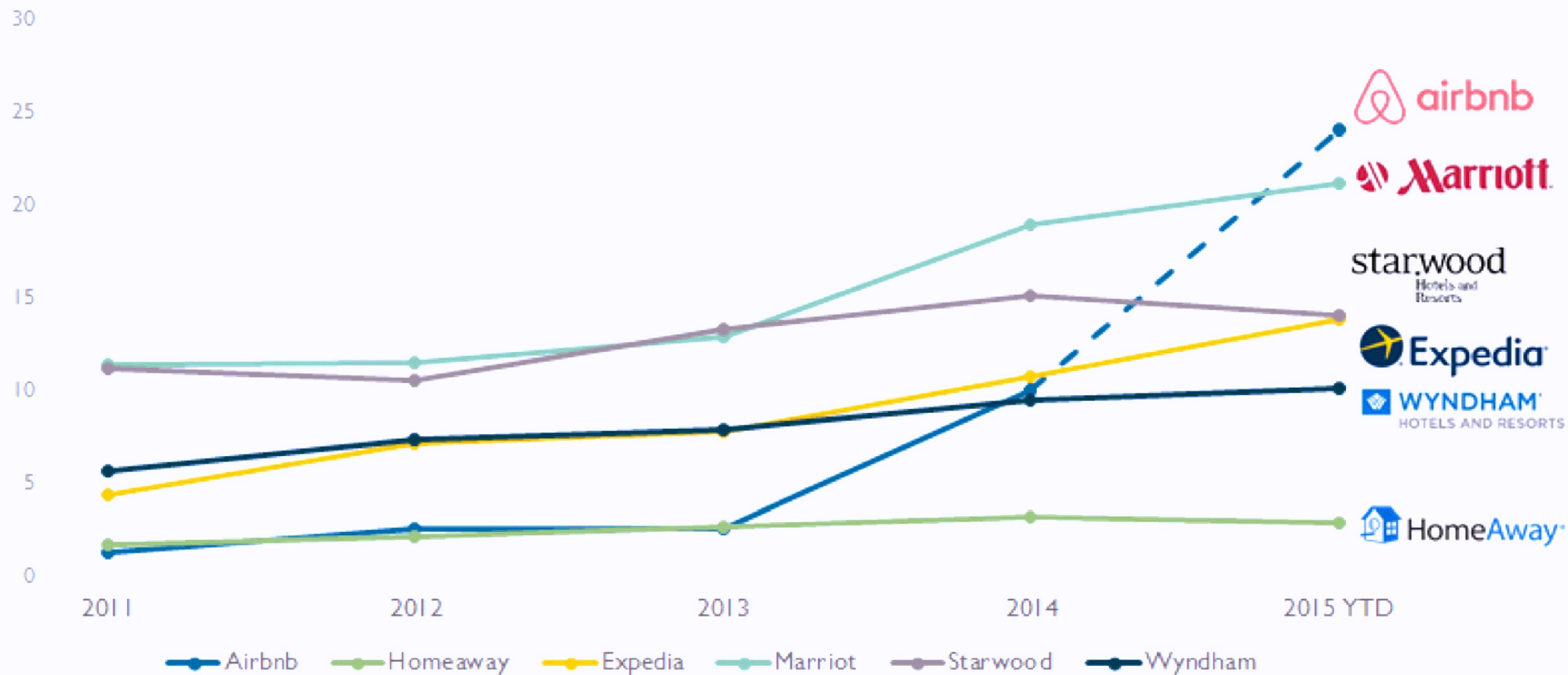
Revenues by Host Type



- The 6% of hosts who are 'commercial hosts' rent out two or more places and make **35% of all the Airbnb revenue**
- 42% of people renting a single unit are making 54% of the revenue
- 52% of hosts who are non-pros renting out an extra room make just **11% of all the Airbnb revenue**

AirBnB vs. Public Competitors: Valuations Over Time (\$B)

2011 - 2015 YTD (6/18/2015)



*AirBnB did not raise a round between 2012 and 2014, and therefore its valuation stayed the same during this time

