



March 23, 2022

The Honorable Brandon Elefante
Chair, The Honolulu City Council Committee on Zoning and Planning

Regarding: Testimony in **support of the intent of Bill 41 (2021) CD2**

Aloha Zoning and Planning Chair Elefante and Honorable Members of the Honolulu City Council,

For more than 100 years, the American Hotel & Lodging Association (AHLA) has been the foremost representative of and advocate for the U.S. lodging industry. We advocate for our members so they can do their best at what matters most: serving guests, employees and their communities. With more than 150 members in Hawaii representing 110,000 employees, this is a job we take very seriously.

We appreciate the valuable work you have been doing to ensure that Hawaii's tourism industry continues to thrive. Specifically, your commitment to the eradication of illegal short-term rentals in Hawaii. Study after study has shown that the vast majority of short-term rentals in our State are owned and operated by out-of-State commercial hosts who are renting whole units. In many cases, these law breakers are operating 20 or more illegal whole home rentals. This is not home sharing; these are illegal hotels which destroy the aloha in our communities and drive up the cost of housing for our residents. Please accept this testimony as our organization's express support for the intent of this Council's efforts to sufficiently regulate short-term rentals in our communities. Specifically, we offer our support for the intent of the CD2 to Bill 41 being considered by your committee today.

Two years ago this month, the 9th Circuit Court of Appeals ruled against HomeAway and Airbnb and their claims of CDA 230 protections in their litigation against the city of Santa Monica. This was an enormous win for Hawaii as we work to regulate illegal short-term rentals. In brief, this ruling upheld Santa Monica's short-term rental law, which was modeled after San Francisco's short-term rental law. This ruling means policy makers in Hawaii and across the country can and should hold hosting platforms responsible for illegal transactions that take place on their websites. The proposed



CD2 to Bill 41 preserves and builds on these proven and legally defensible enforcement provisions. This makes it clear that the open threats made by hosting platforms to weaponize baseless legal claims against our City are entirely moot. If hosting platforms were genuinely concerned about this measure's legal construct, their attention would focus on Section 4 of the CD2. If left unamended, Section 4 of the CD2 would impact *all* landowners and leaseholders in Honolulu by extending liability to property owners whose tenants engage in *any* unpermitted or criminal acts even if those acts take place without the landowner's knowledge. We recommend the Committee consider the suggested amendments to Section 4 of Bill 41 submitted by the Hawaii Hotel Alliance, an Association Member to AHLA and whose members partner with AHLA on key policy engagements, like Bill 41, throughout Hawaii.

This bill will make possible the purging of illegal whole home rentals from the market while at the same time creating a pathway for legal rentals to be let and taxed appropriately. If successful, Bill 41 could add as many as 10,000 or more units back to the housing pool on O'ahu, while at the same time opening up revenue opportunities for the City and our State through taxation and regulation of legal operators of transient accommodations *in our resort communities*, where they belong. As amended, Bill 41 seeks to strike the right balance of enforcement while allowing legally permitted short term rental opportunities, giving our visitors a choice in their selection of accommodation while prioritizing the needs and preferences of our kama'aiana.

The AHLA team is available to respond to any information requests that you or your team may have. Thank you for your continued leadership on behalf of Hawaii's visitor industry, our hotel owners, operators, and our many valuable employees.

Mahalo,

Kekoa McClellan
Spokesperson, AHLA Hawaii