



**REALTORS®**  
*Association of  
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March 24, 2008

Testimony

The Honorable Ken Ito, Chair  
House Committee on Water, Land, Ocean Resources & Hawaiian Affairs  
The Honorable Clift Tsuji, Chair  
House Committee on Agriculture

**Re: Testimony in opposition to SB 546 SD2 – Relating to Land Use**

On behalf of its 1650 members and 220 affiliates, the REALTORS® Association of Maui wishes to register its disappointment in seeing this bill, which our community did so much to oppose in the last legislative session, resurrected again, with many of the same flaws that marked last year's bill. Key among those issues are:

- No real distinction is made between truly important agricultural lands and lands of lesser agricultural value. This bill treats all agriculturally designated lands equally.
- No recognition is given to the fact that whole communities, now existing on agricultural and rural lands, would be made "non-conforming" by this bill. This was the provision that ignited the most opposition to SB 1236 in the last session.
- The bill offers no transition. Long-term projects that have been in the governmental approval process for years could be derailed, almost without notice.
- There is no justification for changing the minimum lot size in the agricultural zone from the current one acre to five acres, and the rural district from a half-acre to one acre. The half-acre rural standard has been long established. What possible value can be gained by placing thousands of these existing lots into a non-conforming category?
- Act 183-05 directed the Counties to define what lands should be saved for future agricultural use and allows for shifts of marginal agricultural lands to rural use. Instead of continuing on that line, this bill limits the Counties' powers at the level they are most suited to perform, managing the lands in their own districts.

The REALTORS® Association of Maui would like to take this opportunity to reiterate its support of legislation that will identify and truly protect our state's Important Agricultural Lands. While we understand that this is a subject that the Legislature has struggled with, it should remain the goal. SB 546 SD2 does nothing to achieve that end, and will have a negative net impact on existing communities. For the reasons stated above, RAM opposes the proposed bill.

**COUNTY COUNCIL**  
Bill "Kaipo" Asing, Chair  
Mel Rapozo, Vice Chair  
Tim Bynum  
Jay Furfaro  
Shaylene Iseri-Carvalho  
Ronald Kouchi  
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**OFFICE OF THE COUNTY CLERK**

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March 24, 2008

The Honorable Ken Ito, Chair  
Committee on Water Land and Ocean Resources & Hawaiian Affairs

The Honorable Clift Tsuji, Chair  
Committee on Agriculture

Chair Ito and Tsuji and Members:

RE: SB 546, SD2

I write as an individual Kauai County Councilmember in opposition to SB 546, SD 2. Because I am the chair of the Kauai County Council's Planning Committee, I am familiar with the issues covered in the subject bill.

Like many of the bills introduced in the legislature, I'm sure there were good intentions behind SB 546, SD 2. However, good intentions are not enough. We, the public, also expect relevant knowledge, timely consultation with those likely to be most affected and awareness and avoidance of unintended consequences.

While the increases in minimum lot sizes are in the right direction, they may not be enough. Furthermore, what will distinguish a "rural village" from a small town on "Urban" designation, as is the case with many towns on Kauai? If you have several "rural villages" scattered around on rural lands, what will prevent those from becoming sprawl. A one-acre lot with an additional dwelling unit (ADU) (presently allowed on Kauai pursuant to state law) is effectively two 1/2-acre lots. This is sprawl! The defining and containing of a "Rural" designation is very tricky, given what we know of sprawl and the need to prevent it.

Did you know that the town of Kekaha on Kauai, which everyone thinks is "rural", is actually zoned "Urban." Surrounded by "Agricultural" designated and zoned lands, however, it has the feeling of a rural town. Could it possibly be that small towns on "Urban" lands surrounded by "Agricultural" lands are the way to create a sense of "rural"? We may not even need a "Rural" land designation to create a rural sense of place.

AN EQUAL OPPORTUNITY EMPLOYER

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Do you have enough land use facts to know what is going on and what the potential impacts of your proposed actions might be? Have you consulted with those who live in rural communities to see if what you are proposing would actually achieve what you hope to achieve? Have you consulted with the planning directors of the four counties? Are you sure that what you are proposing will not actually destroy or diminish the rural character of a place and create sprawl that will only increase the Vehicle Miles Traveled (VMT) and the amount of carbon into the atmosphere, contradicting another important state goal?

I respectfully request you consider another decision-making process that could be more informed, more inclusive, less rushed, more deliberative and more thoughtful. Please hold the subject bill and support the process that is being proposed by the Hawaii Rural Development Council through a Grants In Aid application. It would be so much more conducive to sound fact-finding and wise decision-making.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in cursive script that reads "Joann A. Yukimura". The signature is written in black ink and is positioned above the printed name.

JOANN A. YUKIMURA  
Councilmember



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March 24, 2008

**The Honorable Ken Ito, Chair**

House Committee on Water, Land, Ocean Resources & Hawaiian Affairs

**The Honorable Clift Tsuji, Chair**

House Committee on Agriculture

State Capitol, Room 312

Honolulu, Hawaii 96813

**RE: S.B. 546, SD2 – Relating to Land Use**

**Hearing: Monday, March 24, 2008 at 11:00 a.m. in Conference Room 312**

Aloha Chair Ito, Chair Tsuji, and Members of the Committees on Water, Land, Ocean Resources & Hawaiian Affairs and Agriculture:

On behalf of our 10,000 members in Hawaii, the Hawaii Association of REALTORS® (HAR) **opposes S.B. 546, SD2** that proposes to: 1) increase the minimum lot size from one-half acre to one acre in a rural district; 2) establish minimum lot size of five acres in an agricultural district; and 3) add definitions for and providing references to agricultural activities, agribusiness, and subsistence farming.

HAR can accept and support these concepts and can also support legislation that seeks to provide such protection, provided that it does not include significant unintended consequences. Such policies must be enforced fairly and sensibly with critical decisions being made at the county government sectors to fit with policies that are proposed at the state level.

HAR supports requiring Ag plans for land where this makes sense and adopting the more international view of “productive landscaping” as being an acceptable use of marginal lands of which we have plenty. We believe that it is appropriate to recognize that the Ag designation has been used in many cases as a “filler” classification and that a great deal of outer island Ag land is quite unsuitable for viable agriculture because of soil, topography, or lack of water and water resources. Thus, to include such land in legislation intended to protect genuine farming land is quite illogical. It is limiting the use of land that can never be sensibly turned into economically viable farmlands.

The most obvious and biggest concern is that S.B. 546, SD2 does not appear to appreciate the thousands of existing properties in all counties that would be relegated to “non-conforming” status because they are smaller than the proposed new 5-acre minimum standard. HAR points out that increasing the size will not resolve the issue and attempting to police these properties to force them to farm would be problematic at best.

Similar to the utilization of Smart Growth, each county is unique and one size does not necessarily fits all, and our county governments understand our real situations the best. We would appreciate a greater effort to apply the “homerule” principle to such an important effort.

For these reasons, HAR respectfully requests that your committee hold S.B. 546, SD2.

Mahalo for the opportunity to testify.