From:	Penny Lee
To:	Planning WPC Testimony
Subject:	Testimony in opposition to Bill 147 - pdf attached
Date:	Wednesday, July 1, 2026 9:51:00 AM
Attachments:	Bill147_testimony_opposed_PL.pdf

Aloha Windward Planning Commission,

Please see attached pdf with my testimony in opposition to bill 147. Please be sure to upload the testimony in color, as the color has meaning.

Thank you,
Penny Lee

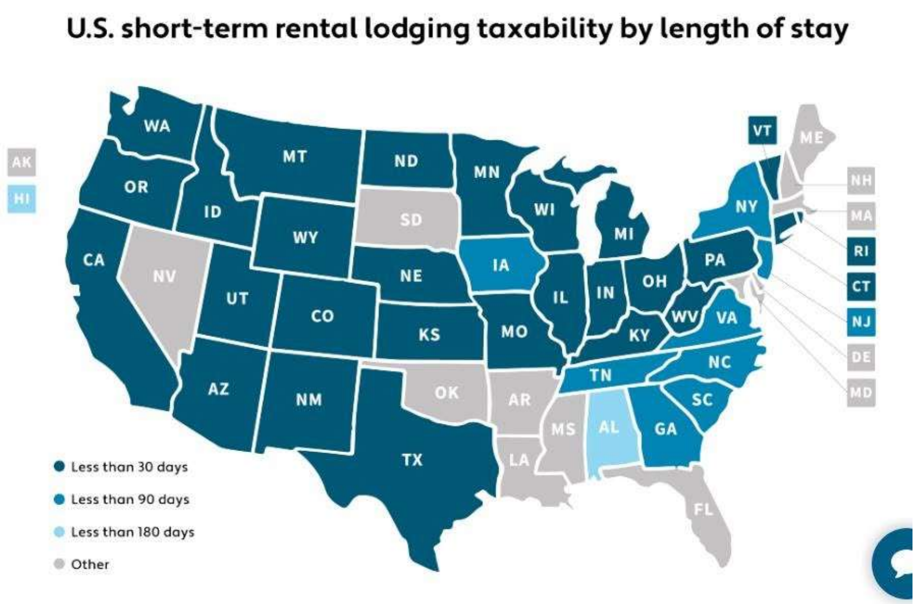
Aloha Planning Commission, After watching the questions and answers during the first Windward Planning Commission hearing of Bill 147 on June 5th, I would like to offer some comments, clarifications and additional data.

Also, here is a link to the complete Hunden study, which has more info than the 13 page "Executive Summary" in your package:

https://static1.squarespace.com/static/63a60a7b774001557452176c/t/6891249fe615cf394968fa6b/1754342588489/Hawaii+County+STVR+Study.pdf

Bill 147 applies to rentals less than 180 days

Currently vacation rentals are defined as less than 30 days, so this is a big change, casting a wide net. This is being presented as a "standardization" and to align with existing Transient Accommodation TAT tax code, which charges TAT taxes on stays up to 180 days. For comparison, nationwide the standard is 30 days. Only one other state, Alabama, uses 180 days. On Oahu, the Hotel industry is still fighting to change vacation rentals from 30 days to 90 days. Tax code is not zoning. HRS 205 clearly states the counties can control time of uses, so this is a policy choice that will create confusion and hardship for people who never even considered renting short-term.



Hosted Vacation Rentals were never able to register with the County

There seems to be the misunderstanding that there are a bunch of scofflaws operating out there, not "registered" and not paying taxes. Bill 108 regulation in 2018 was explicitly to regulate **unhosted STVRs only**. Many tried to register at that time and were denied because they were "hosted". The County communicated that hosted vacation rentals could continue to operate and were "unregulated" and additional regulation for "hosted" might be added at a later time. Hosted vacation rentals that are currently not registered with the county have done nothing wrong. There has never been a way for them to register. I venture to say that hosted vacation rentals would wish nothing more than to finally be able to be recognized and register their vacation rental.

The Hunden study used this number of “unregistered” vacation rentals to calculate that the county is missing out on $12 million in TAT taxes. This seems to now be used as an argument for Bill 147, but represents a gross over estimate of the amount of unpaid taxes. For clarification:

1. Registration of a hosted vacation rental with the County has never been possible to this date.

2. Registration to pay TAT and GE taxes on vacation rental income is with the State and completely independent of County regulations. TAT and GE licenses are issued by the State, not the County. Vacation rental owners have been paying TAT and GE taxes to the State for many years, without any involvement of the County.

