

NEIL ABERCROMBIE  
Governor



RUSSELL S. KOKUBUN  
Chairperson, Board of Agriculture

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State of Hawaii  
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TESTIMONY OF RUSSELL KOKUBUN  
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON WATER, LAND, AND OCEAN RESOURCES  
Friday, March 30, 2012  
Room 325  
11:00 A.M.

SENATE BILL NO. 2350, SENATE DRAFT 1, HOUSE DRAFT 1  
RELATING TO AGRICULTURAL LANDS

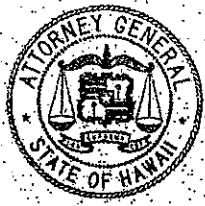
Chairperson Chang and Members of the Committee:

Thank you for this opportunity to provide testimony on Senate Bill No. 2350, Senate Draft 1, House Draft 1 that amends Section 205-2 to add as a permissible use 'ohana dwellings' that are accessory to farm dwellings in the Agricultural District, but limits the application of this measure to counties with population less than 500,000. The Department of Agriculture believes this measure lacks clarity in describing the relationship the ohana dwellings have with agricultural activities. We note that the counties already provide for accessory dwellings in their respective zoning ordinances.

If passed, this measure will cause proliferation of residential uses throughout the Agricultural District. This will exacerbate the existing problem of agricultural subdivisions with "farm dwellings" being accessory to little, if any, agricultural activity. This will cause agricultural land values to rise, not because of their agricultural utility but because of their value for residential use. Inflated land prices in turn will make entry into farming and continuation of existing farms difficult and less attractive. Nuisance complaints about agricultural activities (noise, dust, odors) by non-agricultural owners of ohana dwellings will increase.



Thank you, again, for the opportunity to testify on this measure.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SIXTH LEGISLATURE, 2012**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2350, S.D. 1, H.D. 1, RELATING TO AGRICULTURAL LANDS.

**BEFORE THE:**

HOUSE COMMITTEE ON WATER, LAND, AND OCEAN RESOURCES

**DATE:** Friday, March 30, 2012

**TIME:** 11:00 a.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Bryan C. Yee, Deputy Attorney General

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Chair Chang and Members of the Committee:

The Department of the Attorney General offers the following comments on this bill.

Section 205-2(d), Hawaii Revised Statutes (HRS), sets forth the permissible uses on agricultural lands. Section 1 of this bill proposes to amend section 205-2(d), HRS, to allow for ohana dwellings within the agricultural district. It provides in relevant part as follows:

Ohana dwellings in any county with a population of 500,000 or less, as permitted under section 205-6; . . . .

(Emphasis added).

Section 205-6, HRS, sets forth the process by which a county may issue a special permit to allow "unusual and reasonable uses within agricultural and rural districts other than those [uses] for which the district is classified." Accordingly, section 205-2(d), HRS, sets forth the permissible uses within the agricultural district, and section 205-6, HRS, sets forth the method by which other uses may be allowed within the agricultural district.

By requiring that an ohana dwelling obtain a special permit in order to be a permissible use, this bill conflates the two concepts of "permissible uses" and "special permits." If a use is a permissible use, it does not require a special permit. A special permit is only needed if the use is not already a permissible use. Because the counties may currently allow ohana dwellings through the special permit process, this bill does not appear to provide for any greater ability to construct ohana units within the agricultural district.

There are a variety of changes that could be made to the bill, depending on the committee's intent. First, one might delete the phrase "as permitted under section 205-6" on page 3, lines 2-4. This would resolve the legal issue, although it would also allow ohana dwellings in

all agricultural districts, possibly without any discretionary approvals by the county. Second, one might simply hold the bill in committee because existing law allows the counties to issue special permits for ohana dwellings. This would also resolve the legal issue, although it would not provide for any greater ability to construct ohana dwellings than currently exists. Third, one might substitute the phrase "if approved by the county planning commission" in place of "as permitted under section 205-6" on page 3, lines 2-4, in order to require an additional discretionary approval by the county without specifically requiring a special permit that is only applicable if the use is not already a permissible use. This would also resolve the legal issue, although county approvals are not generally required for any of the other permitted uses in section 205-2(d), HRS. The permitted use that most closely incorporates a county approval process is section 205-2(d)(11), HRS, which allows agricultural tourism only if the county has adopted ordinances regulating agricultural tourism. Perhaps the committee may have other suggestions, and we would be happy to review those suggestions.

