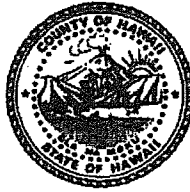


**Harry Kim**  
*Mayor*



**Christopher J. Yuen**  
*Director*

**Brad Kurokawa, ASLA**  
**LEED® AP**  
*Deputy Director*

**County of Hawaii**  
**PLANNING DEPARTMENT**

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February 6, 2008

Honorable Jill N. Tokuda, Chair  
And Members of the Committee on Agriculture  
And Hawaiian Affairs  
COMMITTEE ON AGRICULTURE AND HAWAIIAN AFFAIRS  
State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

Honorable Clayton Hee, Chair  
And Members of the Committee on Water and Land  
COMMITTEE ON WATER AND LAND  
State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

Honorable Brian T. Taniguchi, Chair  
And Members of the Committee on Judiciary and Labor  
COMMITTEE ON JUDICIARY AND LABOR  
State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

Dear Chairs Tokuda, Hee and Taniguchi  
And Members of the Committee on Agriculture and Hawaiian Affairs  
And Members of the Committee on Water and Land  
And Members of the Committee on Judiciary and Labor:

**SUBJECT: SENATE BILL 3210 – RELATING TO LAND USE**

The Hawai'i County Planning Department opposes SB 3210. This bill would take away the limited authorities that the counties have over lands in the agricultural district and give this power to the State Land Use Commission. Under current laws, although county

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And Members of the Committee on Judiciary and Labor  
COMMITTEE ON JUDICIARY AND LABOR

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February 6, 2008

authority over the agricultural district is limited, there are some decisions such as special permits and reclassifications of land under 15 acres that can be done at the county level. This bill would take that authority away from the people living on the island, as exercised through the county councils that they elect, and the planning commissions appointed by their elected mayor, and give it to the state land use commission, which has, typically, only one or two members from any neighbor island county.

This is a massive transfer of power away from the local residents of the islands and contrary to any notion of home rule. SB 3210 would mean, for example, that if a church or charter school wanted a special permit to operate in the state land use agricultural district, the decision would be made by the state land use commission, instead of the county planning commission.

People can disagree with individual decisions that the county councils or planning commissions make, but we should at least agree that the people living on an island are the ones closest to the issues and should be allowed to make these kinds of decisions for themselves, at least to the limited extent currently allowed by law.

On the island of Hawai'i, about 51% of the land is in the conservation district, and almost entirely under state control, and another 46% is in the agricultural district, where the overall rules are largely a matter of state control. Less than 3% of the land is in the urban district and fully under county zoning jurisdiction. These district boundaries, for more than 99.9% of the island, were set by LUC action. SB 3210 would mean that the county government for the island of Hawai'i had no meaningful land use authority for 97% of the island. It has similar results for the other counties.

This also takes away the counties' ability to plan effectively. There is no point in having county general plans and community development plans if there is no county land use control over 97% of the area.

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And Members of the Committee on Agriculture  
And Hawaiian Affairs  
COMMITTEE ON AGRICULTURE AND HAWAIIAN AFFAIRS

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COMMITTEE ON WATER AND LAND

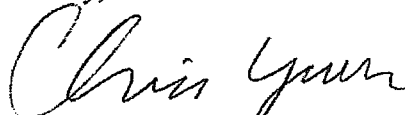
Honorable Brian T. Taniguchi, Chair  
And Members of the Committee on Judiciary and Labor  
COMMITTEE ON JUDICIARY AND LABOR

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SB 3210 also takes away all zoning authority from the counties over land in the agricultural district. This would mean, for example, that the counties would no longer have jurisdiction to do such routine things as giving citations for junkyards and other illegal uses in the state land use agricultural district, because the power to do so is based on zoning authority. Even such things as height limits and setbacks are in the zoning codes and would be invalidated by this bill, within the agricultural district. Presumably, the state land use commission—which has no enforcement staff and doesn't even have offices on the neighbor islands—would be responsible for these functions under SB 3210.

SB 3210 should be rejected.

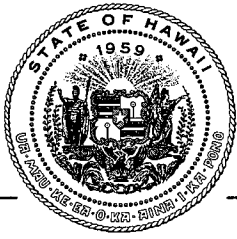
Sincerely,



CHRISTOPHER J. YUEN  
Planning Director

CJY:pak  
Wpwin60/Chris 08 – Testimony – SB 3210 – Relating to Land Use

cc: Mayor Harry Kim  
Honorable Pete Hoffmann  
Planning Commission  
Corporation Counsel  
Mr. Andy Levin  
Mr. Ralph Boyea



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

LINDA LINGLE  
GOVERNOR

THEODORE E. LIU  
DIRECTOR

MARK K. ANDERSON  
DEPUTY DIRECTOR

MARY LOU KOBAYASHI  
PLANNING PROGRAM ADMINISTRATOR  
OFFICE OF PLANNING

**OFFICE OF PLANNING**

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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  
AND  
SENATE COMMITTEE ON WATER AND LAND**  
Friday, February 8, 2008  
2:45 PM  
State Capitol, Conference Room 414

in consideration of  
**SB 3210  
RELATING TO LAND USE.**

Chairs Tokuda and Hee, Vice Chairs English and Kokubun, and Members of the Senate Committees on Agriculture and Hawaiian Affairs and Water and Land.