The County recently added their own TAT tax collection of an additional 3%. In FY2023 Hawaii County collected $34 million in TAT revenue (according to the "Annual Comprehensive Financial Report" for Hawaii County). The Kohala Coast Resort Association stated in testimony that their Hotels and Timeshares paid $17 million that year. That means “somebody” else, likely vacation rentals, must have been paying the other $17 million in TAT taxes. Sorry but the “missing $12 million from unregistered vacation rentals” was calculated based on a false assumption and is a myth.

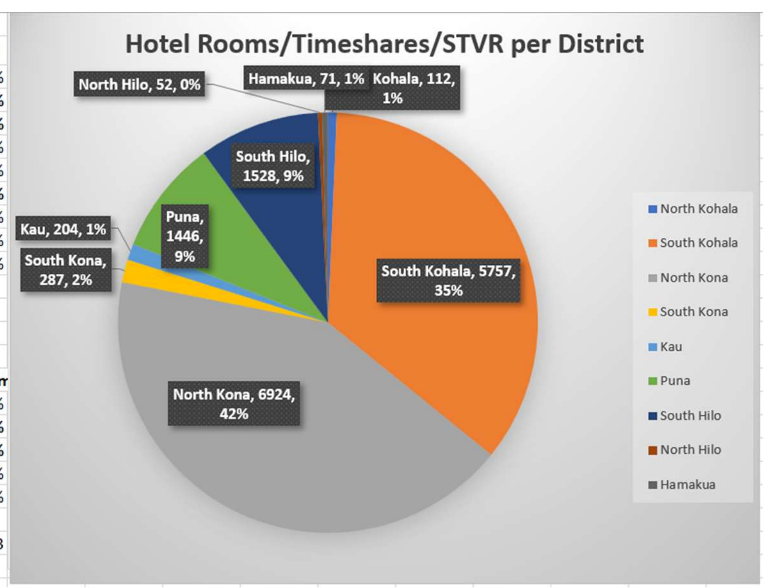
Distribution of existing Vacation Rentals on Hawaii Island

The Hunden study found **8,008 vacation rentals** advertised on the island. Of those, **6,406 or 80% are geographically concentrated in only 2 areas**. The Hunden study confirms this heavy concentration of vacation rentals: “Kailua-Kona is the largest, accounting for more than half of the island’s supply with 4,324 active rentals. Waikoloa follows with 2,082 active listings” (Hunden page 22). The same 2 areas also contain most of the permitted zoning: resort zoning and condos/RM. This means the vast majority, about 80% of all vacation rentals, are already in the permitted zoning areas.

What about the rest of the island? Most of the 9 districts on this island do not have any of the "permitted" zoning. Only 2 of the 9 districts will have a de facto monopoly on the tourism economy: South Kohala/Waikoloa and North Kona.
Below is a spreadsheet showing total numbers of transient accommodations per district, by adding number of Hotel rooms, timeshares and vacation rentals together. This shows that 77% of all transient accommodations are concentrated in only 2 districts, South Kohala/Waikoloa and North Kona.
(Table below is based on 2022/2024 data, “STVR” here means any advertised vacation rental, hosted or unhosted):

