

# SB2388

# Testimony

Requires that lands managed by the department of agriculture and the agribusiness development corporation are disposed of in a variety of sizes and to diversified tenants to support a diversified agricultural economy. Requires the department of agriculture and the agribusiness development corporation to: (1) consider the diversity of their leased or transferred lands when approving leases or transfers; and (2) submit annual reports regarding land dispositions to the legislature and to post a copy of the reports on the Internet.

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Cc: [sustainablesakala@gmail.com](mailto:sustainablesakala@gmail.com)  
Subject: Submitted testimony for SB2388 on Feb 11, 2014 15:00PM  
Date: Monday, February 10, 2014 7:54:59 AM

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**SB2388**

Submitted on: 2/10/2014

Testimony for AGL/WTL on Feb 11, 2014 15:00PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Steve Sakala	Kona Chapter Hawaii Farmers Union United	Support	No

Comments: Aloha Honorable Chairman Nishihara and Committee Members, I am writing you today in support of SB2388. We MUST preserve our agriculture lands if we are to preserve the possibility of agriculture as a way of life for our future generations. Preservation of agriculture lands is also key to the foundation and stability of our rural economy. Below is an excerpt from Hawaii's Thousand Friends as to why SB2388 is a good bill for Hawaii. Passage of SB 2388 would prohibit using CPR (Condominium Property Regime) to create or subdivide agricultural land consisting of 25-acres or larger. CPR is a way around county zoning and public involvement. CPR is a real estate law and does not have a public involvement component or enforcement mechanisms. CPR can allow greater density of agricultural land than is permitted under county zoning. CPR is a being used as a land use tool, which it is not the intent of the law. CPR is being used to circumvent county planning and zoning for ag land by subdividing ag land into smaller "house" lots than is permitted under county zoning. CPR is being used to create exclusive subdivisions, not farm lots on ag land. The most recent example of this is Kahu Aina Plantation development on Kauai's North Shore, where 360 acres of ag land is being subdivided under CPR. Kahu Aina is advertised as a secluded enclave, master planned development with large estates, and opportunity for beachfront estates with interest coming from Asia and high-profile celebrities in California. The only mention of agriculture on this ag zoned and designated 360 acres is a 27-acre agricultural easement consisting of permanent crops such as palm trees... The 360 acres that make up Kahu Aina may or may not be appropriate for farming but that discussion has not occurred because using CPR to subdivide ag land bypasses any public hearings or public involvement because CPR is a real estate transaction, not a land use law. Using CPR to subdivide ag land ignores Hawaii's State Land Use Law HRS 205 that provides that land classified as agricultural must be used for agriculture with permitted farm dwellings defined as accessory to farm operations. CPR BACKGROUND In 1961 Hawaii became the first state to pass a law enabling the creation of condominiums. That law is codified in HRS 514 A Condominium Property Regimes. CPR is a land ownership law, a consumer protection law, and a community governance law. It is not a land use law; i.e., it does not govern what structures may be built on real property; separate state and county land use laws control or should

control land use matters. CPR is an enabling law, allowing people to: Own real estate under condominium form of property ownership (i.e., where each individual member holds title to a specific unit and an undivided interest as "tenant-in-common" with other unit owners in common elements such as the exterior of buildings, structural components, grounds, amenities, and internal roads and infrastructure). In the early 2000s HRS 514A was changed to reflect that county zoning prevails and CPR cannot be used to circumvent county planning and implementing zoning. This change had statewide support, including the support of county mayors. HRS 514A-1.6 Conformance with county land use ordinances. Any condominium property regime established under this chapter shall conform to the existing underlying county zoning for the property and all applicable county permitting requirements adopted by the county in which the property is located, including any supplemental rules adopted by the county, pursuant to section 814-45, to ensure the conformance of CPR to the purposes and provisions of county zoning and development ordinances and chapter 205. In the case of a property, which includes one or more existing structures being converted to condominium status, the CPR shall comply with sec 514A-11(13) or 514A-40(b). HRS 514A-20 To create a CPR on ag land, the sole owner or owners declare, through the execution and recordation of a master deed, together with a declaration, which declaration shall set forth the particulars enumerated by section §514A-11, the desire to submit the property to the regime established by this chapter, there shall thereby be established a condominium property regime with respect to the property... Thank you for hearing this bill and I urge you to support SB 2388. Respectfully Submitted, Steve Sakala VP Kona Chapter Hawaii Farmers Union United Owner Honaunau Farm

