

SB 2641

LINDA LINGLE
Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512

SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

LATE

TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

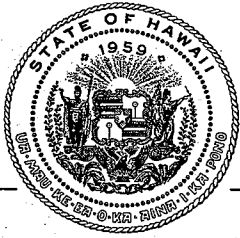
BEFORE THE SENATE COMMITTEE ON AGRICULTURE AND HAWAIIAN AFFAIRS
THURSDAY, JANUARY 31, 2008
2:45 p.m.
Room 224

SENATE BILL 2641
RELATING TO IMPORTANT AGRICULTURAL LANDS

Chair Tokuda, Vice-Chair English and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 2641. The purpose of this bill is to impose a moratorium on development upon all agricultural lands until June 30, 2013. This measure does not apply to development proposals for which "general planning" (i.e. planning, design, or construction) has commenced. This effect of this bill will be to stop the reclassification, rezoning, and development of agricultural land before the identification and designation of Important Agricultural Lands (IAL) by the counties and the State Land Use Commission, respectively. We have concerns about this bill.

The Department of Agriculture (HDOA) deeply appreciates the concern among some members of the Legislature that the effort that went into crafting the IAL legislation that protects the best agricultural lands for agricultural production in increasingly uncertain economic times must continue forward and without delay. We, too, are concerned that the momentum generated three years ago that resulted in the passage and enactment of Act 183, the Important Agricultural Lands Act is being lost because of the lack of incentives sufficient to meet legislative satisfaction and certain conditions that are part of the measure itself. While we share the frustrations of the lack of progress of implementing IAL, this measure could stop legitimate projects caught in the moratorium.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
MARK K. ANDERSON
DEPUTY DIRECTOR
MARY LOU KOBAYASHI
PLANNING PROGRAM ADMINISTRATOR
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Statement of
MARY LOU KOBAYASHI
Planning Program Administrator, Office of Planning
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON AGRICULTURE AND HAWAIIAN AFFAIRS
Thursday, January 31, 2008
2:45 PM
State Capitol, Conference Room 224

LATE

in consideration of
SB 2641
RELATING TO IMPORTANT AGRICULTURAL LANDS.

Chair Tokuda, Vice Chair English, and Members of the Senate Committee on
Agriculture and Hawaiian Affairs.

The Office of Planning opposes SB 2641, which would impose a five-year moratorium on building and development projects on Agricultural District lands in the State for which general planning has not commenced. While we recognize the urgency to find ways to stem the use and conversion of agricultural lands to non-agricultural uses, we do not believe this is the appropriate mechanism for addressing this complex issue.

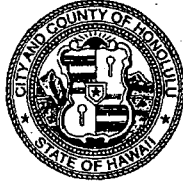
A set of complementary, mutually supporting bills is needed to provide a comprehensive and permanent solution to the issue of non-agricultural uses in the Agricultural District. Of foremost importance to the viability of the agricultural industry and farmers and the process of designating important agricultural lands, is legislation that establishes agricultural incentives to promote agricultural investment and offset the risks and costs of agricultural operations. These factors determine the viability of agricultural

businesses, and thus, the long-term value of land for agricultural production. HB 1217, an Administration bill introduced in the 2007 Legislative Session, provides a package of agricultural incentives that offer tax and regulatory relief to landowners of and agricultural businesses on designated important agricultural lands. OP urges the consideration and passage of this proposal or like measures to support agriculture and long-term agricultural use of land in Hawaii.

Thank you for the opportunity to offer these comments.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
MAYOR

HENRY ENG. FAICP
DIRECTOR

DAVID K. TANOUE
DEPUTY DIRECTOR

January 31, 2008

The Honorable Jill N. Tokuda, Chair
and Members of the Committee on Agriculture
and Hawaiian Affairs
Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Tokuda and Members:

**Subject: Senate Bill No. 2641
Relating to Important Agricultural Lands**

The Department of Planning and Permitting **opposes** Senate Bill No. 2641, which would set a moratorium on all development on agricultural lands for which general planning has not commenced.

This bill is so profoundly vague as to render it impossible to administer. Specifically,

- It would apply to "agricultural lands located in the state." Is this a reference to any lands in the state agricultural district? Zoned agriculture by the counties? Presently under agriculture use?
- The moratorium would apply only to projects for which "general planning" has not commenced. "General planning" is defined to cover projects "for which planning, design or construction has already commenced". For your information, the city does not track the dates of when planning or design work on private sector projects commences. Therefore, the city would not know which projects would be affected. Any project could arguably "back-date" commencement of planning and design, rendering it unaffected by the moratorium.
- The bill appears to be "self-administered" in that it does not restrict the issuance of government permits or other approvals and actions. It appears to suggest that development would stop on its own accord.
- The bill would apply to any building or development not permitted under Chapter 205-4.5, HRS. If the project is not permitted, it would not receive government approvals, which means that construction could not start, regardless of this bill.

The Honorable Jill N. Tokuda, Chair
and Members of the Committee on Agriculture
and Hawaiian Affairs

Senate

Re: Senate Bill 2641


January 31, 2008

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Finally, we believe that to withstand judicial review, the moratorium must serve a public interest, and this bill does not adequately make this determination. Section 1 of the bill mentions Act 183 (2005), but there is no link made between the identification of Important Agricultural Lands (IAL) and the moratorium. Moreover, the sunset date of five years for the moratorium appears to be arbitrary as the bill offers no connection between it and any schedule for decision-making on IAL designation.

