

PUBLIC HEARING

APRIL 6, 2016

A public hearing of the Council of the County of Kaua'i was called to order by Mason K. Chock, Chair, Planning Committee, on Wednesday, April 6, 2016, at 1:30 p.m., at the Council Chambers, 4396 Rice Street, Suite 201, Historic County Building, Līhu'e, and the presence of the following was noted:

Honorable Mason K. Chock
Honorable Gary L. Hooser
Honorable Ross Kagawa (*present at 1:35 p.m.*)
Honorable Arryl Kaneshiro
Honorable KipuKai Kualī'i
Honorable JoAnn A. Yukimura

Excused: Honorable Mel Rapozo

The Clerk read the notice of the public hearing on the following:

“Bill No. 2619 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO HOMESTAYS (*Restricting Homestays to the Visitor Destination Areas County of Kaua'i, Applicant*),”

which was passed on first reading and ordered to print by the Council of the County of Kaua'i on March 9, 2016, and published in The Garden Island newspaper on March 17, 2016.

The following communications were received for the record:

1. Gray, Amalia, April 5, 2016
2. Imperato, Carl, April 4, 2016
3. Kibler, Jeffrey, April 5, 2016
4. Lee, Sam, April 4, 2016
5. Liz, April 6, 2016
6. O'Rourke, David, April 5, 2016
7. O'Rourke, Molly, April 5, 2016
8. Sykos, Lonnie, March 31, 2016

The hearing proceeded as follows:

Committee Chair Chock: Do we have anyone signed up to testify?

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Yes, we have two (2) registered speakers. We also received written testimony; three (3) in support of the

Bill, two (2) that submitted testimony in opposition of the Bill, and two (2) that submitted testimony with additional comments.

Committee Chair Chock: Okay. Thank you. That has been distributed. Can you please call up the first speaker?

Ms. Fountain-Tanigawa: The first registered speaker is Catherine Cowern, followed by Alexis Boilini.

Committee Chair Chock: I do not see Ms. Cowern or Ms. Boilini as well. Would anyone like to testify on this item?

Ms. Fountain-Tanigawa: Committee Chair, we have one (1) more registered speaker.

Committee Chair Chock: Okay. Hold on one second, I am sorry.

Ms. Fountain-Tanigawa: The third registered speaker would be Elizabeth Barton.

ELIZABETH BARTON: Elizabeth Barton, for the record. I sent in testimony by E-mail yesterday, which I hope you all received and read. I just wanted to reiterate the importance of homestays to a section of the community that are trying to make a living here on the island and not a huge profit, just to pay our bills and be able to stay here. I also wanted to add that with my homestay, I estimate about sixty-five percent (65%) to seventy percent (70%) of my guests are young European professionals and PhD students and they find that they now have the opportunity to visit Kaua'i, which they could not do before. They are enthusiastic and grateful to us for input to them. They do not just visit Kaua'i; they visit O'ahu, Maui, Hawai'i island, Moloka'i, and they are spreading the money that they provide to the island or around the islands. If we are forced to be in Visitor Destination Areas (VDAs), there are very few of us that can afford to live in those places. The houses are expensive and they are not really homestay-type of facilities. They are vacation rentals and they charge a lot of money. I do not know if they pay their taxes, but we do. They are the ones that make the profit. So if you would consider a great deal before you make judgment, this is a segment of the community this just really, really wants to be able to stay here and make a living. Thank you.

Committee Chair Chock: Thank you, Ms. Barton. I thought I saw Ms. Cowern here. There she is. She said that she submitted testimony. Anybody else?

(Councilmember Kagawa was noted as present.)