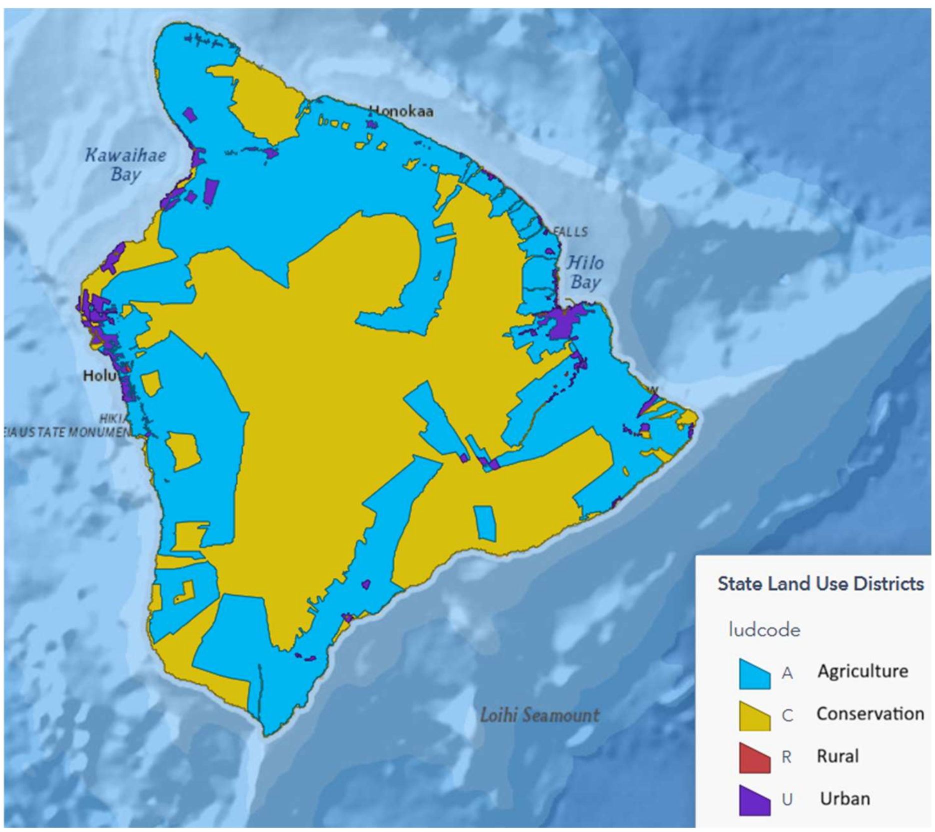
District	All Transie	%Transie	#STVR	%STVR
North Kohala	112	1%	112	1%
South Kohala	**5757**	**35%**	**1988**	**23%**
North Kona	**6924**	**42%**	**3959**	**46%**
South Kona	287	2%	287	3%
Kau	204	1%	204	2%
Puna	**1446**	**9%**	**1311**	**15%**
South Hilo	**1528**	**9%**	594	7%
North Hilo	52	0%	52	1%
Hamakua	71	0%	71	1%
TOTAL	16381		8578	

Area	#Hotelrooms		#Timesha	%HotelTim
Hilo/Honokaa	934		0	12%
Kohala/Waimea/Kawaihae	**2724**		**1045**	**48%**
Kona	**2037**		**928**	**38%**
Naalehu/Kau	0		0	0%
Volcano Area	135		0	2%
TOTAL	5830		1973	7803
	82%			



Looking at unhosted STVRs with NUCs in the more rural areas of the island, more than 50% show local ownership and a local property tax address. This changes dramatically when looking at unhosted STVRs in the Kohala/Waikoloa and Kona areas, which almost all have out-of-state property tax addresses. The vast majority of those properties are financially and geographically out of reach for local buyers and mostly owned by off-island owners and held as investments. Notably Bill 147 in fact allows unlimited new STVRs and B&B (hosted) in these same areas. It seems the effect of Bill 147 is the opposite of what is being said was the goal: protecting and incentivizing out-of-state investments while eliminating locally owned tourism accommodations. Remember "Hosted" vacation rentals are 100% locally owned or operated, by definition. Who is being targeted with Bill 147? What is Bill 147 trying to achieve and who will it regulate out of business? Bill 147 continues and expands Bill 108's Zoning policies for the benefit of large corporations. What we have here on the Big Island is an unabated, unlimited proliferation of vacation rentals in the permitted zoning districts.

Bill 147 creates a monopoly for corporate resorts and large developers



Big Island - State Land Use Map:

Agriculture (light blue): 45.79%
Conservation (brown): 51.97%
Rural (red): 0.06%
Urban (purple): 2.18%

Yes, those purple spots on the map is where you can have unlimited new vacation rentals, hosted or unhosted, in condos or single-family homes. Only 2.18% of the island is zoned "urban", which includes commercial, resort, condo and residential zoning. Most of those properties are not available or affordable to a resident of the Big Island.

On the other hand, if you are a local homeowner, most of us are in the light blue area (Agriculture 45.79%), you have no rights to operate a vacation rental and your community will be excluded from the tourism economy. Grandfathering rights for existing legally operating vacation rentals and B&B aren't even mentioned. Maybe the Planning Commission might allow you a special permit (or not) for a hosted B&B, only if you are a real farmer in a farm dwelling and all your buildings, wastewater systems etc are perfectly permitted. Most people know that many so called "agricultural" lots are actually small rural residential lots and can never be bona fide farms. So why is Bill 147 setting farmers up for failure and excluding everybody else from the tourism economy?