**Valuations were taken at dates where AirBnB raised. 2013 data was taken at 6/1/2013

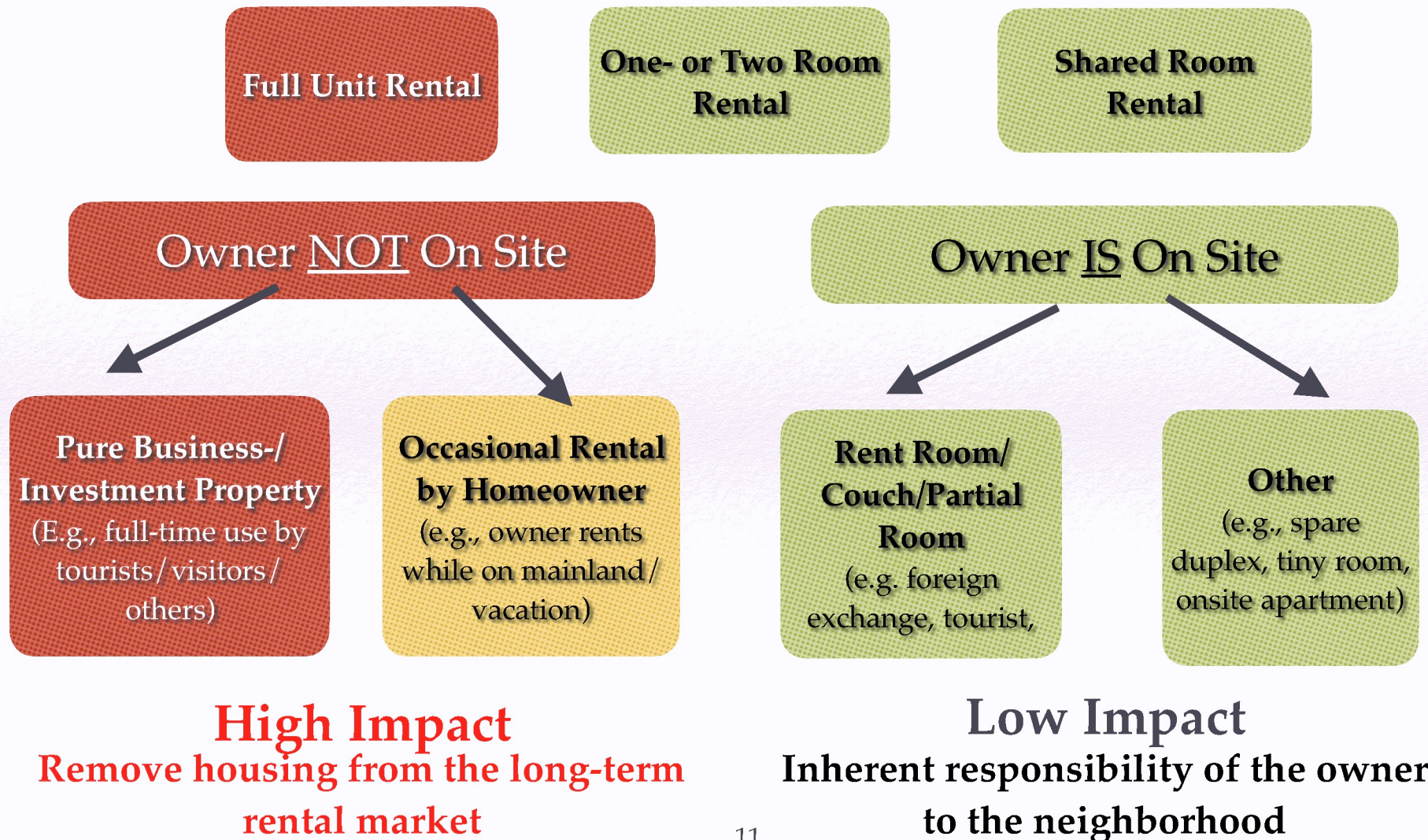
Purposes & Goals?

- ❖ Reign in expansive short term rental growth
- ❖ Maintain neighborhood character and unique island lifestyle
- ❖ Minimize impacts to residential areas & affordable housing
- ❖ Enable economic opportunities & support tourism
- ❖ Generate revenue for the county to pay for both enforcement and services
- ❖ **Develop a vision of the role of home-share rentals in Hawaii**

Agenda

- ❖ Untangle the more impactful short-term rental types
 - ❖ By type and owner occupancy
 - ❖ Rental times / year
 - ❖ # of rooms
 - ❖ By use
- ❖ Other Important Components:
 - ❖ Fines and Enforcement, fixing most common loopholes

FRAMEWORK FOR DISCUSSION



Treat Owner Occupied Differently

- ❖ Regulate non-owner occupied STRs differently from owner-occupied:
 - ❖ Inherent responsibility of the owner to the neighborhood
 - ❖ Austin, Nashville -- different building inspection requirements, strict caps on total number of permits issued per census tract. Require someone to be held accountable should renters become a nuisance

Example Property

Entire House Rental, non-owner occupied

Takes the whole building out of
residential housing stock

Expensive short-term rental conversion,
so owner can't afford to rent it out at
affordable local rates any more