We respectfully submit these comments to the committee for its information.



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

NEIL ABERCROMBIE  
GOVERNOR  
RICHARD C. LIM  
DIRECTOR  
MARY ALICE EVANS  
DEPUTY DIRECTOR  
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DIRECTOR  
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Statement of  
**JESSE K. SOUKI**  
Director, Office of Planning  
Department of Business, Economic Development, and Tourism  
before the  
**HOUSE COMMITTEE ON WATER, LAND AND OCEAN RESOURCES  
AND  
HOUSE COMMITTEE ON HOUSING**  
Friday, March 30, 2012  
11:00 AM  
State Capitol, Conference Room 325

in consideration of  
**SB 2350, SD1, HD1**  
**RELATING TO AGRICULTURAL LANDS.**

Chairs Chang and Cabanilla, Vice Chairs Har and Ito, and Members of the House  
Committees on Water, Land and Ocean Resources and Housing.

The Office of Planning (OP) has concerns regarding SB 2350, SD1 HD1 which would  
amend Hawai'i Revised Statutes (HRS) Chapter 205, to allow ohana dwellings as a permissible  
use in the State Agricultural District. Farm dwellings are already a permissible use in the  
Agricultural District, and the counties have ordinances in place for permitting farm dwellings  
and associated accessory dwellings.

Allowing additional dwellings that are not connected to farming activity is inconsistent  
with State policy to promote agricultural uses in the Agricultural District and to protect  
agricultural lands as set forth in Article XI, Section 3 of the Hawai'i Constitution, HRS Chapter  
205, the State Land Use Law, and HRS Chapter 226, the Hawai'i State Plan. In addition, it is a

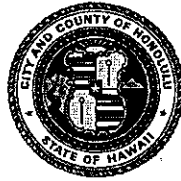
priority of the Administration's New Day Plan to stimulate an agricultural renaissance in Hawai'i that would increase production and consumption of locally produced foods and increase food and energy security for the islands.

The bill would have the effect of increasing residential density and land values in the Agricultural District and make land less affordable for farming. This would contribute to the loss of agricultural lands to higher-value non-farm uses, and could adversely impact the viability of diversified agriculture in Hawai'i as well as food and energy security for Hawaii's people.

Thank you for the opportunity to testify.

OFFICE OF THE MAYOR  
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE  
MAYOR

DOUGLAS S. CHIN  
MANAGING DIRECTOR

CHRYSTN K. A. EADS  
DEPUTY MANAGING DIRECTOR

March 29, 2012

The Honorable Jerry L. Chang, Chairman,  
Members of the House Committee on  
Water, Land and Ocean Resources  
State Capitol, Honolulu, Hawaii

The City and County of Honolulu opposes SB 2341 SD2, HD1 and SB 2350 SD1, HD1. Our Department of Planning and Permitting has submitted testimony in opposition to both bills earlier this session.

Recent amendments attempt to limit the application of both bills to islands other than Oahu. However, as the Agricultural Liaison for the City and County of Honolulu, I have policy concerns that the impacts of the proposed legislation still have potential long-term and immediate ramifications for Oahu.

I am addressing the two bills in a single testimony because the combined bills increase the potential to transform the most agriculturally productive lands into primarily non-agricultural uses.

SB 2341 allows vacation rentals on agricultural lands, including agricultural lands with the highest productivity rating. Furthermore, the bill "repeal[s] the state prohibition on agricultural tourism activities in the absence of bona fide farming operations," thereby permitting tourism including vacation rentals to be the primary use on agricultural lands.

SB 2350 permits building one ohana dwelling for each farm dwelling on agricultural lands.

By itself, SB 2341 has the potential to transform much of the agricultural district, particularly the scenic regions, into a vacation rental district. The profit margins of agricultural uses simply cannot compete with the profit margins of tourism. Allowing tourism and vacation rentals as a primary use on agricultural lands will affect the valuation of these lands. Agricultural property will be valued for the new "highest and best use," primarily vacation rental and tourism, not the farming potential. This will increase agricultural property values, and subsequently the property taxes, of bona fide farmers and retired farmers, and increase the sale and lease prices for agricultural lands to the point where they may no longer be affordable for farmers to buy or rent.