Most of the 9 districts on this island do not have any of the "permitted" zoning. Only 2 of the 9 districts will have a de facto monopoly on the tourism economy. Tourism is our main economy. This island is big enough that this will cut off most tourism spending from the more rural and remote parts of the island. This will starve our local towns, shops, restaurants and farmers markets, which are already struggling. There are no other jobs or economies in these areas. This is economic discrimination by exclusionary zoning for the benefit of large corporations.

The County Council members who introduced Bill 147, Heather Kimball and Ashley Kierkiewicz, say they want to support local residents having income from vacation rentals. The Hunden study confirmed there is wide support in the public for locally owned and operated vacation rentals.
Yet Bill 147 does the exact opposite: The highest barriers to operating a vacation rental are placed on state land use “Agriculture” which is 46% of the island and 97% of useable land on the island (excluding conservation).

Heather Kimball says the county’s “hands are tied” yet with HRS 205 the State is granting zoning powers to the counties, it does NOT prescribe the harassment of vacation rentals. The State has repeatedly confirmed “home rule” for individual counties to regulate vacation rentals as they see fit.

Furthermore, the Rosehill decision only applies to lots created after 1976 and “farm dwellings”.
Hosted vacation rentals in single-family dwellings on pre-1976 lots in State land use “Agriculture” were always legal, and continue to be legal to this date. The County needs to add provisions to the bill to properly grandfather these existing vacation rentals and ensure continued operation.

Unhosted STVR vacation rentals on pre-1976 lots in State land use Agriculture, which were registered previously under Bill 108 and granted a NUC, were always legal, and continue to be to this date. The County needs to add provisions to the bill to properly grandfather these existing vacation rentals and ensure continued operation. A violation of newly added registration requirements should not lead to the permanent removal of the underlying NUC and transferability of the NUC at sale of the property needs to be added back.

Defective “Agricultural” zoning becomes an economic suppression tool

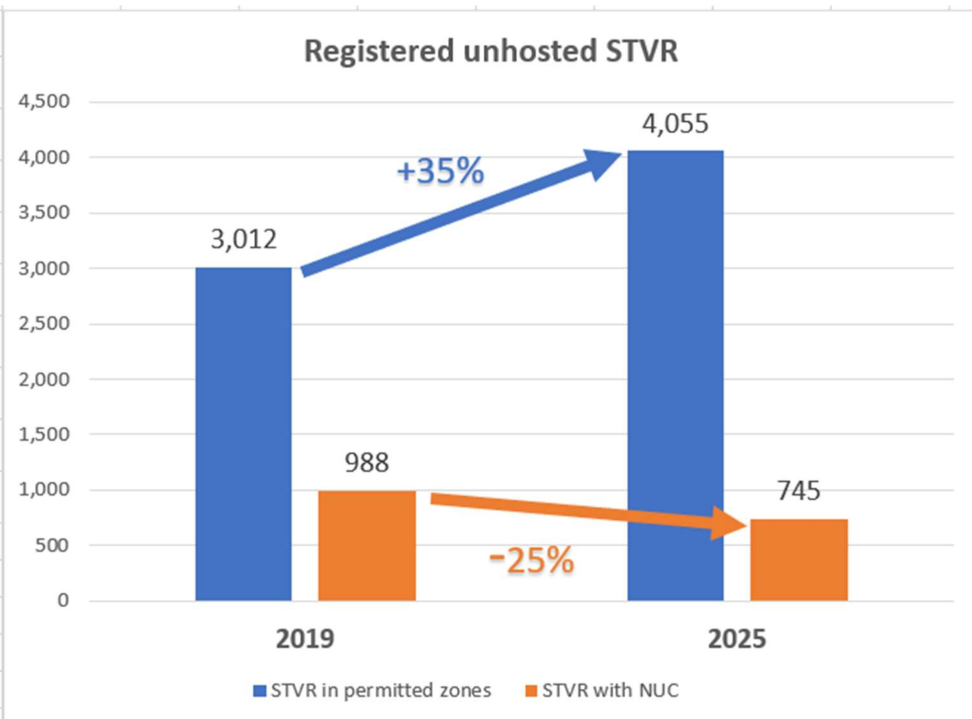
Many so called "Agricultural" lots in Hawaii county are actually small rural residential lots and can never be bona fide farms. The County has made clear that these should really be zoned “Rural” instead of “Agricultural” and even changed the property tax class to “Residential” for all agricultural lots under 1 acre in size. This defective zoning should be corrected before applying restrictive new regulations.

