

# Antiquated laws may cause more businesses to close

## THE CHAMBER VIEW

by Pamela Tumpap



As the Maui County Council's Planning Committee this week reviewed the Tourism subsection of the Maui Island Plan's Economic Section, the Planning Department sought to include language for the department to enforce existing laws regarding bed-and-breakfasts (B&Bs) and transient-vacation rentals (TVRs). Council members asked why this statement was needed, noting that established laws were to be enforced.

The Planning Department pointed to the public outcry favoring B&Bs and TVRs, and noted that its staff wanted to clarify to the public that current B&B legislation is to be enforced. The department said some people still question the enforcement — and we at the Maui Chamber of Commerce would be among them.

Why would the chamber question the county on enforcing existing law? The bottom line is to support small businesses that do not have a serious negative impact on neighborhoods, and that want to be permitted and legitimate.

In the case of B&Bs and TVRs, we spoke out

to say the county should not be shutting down these businesses. This position was unusual for us because we recognize the importance of enforcing existing laws, but the law does not reflect adequately this industry that had been allowed to grow and operate for years under existing law. Many industry-related misconceptions and misstatements (some of which still exist in the draft Maui Island Plan) were apparent, while the B&B and TVR operators had received assurances from prior administrations and officials that they could continue to operate until a permitting process were in place.

We were not saying that all B&Bs or TVRs are appropriate. However, we were pretty vocal that they should be allowed to continue until reasonable legislation and a process were implemented. That was before the economic downturn. Now, we all have experienced the impact from the loss of TVRs, an impact that has contributed to job reductions, fewer visitors and business losses. Yet, a law to permit TVRs still does not exist.

Moreover, the B&B and TVR legislation was a wake-up call for home-based businesses (HBBs) operating under an obsolete law as well. At the time, many lawmakers did not want to tie the two issues together; neither did chamber members because we did not want to see

HBBs shut down. We alerted the public because the county can enforce all laws on the books, regardless of how archaic those laws are, and because HBBs could have faced the same fate as TVRs.

The HBB issue was a hot potato. Statements swirled that it would be political suicide for HBBs to be targeted because they are prevalent countywide and have operated for generations under existing law.

The Planning Department drafted new HBB language to help, but, like the TVR legislation, the matter continues to sit unheard in the council's Planning Committee.

Things were fairly quiet on the issue until recently.

For us at the chamber, the issue resurfaced with an e-mail from a business that since has closed, followed by a couple more calls and e-mails from long-standing businesses that now are seeing zoning laws enforced related to their operations.

We asked those at the county who were copied on the first e-mail if HBBs now were being "targeted" as TVRs had been. We received a response that HBBs are not being "targeted"; that TVRs were not "targeted"; that county laws must be enforced because new legislation may not be enacted; and that enforcement of home-

business and TVR laws is the same as for any other zoning law.

Here is the crux of the story: Why now? Despite county statements to the contrary, many in the public and business sector believe that TVRs were "targeted." Many also do not see the laws as being "equitably" (our word) enforced, as implied above. Normally, we would want equitable enforcement. However, we do not want to see more small businesses shut down.

What we want is legislation enacted in a timely fashion to rectify the situation so businesses can operate legitimately without the fear of facing huge fines and having to lose their homes and/or businesses.

The public can help. Ask council members and the mayor to support appropriate home-based businesses, and ask Planning Committee Chairman Sol Kaho'ohalahala to put the HBB bill (the TVR bill too) on the agenda to move it forward. While antiquated laws remain unchanged, the county has put the community on notice that it will enforce the existing, obsolete laws. This means that, beyond the economic recession we struggle to get past, many more small businesses may be shuttered. Do not let that happen.

■ Pamela Tumpap is president of the Maui Chamber of Commerce.