In short, this bill should be filed based on profound confusion and lack of any meritorious purpose. Thank you for the opportunity to testify.

Sincerely yours,



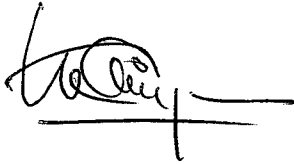
Henry Ehg, FAICP, Director
Department of Planning and Permitting

HE:jmf
sb2641-kh.doc

Date:

To: The Honorable Sen. Jill Tokuda
Senate Chair for Agriculture and Hawaiian Affairs

From: CN Lee

A handwritten signature in black ink, appearing to read 'CN Lee', with a horizontal line extending to the right from the end of the signature.

Ref.: SB 2641 relating to important agricultural lands: a moratorium

I have been involved with diversify agriculture in the state for over 20 years. As a private resident, a consumer and one passionate about our future, I urge your support for the SB 2641. The moratorium would not stop development that has been approved. We are all aware of large tracks of land on Oahu alone that has planned development for years but yet to occur. Meanwhile there are no solutions to the madness of traffic congestion.

SB 2641 merely asked for a moratorium for a very short period of 5 years. This action would concur with actions taken by the legislature back in 2005 when Act 183, SLH 2005 was signed into law. It only seems to make common sense that until the important agriculture lands (IAL) have been identified, there should no further reclassification or rezoning. Let's wait for the county to submit their IAL plans then we can revisit the issue. This bill would also reduce speculation on land prices, reduce the risks of farmers or agriculture from being used to "hold over land" for low taxes to the county, etc. It would allow for all of us to take a step back evaluate what is the carrying capacity of our resources on each island, how do we see ourselves (like Hong Kong or like the Hawaii we know), what about the traffic, our water supply, affordability of homes for our very own, our food security, etc.

Hence, I urge your support for the passage of SB 2641. Thank you.



Date: January 30, 2008



To: The Honorable Sen. Jill Tokuda
Senate Chair for Agriculture and Hawaiian Affairs

From: Ernest Tottoori
Chairman of Board, HPC Foods, Ltd.

LATE

Ref: SB 2641 relating to important agricultural lands: a moratorium

I am Ernest Tottoori with HPC Foods. I am also a taro farmer. For over 60 years, I have been involved in agribusiness in Hawaii. I have witness the growth of the food processing industry and have been part of it all this time. Today, our company has over 200 employees. We work diligently daily to serve our community.

Yet each year, I see our increasing dependency on imports. While we can grow a variety of crops and processed them for food, we seem to increase our imports as population and tourist numbers grow. The reason, diversified agriculture had always taken a back seat behind sugar and pine. Well, sugar is gone from Oahu and Big Island. The pineapple industry has reduced in acreage and diversify ag. is still looking for a home where it can plant itself and grow. The opportunities can be tremendous, providing good stable jobs for many of our people. After all, we all plan to eat sometime today, everyday, 365 days a year. Tourists and military too plan to eat. The food has to be grown somewhere and processed by someone. Why not have this done in Hawaii? It would be fresher! It would keep money here in our economy.

SB 2641 is a step in the right direction given that the legislature had passed Act 183, S.L.H 2005 on important agriculture lands. There are already lots of planned development; plans that have been approved and development yet to take place. Let those developments take place without more agricultural lands to be reclassified while we wait for Act. 183 to take hold. Without a moratorium on agricultural lands rezoning we could potentially see more important agricultural lands rezoned for development under our feet. We may never fulfill Article XI, Section 3 of our state constitution for agriculture. We will increase our dependency on imports and loose jobs and revenues to the mainland.

In your wisdom and fairness, you had honor "home rule" and asked the counties to submit to you the parcels of land in the state that will be deemed important agricultural lands. SB 2641 basically asked that we all wait for Act 183 to take place, then development can occur on none IAL lands and agriculture can take place. We all win. Hence, I urge you to pass SB2641. Thank you.

Respectfully submitted

A handwritten signature in cursive script that reads "Ernest Tottoori".
Ernest Tottoori



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January 31, 2008

The Honorable Jill N. Tokuda, Chair
Senate Committee on Agriculture and Hawaiian Affairs
State Capitol, Room 224
Honolulu, Hawaii 96813

LATE

RE: S.B. 2641 Relating to Important Agricultural Lands
Hearing Date: January 31, 2008 @ 2:45 p.m., Room 224

On behalf of our 10,000 members in Hawaii, the Hawaii Association of REALTORS® (HAR) opposes S.B. 2641.

HAR supports strategies to create an environment for sustainable development and the protection of open space; however, such efforts should not impede on private property rights. A major impact of this proposed moratorium is the "taking" of the property owners ability to build his/her residence or any other building on property he/she owns. We believe S.B. 2641 deprives property of all value, no matter how brief.

While we understand the intent of this bill is to protect important agricultural lands, which is an issue we support, we believe that the impact on agricultural lands that meet this classification is tremendous. This bill proposes a sweeping moratorium that is overly broad and would leave no room to examine each situation thoughtfully.

With the liberal interpretation, it could have a major negative impact on land values. It will exacerbate the housing crisis in such a way that would artificially inflate the value of lots currently on the market in addition to an inflationary effect on property taxes. With such limited supply, rents increase, starter home prices jump, and affordable housing becomes increasingly scarce.

HAR looks forward to working with our state lawmakers in building better communities by supporting quality growth, seeking sustainable economies and housing opportunities, embracing the cultural and environmental qualities we cherish, and protecting the rights of property owners.

Mahalo for the opportunity to testify.