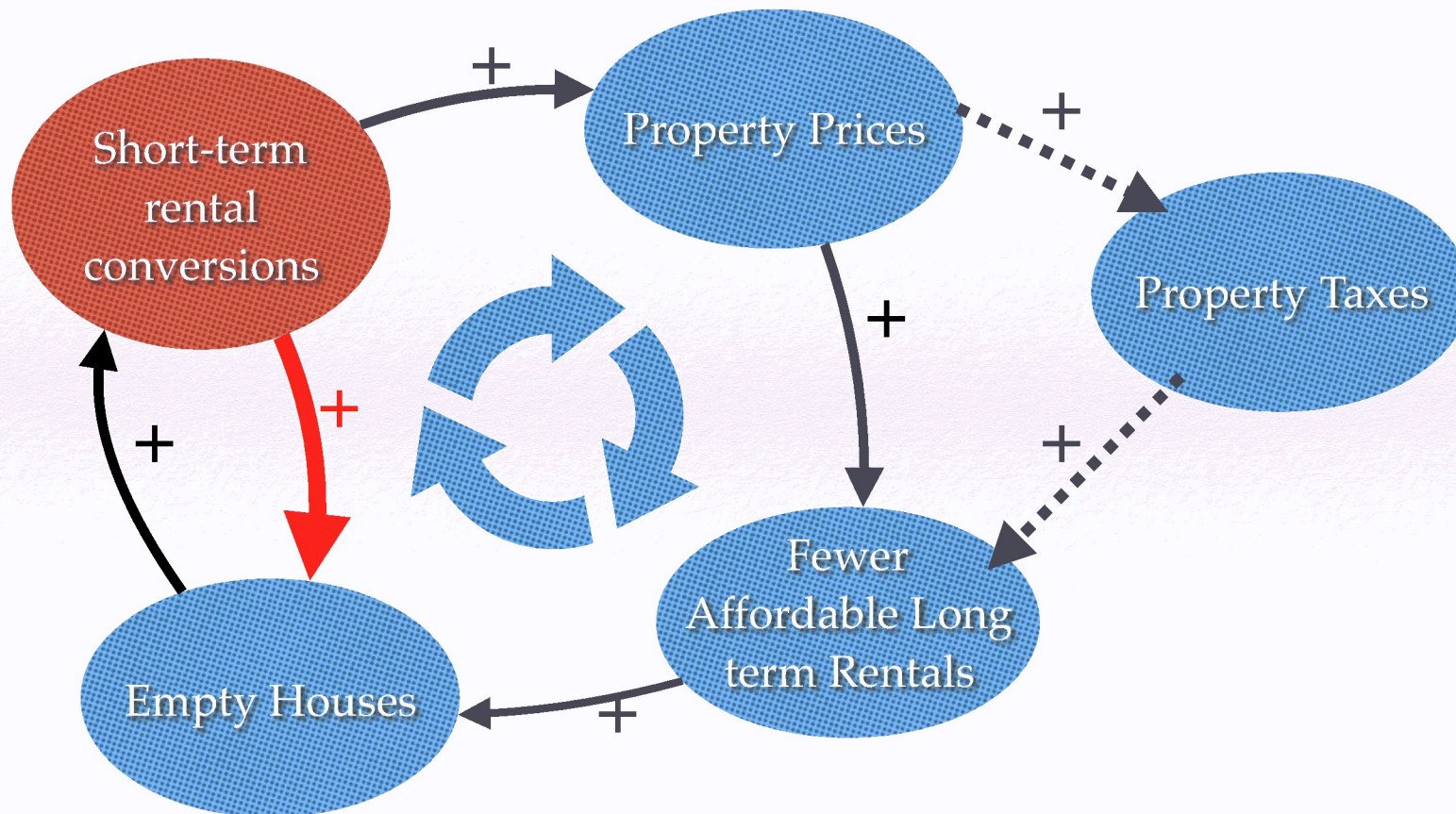
Empty most of the time (in anticipation of
potential tourist dollars)

"Forget affordable housing -- we need
available housing"



Why So Many Empty Houses?

