

Honolulu, Hawaii

Feb 3, 2006

RE: H.B. No. 1938
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committees on Water, Land, & Ocean Resources and
Agriculture, to which was referred H.B. No. 1938 entitled:

"A BILL FOR AN ACT RELATING TO LAND USE,"

beg leave to report as follows:

The purpose of this bill is to strengthen the use
restrictions of lands in the state land use agricultural district
by clarifying that counties shall not permit any use in the
agricultural district that is not a statutorily permitted use.

The Department of Agriculture and Hawaii Chapter of the
Sierra Club supported the intent of this bill. The Office of
Planning, Office of the Corporation Counsel of the County of
Hawaii, and Land Use Research Foundation of Hawaii submitted
testimony in opposition to this measure. The Land Use Commission
and Hawaii Agriculture Research Center offered comments on this
bill.

Your Committees strongly concur with the original intent of
the bill and that through escalating abuses and circumvention of
the law, undesirable precedence has resulted in inappropriate and
increasing non-agricultural developments, including luxury
estates, on lands in the agricultural district.

Your Committees note that by reference only to section 205-
4.5, Hawaii Revised Statutes, the bill would only apply to lands
rated "A" or "B" in the agricultural district.

HB1938 HD1 HSCR WLO-AGR HMS 2006-1457



Your Committees find that the use restriction of lands in the agricultural district must be further strengthened. Accordingly, your Committees have amended this bill by:

- (1) Specifically prohibiting resort facilities, including commercial vacation facilities or homes, within the agricultural district;
- (2) Expanding the soil-rating classification from "A" or "B" to all soil-rating classifications, and prohibiting any government agency, including counties, from approving the subdivision of agricultural lands, unless the restriction that the use shall be primarily agricultural be applied;
- (3) Repealing the county's authorization to further define "accessory agricultural uses and services" in relation to the statutory permitted uses in the agricultural district;
- (4) Clarifying the county's authorization to issue special permits for "unusual and reasonable uses" within the agricultural district by prohibiting golf-related facilities and resort facilities; and
- (5) Making technical, nonsubstantive amendments for the purpose of clarity.

Additionally, the bill as amended would help keep agricultural lands affordable for farmers by preventing increases in agricultural land valuations resulting from high value, non-agricultural activities and developments on agricultural land.

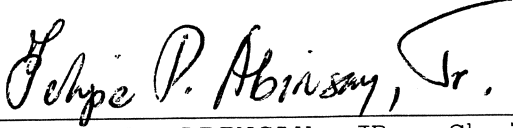
As strongly emphasized in the public hearing, any desired or needed development can take place on lands in the agricultural district through the state and county boundary amendment process.

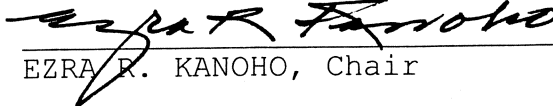
For the reasons cited, this is a critically important measure for your Committees and the people of Hawaii, and would accomplish what has been unsuccessfully attempted for the past five years.



As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1938, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1938, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committees on Water, Land, &
Ocean Resources and
Agriculture,


FELIPE P. ABINSAY, JR., Chair


EZRA R. KANOHO, Chair