Permitting tourism including vacation rentals as the primary use on the most productive lands in the agricultural district establishes a precedent for the State. Once that precedent is set, it is only a matter of time before proponents argue to extend it statewide, including to Oahu.

In addition, permitting primarily non-agricultural uses and impacting the valuation of agricultural lands on the neighbor islands may negatively impact the food supply for Oahu, as this island relies upon agricultural products from neighbor islands.

I recognize that the bill retains a reference to tourism on a working farm, however that reference specifically refers to farming operations as defined by HRS 165-2. HRS 165-2 is the Right to Farm Act. That section of the law purposefully defines "farming operation" very broadly in order to deter complaints about any aspect of a farm. However, the consequence of using this section of the law as the definition of "farming operation" is that provided any one of the listed activities – even if it is not a bona fide farm, will mean the tourist operation is permitted. For example, a property may have a beautiful flower and herb garden which provides fresh produce for an on-site restaurant and vacation rental, with a roadside stand selling fresh flowers and herb. This will be a permitted use under the proposed bill.

If the intent is to continue the prohibition of agricultural tourism operations in the absence of a bona fide farm, then the purpose clause of SB 2341 should be amended, and the reference to the requirement of a bona fide farm should not be struck from HRS 205-5, as is proposed in this bill.

SB 2350, by itself, has the potential to double the number of residences permitted to be built on agricultural lands, as it allows one additional ohana dwelling for every permissible residence. Farmers and farm organizations have long been cautious about permitting an increase in the number of residences allowed on agricultural lands due to long-standing concerns about agricultural lands being in primarily residential use.

Again, the concern from Oahu is that this precedent may have similar short- and long-term impacts for our island.

Taken together, the two bills raise the possibility of a worst case scenario, where the number of residential units on agricultural lands may double, and, in the more scenic communities, the bulk of these residences will become legal and/or illegal vacation rentals.

This scenario is not just conjecture. It has already happened in a number of residential communities. The expansion of vacation rentals into many of Hawaii's scenic residential neighborhoods has already transformed many neighborhoods. However, the communities like Windward Oahu which underwent the double-impact of ohana units greatly increasing density, followed by putting many residential units into legal and illegal vacation rentals, has found that the vacation rental market dominates certain neighborhoods, affects home prices, property taxes, and limits the availability of rental units for local residents. In short, in scenic, desirable locations, the good intentions behind the ohana law are not met, and the transformation created by the higher-value tourism industry actually prices many of the former residents and their children out of the community.

Pacific Business News recently reported that Honolulu is one of the 10 markets identified as a



“hot spot” for foreign investment in real estate. <sup>1</sup> According to the data source, the majority of these foreign real estate investments in the United States, if not all, are recognizable tourist destinations. Changing the law to permit tourism activities and vacation rentals as permitted uses in the absence of bona fide farms on agricultural lands in Hawaii, even if limited to a few islands, will have impacts on our real estate market, which may ripple across the islands.

If the impetus behind SB 2350 is to allow family farms to build ohana or worker housing, that permission is already authorized as an incentive for lands designated as Important Agricultural Lands per Act 233, SLH 2008.

The price of Hawaii farmland is already nearly out of reach for food farms today. These bills will make it increasingly difficult for food farms to operate. For this and other reasons, the Department of Agriculture, Office of Planning, and City and County of Honolulu have all testified against these bills and the Farm Bureau has raised serious concerns.

Several years ago this body passed a law to address the State Constitutional mandate to assure the availability of agricultural lands for agriculture. In Act 183, SLH 2005, this body directed the Counties to map Important Agricultural Lands, the State Land Use Commission to designate lands as such, *and for the State to support agriculture on IAL through policies that:*

- “Discourage the ... conversion of [IAL] lands to nonagricultural uses;
- “Direct non-agricultural uses and activities from IAL to other areas and ensure the uses on IAL are actually agricultural uses;
- “Limit physical improvements on IAL to maintain affordability of those lands for agricultural purposes; [and]
- “Facilitate the access of farmers to IAL for long-term agricultural uses.”

That same law mandates that the soil productivity rating of agricultural lands must be considered when mapping IAL.

Passing either SB 2341 or SB 2350 would be adopting policies that contradict these mandates of State law because they permit non agricultural uses and improvements on agricultural lands with the highest soil productivity rating, and lands which may otherwise be eligible for IAL designation.

