



OFFICE OF PLANNING STATE OF HAWAII

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DAVID Y. IGE
GOVERNOR

MARY ALICE EVANS
DIRECTOR
OFFICE OF PLANNING

Statement of
MARY ALICE EVANS
Director, Office of Planning
before the
HOUSE COMMITTEE ON WATER, LAND AND HAWAIIAN AFFAIRS
Wednesday, February 5, 2020
9:00 AM
State Capitol, Conference Room 325

in consideration of
HB 2602
RELATING TO AGRICULTURAL LANDS.

Chair Yamane, Vice Chair Todd, and Members of the House Committee on Water, Land and Hawaiian Affairs.

The Office of Planning (OP) **strongly supports** HB 2602 which addresses recommendations pursuant to Act 278, Session Laws of Hawaii 2019 directing OP to study subdivision and condominium property regime (CPR) issues on agricultural land.

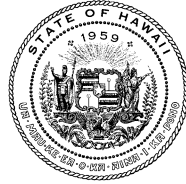
Over the past five months, OP has been working with a broad Stakeholders Group in response to Act 278. The Group established five goals: 1) Keep suitable agricultural lands for agriculture; 2) Support farmers and farming; 3) Keep agricultural lands affordable for farming; 4) Enable long-term access to agricultural lands for farmers; and 5) Minimize subdivision and CPR of productive agricultural lands except for bona fide agricultural reasons. HB 2602 addresses three major issues and recommendations of the study:

1. Defines “farm dwelling” (amends HRS 205-4.5(4)). Inadequate definitions of a bona fide farm results in: proliferation of dwellings without a farm component, fake farms, and gentlemen estates.
2. Allows county enforcement of unpermitted structures in the agricultural district (amends HRS 205-4.5(f)(2)). Agricultural structures exempted from building permits create an enforcement problem.
3. Requires county comments prior to CPR registration (amends HRS 514B-52(b)). Allows counties to review and alert the buyer of infrastructure and environmental deficiencies, and conformance with county codes.

Thank you for this opportunity to testify.

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
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HONOLULU, HAWAII 96809
Phone: (808) 587-1540 / Fax: (808) 587-1560
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RONA M. SUZUKI
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

To: The Honorable Ryan I. Yamane, Chair;
The Honorable Chris Todd, Vice Chair;
and Members of the House Committee on Water, Land, & Hawaiian Affairs

From: Rona M. Suzuki, Director
Department of Taxation

Re: H.B. 2602, Relating to Agricultural Lands

Date: Wednesday, February 5, 2020

Time: 9:00 A.M.

Place: Conference Room 325, State Capitol

The Department of Taxation (Department) offers the following comments on H.B. 2602.

H.B. 2602 amends sections 205-4.5 and 514B-52, Hawaii Revised Statutes (HRS), which govern the management of agricultural lands. Among other things, the measure amends the list of permitted land uses on agricultural districts to define “farm dwelling” as a single-family dwelling where agricultural activity provides income of no less than \$10,000 per year to the family occupying the dwelling and authorizes the use of general excise tax (GET) return filings to verify that agricultural activity is properly taking place.

The Department notes that without taxpayer authorization, specific statutory authority is needed to access and review confidential taxpayer information. The Department is concerned that the bill, as currently drafted, may conflict with the confidentiality provisions in section 237-34(b), HRS, which governs the confidentiality of GET returns and information.

To avoid any potential unlawful disclosure issues, the Department respectfully requests that the proposed measure be amended to require taxpayer authorization before any review of GET return filings for agricultural activity.

Thank you for the opportunity to provide comments.



Hawaii Cattlemen's Council, Inc.

COMMITTEE ON WATER, LAND, & HAWAIIAN AFFAIRS

Rep. Ryan I. Yamane, Chair

Rep. Chris Todd, Vice Chair

HB2602

Wednesday, February 5, 2020, 9:00 a.m.