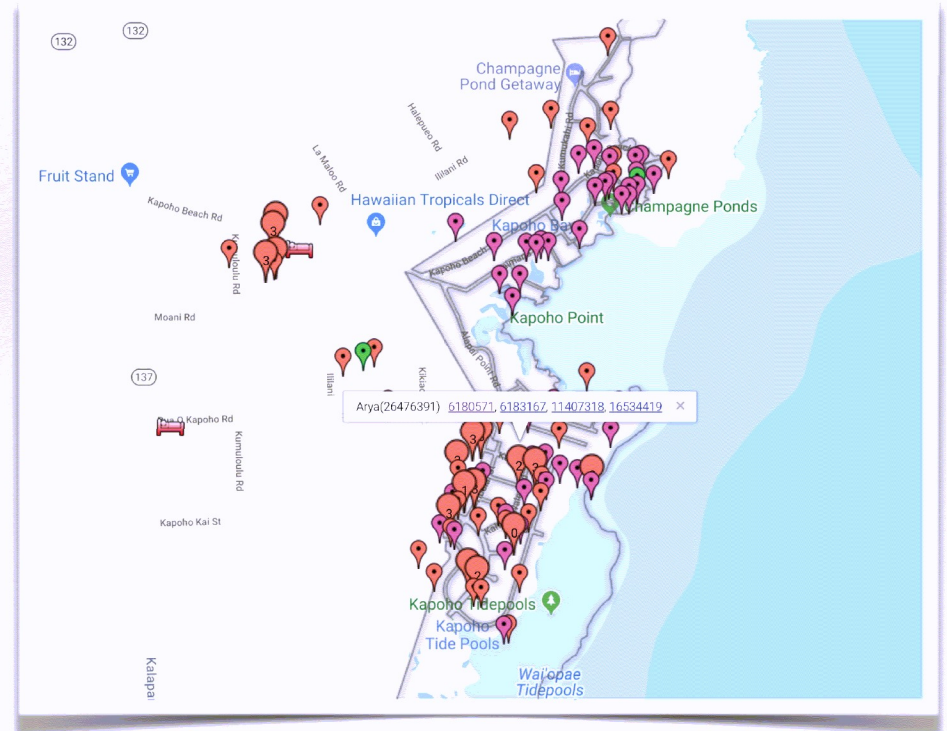
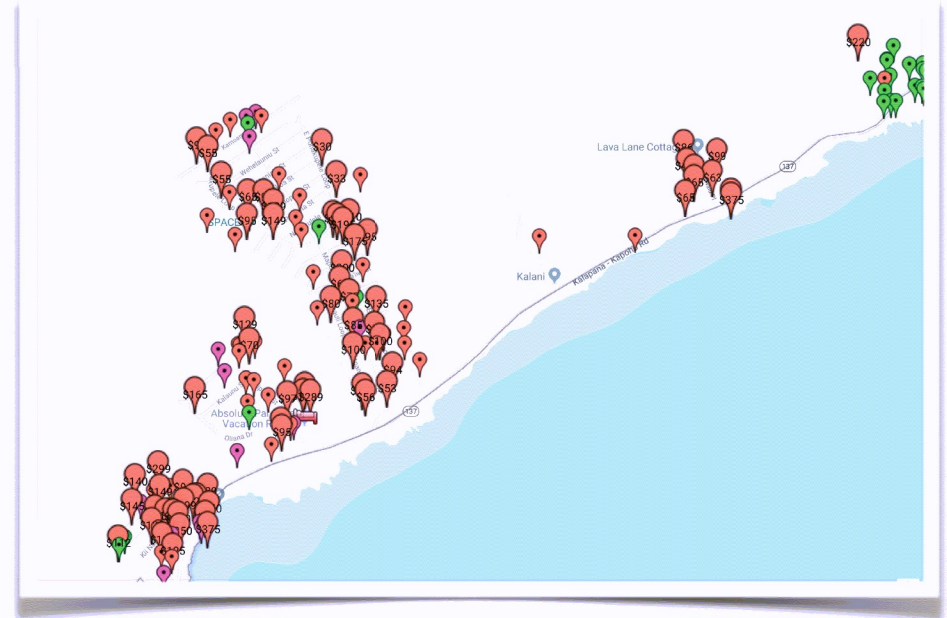
Mechanisms observed in Keaukaha Residential Neighborhood



Limit Concentration

Extreme Concentrations in:

- ❖ Volcano, Kapoho, Kealahou/Capt'n cook
- ❖ Some State Land Use district A + R neighborhoods (e.g., Seaview estates)
- ❖ Beachfront areas of many residential or Ag districts (Hilo/Keaukaha, Hawaiian beaches, HPP)



Concentration Limits

- ❖ Limit # of TVRs by zoning, census tract, by lot, by block, by building, by owner. Or, create overlay zone
- ❖ Rationale:
 - ❖ limit commercial activity in residential neighborhoods
 - ❖ limit the number of transient guests in favor of long-term residents

Limit Concentration Best Practices

- ❖ Most mainland cities regulate the concentration of short term rentals in **residential districts** by lot, building, or census tract:
 - ❖ Charleston and Portland = 1 STR per block
 - ❖ Chicago = up to 6 STR per building
 - ❖ Austin and Nashville = up to 3% of the housing units per census tract to be non-owner occupied
 - ❖ Durango, CO = limit STRs to one per blockface while having an overall cap in the neighborhoods with the greatest demand for STRs
 - ❖ Wisconsin prohibits a STR within 500 feet of an existing TVR