It would be premature for the Legislature to pass either bill prior to the Counties mapping IAL. Landowners seeking immediate relief for ohana units may obtain that already through voluntarily designating their lands as IAL.

One final item: SB 2341 SD2, HD1 may have erroneous population numbers. The bill states that it applies within a county with a population greater than two hundred and fifty thousand people, but less than five hundred thousand people. In reviewing the Census Web site, it appears that the 2010 population of the five Hawaii Counties are:

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<sup>1</sup> <http://www.bizjournals.com/pacific/news/2012/03/26/honolulu-is-a-hot-spot-for-foreign.html?s=print>

The Honorable Jerry L. Chang, Chairman,  
Members of the House Committee on  
Water, Land and Ocean Resources  
Page 4

Honolulu	953,079
Hawaii	185,079
Maui	154,834
Kauai	67,091
Kalawao	90

I apologize if I have misread the Census numbers.

Thank you for this opportunity to testify before you today.

Laura H. Thielen  
Agricultural Liaison  
City and County of Honolulu

Council Chair  
Danny A. Mateo

Vice-Chair  
Joseph Pontanilla


Council Members  
Gladys C. Baisa  
Robert Carroll  
Elle Cochran  
Donald G. Couch, Jr.  
G. Riki Hokama  
Michael P. Victorino  
Mike White



Director of Council Services  
Ken Fukuoka

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
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TO: The Honorable Jerry L. Chang, Chair  
House Committee on Water, Land & Ocean Resources

FROM: Don Couch   
Council Member, South Maui District

DATE: Thursday, March 29, 2012

SUBJECT: **OPPOSITION TO SB 2350, SD1, HD1, RELATING TO  
AGRICULTURAL LAND**

Thank you for the opportunity to testify regarding this measure. I provide this testimony as an individual member of the Maui County Council.

Providing ohana dwelling units serves two important purposes: 1) it creates much-needed affordable housing without government subsidy; and 2) it allows families, either multi-generational or extended, to live near one another and provide each other with support and family stability. As well, farming families increasingly rely on other sources of income to supplement their revenues from agricultural activity.

The County of Maui Code currently exercises strong control over residential use of agricultural lands. The counties should be allowed to maintain the authority to manage the rules and regulations for ohana dwelling units.

I strongly oppose SB 2350, SD1, HD1 and urge you to oppose this measure.



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March 30, 2012

**The Honorable Jerry L. Chang, Chair**  
House Committee on Water, Land & Ocean Resources  
State Capitol, Room 325  
Honolulu, Hawaii 96813

**RE: S.B. 2350, S.D.1, H.D.1, Relating to Agricultural Lands**

**HEARING: Friday, March 30, 2012, at 11:00 a.m.**

Aloha Chair Chang, Vice Chair Har, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,500 members. HAR raises **concerns** on S.B. 2350, S.D.1, H.D.1, which allows the building of 'ohana dwellings on lands within an agricultural district in any county with a population of 500,000 or less, under certain conditions.

**HAR supports the purpose and intent of the original version of S.B. 2350.** The original intent was to allow the Counties to self manage, through its own rule making authority, the use of secondary or 'ohana dwellings on agricultural properties.

Unfortunately, that intent, and thus the purpose of the bill, has since been lost in subsequent amendments. Instead of giving the Counties the authority to manage its communities, S.B.2350, S.D.1, H.D.1, in its current form, appears to restrict its authority and takes away existing options. For instance, general and non-farming related long-term rentals in the agricultural district are restricted. Such a restriction may have the unintended consequence of further limiting the availability of affordable rental housing and negatively impacting the economies of rural communities, including the incomes of true farming families who also rent out living space on their properties for additional income.

HAR believes that these types of land use decisions should be made by County officials who have a better understanding of their affected communities. For the forgoing reasons, HAR would respectfully request that this measure be returned to its original form.

Mahalo for the opportunity to testify.