Conference Room 325, State Capitol

415 South Beretania Street

Chair Yamane, Vice Chair Todd, and Members of the Committee on Water, Land, and Hawaiian Affairs,

My name is Nicole Galase and I am the Managing Director for the Hawaii Cattlemen's Council. We are writing to **support HB2602**. HCC is committed to supporting our civic leaders promote a coherent state-wide policy for sustainable development. Using the 17 United Nations Sustainable Development Goals as a framework, we advocate policy that; increases local food production to promote food security, protects agricultural lands, promotes carbon neutrality, models sustainable land use, protects our watersheds, supports long-term stable employment that embraces technology and innovation, contributes to the health and well-being of the community, and encourages public, private and civic partnerships.

The state has a goal to increase local food production for the benefit of our community's health, economy, and environment. In order to successfully achieve this goal, agriculture must be prioritized. We **support HB2602** because it ensures that available agricultural lands are indeed used for productive agriculture. Thank you for the opportunity to comment on this matter.



MIKE BIECHLER – Resident/voter of House Dist. 45 and Senate Dist. 23

COMMITTEE ON WATER, LAND, AND HAWAIIAN AFFAIRS

HEARING: WEDNESDAY FEBRUARY 5, 2020, 9:00 A.M.

TESTIMONY IN SUPPORT OF HB2602

Honorable Chair Yamane, Vice Chair Todd, and Representatives of the WLH committee:

I cannot express strongly enough how much I support HB 2602. Many of these changes are long over due, so I was happy to see these were the changes recommended by the Office of Planning pursuant to Act 278 (2019).

Good planning is important but it is only as good as the laws and enforcement mechanisms supporting the planning. For years I have seen what I believe was good land use planning being ignored, obfuscated, and practically obliterated on agricultural lands on O’ahu. A perfect example of this are the projects highlighted in the article *North Shore Farmland Being Carved Up for Crop, Housing Use*, Andrew Gomes, Honolulu Star-Advertiser, Feb. 2, 2020. See text attached below. While some lots are used for laudable farming efforts many are

Massive pieces of grade A and B soil are being used for housing without having actual farms, ie. the housing is the primary use of the land. The changes to HRS § 205-4.5 will help clarify the accessory use requirement and require actual income from the farm activity, which is good to have in the statute to clarify it needs to be substantial income. The dollar value may have to be raised at some point in the future. But I believe the inclusion of the agricultural dedication (ag easement/ag covenant) language will allow people to have an additional or separate means to have a farm dwelling if they are not deriving substantial income from the farm by preserving the land as ag for many years to come (hopefully indefinitely) via a deed restriction. It may be helpful to require the agricultural dedication to run in favor of the county for enforcement purposes.

The amendments to HRS § 514B-52 are my favorite part of the bill. These ag CPRs have been de facto subdivisions putting immeasurable strain on infrastructure and the environment in our rural areas on O’ahu. Many of the CPRs granted or in the works which are discussed in the article below are essentially re-writing the county general plan and the regional development plan, with no review other than ministerial approval by the Real Estate Commission. Currently, even the most haphazard, misguided CPR gets approved if it checks all the boxes. We need more oversight than that for our precious and limited agricultural areas. Because as we know, once they are developed they never become agricultural lands again.

With the referrals for this bill and its companion, SB 2706, I find it even more important that this bill be passed with expediency. Please approve this bill at the hearing Wednesday.

Best regards,
Mike Biechler

P.O Box 142
Waialua, HI 96791
mbiechler@gmail.com

North Shore Farmland Being Carved Up for Crop, Housing Use, Andrew Gomes, Honolulu Star-Advertiser, Feb. 2, 2020

David Taogoshi isn't your typical Hawaii real estate agent.

The 80-year-old head of Aiea Realty Inc. oversees traditional home brokerage transactions, but is also busy with five North Shore farmland subdivision projects that make him a divisive figure.

These projects, covering roughly 700 acres in Waialua between Poamoho and Mokuleia, are examples of property development that has long troubled local government policymakers and riled proponents of preserving farmland for farming.

