

**OFFICE OF PLANNING  
STATE OF HAWAII**

**DAVID Y. IGE**  
GOVERNOR

**LEO R. ASUNCION**  
DIRECTOR  
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Statement of  
**LEO R. ASUNCION**  
Director, Office of Planning  
before the  
**HOUSE COMMITTEE ON HOUSING**  
Monday, February 8, 2016  
8:30 AM  
State Capitol, Conference Room 329

in consideration of  
**HB 2757**  
**RELATING TO HOUSING.**

Chair Hashem, Vice Chair Jordan, and Members of the House Committee on Housing.

The Office of Planning (OP) respectfully opposes HB 2757, which amends HRS § 205-2(d) to allow dwelling units and housing facilities for the elderly as a permitted use on State Agricultural District lands that are classified as having a productivity rating of D or E under the Land Study Bureau's soil classification system.

While we understand the growing need for housing, OP is concerned with the ever-expanding allowance of non-agricultural uses such as dwelling units and housing facilities for the elderly within the State Agricultural District.

Allowing non-agricultural uses in the State Agricultural District may contribute to the impermanence syndrome, whereby agricultural use declines due to farmers' disinvestment in

their farm operations in anticipation of development. This has been observed to occur where competing uses are allowed in areas designed for agricultural uses.<sup>1</sup>

The list of non-agricultural uses allowed in the State Agricultural District has grown over time. Currently, HRS § 205-2 allows the following non-agricultural uses: wind generated energy production; biofuel production; limited solar energy facilities; wind machines and wind farms; small-scale meteorological, air quality, noise, and other scientific and environmental data collection and monitoring facilities; open area recreational facilities; and geothermal resources exploration and geothermal resources development. The list of non-food related uses is longer still.

The State Special Permit process under HRS § 205-6 grants counties the authority to allow “certain unusual and reasonable uses within agricultural and rural districts other than those for which the district is classified[.]” In other words, the Special Permit process allows uses in the State Agricultural District that are not agricultural uses or related to agricultural uses on a case-by-case basis. Although we do not advocate for allowing non-agricultural uses within the State Agricultural District, this established process allows counties to review non-agricultural uses such as elderly housing units to mitigate impacts on the State Agricultural District.

Thank you for the opportunity to testify on this measure.

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<sup>1</sup> *Impermanence Syndrome – Have you got it?*, Rutgers, at <http://njsustainingfarms.rutgers.edu/farmlandissues.html> (last visited, Feb. 3, 2014).

DAVID Y. IGE  
Governor

SHAN S. TSUTSUI  
Lt. Governor



**LATE**

SCOTT E. ENRIGHT  
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER  
Deputy to the Chairperson

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 HOUSING

February 8, 2016  
8:30 A.M.  
CONFERENCE ROOM 329

HOUSE BILL NO. 2757  
RELATING TO HOUSING

Chairperson Hashem and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2757 that seeks to amend Chapter 205 (State land use law) to allow dwelling units and housing facilities for the elderly on Land Study Bureau Overall Productivity Rating "D" and "E" agricultural lands. The Department of Agriculture acknowledges the need for housing but respectfully opposes this measure.

The consideration of small farms with small houses limited to Hawaii residents 65 years and older on marginal agricultural lands as a housing option must be left to the existing framework of laws, ordinances, rules and regulations, and plans governing land uses at the State and County level. There are already agricultural subdivisions scattered throughout Hawaii for those elderly Hawaii residents who seek that lifestyle. Contrary to what the bill implies, there is active farming occurring on "D" and "E" rated agricultural lands throughout the State, the most significant being livestock ranching, but also intensive truck crop farming. Allowing residential dwellings on agricultural land without the dwelling being accessory to a farm or where agricultural activity provides income to the family occupying the dwelling will result in the creation of "gentlemen farms". As a



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result, the value of agricultural land on “D” and “E” rated lands will increase, not because of the crop or livestock productivity potential, but because of rural-residential lifestyle.

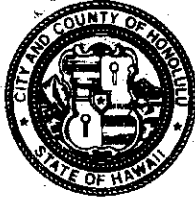
Thank you for the opportunity to present our testimony.