The Office of Planning (OP) opposes SB 3210, although we support Section 12 of the bill, which streamlines the county submission of important agricultural lands maps (IAL) to the Land Use Commission (LUC). SB 3210 would amend Chapters 46 and 205, Hawaii Revised Statutes, to remove county authority to zone and regulate land use within the Agricultural District.

While OP is very concerned about the unrelenting encroachment of residential subdivisions and urban-like uses on agricultural lands in the Agricultural District, we do not believe that transferring jurisdiction over the Agricultural District to the LUC is the appropriate response to this problem. Rather, it is more appropriate that efforts are made to strengthen the policies in Chapter 205 governing the Agricultural and Rural Districts, and work on legislation that assists the counties in improving their own policies and tools being used to manage agricultural and rural lands.

The LUC is not a regulatory, permitting body, and does not have the staff to process permits, conduct inspections, and enforce rules for the Agricultural District. The counties have the capability to administer permits and code enforcement. If the intent of the proposal is to improve management and protection of the State's agricultural lands and rural areas, then alternative approaches are needed, in particular, a package of bills that would:

1. Strengthen standards for farm dwelling and subdivision approvals, as in SB 2954, an Administration bill;
2. Limit the discretion over special permits and the definition of accessory agricultural uses for the Agricultural District;
3. Amend Chapter 46 to require that county zoning conform to Chapter 205 district policies and standards;
4. Increase the LUC or State's ability to enforce the district standards; and
5. Redefine and strengthen the policies and standards for the Rural District, as was outlined in SB 1355, an Administration bill introduced in last year's session.

OP does support Section 12, which would streamline the county IAL designation process by allowing the county planning departments to submit maps to the LUC for designation. However, this provision should be strengthened with language that the IAL recommendations and designation by the LUC shall conform to adopted long-range county land use plans. There are a number of other concerns we have with the bill, some of which would impair some of Part III's protections for IAL, but we will reserve these specific comments for future testimony.

Thank you for the opportunity to testify.

LINDA LINGLE  
Governor



SANDRA LEE KUNIMOTO  
Chairperson, Board of Agriculture

DUANE K. OKAMOTO  
Deputy to the Chairperson

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

TESTIMONY OF SANDRA LEE KUNIMOTO  
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEES ON  
AGRICULTURE AND HAWAIIAN AFFAIRS  
AND  
WATER AND LAND  
FRIDAY, FEBRUARY 8, 2008  
2:45 a.m.  
Room 414

SENATE BILL 3210  
RELATING TO LAND USE

Chairpersons Tokuda and Hee and Members of the Committees:

Thank you for the opportunity to testify on Senate Bill No. 3210 that seeks to amend Chapters 46 and 205 by transferring most of the counties' jurisdiction over the Agricultural District to the State Land Use Commission (LUC). Through this bill, the LUC would acquire the following authorities that apply to the Agricultural District - zoning, land use district reclassifications; subdivisions; special permits; and reclassifications and change in zoning of Important Agricultural Lands (IAL). The authority that remains with the counties include enforcing the LUC's zoning regulations within the Agricultural District and the identification of Important Agricultural Lands for LUC consideration. The Department of Agriculture does not support this bill with the exception of Section 12 (page 20, line 3 to page 21, line 11) that has the effect of speeding up the identification and designation of IAL by removing the requirement that county councils' adopt the potential IAL maps prior to submitting to the LUC for consideration.

The Department of Agriculture is concerned whether the transfer of authorities will effectively and efficiently resolve problems that exist under the present

arrangement. Furthermore, the LUC will acquire responsibilities that will likely require considerable time and resources before they can be implemented. This would cause further delay of the identification and designation of IAL. Because the content of Chapters 46 and 205 are left largely intact, it is conceivable the LUC may find itself in the same situation as the counties are today.

If the proliferation of subdivisions of agricultural land with little, if any, agricultural activity is of concern to the Committee, we strongly recommend consideration of Senate Bill 2954, an Administration bill that provides the counties with clearer statutory guidance to ensure farm dwellings are built and used in direct connection with specified agricultural uses and requires applications for subdivisions of Hawaii's best agricultural lands to include demonstrable evidence that meaningful agriculture will be the primary activity undertaken on the land.

We concur with the suggestions found in the testimony of the Office of Planning to amend Chapters 46 and 205 to improve the overall management and protection of the State's agricultural lands.