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**SB2388**

Submitted on: 2/10/2014

Testimony for AGL/WTL on Feb 11, 2014 15:00PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jim Albertini	Malu 'Aina	Support	No

Comments: Our organization supports SB 2388 to protect agricultural land and public involvement in government decision making. The entire government decision making process, including the state legislature needs to be greatly improved. Point of order. I receive notice that testimony needs to be submitted only hours before deadline. The legislature should be in a full year session, not 60 days, with plenty of time for citizens to review bills and prepare testimony. County councils are in session a full year, why not the state. Jim Albertini,president

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February 11, 2014

COMMITTEE ON AGRICULTURE

Senator Clarence Nishihara, Chair  
Senator Ronald Kouchi, Vice Chair

COMMITTEE ON WATER AND LAND

Senator Malama Solomon, Chair  
Senator Brickwood Galuteria, Vice Chair

SB 2388  
RELATING TO AGRICULTURAL LAND

Committee Chairs and Members;

Hawaii's Thousand Friends, a statewide non-profit dedicated to reasonable, responsible and appropriate planning, supports SB 2388 that prevents the use of Condominium Property Regime (CPR) to subdivide agricultural land consisting of 25-acres or larger.

Using CPR to subdivide agricultural land is an assault on the counties home rule powers with respect to land use and subdivisions.

Using HRS 514 to subdivide agricultural designated land circumvents Hawaii's Land Use Law that agriculture must be used for agriculture.

CPR is a land ownership law, a consumer protection law, and a community governance law. It is *not a land use law*, which governs what structures may be built on real property.

The condominium law is written with the idea that what is being regulated is the building. Subdividing agricultural land is not a building.

SB 2388 must be passed out of committee because there is no reason why a real estate law should be used to undermine the ability of the counties to manage land use and to plug any loopholes.



HAWAII

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MAILING ADDRESS

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Hawai'i 96823

February 9, 2014

TO: Chair Clarence Nishihara; Vice Chair Ronald Kouchi  
Members of the Senate Agricultural Committee

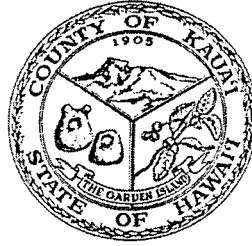
FROM: John Bickel, President  
Americans for Democratic Action/Hawai'i

RE: Support and Comments on SB 2388 Relating to Agricultural Land

Americans for Democratic Action/Hawaii supports SB 2388. For over a half century, Americans for Democratic Action has been advocating for public policies to pursue social justice. We consider the preservation of agricultural land an important part of social justice. Therefore we support this bill as it will end a loophole to our laws and better protect us against encroaching development. Sustainability has been an increasingly popular mantra. This bill takes some action to preserve one outlet we have to grow our own food. Please give it your favorable consideration.

**COUNTY COUNCIL**

Jay Furfaro, Chair  
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Tim Bynum  
Gary L. Hooser  
Ross Kagawa  
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4396 Rice Street, Suite 209  
Lihu'e, Kaua'i, Hawai'i 96766

February 10, 2014

**TESTIMONY OF GARY L. HOOSER  
COUNCILMEMBER, KAUA'I COUNTY COUNCIL  
ON  
SB 2388, RELATING TO AGRICULTURAL LAND  
Committee on Agriculture  
Committee on Water and Land  
Tuesday, February 11, 2014  
3:00 p.m.  
Conference Room 229**

Dear Chair Nishihara, Chair Solomon and Committee Members:

Thank you for this opportunity to submit testimony in support of SB 2388, which prohibits the creation of a condominium property regime and/or subdivision of agricultural land for the purpose of creating a condominium property regime on agricultural land twenty-five (25) acres or greater. My testimony is submitted in my capacity as the Economic Development (Sustainability / Agriculture / Food / Energy) & Intergovernmental Relations Committee Chair and Councilmember of the Kaua'i County Council.

Agricultural land is land that is used for cultivation and raising crops and livestock through accepted farming methods, for the purpose of providing agricultural commodities and promoting agricultural sustainability. Supporting diversified agriculture activities in Hawai'i not only provides income and job opportunities, but also leads us to becoming more self-sufficient. Supporting this Bill will safeguard agricultural lands from further development and protect our long-standing cultural values of preserving our natural resources.

