

Illegal TVRs Under Pressure

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Transient vacation rental laws are being enforced by county officials as of Jan. 1. "For someone to say they're above the [law] process is not good for the community."

Mayor Charmaine Tavares said there is a lot of outdated and incorrect information in circulation regarding transient vacation rentals (TVR). In an effort to clarify TVR laws for the public, she held a news conference on the issue on Tuesday, Jan. 8.

The TVR issue has progressed through three administrations, a variety of governing bodies and mobilized citizens' groups. TVR laws, which were previously ignored, are now being enforced as of Jan. 1. Previous attempts were made to get non-enforcement legalized in the County Council but were unsuccessful.

Tavares said the permitting process is in place as an obligation to ensure that vacation rentals are up to date with building codes that exist to protect visitors and residents alike. She said all businesses must follow the laws, and that TVRs are not above the law. The administration establishes all laws and cannot indiscriminately pick and choose which ones they want to implement, she said.

Among the citizens' groups, the Maui Vacation Rental Association (MVRA) asserted that it entered a legally binding contract with former Mayor Alan Arakawa and recently filed a lawsuit against the County of Maui for the enforcement of TVR laws.

The case filed by the MVRA was dismissed by Judge Michael Seabright on Dec. 17. Corporation Counsel Deputy Jane Lovell was appointed to represent Maui County in the suit. She said Judge Seabright did not deny the motion made by the MVRA, but found that the MVRA had no established contract with the county. Lovell said this represented legal criteria. This finding is revealed in a 43-page opinion of Seabright's dismissal of the case.

The MVRA has until Friday, Jan. 18, to submit extended complaints, but grounds are limited to First Amendment principles or racial discrimination issues. The Maui News reported, however, that the MVRA would appeal Seabright's decision instead of filing an extended complaint.

According to Planning Director Jeff Hunt, there has been a 14 percent annual increase in the number of TVRs on Maui. Because of the proliferation, he said, "I got the sense that the council was eager for the Planning Department to enforce laws." He noted that the County Council expressed "serious concern" regarding this issue, and wanted a change. We have worked in a collaborative effort, not in gridlock, he said.

The fact that the County Council hasn't been persuaded to change TVR laws shows that the majority is in support of enforcement of the current laws, Hunt said. He noted that the Planning Department is responsible for implementing the laws, not creating them, and if a change was desired, new representatives ought to be voted into government to facilitate change.

Bills drafted by the Planning Department and Planning Commission were submitted to the County Council and are currently being revised. Of the six bills, one would eliminate conditional-use permits allowing TVRs to operate in areas not zoned for hotels and resorts. But that bill has not received support of the Planning Commission. Hunt said the administration is

considering whether to keep conditional-use permits as an option.

For un-permitted TVR owners, a six-month grace period to apply for permits ended Jan. 1. The Planning Commission approved several of the 70 applications, allowing them to move on to the County Council for permit consideration. All unpermitted TVR operations are subject to enforcement.

“I believe the Planning Department is trying to work with TVR owners,” said Hunt. “No TVRs have been shut down immediately. If they’re cooperative, we give them more time,” he said. And if illegal TVR operators cooperated with officials, fines could be reduced, he said.

There are four full-time staff inspectors devoted to enforcement of vacation rental laws, who contact illegal TVR operators via telephone and letters. However, action is usually based on neighborhood complaints, although action may be taken independently. Hunt estimated that there are 1,100 illegal TVRs currently operating.

Hunt said fines for initial non-compliance with TVR laws are \$1,000 and then \$1,000 daily if the violation continues. According to Hunt, submitting an application is a form of cooperation—switching vacation rental Websites is not.

“For someone to say they’re above the process [of law] is not good for the community,” said Tavares. She encourages TVR operators to submit applications.

The international press has warned people about Maui’s TVR issues. In response, Tavares said, “There are over 16,000 units eligible. People who want to come to Maui will come.”