Yet the spry octogenarian developer also is praised by farmers.

Some North Shore community leaders complain that Taogoshi is driving up the price of farmland by acquiring 30-acre to 300-acre tracts of former sugar cane and pineapple plantation fields for relatively little money and dividing them into mainly 2-acre and 5-acre pieces for sale as attractive home sites.

Part of this criticism is that Taogoshi is enabling proliferation of "gentlemen farm" estates featuring million-dollar homes with little, if any, commercial farming.

Such concern has arisen in part because Taogoshi's projects are developing out of public view — behind locked gates and without neighborhood board presentations or government public hearings through an unconventional way he advances the projects by selling interests in small parcels before subdivision approval that would allow one or two homes per parcel.

Taogoshi also is recognized for his initial foray into subdividing farmland in the 1990s, when he established 15 5-acre lots known as Poamoho Estates that were sold using marketing phrases that included "Build your dream home."

On the other hand, some farmers say Taogoshi is prompting diversified farm growth on long-fallow fields by making small plots available at reasonable prices that start at \$300,000 for 2 acres and range mainly from about \$500,000 to \$800,000 for 5 acres.

It's hard to know for certain, but the reality could be a blend of the conflicting views.

Currently, no more than two homes are allowed per project, or 10 homes for all 700 acres. But it's possible that a few hundred homes could legally sprout with city subdivision approvals Taogoshi aims to obtain

On a recent tour, Taogoshi pointed out considerable farming and preparation for farming on the five sites. He said his projects foster farm formation, maintain the character of rural communities and allow farmers to protect their crops from theft by living on the land.

Taogoshi also disagrees that he's developing subdivisions for gentlemen farm estates

"That terminology should be tossed out the window," he said. "You should use 'multi-income farm families.'"

The developer's preferred term refers to households that engage in farming but derive primary or supplemental income outside of farming. He said such folks are largely his buyers and that they are serious about agriculture.

At a 112-acre project in Poamoho called Kaala Ainalani Estates with sweeping distant ocean views, immigrant farmers were raising vegetables on a 5-acre plot Taogoshi said was bought by an airline pilot.

"These are very productive guys," he said. "They are producing food."

Another plot owner runs a tile company and plans to grow hemp, according to Taogoshi.

Marigold Zoll, Oahu branch manager for the state Division of Forestry and Wildlife, is another Kaala Ainalani plot owner.

Taogoshi bought the 112 acres from pineapple producer Dole Food Co. in 2014 for \$5 million. Over the past two years, he created and sold 19 mostly 5-acre land condominiums mainly for \$600,000 to \$700,000 apiece — or around \$12 million in total — and is spending some of the proceeds to put in paved roads, utilities and other things needed for the city to approve a subdivision establishing fee-simple lots where each lot owner could build a home or two.

Other parts of this site are planted with banana, papaya, avocado, betel nut and breadfruit trees.

"Looks pretty good, no?" Taogoshi said. "It's not fake farms."

However, unauthorized residential use also has occurred on some Taogoshi project sites.

The city Department of Planning and Permitting issued a violation notice for putting up yurts at Kaala Ainalani without permits. DPP also issued a violation notice at another Taogoshi project for occupying a container.

Taogoshi touts future prospects for each parcel buyer to build a home or two, but he informs owners through property sale documents that only farm structures can be built until the subdivision process is complete unless a parcel buyer obtains rights from him to have one of the two allowed homes on the unsubdivided project site.

However, marketing materials for two Taogoshi projects called Kawaihapai Farms and Mahiko Farms suggest that parcel buyers can build yurts, container homes or tiny houses before subdivision approval.

Kawaihapai Farms covers 186 acres next to Dillingham Ranch that Taogoshi bought from Dole for \$6.4 million in 2016 with a handful of initial investors who acquired condo units in the project slated for subdivision into 58 lots.