*Hawaii's Thousand Friends*

25 Malunui Ave., Suite 102., PMB 282 • Kailua, HI 96734 • Phone/Fax: (808) 262-0682 E-mail: hlf@lava.net

March 30, 2012

COMMITTEE ON WATER, LAND & OCEAN RESOURCES

Rep. Jerry Chang, Chair  
Rep. Sharon Har, Vice Chair

SB 2350 SD1 HD1  
RELATING AGRICULTURAL LANDS

Committee Chair and Members:

Hawaii's Thousand Friends, a statewide non-profit land and water use organization, opposes SB 2350 SD1 HD1 that allows ohana dwellings on lands within an agricultural district.

There are many reasons to not allow ohana units on agriculturally designated land:

- Automatically permitted ohana units on ag land could double the density in some communities just as it has in residential neighborhoods
- Enforcement of the prohibition of not renting an ohana unit as a "single unit separate from the primary farm dwelling" will be an enforcement nightmare
- Allowing for ohana units on agricultural land will perpetuate the "fake" farm syndrome

Counties all ready have the ability to establish rules guiding ohana dwellings. The City and County of Honolulu's Land Use Ordinance Sec. 21-8.20.1 outlines procedures for approval of ohana dwellings with (4) dealing with agriculturally zoned lots.

SB 2350 SD1 HD1 is not needed and should be held in committee.

## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 28, 2012 12:13 PM  
**To:** WLOtestimony  
**Cc:** inunyabus@gmail.com  
**Subject:** Testimony for SB2350 on 3/30/2012 11:00:00 AM

Testimony for WLO 3/30/2012 11:00:00 AM SB2350

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: E. Dunbar  
Organization: Individual  
E-mail: [inunyabus@gmail.com](mailto:inunyabus@gmail.com)  
Submitted on: 3/28/2012

Comments:  
SB2350

With all due respect, 'Ohana Housing' sounds so local and safe. I don't think it is and I don't think it has anything to do with locals.

It is a bill that's a primer for gentleman estates and this bill would also seem to be a prep for all the 'new activity' (illegal uses of Ag Lands) that is passing through the legislature at this time with the intent to abuse the intended 'accepted uses' of agricultural lands.

More cracks in the wall of protecting and preserving Ag Lands.

Let's see some decisions with backbone that aren't for the purpose of pleasing special requests.

In other words, please STOP the avalanche of attempts to dismantle the laws as they stand for Ag Lands, especially with such broad and general language which is in this bill.

It is your duty to protect these islands and bills like this are so cheeky and transparent a child could see through the intent.

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 28, 2012 2:51 PM  
**To:** WLOtestimony  
**Cc:** ddantes@compuserve.com  
**Subject:** Testimony for SB2350 on 3/30/2012 11:00:00 AM

Testimony for WLO 3/30/2012 11:00:00 AM SB2350

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: David Dantes, M.D.  
Organization: Individual  
E-mail: [ddantes@compuserve.com](mailto:ddantes@compuserve.com)  
Submitted on: 3/28/2012

**Comments:**

This bill undermines the adequate zoning regulations which individual Counties have already researched and adopted, regarding the construction and use of ohanas on agricultural land. Hawaii residents have made significant decisions and investments in reliance on County home rule. Please oppose this legislation.

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 28, 2012 2:53 PM  
**To:** WLOtestimony  
**Cc:** tradewds@maui.net  
**Subject:** Testimony for SB2350 on 3/30/2012 11:00:00 AM

Testimony for WLO 3/30/2012 11:00:00 AM SB2350

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Beverly Livingston, R.N.  
Organization: Individual  
E-mail: [tradewds@maui.net](mailto:tradewds@maui.net)  
Submitted on: 3/28/2012

**Comments:**

This bill will make it difficult for everyone on agricultural land in Maui County, who has already constructed a permitted ohana for rental, pursuant to Maui County Code. Please oppose this legislation.



## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 28, 2012 3:53 PM  
**To:** WLOtestimony  
**Cc:** alexress99@yahoo.com  
**Subject:** Testimony for SB2350 on 3/30/2012 11:00:00 AM

Testimony for WLO 3/30/2012 11:00:00 AM SB2350

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Alex Ress  
Organization: Individual  
E-mail: [alexress99@yahoo.com](mailto:alexress99@yahoo.com)  
Submitted on: 3/28/2012

**Comments:**

Ohana dwellings have degraded the quality of life in my neighborhood. Please don't manipulate the zoning laws.