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

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**LATE**  
Testimony

KIRK CALDWELL  
MAYOR



GEORGE I. ATTA, FAICP  
DIRECTOR

ARTHUR D. CHALLACOMBE  
DEPUTY DIRECTOR

February 8, 2016

**LATE**

The Honorable Mark J. Hashem, Chair  
and Members of the Committee on Housing  
Hawaii House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Hashem and Committee Members:

Subject: House Bill No. 2757  
Relating to Elderly Housing in Agricultural Districts

The Department of Planning and Permitting (DPP) has **concerns** with House Bill No. 2757, which makes explicit provision for elderly housing in State Agricultural Districts.

State and county laws already accommodate elderly housing in the State Agricultural District. Homes occupied by *kupuna* that derive income from farming qualify as "farm dwellings," a permitted use in agricultural districts. If there is no connection to farming, then a single home for an elderly person or group of homes, or "housing facility" can be considered under the special permit process. Under Chapter 205, HRS, there is no restriction regarding the type of soil classification under the homes, i.e., land study bureau detailed land classification of D or E. Lastly, as an affordable housing project, elderly accommodations can be located in the State Agricultural District under the Chapter 201H, HRS, process. This Bill refers to potentially available land in Hawaii County. Perhaps transitioning such areas into the rural district should be considered, as it does not require dwellings to be "farm dwellings."

Our concern rests with increased enforcement obligations to be imposed on the counties unnecessarily. While a definition of "elderly" is provided, it does not address whether the elderly must be the sole occupants of the dwelling, or others are allowed. There is also the potential that this will be used to spur "gentlemen's estates" in the agricultural district, as they could meet the definition of "elderly." If a unit is vacated, must it be only be subsequently occupied by an elderly household?

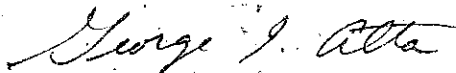
The Honorable Mark J. Hashem, Chair  
and Members of the Committee on Housing  
Hawaii House of Representatives  
Hawaii State Capitol  
House Bill No. 2757  
February 8, 2016  
Page 2

The DPP is vitally aware of our aging population and our collective responsibility to provide them with decent, affordable, healthy living environments. However, we do not believe the strategy reflected in House Bill No. 2757 represents a meaningful solution, at the cost of the potential of urban sprawl, and circumvention of the intent of the State land use law.

In short, while we do not see the necessity for this Bill, we would have no objections if it is amended to only apply to other counties, if this is appropriate.

Thank you for the opportunity to testify.

Very truly yours,



George I. Atta, FAICP  
Director



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February 8, 2016

HEARING BEFORE THE  
HOUSE COMMITTEE ON HOUSING

TESTIMONY ON HB 2757  
RELATING TO HOUSING

Room 224  
2:45 PM

Aloha Hashem Gabbard, Vice Chair Jordan, and Members of the Committee:

I am Randy Cabral, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,900 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.

**HFB respectfully opposes HB 2757**, which allows dwelling units and housing facilities for the elderly on class D or E lands in the agricultural districts.

HFB believes that the primary use of agriculturally zoned lands is production agriculture. Our policy states that we support: "Directing nonagricultural uses and activities from agricultural lands to other areas and ensure that uses on agricultural lands are actual agricultural uses"

We recognize that need for affordable housing, especially for our elderly. However, it is also an undeniable reality that there is abuse relating to permissible uses on agricultural lands. Counties across the State currently struggle to define "bona fide farmer" in order to qualify to receive reduced property taxes or water rates. These benefits are a privilege for producing agricultural products contributing to the State's level of self-sufficiency.

Furthermore, this measure circumvents county planning departments that already have a process by which an applicant may apply for a variance and/or special use permit that would allow the activities described above, under conditions imposed and enforced by the locality, often with input from the community. Perhaps we should examine the multi-tiered regulatory process that inhibits landowners from classifying their lands for uses suitable for them.

We continually face the challenge of non-agricultural uses entering the agricultural district. Rather than increasing non-agricultural uses on agricultural lands, we suggest creating mechanisms to increase farm and ranch viability so farms and ranches will not need non-agricultural activities to supplement their incomes.

Thank you for this opportunity to provide input on this matter.

jordan3-Kevin

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From: mailinglist@capitol.hawaii.gov  
Sent: Sunday, February 07, 2016 3:39 PM  
To: HSGtestimony  
Cc: aandrea99@aol.com  
Subject: \*Submitted testimony for HB2757 on Feb 8, 2016 08:30AM\*

**LATE**

**HB2757**

Submitted on: 2/7/2016

Testimony for HSG on Feb 8, 2016 08:30AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Andrea Quinn	Secular Coalition for Hawaii	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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