Existing STVRs with NUCs are disappearing

The number of registered STVRs with non-conforming use certificates NUCs (outside of permitted zoning, mostly agricultural) has been going down to 745 since the initial registration of 988 in 2019 during Bill 108, due to attrition. As mentioned before, more than 50% of these are owned by Hawaii residents. Bill 147 now seems to eliminate the transferability of the NUC on sale of the property, which will greatly accelerate the decline. Bill 147 also threatens NUC holders with the automatic and permanent removal of the NUC if there is any issue with the overlay of a County registration scheme. That means the property will never be able to regain STVR status, since NUCs are no longer issued for STVRs in agricultural zoning. Grandfathering rights are important protections of property rights and should not be “taken” easily. It seems the modest and diminishing number of NUCs is not “good enough” and the county wants to heavily accelerate a total elimination of these rentals, which are fully legal and have vested property rights.

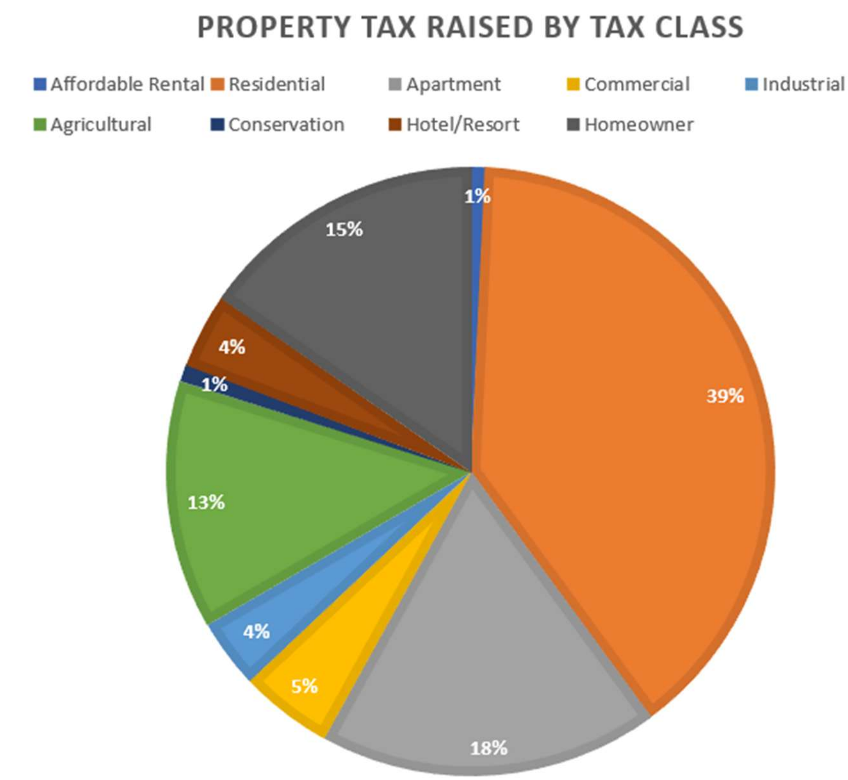
To clarify: No new unhosted STVRs have been permitted since 2019 and the small number of existing ones are dying out. At the same time new unhosted STVRs in permitted zones (resort, condos) are added at a pace of about 300/year and mostly owned by out-of-state investors.

Chart below shows number of un-hosted STVRs growing in permitted resort/condo zoning and grandfathered STVR with NUCs located in agricultural zoning going down (source: Hawaii County EPIC system)
Blue = STVRs in permitted zones, Orange = STVRs with NUC



Vacation Rentals contribute substantially to real property tax

The Hunden study points out significant economic losses and TAT/GE receipts, if vacation rentals were to be restricted. The study did not include an estimate of the loss in property taxes that would occur if large numbers of vacation rentals had to discontinue operations, which is the primary source of revenue for Hawaii County. Effectively these properties would be changing their property tax classification to the lower rate of "Homeowner" with exemptions or "Agricultural". The decrease in property tax revenues for the county would be enormous. The "Residential" tax class, which includes vacation rentals, currently contributes 48% of total property tax revenue to the County. "Apartment" contributes 18%. For comparison, the Hotel/Resort category only contributes 4% of total property tax revenue to the County (brown wedge).