I would like the legislature to explain to me how it can say it supports agriculture because Hawaii imports so much of its food at the same time it is acting to pass laws that will transform agricultural districts into vacation rental districts? This bill cuts off our collective nose to spite our collective face because it would permit vacation rentals as a primary use, thus destroying any ability to assure these lands remain available for agricultural production.

With the price of Oahu farmland nearly out of reach for food farms today, why would the legislature pass a bill that would make it impossible for food farms to operate? The vast majority of Oahu's food is grown on rented land. Will landlords force farms to close when neighboring vacation rentals complain about noise, or when they realize they can increase their rental income by transforming all or some of the property to vacation rentals?

The Department of Agriculture, Office of Planning, and City and County of Honolulu have all testified against these bills and the Farm Bureau has raised serious concerns.

Our Constitution requires the State to assure the availability of agricultural lands for agriculture. The law requires directing non-agricultural uses away from the best farmland. Several bills before the Legislature this session support increasing local food production.

So, in the words of an old protest song from the Sixties, "Which side are you on? Which side are you on?"

Thank you for the opportunity to submit testimony.

Nancy Davlantes  
Kaneohe

*Glenn I. Teves  
P.O. Box 261  
Kualapuu, Molokai, HI 96757*

March 25, 2012

TESTIMONY  
IN  
OPPOSITION TO  
SB 2341 & 2350

Aloha Legislators. It seems like we're constantly changing the definition of words to suit our lifestyle changes and our response to money. Once upon a time, agriculture meant the production of food, fiber, and timber. All of a sudden, this definition is being turned on its head with the recent proposals to allow transient vacation rentals on agricultural lands. Has the Legislature gone over the edge or do they know something that we don't?

Just like the song of the late 60's by Cat Stevens, "Where do the children play", my question now is "where do the farmers farm if they farm at all". With some farm land in state exceeding \$500,000 an acre, the highest in the nation, who in their right mind will want to farm when they'll be spending the rest of their life paying for the land. The State Legislature is really saying to us, "We don't want you to farm, and you can buy your food at the store down the road!"

Creating competition for farm land by allowing the lands to be used for vacation rentals is like stabbing farmers in the back, and to allow vacation rentals without community input is like stabbing the community in the back. Farm land has shifted from a resource, as envisioned in our state constitution, to a commodity, sold to the highest bidder and the State Legislature is taking the lead in making this happen. If these bills are passed, fake and funny farms will dot the island from east to west, along with a new generation of pseudo-farmers all trying to find a way to get out of farming, yet still benefit from the zoning and tax breaks. Now, there's a new crutch to lean on and make big bucks with transient vacation rentals.

About three years ago, I attended a Sustainable Agriculture Conference in Kona and the first question asked of everyone was, "What will be needed to create stronger local and regional food systems that are less reliant on imports from elsewhere?" Expecting responses such as farmers market and community-supported agriculture, my response was 'a catastrophe'. The only way we will change in Hawaii is when a disaster forces us to change. By that time, we'll all be eating each other.

Still, the question begs to be answered, "Who will grow our food when the farms are surrounded by houses with residents screaming about the tractor noise, dust, and funny smells, and the farmers finally call it quits. Some farmers cannot handle this kind of stress and this is already happening. There are still a few resilient ones out there who

haven't sold out like Dean Okimoto. I still remember a farmer in Colorado I visited who used to spread manure on his fields from nearby feedlots each spring, and would receive a barrage of calls from irate neighbors. When asked, "What is that smell? He replied, "It's the smell of money!"

Well, not anymore. Now with the New Wave Hawaiian-Style farming, you don't even have to add manure or fertilizer to your fields. You can create a farm without even farming. All you have to do is construct transient vacation rentals on your farm land, and paste farm pictures on all the windows so your visitors think they're staying on a farm. You can change the pictures by the seasons, such as classic Tuscany in the spring, or Napa Valley in the late summer.

You can create the ultimate in local cuisine by heading down to Safeway or Costco, buying all kinds of fruits, vegetables, fish and shrimp from Chile, Mexico, China, and who knows where, head back home, and whip up a luscious brunch for your unknowing visitors. No one would be the wiser, and visitors would have a once in a lifetime experience as a result. If you want to get fancy, you can spice things up and add a little more ambiance you can buy a plastic Holstein cow and erect it near the entrance to your rental units.