AMALIA GRAY: My name is Amalia Gray. I live on the east side on Kaua'i in Kapahi with my husband and my two (2) children. My children go to school on the east side, and not unlike many Kaua'i residents, we shop, dine, and socialize on the perspective side of the island where we live. We have owned our home for eight (8) years. Through the economy crash, we were able to maintain our

home and mortgage by each of us working three (3) jobs at any particular time. We decided to home-share a room in our house about one (1) year ago so that I could return to school and get an advanced degree as a nurse practitioner/nurse midwife, and then cutback still to just having two (2) jobs. Our first guest was a young, married East Indian professional from Chicago, who was traveling solo and was happy to stay with us and get tips about local restaurants, coffee shops, shopping, and farmers market. He was courteous, respectful, and in gratitude to have a safe family to stay with for his few days on Kaua'i. This traveler set the tone for several other guests that we have hosted. Many of the people who stay with us are also twenty (20) to forty (40) year old young European professionals and students. They do not want the resort experience when visiting Kaua'i. They want to hike, use the bike path, and snorkel in safe areas. They often shop in Kapa'a Town and eat at our recommended restaurants. The guests know the hiking trails, beaches, and waterfall trails because of the plethora of traveler books that outline very specific residential trails and that they also...these books do not divulge information about the safety and legality of these different trails. So when they ask questions, they are very receptive to our suggestions on where to hike and swim safely. There are very many unrealistic restrictions surrounding this Bill, Bill No. 2619. One of the challenges that it presents to my family is Section 8-18.1(4)(b), that homestays be restricted to the VDAs. This is discriminating against the people that want to share their homes, but cannot afford to live in these areas. Home-sharing needs to be a protected right of personal property; not restricted so much that it drives homestays underground or under the table. Many home-sharing websites send 1099's...

Committee Chair Chock: Amalia, sorry, your time is up, but you can come back after everyone has had a chance to speak.

Ms. Gray: Sure. I will save my spot.

Committee Chair Chock: Would anyone else like to testify on this item? Please come forward.

DAVID O'ROURKE: My name is David O'Rourke and I live on Kuamo'o Road in Wailua Homesteads. My experience has been different in that I live next to people that have an Airbnb and home-sharing and I get a lot of loud noise from people who are on vacation, who do not have to get up and go to work in the morning. As far as hiking and these kinds of things, it does not matter where you stay, where you are going to go hiking, and what restaurants you are going to go to; you can stay anywhere and go to these places. I just have people who are inconsiderate late at night where we have had to call the police. They are a lot of partying next door at ten o'clock at night from people on vacation. I understand that and I understand people who want to have home-sharing, but I think you need to have a balance. Maybe they need to have a fenced yard or maybe they need...I live on an easement, so I have rent-a-cars all the time going in and out. They have two (2) rooms that they rent out, so we have four (4) people just about all the time, vacationing on their deck next door. My granddaughter has said that she had a hard time doing her homework one night. That is what really got me started on this because she could not concentrate with all of the noise. I just think we need balance and there are two (2) sides to this issue. I understand that people pay more

tax with their homestay and everything, but I pay taxes, too. I have a long-term renter that the County gives me a tax break on. I have a one (1) bedroom apartment that I rent to a girl who is on disability and the United States Department of Housing and Urban Development (HUD) pays part of her rent. I am just asking for fairness. Thank you.

Committee Chair Chock: Thank you. Would anyone else who has not signed up like to testify at this time? Come on up. Tina, you can come up next.

TINA SAKAMOTO: Good afternoon, County Council Members. My name is Tina Sakamoto and I am not a lobbyist. I am in support of Bill No. 2619, which restricts homestays solely to the visitor destination areas, the "VDA." After reviewing this Bill, I ask that you please consider two (2) proposals: proposal number one as related to grandfathering. At the January 21st council/committee meeting, our County Attorney Mauna Kea Trask provided testimony to clarify grandfathering as "grandfathering is allowed for continued lawful use," and that was the operative phrase, "continued lawful use." It was also stated that a land use permit process did exist since the 1970s. A lawful use would be a permitted use, and an unpermitted use would not be lawful and therefore, would not be subject to grandfathering. I believe that it would be prudent to heed to the counsel of our County Attorney and deny the grandfathering of unpermitted homestays. My second proposal as related to Real Property Tax (RPT) rates: homestay permitting requires the homestay owner/operator to qualify for a homeowner's exemption. The homestay owner/operator will benefit under the basic exemption, which is currently one hundred sixty thousand dollars (\$160,000), and this person may also be eligible for two (2) other exemptions: the age exemption, which is currently one hundred eighty thousand dollars (\$180,000) or two hundred thousand dollars (\$200,000), depending upon the age. The other exemption is an income exemption, which allows a one hundred twenty thousand dollar (\$120,000) exemption. As a homestay owner/operator will also benefit financially from the homestays transient guest accommodations revenue, I ask that you consider classifying the homestay to the vacation rental real property tax rate. Again, I am in support of Bill No. 2619, which restricts homestays to the VDA and ask that you please consider these two (2) proposals: deny grandfathering of unpermitted homestays and apply the vacation rental real property tax rate to homestays. I thank you for your kind attention. Thank you.