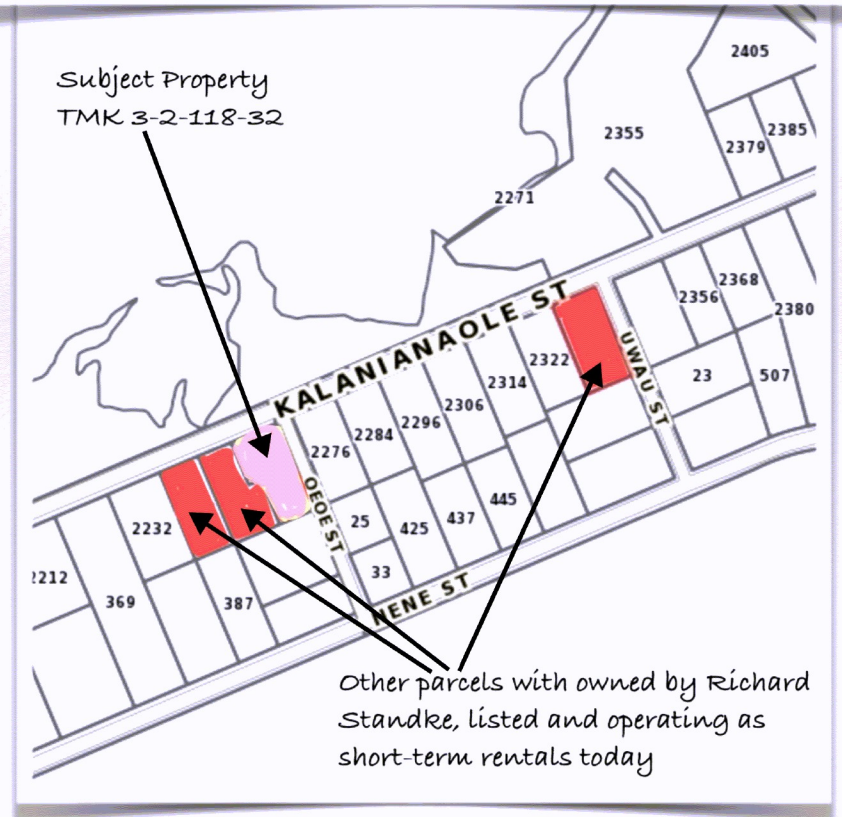
Case Study "Concentration"

Hilo Residential Neighborhood

... where density is out of control.

Half of the lots in one section have been converted to STRs.

One 'commercial' offsite host converted four entire lots.



Best Practices San Francisco

One host, one home???

Best Practices New Orleans

Four part permitting system. Different kinds of STRs get different treatments:

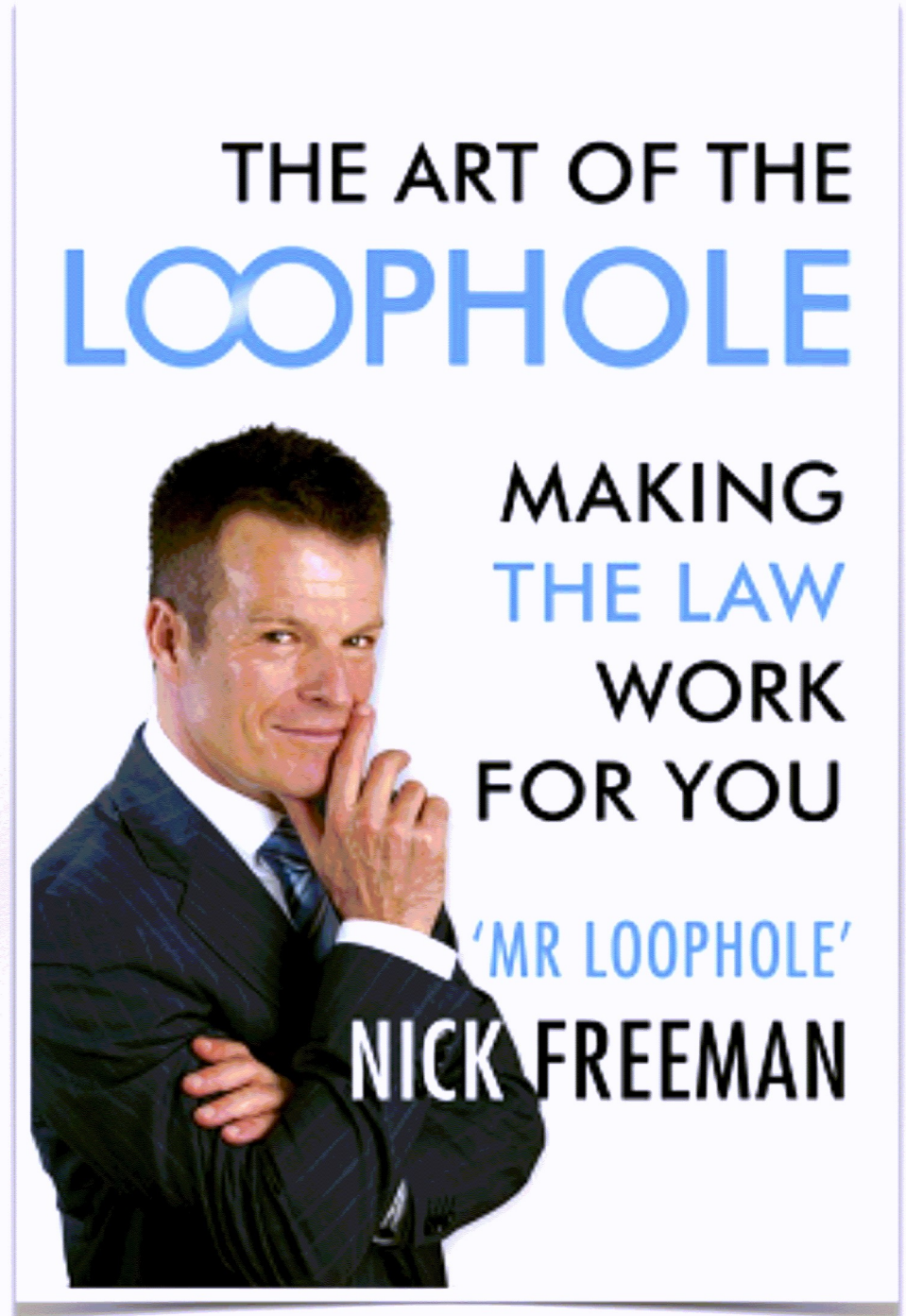
- ❖ Accessory STR -- operator is present onsite during rental. Principal use of structure is residential dwelling. Short term rental is an accessory use. Number of bedrooms and percent of the unit available for short term rentals is limited
- ❖ Principal Residential STR -- whole unit in residential district where principal use is short term rental. Most stringent density restrictions per block and neighborhood to stop spreading of these units
- ❖ Commercial STR -- unit in commercial or mixed-use district where principal use is short term rental. Allowed with few restrictions
- ❖ Temporary STR -- unit used as a permanent primary residence most of the year. Allows occupant to rent out whole unit for up to four times totaling thirty (30) days per year