Vacation Rentals implications on Hawaii County, per Hunden study

The Hunden study identified key implications, see slide below, including that the majority of vacation rentals are small mom and pop operations "more than 75 percent of STVR owners operate only one rental unit" and "…suggesting that most STVRs are operated by individuals with a personal financial stake rather than large-scale investors".
They also found that only 4 percent of owners would convert to long-term rentals and "the likelihood of vacation rentals converting to long-term housing for residents is minimal".

Implications

Based on comprehensive market research, including three separate surveys targeting supply (STVR owners and operators), demand (visitors), and residents (Hawai'i County residents), Hunden has triangulated the findings to assess the impacts and implications of the STVR industry on the County.

- Survey results show that if STVRs were unavailable, **24 percent of visitors would not have made the trip**, 26 percent would have stayed in a full-service or luxury hotel, 19 percent would have rented a timeshare or condo, and 14 percent would have chosen a limited-service hotel. **This indicates that restricting STVRs would result in a loss of close to one fourth of the lodging, food & beverage, transportation, shopping, and entertainment spending attributed to STVRs.**
- The Hawai'i County **STVR market primarily appeals to budget-conscious travelers, larger groups, and frequent STVR users**, while the hotel market is dominated by luxury properties catering to more affluent visitors.
- All visitors surveyed, regardless of lodging type, prioritized nature-based outdoor recreation. **STVR visitors were more likely by 79 percent to engage in these activities as well as local culture**. With the growth in wellness tourism and related trends nationally, Hawaii County is poised to continue to grow in this space, as wellness and community well-being remain central to the Hawai'i Island Tourism Strategic Plan.
- If STVRs were restricted on the island, only **4 percent of owners and operators would definitely convert their listed units to long-term rentals** while 68 percent indicated they would not. **This suggests that the likelihood of STVRs converting to long-term housing for residents is minimal.**
- Both **hotel and STVR lodging revenues exceed $700 million annually on Hawai'i Island**, with additional daily visitor spending averaging more than $130 per person. Most STVRs are concentrated within designated Resort Zones.
- **Resident sentiment toward tourism is largely positive**, with respondents recognizing its importance to the local economy, job creation, and cultural vibrancy. Most do not believe STVRs have negatively impacted their neighborhood or quality of life. While 56 percent perceive that housing costs and availability have increased due to tourism, 61 percent said STVRs have not deterred them from renting or purchasing property.
- More than 75 percent of STVR owners operate only one rental unit, and **54 percent rely on the income to cover housing-related costs**. Only 20 percent of owners view their property as a pure investment, **suggesting that most STVRs are operated by individuals with a personal financial stake rather than large-scale investors.**

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Vacation Rentals “remove” Housing inventory and raise Housing costs

The Hunden study reviewed case studies in other locations like Oahu and New York. Even if Oahu got rid of all vacation rentals, rents and Housing prices would only go down by 5%, per governor Josh Green and UHero. New York also observed very little effects on housing affordability. Oahu has restricted vacation rentals to resort zones and some apartment zoned areas in Waikiki a few years ago, yet Housing prices seem to keep going up.

Between rising cost of living, inflation, insurance, mortgage, maintenance costs and HOA, it is questionable if the miniscule effect on Housing prices is worth removing income streams that so many local families on this island rely on? The downside seems bigger than the upside. In rural areas like Puna and Kau, the lack of economic opportunities seems primary and overshadows housing affordability. How good is a Home or a rental, if you lack the income to keep it? Also farming tends to be not financially sustainable by itself and vacation rentals are a great way to make a small farm economically viable. And really, the Big Island’s economy is not comparable to urban places like Barcelona, New York and even Oahu, which offer a lot more diversified job opportunities in many more fields.

O'ahu
Implications

Housing Implications: Research from the University of Hawai'i Economic Research Organization (UHERO) indicates that for every 2 percent of housing supply converted to STRs, housing costs on O'ahu increase by approximately 5 percent.