This testimony in support of SB 2388 is intended for the primary purpose of furthering the goal of increasing local food production and achieving self-sufficiency in Hawai'i.

For the reasons stated above, I encourage this Committee to unanimously pass SB 2388. Again, thank you for this opportunity to submit testimony.

Sincerely,

GARY L. HOOSER  
Councilmember, Kaua'i County Council

AB:aa

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**SB2388**

Submitted on: 2/6/2014

Testimony for AGL/WTL on Feb 11, 2014 15:00PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Teresa Parsons	Individual	Support	No

Comments: Senators, I applaud the introduction of this measure to halt the ongoing development of agricultural land into condominium projects. Hawai'i is land constrained and we cannot allow developers to build on every part of the island. We must have land to produce food to sustain our people. In large cities with constrained boundaries (such as Los Angeles and San Francisco), legislators enacted restrictions (and moratoriums) on construction limiting construction projects to "rebuild" rather than "new build". To preserve the rural, agrarian culture in the Republic of South Korea, wise government officials limit buildings to ensure 70% of the country remains agricultural. There are too many construction companies and developers who spend significant amounts of time and money to work around the existing laws and county ordinances to gain access to rich agricultural lands only to misuse them by creating such atrocities as "luxury farms" and condominiums with "gardens". I see this throughout Oahu and I imagine the same is true on other islands in the State. People come to Hawai'i as visitors to see the vast green beauty and experience the aloha spirit. This will not be possible if legislation does not stop the "concretizing" of the State. Agricultural and conservation lands must be protected. I urge you to SUPPORT this measure and move it promptly along to ensure a vote by the entirety of the Legislature. Please do not be swayed by construction lobbies. We are stewards of the 'aina, not masters who can use and use without regard to the damage to future generations. Mahalo for allowing me to submit testimony in STRONG SUPPORT of this measure.

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**SB2388**

Submitted on: 2/7/2014

Testimony for AGL/WTL on Feb 11, 2014 15:00PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Annette Lee	Individual	Support	No

Comments: I support SB2388 because too many Ag zoned lots are being lost for various rezoning efforts. Although the Hawaii State Constitution encourages agriculture, too much development is being allowed in complete contradiction to the State's intent to preserve ag lands. We need to keep agriculture viable by continuing to encourage agriculture by providing the tools farmers need. Land.

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**Date:** Friday, February 07, 2014 2:33:36 PM

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**SB2388**

Submitted on: 2/7/2014

Testimony for AGL/WTL on Feb 11, 2014 15:00PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Walter Ritte	Individual	Support	No

Comments: My name is Walter Ritte from the island of Molokai and I support SB 2388. The need to protect farm lands in Hawaii for farm use is a high priority. The pressures to use farm lands for greater profit motives is making it difficult to insure our food security for Hawaii.

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**SB2388**

Submitted on: 2/6/2014

Testimony for AGL/WTL on Feb 11, 2014 15:00PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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**SB2388**

Submitted on: 2/7/2014

Testimony for AGL/WTL on Feb 11, 2014 15:00PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Stuart Novick	Individual	Support	No

Comments: We have lost so much valuable land in Hawaii. To me it's beyond sad that our land has been so carved up, paved over, and generally lost to the community as a whole. The entire Hawaiian culture, which we profess to respect and admire, is built around the aina. Please support the passage of this measure. Mahalo.

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**Date:** Friday, February 07, 2014 6:43:43 PM

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**SB2388**

Submitted on: 2/7/2014

Testimony for AGL/WTL on Feb 11, 2014 15:00PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bud & Katy Gibson	Individual	Support	No

Comments: We are losing ag land at a very rapid rate all over the country. Let's not let that happen in Hawaii.

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**SB2388**

Submitted on: 2/8/2014

Testimony for AGL/WTL on Feb 11, 2014 15:00PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Laurie Freed	Individual	Comments Only	No

Comments: PLEASE KEEP THE AG LAND!!!

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**SB2388**

Submitted on: 2/9/2014

Testimony for AGL/WTL on Feb 11, 2014 15:00PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marjorie &/or Duane Erway	Individual	Comments Only	No

Comments: Prohibiting the use of CPR to create or subdivide ag land consisting of 25 acres or larger is vital! It is used as a way around county zoning and public involvement and must not be allowed any longer. Please support this bill completely! Mahalo for your consideration.