Taxation

- ❖ Consider revoking home owner exemptions for any detected heavy impact, non-owner occupied STRs
- ❖ Re-value properties of business / investment property operators based on income

Smart Short-term Rental Developer's

Common Loopholes Used By Short-Term Rentals



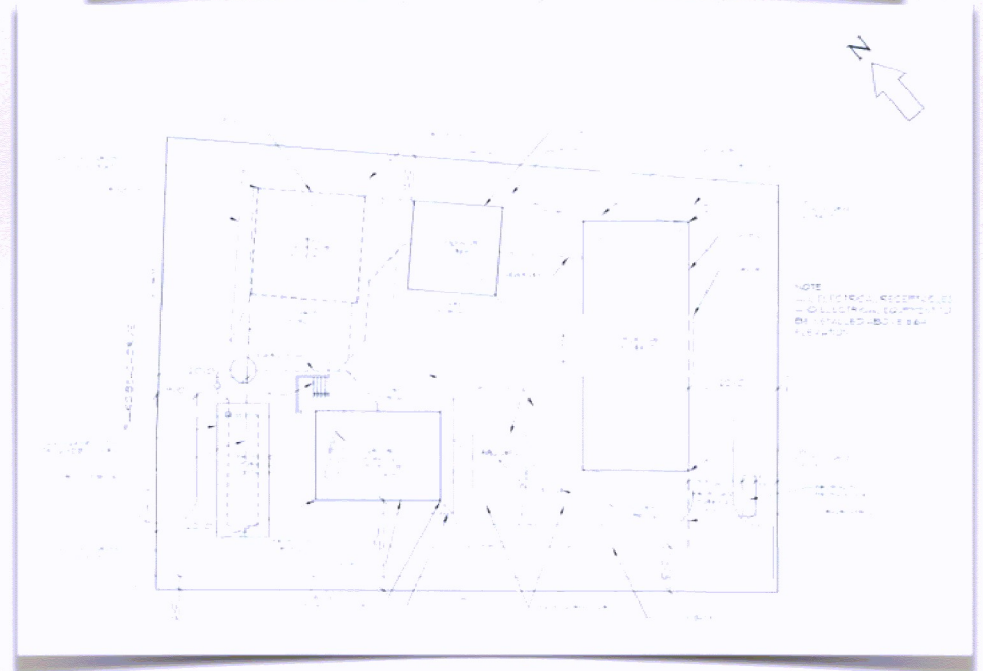
Case Study

Loophole: Code limits # of kitchens, but not bedrooms

Four separate rental listings on one residential lot on Puako Drive ("Bamboo Sanctuary")

Main house and 3 connected private separate Bungalow Suites with a series of walkways. Each bungalow has full bath, sleeps 2 to 4 people

Additional bedrooms that can be built off main structure, turn into full blown bungalows.