Economic Implications:

- Property Owners: Many local homeowners who previously relied on income from STRs have faced financial challenges.
- Tourism: While hotels may benefit from reduced competition, the overall tourism industry can experience shifts. STRs often cater to budget-conscious travelers or those seeking longer stays, and their reduction might influence visitor demographics and spending patterns.
- Tax Revenue: The island anticipated increased tax revenue from registered STRs. However, the decline in legal STR operations may offset these gains, and the full fiscal impact remains to be seen.

Affordable Housing:

- In a February 2024 article published by Hawaii News Now, Governor Josh Green stated "Our best guess for Oahu is if we got rid of vacation rentals entirely, rents and prices would drop by about 5%. So, even if we achieve that, Oahu would still have among the highest housing prices in the country, which wouldn't solve the housing crisis."



Vacation Rental complaints

We never really got to see the actual data, but here is what was mentioned by the Planning Department and Heather Kimball a couple of times:

Hawaii County TAR— Bills 121, 122 and 123, "Frequently Asked Questions", March 27, 2024: (Note: TARs = Vacation rentals)
"*How many complaints did the county receive this year about TARs?*
The planning department received the following formal complaints:
Hilo had 27 TAR complaints for 2022
Kona had 38 TAR complaints for 2022"

Based on these 2 data points, we can say that in 2022 the Planning Department received 65 complaints regarding vacation rentals. Considering the total number of about 8,000 vacation rentals operating across the island, this is a really small number of complaints.

Vacation Rental enforcement: large fines, liens and non-judicial foreclosure

The proposed fines are very large $5,500-$10,000 plus 2x highest daily rate. A question was asked how the Planning Departments collects unpaid fines and the director described how the department currently handles those. But once Bill 47 hits, now scheduled to start Sep 1st, fines for vacation rentals will be substantially larger, accumulate faster and automatic liens will be placed on homes annually every September after a one year of non-payment.

Bill 47, now ordinance 25-50, says under Section 6-41. Administrative enforcement:

(f) Each September the County automatically files liens on all properties with unpaid fines ... "...the fines shall constitute a lien on the subject property that, for the purposes of authority, shall be considered equivalent to liens arising pursuant to chapter 19 of this Code."

Hawaii County code chapter 19 deals with property taxes and the resulting liens. After 2 years the county can sell your property through non-judicial foreclosure (see Section 19-38. Tax liens; foreclosure without suit.).

Bill 47 is in your package and here is Section 19-38 it refers to:

Section 19-38. Tax liens; foreclosure without suit.

(a) All real property on which any lien, or part thereof, for taxes levied pursuant to this Code has existed for at least two years may be sold by way of foreclosure without suit by the director or as otherwise specified in this Code.

(b) Such delinquent real property shall be sold by the director or the director's designated representative at public auction to the highest bidder, for cash, to satisfy the lien, together with all interest, penalties, costs, and expenses due or incurred on account of the taxes, lien, and sale.

(c) The surplus funds from the tax foreclosure sale, if any, shall be rendered to the person(s) legally entitled to the surplus funds resulting from the sale.

(d) The sale shall be held at any public place proper for sales on execution of the foreclosure.

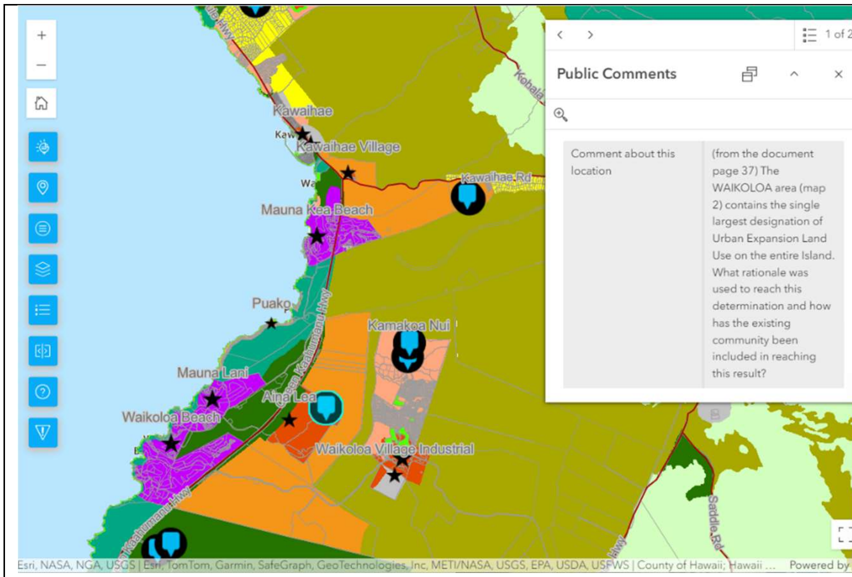
(1983 CC, c 19, art 5, sec 19-38; am 1997, ord 97-84, sec 1; am 2014, ord 14-126, sec 2.)