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**SB2388**

Submitted on: 2/10/2014

Testimony for AGL/WTL on Feb 11, 2014 15:00PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Barb Cuttance	Individual	Support	No

Comments: Thank your for hearing SB2388 - TO AGRICULTURAL LAND I strongly support this bill. The loss of farm land on the more developed islands of Hawaii must be slowed down. The retention of farm land must be stressed as a need for Hawaii if we are to move towards greater self-sufficiency of food as the State has stated as an intension. Passage of SB 2388 would prohibit using CPR (Condominium Property Regime) to create or subdivide agricultural land consisting of 25-acres or larger. CPR is a way around county zoning and public involvement. CPR is a real estate law and does not have a public involvement component or enforcement mechanisms. CPR can allow greater density of agricultural land than is permitted under county zoning. CPR is a being used as a land use tool, which it is not the intent of the law. CPR is being used to circumvent county planning and zoning for ag land by subdividing ag land into smaller "house" lots than is permitted under county zoning. CPR is being used to create exclusive subdivisions, not farm lots on ag land. The most recent example of this is Kahu Aina Plantation development on Kauai's North Shore, where 360 acres of ag land is being subdivided under CPR. Kahu Aina is advertised as a secluded enclave, master planned development with large estates, and opportunity for beachfront estates with interest coming from Asia and high-profile celebrities in California. Please pass SB2388 and help to ensure the ability of Hawaii to become food self sufficient. Barb Cuttance 14/266 Papaya Farms Road, Pahoia, Hawaii 96778.

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**SB2388**

Submitted on: 2/10/2014

Testimony for AGL/WTL on Feb 11, 2014 15:00PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
David W. Hall	Individual	Support	No

Comments: I support SB2388. CPR should not be used as a land use law to bypass zoning and other regulatory requirements.

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**SB2388**

Submitted on: 2/8/2014

Testimony for AGL/WTL on Feb 11, 2014 15:00PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joannie Pan	Individual	Support	No

Comments:

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**SB2388**

Submitted on: 2/10/2014

Testimony for AGL/WTL on Feb 11, 2014 15:00PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joyce Midori Charles	Individual	Support	No

Comments:

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**SB2388**

Submitted on: 2/10/2014

Testimony for AGL/WTL on Feb 11, 2014 15:00PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Gwen Ilaban	Individual	Support	No

Comments:

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**SB2388**

Submitted on: 2/10/2014

Testimony for AGL/WTL on Feb 11, 2014 15:00PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Suzanne Wakelin	Individual	Support	No

Comments:

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**SB2388**

Submitted on: 2/10/2014

Testimony for AGL/WTL on Feb 11, 2014 15:00PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Amy Brinker	Individual	Support	No

Comments:

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**SB2388**

Submitted on: 2/10/2014

Testimony for AGL/WTL on Feb 11, 2014 15:00PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Robin Kaye	Individual	Support	No

Comments:

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**SB2388**

Submitted on: 2/10/2014

Testimony for AGL/WTL on Feb 11, 2014 15:00PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bernard Nunies	Individual	Support	No

Comments:

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**SB2388**

Submitted on: 2/10/2014

Testimony for AGL/WTL on Feb 11, 2014 15:00PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Paul Kuykendall	Individual	Support	No

Comments: I support this bill that would protect agricultural land in Hawaii. I request that you support it as well.

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**Date:** Monday, February 10, 2014 2:49:16 PM

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**SB2388**

Submitted on: 2/10/2014

Testimony for AGL/WTL on Feb 11, 2014 15:00PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Linda Legrande	Individual	Support	No

Comments: I support this bill because: 1) We must stop the subdivision of large ag parcels NOW and prohibit the building of exclusive subdivisions that may put in palm trees and call it 'farming'. 2) This bill reeks of being a 'land use tool' and tries to circumvent county planni 3) We are being told (in town) that the Kaka'ako development is a remedy to urban sprawl over other lands on Oahu and yet this bill, in my opinion, is nothing but urban sprawl to the heart of our Island. Who's minding the store here ? You can't have it both ways. Ag land is for farming. Thank you, Linda Legrande

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