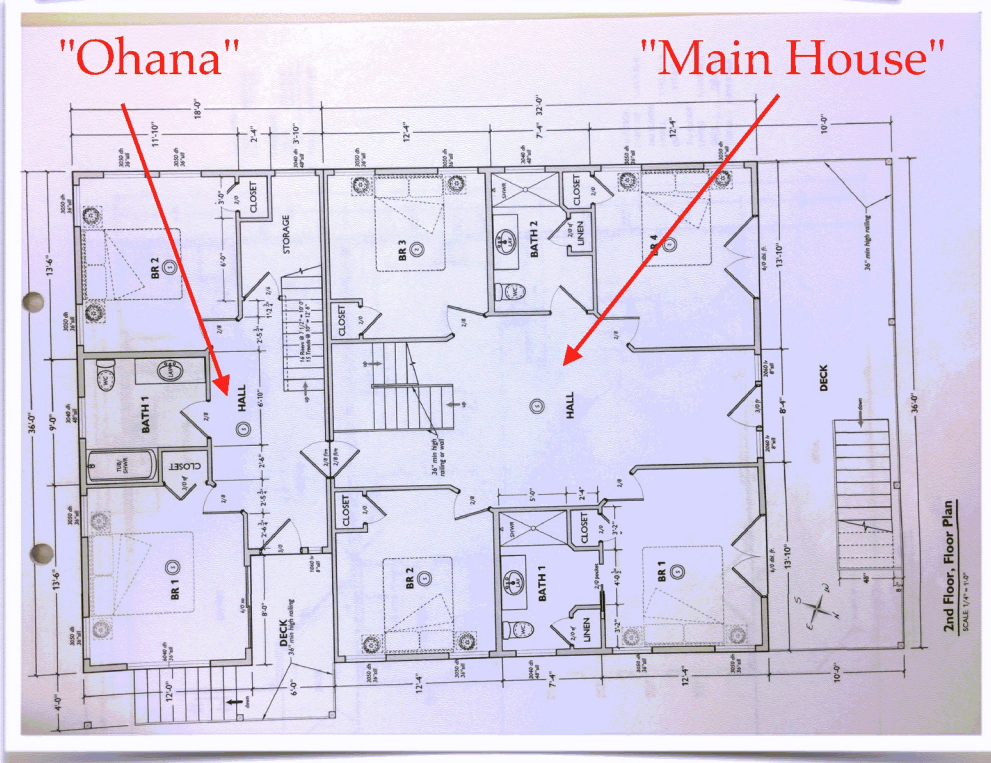
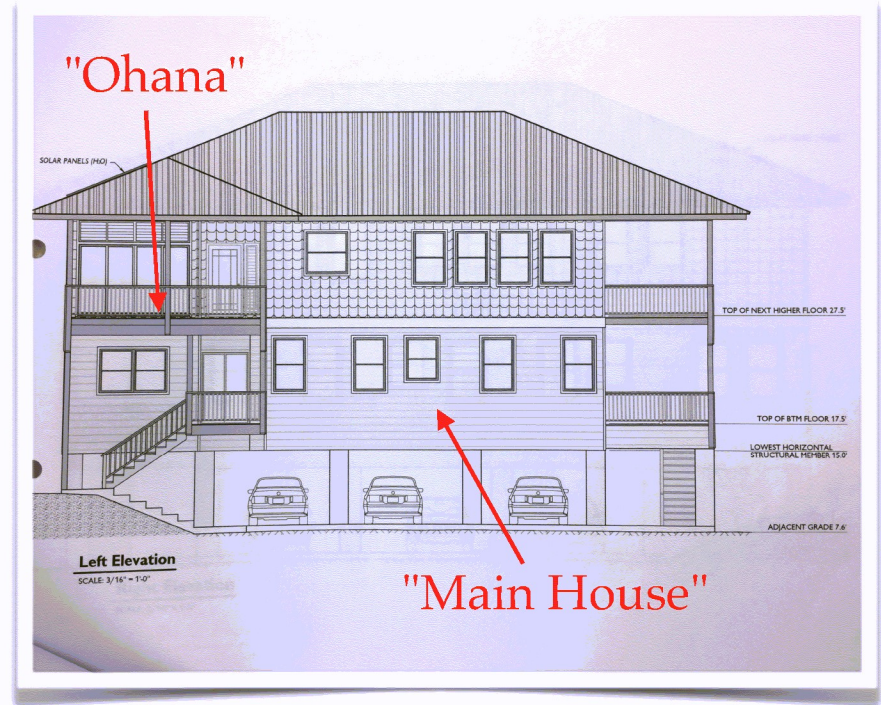
Case Study

Close Loopholes: 'Ohana' House, "5 Unrelated People"

Ohana is a legal second dwelling unit. Full unit with unlimited bedrooms. Can be co-joined with the main building. *"Whoever thought of the term "ohana" to describe these... it is a great marketing tool, because there actually never was a requirement that it be for a family member",*
Christopher Yuen

Family use includes "no more than 5 unrelated people".
But how to catch somebody and know who is in there at any one time?