A foreclosure without suit—more commonly known as a **non-judicial foreclosure**—is a process where a lender seizes and auctions off a property to recover a defaulted mortgage loan **without going through the court system**. Consumer Financial Protection Bureau... +4

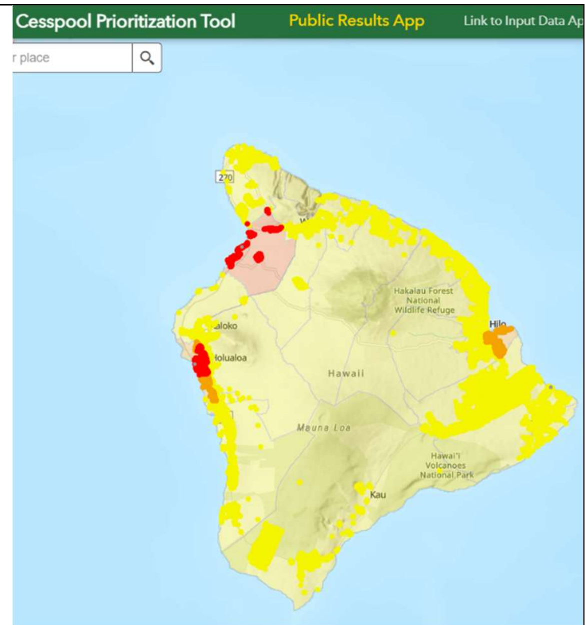
Bill 147 encourages unlimited development and overtourism in the Kohala and Kona areas

Bill 147 and also previous Bill 108 in 2018, allow unlimited new vacation rentals in resort, commercial and multifamily/condo zoning. The Hotel/Resort industry has embraced the vacation rental concept very much for their own growth. These condos, villas and Residences tend to be owned by wealthy off-island owners, with the majority of the profits going offshore and to large corporations.
General Plan 2045 added 1,000 additional acres to "Resort" zoning. Additionally, the largest "Urban Expansion" area on the whole island was placed directly mauka of the existing resort zones (see sample map below). What are the odds of those "urban" areas turning into affordable housing and communities for local residents versus multi-million dollar investment homes for off-island owners, with resort amenities and automatic right to be a vacation rental? Who is reining in the ever-expanding resort industry? Now developers can just build so-called " housing" and expand transient accommodations next to the resort. The expansion of these already very dense areas seems

problematic, considering the very precious marine ecosystems downstream, the scarcity of water and the already huge problem of sewage and pollution (see cesspool conversion priority map below, Priority 1 is red).



Purple= Resort zoning
Orange= Urban zoning



How many tourists can you possibly concentrate around Hapuna beach for example? Puako? Kawaihae? What is the carrying capacity? How many golf courses, pools, hot tubs, AC systems, individual inside and outside kitchens and bathrooms can this fragile ecosystem support? This bill is directly contributing to setting the path for overdevelopment and overtourism which leads to destruction of the precious natural environment. What will this area look like in 10 years? I wish there was a much more comprehensive review of the tourism industry and careful planning for the future. This is not sustainable.
Bill 147 and Bill 47 will be destructive to the local economy and natural environment and take away the livelihood that many families currently rely on. Thank you for your careful consideration.

PS: Here is a real lived experience from Oahu, an example of what this kind of regulation leads to, see: "Honolulu fines retiree over half a million dollars for advertising a rental".

Pacific Legal
@PacificLegal

BREAKING: Honolulu is charging 83-year-old retiree Sandra May with $600,000 in fines over a website error. The City put a lien on her home and cut off her access to basic city services. Today, we filed suit to stop these excessive fines.