Committee Chair Chock: Thank you. Anyone else for the first time?

CAREN DIAMOND: Good afternoon, Councilmembers. I have also come today to ask for your support for this Bill. As you know, some of our areas have gotten inundated with more transient uses than residential uses. Areas like Hanalei, Hā'ena, Wainiha, and the south shore have almost lost their character of the neighborhoods. To add anymore transient uses at this time outside of the VDA would really be irresponsible to the people who live in our communities and people who bought into residential areas, expecting them to be used for residential areas. I support this Bill, no homestays outside of the VDA and ask you to support that as well. I also just want to mention grandfathering. I was involved in the stakeholder group in the Transient Vacation Rental (TVR) issue for a very long, long time.

Originally, when the bed and breakfasts (B&Bs) were separated off from it, it was because B&Bs had a use permit and that was in place. Therefore, any grandfathering that is considered at all should only occur to those that bothered to get use permits and those are the legally operating B&Bs. Outside of that, I would ask you to keep the bill as it is right now. Thank you.

Committee Chair Chock: Thank you. Would anyone else like to testify for the first time? If not, Ms. Barton, could you come up next?

Ms. Barton: Elizabeth Barton. I just wanted to add that people that are now complaining about visitors to VDAs seems rather absurd. That is what they were designed for. I have people that have vacation rentals in my neighborhood as well and vacation rentals do not stay in VDAs. They are all over the island and they are the ones that are mostly creating the noise because they are totally unsupervised. We have the ones that live in our homes that supervise any noise, car traffic, or things like that, and homestays are where people stay in a home. Anybody that does not stay in their home is a vacation rental, and then they are in an area where they should not be as well. They say that people want to have their homes to themselves in VDA areas and I understand, but they have always been for double use. Perhaps we could extend it out a little bit so that people are not all squashed into one area that is a VDA, living with people that it is their home. But I am asking to please give us a chance to earn a living. We all know it is hard here. There are not a lot of well-paying jobs. This is not a well-paying income for us. We have to pay our taxes, our mortgage, and all of our other bills associated. So I am just begging you to please think hard on this subject. Thank you.

Committee Chair Chock: Thank you. Ms. Gray.

Ms. Gray: Thank you again. Amalia Gray. What I was saying was that home-sharing needs to be a protected right of personal property; not restricted so much that it drives homestays underground or under the table, which there are already sites out there where it happens. So when they are restricted, it just makes it more in fear for people. Many of the home-sharing websites do send 1099's, so we are paying our share of taxes, and happy to, of course. There is a lot of money coming into Department of Taxation and also the local community. Kapa'a is thriving, partly due to the home-sharing experience. There are a lot of tourists and travelers, driving, walking, hitchhiking, and swimming in all of the neighborhoods around the island. It is a culture that we live in; sharing *aloha* with those lucky enough to come and visit for one (1) week or two (2) out of their lives. Also, the experiences that my children are getting...we just got a globe from a garage sale and we were looking at where the different travelers have come and it is very enriching and priceless. I am a hard worker of Kaua'i. I am not trying to get out of working and being a community member by supplementing. I am also a people-person and enjoy sharing about Kaua'i and what a special place it is. I have clear rules for my guests about noise ordinance and parking and they all follow them. There are strict regulations on particular websites where you have to be cleared in order to come and be verified, so I am sure that vacation rentals just offer it to anybody out there. So this is not a problem for me, having noise. I have two (2) young children that are in bed by 7:30 p.m., so

there is no noise. I do not anticipate stopping home-sharing any time soon, as it has been a positive experience for me and the Kapa'a Town small businesses. I have friends that also home-share who were not able to come and testify today. These proposed regulations and restrictions are not realistic in this current sharing culture that we are all living in. So I am not a supporter of Bill No. 2619. I am speaking for myself and several other working-class families. *Mahalo* for your time. Thank you.