Ohana rules and 5 unrelated people rule invite monster houses and non-family uses in residential- and ag zones



Case Study

Close Loophole: SMA 'Minor' Permit

The second line of control in beach areas is the SMA permit. Things other than single-family use need SMA permits.

Problems:

- ❖ Planners are instructed to "stay within the lot", focus on the lot, not the SMA itself (e.g., the beach across the street) or other developments
- ❖ Approval process is siloed between departments. Nobody checks actual construction costs vs. costs given at SMA assessment time
- ❖ No community involvement, no public hearings. (Surrounding properties are often also STRs)

SMA 'Minor' Process is broken, does not regulate developments effectively

West Hawaii Office
74-5044 Aiea Koolahale Hwy
Kailua-Kona, Hawaii 96740
Phone (808) 323-4770
Fax (808) 327-3553

County of Hawai'i
PLANNING DEPARTMENT

Michael Yee
Director

Daryn Arai
Deputy Director

East Hawaii Office
101 Puuahi Street, Suite 3
Hilo, Hawaii 96720
Phone (808) 961-8288
Fax (808) 961-8742

Special Management Area Minor Permit No. 17-000367

Project: Construction of a Single-Family Dwelling with Attached 'Ohana Dwelling
Applicant: Richard Standke
Landowner(s): Richard and Deborah Standke
Location: Keaukaha, South Hilo, Hawai'i
TMK: (3) 2-1-018:032 **Land Area:** 17,998 square-feet

Applicant's Request

- 1. Project Description:**
Proposed is the construction of a single-family dwelling with attached 'Ohana dwelling on the subject property. The dwelling will be to the rear of the property and elevated due to the flood zone. Only minimal amount of grading will be required to level out the area for a concrete pad used as a carport under the house. The dwelling will be hooked up to the county water and sewer systems.
- 2. Purpose of Project:**
The applicant is proposing to build the two-story dwelling containing a single-family dwelling and an 'Ohana dwelling unit consistent with the surrounding area consisting of single family homes.
- 3. Project Valuation:** \$350,000.
- 4. Determination:**
According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(e)(1)(E) relating to the Special Management Area, the construction, reconstruction, or alteration of the size of any structure is defined as "development." Therefore, the construction of a single-family dwelling with attached 'Ohana dwelling is considered "development" and requires an SMA Minor Permit.

State and County Plans

- 1. State Land Use District:** The parcel is located in the State Land Use Urban District.
- 2. General Plan:** The parcel is designated as Low Density Urban by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
- 3. County Zoning:** The parcel is zoned Single-Family Residential (RS-15) by the County.

www.cohplanningdept.com Hawai'i County is an Equal Opportunity Provider and Employer planning@hawaiicounty.gov

Ideas

- ❖ Clearly define county position on STRs in the letter of the zoning code (for Planners, courts)
- ❖ Specifically limit certain STR uses in the letter of the code
- ❖ Fix common loopholes, if necessary with separate bills (e.g., "monster houses")

Most Important: Enforcement

- ❖ No department can handle recognition, processing, and enforcement of so many rentals
 - ❖ Prioritize enforcement by use impact
 - ❖ Automate part of the process. Need data expert
 - ❖ Set up a dedicated task force. Needs to include legal representation, taxation, data expert
 - ❖ Use steep fines to kick start financing
 - ❖ Do not wait for AirBnB to help with recognition
 - ❖ State might provide help (e.g., HB 2605)

Enforcement Fines Best Practices

Fines range from \$50 per violation to \$3,000 per violation

- ❖ Savannah, Key West, and Austin \$500 per violation. Savannah's fine increases if the same short term rental is cited multiple times in a 12 month period, up to \$1,000
- ❖ San Francisco = increasing fines for multiple offenders, bases fine on 4, 8, and 12 times the standard hourly administrative rate for detection & enforcement
- ❖ Santa Monica = charge penalties + full enforcement costs to offender, including court costs, based on standard rates
- ❖ Santa Fe, San Francisco, Portland, and Nashville -- revoke short term rental permit after 3 violations on a site

Summary

- ❖ Keep most short-term rentals, low impact, but must collect taxes. STRs can also present an economic opportunity
- ❖ Curb high-impact STRs in residential- and ag neighborhoods
- ❖ Fines must pay for enforcement, incl. legal costs

Thank you !

