



State of Hawaii  
**DEPARTMENT OF AGRICULTURE**  
1428 South King Street  
Honolulu, Hawaii 96814-2512  
Phone: (808) 973-9600 FAX: (808) 973-9613

**TESTIMONY OF SCOTT E. ENRIGHT  
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEE ON AGRICULTURE  
MONDAY, JANUARY 27, 2014  
9:30 A.M.  
Room 312**

**HOUSE BILL NO. 2017  
RELATING TO CONDOMINIUMS**

Chairperson Wooley and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2017. The Department of Agriculture supports this measure that clarifies that Section 205-4.6, Hawaii Revised Statutes, does not allow private restrictions to be placed on agricultural uses and activities on agricultural condominium properties. Since the enactment of this law in 2003, we have received complaints from occupants of agricultural condominiums seeking to grow crops but face restrictions on their agricultural activities, including limitations on the days and times they may use farming equipment, limitations on the height and type of vegetation used for windbreaks, and restrictions on crop types. The Department of Agriculture strongly supports and promotes agricultural production on all agricultural lands, particularly on agricultural subdivisions and condominiums.

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





P.O. Box 253, Kunia, Hawai'i 96759  
Phone: (808) 848-2074; Fax: (808) 848-1921  
e-mail [info@hfbf.org](mailto:info@hfbf.org); [www.hfbf.org](http://www.hfbf.org)

January 27, 2014

HEARING BEFORE THE  
HOUSE COMMITTEE ON AGRICULTURE

TESTIMONY ON HB 2017  
RELATING TO CONDOMINIUMS

Room 312  
9:30 AM

Chair Wooley, Vice Chair Nishihara, and Members of the Committee:

I am Christopher Manfredi, President of the Hawaii Farm Bureau Federation (HFBF). Organized since 1948, the HFBF is comprised of 1,832 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interest of our diverse agricultural community.

Hawaii Farm Bureau supports the intent of this bill to clarify that private restrictions on agricultural uses and activities on agricultural lands are inappropriate and should not be allowed.

We agree that, for example, an agricultural land owner wishing to convert his property to a condominium status under a condominium property regime, should not be able to restrict current or future agricultural uses of that property.

Local agriculture should be supported and encouraged. This bill appears to provide assurances that under these specific circumstances, agricultural land will not be subject to unreasonable restrictions that would inhibit that purpose.

Thank you for the opportunity to comment on this measure.

**PRESENTATION OF THE  
REAL ESTATE COMMISSION**

TO THE HOUSE COMMITTEE ON AGRICULTURE

TWENTY-SEVENTH LEGISLATURE  
Regular Session of 2014

Monday, January 27, 2014  
9:30 a.m.

**TESTIMONY ON HOUSE BILL NO. 2017, RELATING TO CONDOMINIUMS.**

TO THE HONORABLE JESSICA WOOLEY, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Scott Sherley and I am the Condominium Review Committee Chairperson of the Hawaii Real Estate Commission ("Commission"). The Commission appreciates the opportunity to present testimony on House Bill No. 2017, Relating to Condominiums. House Bill No. 2017 clarifies the applicability of section 205-4.6, HRS, relating to private restrictions on agricultural uses and activities, to condominium projects on lands classified as agricultural. The Commission supports House Bill No. 2017 for the following reasons.

Condominiums may be created on lands located in an agricultural classified district. Pursuant to the condominium law, section 514B-84 (b) (1), HRS, a developer creating such a condominium shall disclose to prospective purchasers among other information as follows:

- (1) Whether the structures and uses anticipated by the developer's promotional plan for the project are in compliance with all applicable state and county land use laws;

(2) Whether the structures and uses anticipated by the developer's promotional plan for the project are in compliance with all applicable county real property tax laws, and the penalties for noncompliance; and

(3) Other disclosures and information that the commission may require.

Such disclosures are apparently intended to provide prospective purchasers relevant information relating to whether the prospective purchaser's consumer expectations may be met by purchasing a unit.

Specifically, House Bill No. 2017 appears to provide some additional consumer protective measures towards these ends as follows:

- Requires a developer to include in a declaration creating a new or converted condominium property regime that there are no restrictions or prohibitions disallowing any prospective purchaser from engaging in agricultural uses and activities as defined in sections 205-2 (d) and 205-4.5 (a), HRS;
- Requires a developer to obtain a verified statement signed by an appropriate county official, that the project as described and set forth in the project's declaration, condominium map, bylaws, and house rules does not include any restrictions limiting or prohibiting agricultural uses or activities, in compliance with section 205-4.6, HRS;
- Requires a developer to submit to the Commission as part of the developer's application to register the project the verified statement;

- Allows the Commission to decline to register an agricultural condominium project if the developer does not submit the required statement;
- Allows the Commission to decline to issue an effective date for a developer prepared public report to be used to sell units in the project where the developer has not submitted the required county statement;
- Permits the Commission after notice and a hearing to terminate the registration of a condominium project after a determination that a developer, or any officer, principal, or affiliate of a developer has failed to conform or comply with county zoning and development ordinances as required by chapter 205, including section 205-4.6 where applicable, and section 514B-5, HRS.

For the reasons discussed, the Commission supports House Bill No. 2017.

Thank you for the opportunity to testify.

January 27, 2014

**The Honorable Jessica Wooley, Chair**  
House Committee on Agriculture  
State Capitol, Room 312  
Honolulu, Hawaii 96813

**RE: H.B. 2017, Relating to Condominiums**

**HEARING: Monday, January 27, 2014, at 9:30 a.m.**

Aloha Chair Wooley, Vice Chair Onishi, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,300 members. HAR **supports the intent** of H.B. 2017, which clarifies the applicability of section 205-4.6, Hawaii Revised Statutes ("HRS"), relating to private restrictions on agricultural uses and activities, to condominiums projects on lands classified as agricultural.

In general, HAR supports an owner's right to farm. This measure accomplishes that by amending HRS §205-4.6 to protect uses and activities on agricultural lands through prohibiting any restrictions by private agreement contained in any condominium declaration, map, bylaws, and other documents.

Furthermore, HAR believes that consumers may be better informed by disclosing in the condominium developer's public report that there are no restrictions or prohibitions disallowing a potential purchaser from engaging in farming as defined in HRS §205.

HAR notes that this measure, as written, could apply retroactively to all condominium property regimes, inasmuch as it restricts any private agreement contained in a condominium declaration, map, bylaws, and other documents. We respectfully request an effective date so that this measure will apply to future agreements.

Mahalo for the opportunity to testify.

**onishi2-Micah-Seth**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, January 26, 2014 11:43 AM  
**To:** AGRtestimony  
**Cc:** 3333sd@gmail.com  
**Subject:** \*Submitted testimony for HB2017 on Jan 27, 2014 09:30AM\*

**HB2017**

Submitted on: 1/26/2014

Testimony for AGR on Jan 27, 2014 09:30AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sue Donaldson	Individual	Support	No

Comments:

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