Committee Chair Chock: Thank you. Anyone else wishing to speak for a second time? Okay, you can come on up.

Mr. O'Rourke: David O'Rourke. I just wanted to say again that I am not against bed and breakfasts. I have friends who have a bed and breakfast up in Wailua Homesteads and they do not have a problem, but they have a large property with their own driveway and their yard is completely fenced. My situation is that I share a driveway and I have rental cars blocking my driveway just about every day and no fence. I think that aside from moving to the visitor destination area, at least make a rule that says—not every property is suitable. Houses are packed close together. So what about a rule that says to have your own driveway and have your yard fenced? I had people/visitors, which I do not know who they are, lurking around in my neighbor's yard as well. I am wondering, "Do I need to call the police? Is this person casing the neighbor's house and looking to maybe come back later?" I do not know who they are. There are things like this. I am not against bed and breakfasts at all and I appreciate people wanting to make money with their house and make a living, but just have some fairness and some rules. Thank you.

Committee Chair Chock: Ms. Cowern, do you want to speak? Come on up.

CATHERINE COWERN: Catherine Cowern. Thank you for letting me come up and "put my two cents in." I just had a couple of comments about the grandfathering issue. We still do not have a legal definition of "bed and breakfast" in the County and the definition of "homestay" was only developed with this ordinance that is being put forward now. So it is a little disingenuous to go back twenty-five (25) years and try to plug that in. As you all know, we have been working on this issue for well over one (1) year and we still have not seen a permit process produced that existed when I started my operation twenty-four (24) years ago. That is all I have to say.

Committee Chair Chock: Okay. Anyone else wishing to testify on this item before we close it up? Tina, for a second time. Come on up.

Ms. Sakamoto: My name is Tina Sakamoto. I would like to speak again on the grandfathering. It was stated that unpermitted homestays are illegal and therefore, should not be grandfathered in. There was a comment that there is just a few to grandfather them in because they have been operating and it turned into a "he said/she said," but you have to realize that a very small opening is

a loophole. A cockroach could get into a very small opening and we have plenty of cockroaches on Kaua'i. Thank you.

Committee Chair Chock: Thank you. Anybody else wishing to testify? This would be your first time. Come on up.

ISABEL FISHER: Hi. My name is Isabel Fisher. I do home-sharing at my house. I am not a supporter of Bill No. 2619. I see all of my guests come to Kaua'i who participate in the economy a lot. Most of them do have helicopter rides, boat rides, and go to restaurants. They are out all day doing things. The way I look at it is that it is really good support for the community for Kaua'i to get business from all of these people. The way I look at the guests, I get that they are not people who travel if it was not for an affordable place to go on vacation. They cannot afford the Hyatt and the Marriott, so it is a particular kind of vacation when you are home-sharing because it is affordable for them. I see them spending money on the island quite a bit. For me, having guests in my house gives me a sense of safety as well. I live in a neighborhood that is pretty isolated and I do not always feel safe, especially when my husband is out. Somehow, it gives me a sense of safety when they are home. For them, I think being in a house and being able to interact with local people is a very special thing as vacationers. As far as my neighbors, they absolutely do not even hear or maybe they see cars going in my driveway, but pretty much they do not hear anything. It is very quiet. Most people are super quiet and I do not see how it could bother the neighbors at all. I think it is a gift that we are allowing people to come here and experience the local community and be on the island for an affordable price. I think that is all I have to share. Thank you.

Committee Chair Chock: Hold on, you have a question.

Councilmember Yukimura: Can you just state your name again for me?

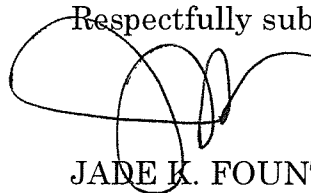
Ms. Fisher: Isabel Fisher.

Councilmember Yukimura: Thank you.

Committee Chair Chock: Anyone else for a second time? If not, this concludes the public hearing. Thank you.

There being no further testimony, the public hearing adjourned at 1:57 p.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
County Clerk