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April 2, 2019

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Committee on Ways and Means

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and Committee Members:

RE: HB 419, HD2,SD1 Relating to TAT

Thank you for this opportunity to comment on Part I of HB 419, HD2, SD1, offering the counties an unidentified amount to enforce "all applicable laws and ordinances relating to transient accommodations."

We appreciate the motivation behind Part I of this bill, which is to provide the counties with needed support in our efforts to contain the growing conversion of residential dwellings into commercial short term vacation rentals. We also appreciate the changes that have been made from last year's bill (HB 2605). Moreover, given our county's financial difficulties, it is hard not to support an opportunity to acquire a substantial sum (\$1M for each county in earlier versions of the bill). However, the bill raises a number of concerns.

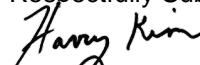
We think a better approach would be simply to appropriate \$1M to each county to assist in enforcement of all applicable laws and ordinances relating to transient accommodations. Hopefully, you will agree that that would be a more traditional approach, and a recognition of a partnership between two responsible and mutually-respectful levels of government.

Whatever approach is taken, we think that an important omission from the bill is the lack of a requirement that the Department of Taxation share data with the counties. Under present law, all data go to DoTax, so without a provision mandating the sharing of the information, it is unclear how the counties can reconcile their data (who's operating STVRs) with what State has, and accomplish the enforcement of laws and ordinances that the bill intends.

With respect to specific requirements in this bill, we would note the following:

1. We do not have a current vacation rental permit or specific appeal process for it, so we would have to design a system that would fit the criteria. Where other islands need to tweak their systems, we would have to create them and then implement. Also, we do not yet have a separate real property tax class for vacation rentals. The class cannot be created for FY 2020-- it will be for FY 2021. We may set a rate in FY 2020, but it won't be effective until 2021.
2. On Hawai'i Island, there is an existing contested case procedure for Planning Commission decisions. An appeal of a contested case goes to Third Circuit Court, where we have no control over the timelines.
3. Special permits are only for agricultural land. Consideration of "special" uses should not be expedited, especially for vacation rental-related applications. Generally, the State Land Use Commission has also held the position that overnight accommodations are not permitted on agricultural land. I would be concerned if the intent or effect of this bill is to make it easier to place vacation rentals on agricultural land.

Respectfully Submitted,


Harry Kim
MAYOR