I would never have come up with this great idea on my own, and have to thank the legislature for thinking 'outside the box' and being on the cusp of regional land use planning. I hope they keep their thinking caps on, because I know this is only the beginning of some great ideas. And if you run out of more ideas, I have some smart pills on hand that I can donate to you, but you have to move fast before my rabbit gets the runs. Thank you.

## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 28, 2012 10:01 PM  
**To:** WLOtestimony  
**Cc:** caornel@hotmail.com  
**Subject:** Testimony for SB2350 on 3/30/2012 11:00:00 AM

Testimony for WLO 3/30/2012 11:00:00 AM SB2350

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Carleen Ornellas  
Organization: Individual  
E-mail: [caornel@hotmail.com](mailto:caornel@hotmail.com)  
Submitted on: 3/28/2012

**Comments:**

this is just wrong. what is wrong with whoever introduced this. I'm not even wasting my time over it, but we will know who voted for it when election time comes. unreal, unbelievable, and a crime of your own laws.

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 28, 2012 10:37 PM  
**To:** WLOtestimony  
**Cc:** lynnehi@aol.com  
**Subject:** Testimony for SB2350 on 3/30/2012 11:00:00 AM

Testimony for WLO 3/30/2012 11:00:00 AM SB2350

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: lynne matusow  
Organization: Individual  
E-mail: [lynnehi@aol.com](mailto:lynnehi@aol.com)  
Submitted on: 3/28/2012

Comments:  
please accept this as testimony against.

**har2-Samantha**

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**From:** randy ching [oahurandy@yahoo.com]  
**Sent:** Thursday, March 29, 2012 7:06 AM  
**To:** WLOtestimony  
**Subject:** in opposition to SB2350 - relating to agricultural lands

SB2350 SD1 HD1 - relating to agricultural lands (opposed)  
House Water, Land, and Ocean Resources Committee  
Hearing on Friday, March 30 at 11 a.m. in room 325

Chair Chang, Vice Chair Har, and members of the committee,

I am opposed to SB2350 SD1 HD1. Please do not pass this ball. Mahalo.

Sincerely,

Randy Ching  
Honolulu  
[oahurandy@yahoo.com](mailto:oahurandy@yahoo.com)

## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 29, 2012 9:09 AM  
**To:** WLOtestimony  
**Cc:** pbdocberry@gmail.com  
**Subject:** Testimony for SB2350 on 3/30/2012 11:00:00 AM

Testimony for WLO 3/30/2012 11:00:00 AM SB2350

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Paul Berry  
Organization: Individual  
E-mail: [pbdocberry@gmail.com](mailto:pbdocberry@gmail.com)  
Submitted on: 3/29/2012

**Comments:**

Please reject this very bad SB2350. We need every acre of ag land for food self-sufficiency, so it is vitally important to leave all ag land free of visitor industry encroachment or housing .

Paul Berry  
46-158 Kiowai St. #2411  
Kaneohe, Hi 96744



## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 29, 2012 10:56 AM  
**To:** WLOtestimony  
**Cc:** Tcroly@maui.net  
**Subject:** Testimony for SB2350 on 3/30/2012 11:00:00 AM

Testimony for WLO 3/30/2012 11:00:00 AM SB2350

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Thomas Croly  
Organization: Individual  
E-mail: [Tcroly@maui.net](mailto:Tcroly@maui.net)  
Submitted on: 3/29/2012

### Comments:

I oppose limiting the use of ohana dwellings built on Ag land. The measure does not seem to be grounded in the real world. The Ag district is full of properties with a farm dwelling and a second farm dwelling as permitted by HRS205 and county zoning requirements. To now say that these second dwellings may not be rented out and must be occupied by workers of the farm is ridiculous. Tens of thousands of Hawaii residents live in these dwellings. The rent they pay helps supplement the farming efforts on these properties. To displace all these residents or make their existence existing non conforming would not only be wrong, it would open the state up to lawsuits from each and every renter and owner affected by this ill thoughtout approach to regulating the Ag district.

The horse is already out of the barn on this one. If the goal is to protect Ag lands, then do it through limiting subdivision, but not through outlawing uses that have been in place since even before Hawaii was a state. This measure should be filed or turned around to it's original intent which was to allow the counties to regulate the construction of ohana dwellings in the Ag district.

## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 29, 2012 12:04 PM  
**To:** WLOtestimony  
**Cc:** gad@ramauai.com  
**Subject:** Testimony for SB2350 on 3/30/2012 11:00:00 AM  
**Attachments:** RAM.draft.test.SB2350.docx

Testimony for WLO 3/30/2012 11:00:00 AM SB2350

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: David DeLeon  
Organization:  
E-mail: [gad@ramauai.com](mailto:gad@ramauai.com)  
Submitted on: 3/29/2012

Comments:



**REALTORS<sup>®</sup>**  
*Association of  
Maui, Inc.*

441 Ala Makani Place  
Kahului, Maui, HI 96732-3507  
Phone: 808-243-8585 ~ Fax: 808-243-8585  
Dave DeLeon, Government Affairs Director  
Cell: 808-281-3269  
E-mail: GAD@RAMaui.com  
www.RAMaui.com

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## TESTIMONY

House Committee on Water, Land and Ocean Resources  
Hearing Date: March 30, 2012  
Hearing Room 325

### TESTIMONY ON SENATE BILL 2350 SD1 HD1

Honorable Chair Jerry Chang and Members:

Please accept this testimony in opposition to Senate Bill 2350 HD1. Our association supported the intent of SB 2350 before it was amended. That original bill provided for county home rule authority over how these units can be utilized in the agricultural district. Our association supports that home rule intent because the Counties are in the best position to align our land use laws so that they actually reflect the accepted uses in the various counties. Unfortunately, the amended bill appears to reverse that intent, and as now written, would further restrict the Counties' ability to manage land uses.

Ohana dwelling use is common in Maui County. While the adopted name for these secondary units is "ohana," most frequently they are a means for local families to earn additional income from their properties and to lessen the impacts of our high cost of living. The renters of these units frequently have no family ties with their landlords. These ohanas are their homes and have become an indispensable part to our affordable housing stock. As currently written, SB 2350 HD1 appears to limit ohana use in agricultural districts so that it must first be associated with an active farm. General long-term rentals would not be permitted.

The reality in non-urban Maui County is that the agricultural district was used as a "default" zoning category for all properties that were neither urban nor conservation. As a result, many truly rural properties are classified as "agricultural." Applying the restrictive language found in SB 2350 HD1 would have a negative economic impact on our rural communities; would further limit the rural housing stock; and would cause the many existing secondary dwellings in the agricultural district to be considered non-conforming.

While the original intent of SB 2350 was to allow the Counties to determine secondary dwelling uses in the agricultural district, the same bill as amended would at best obscure the intent of the law and at worse would actually harm our rural communities. RAM respectfully encourages the committee to either return to the bill's original language or defer this measure. Mahalo.

## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 29, 2012 1:24 PM  
**To:** WLOtestimony  
**Cc:** dreamers@maui.net  
**Subject:** Testimony for SB2350 on 3/30/2012 11:00:00 AM

Testimony for WLO 3/30/2012 11:00:00 AM SB2350

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Sharyn & Jeff Stone  
Organization: Individual  
E-mail: [dreamers@maui.net](mailto:dreamers@maui.net)  
Submitted on: 3/29/2012

**Comments:**

I urge you to OPPOSE SB 2350. This bill makes NO sense. The intent of the original bill has been completely lost. And if THIS version passes, there will be thousands of non conforming use records creating tons of additional red tape. Something no county needs more of, as we're already bogged down in the existing bureaucracy. The very idea that one should be allowed to rent one's own property to whomever one pleases is patently ridiculous - especially on ag land where the additional income funds the existing ag activity. ABSOLUTELY VOTE NO ON THIS BILL. The fact that you're even considering it is a giant waste of everybody's time.

## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 29, 2012 4:10 PM  
**To:** WLOtestimony  
**Cc:** maguinger@hawaii.rr.com  
**Subject:** Testimony for SB2350 on 3/30/2012 11:00:00 AM

Testimony for WLO 3/30/2012 11:00:00 AM SB2350

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: Yes  
Submitted by: Mary A. Guinger  
Organization: Individual  
E-mail: [maguinger@hawaii.rr.com](mailto:maguinger@hawaii.rr.com)  
Submitted on: 3/29/2012

**Comments:**

In Oahu, we are over 3/4 of a million people.  
plus the tourists.

We need to farm the land.

With local food we will live, be healthy and more economic stable.

Eat local and thrive,