Mahiko Farms covers 333 acres near the old Waialua Sugar Mill that Taogoshi bought from Dole sister company Castle & Cooke for \$7.5 million in 2017. On this site, the developer has sold tenants-in-common interests representing about 75% of the land to about 35 buyers for \$20 million.

Taogoshi's other two projects are Kaala View Farm Lots #1 with six 5-acre land condos on 31 acres, and Kaala View Farm Lots #2 with nine 5-acre land condos on 53 acres. These two sites are close to Kaala Ainalani.

None of the five projects has subdivision approval, though Taogoshi has installed road and utility infrastructure at the two Kaala View sites and is preparing the other sites for such work.

Milton Agader, a former Waialua Sugar Co. worker who established Twin Bridge Farms about 20 years ago on about 280 acres in Haleiwa and Waialua, credits Taogoshi for allowing him to buy 100 acres of what he used to lease in Waialua on what is now part of Mahiko Farms where Agader grows asparagus, sweet potato, seed corn and other crops. He said land ownership helps ensure his farm's future

"If we don't create these kinds of lots, all the small farmers — they have no place to farm," he said.

Frank Hinshaw, who bought three 5-acre Kaala View lots and is raising queen bees and close to 350 fruit, nut and spice trees, said farmers on Oahu wanting to buy a few acres don't have many options because fallow former plantation parcels are too big

"David is about the only game in town," Hinshaw said.

Still, much of what concerns farmland subdivision critics is the city's policy to permit homes on ag land based on a farm plan without regard to a farm being developed or kept in operation. This, they say, can lead to lots being pretty much valued for housing.

At Taogoshi's first Kaala View project, a buyer who paid \$554,250 for a condo lot in 2010 and built a home in 2014 for an estimated \$325,000 listed the property for sale in 2016 at \$2.65 million. Now, it's in escrow after the asking price was reduced to \$1.69 million.

There isn't much mention of a farm in the listing description: "Beautiful custom design home with high ceilings and large covered veranda on over five acre estate. Site is mostly level with nursery plants and exotic fruit trees."

Kathleen Pahinui, chairwoman of the North Shore Neighborhood Board, said community members are concerned about losing farmland to residential use without farming.

"The community feels very strongly that ag land should be used for ag purposes," she said

Doug Cole, a board director of the nonprofit North Shore Community Land Trust, said investor demand for Taogoshi's farmland lots scares him.

"There need to be changes to laws and regulations if people don't want this to happen," he said.

Hawaii lawmakers passed a bill last year instructing DPP, the state Office of Planning, state Land Use Commission and state Real Estate Commission to study subdivision and condo laws as they relate to Oahu farmland.

The agencies endorsed the bill, which became Act 278 and calls for a written report by the end of next year to identify any deficiencies and potential remedies

HB-2602

Submitted on: 2/3/2020 11:32:12 PM

Testimony for WLH on 2/5/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Azuma Chrupalyk	Individual	Support	No

Comments:

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS M. ATTA
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
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LATE

TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON WATER, LAND, AND HAWAIIAN AFFAIRS

FEBRUARY 5, 2020
9:00 A.M.
CONFERENCE ROOM 325

HOUSE BILL NO. 2602
RELATING TO AGRICULTURAL LANDS

Chairperson Yamane and Members of the Committee:

Thank you for the opportunity to testify on House Bill 2602. This measure amends certain land subdivision and condominium property regime laws related to agricultural land, as recommended pursuant to Act 278, Session Laws of Hawaii 2019, to ensure:

1. Farm dwellings on agricultural lands are accessory to a farm or where the agricultural activity provides income of no less than \$10,000 per year to the family occupying the dwelling and verified by general excise tax return filing or agricultural tax dedication;
2. Structures on subdivided leasehold subdivisions of agricultural land are subject to county enforcement authority; and
3. Applications for registration of condominium property regimes of agricultural land are to include county comments regarding the availability of supportive infrastructure, any potential impact on government plans and resources, and other requirements pursuant to county ordinances and rules.

The Department of Agriculture supports this measure that reflects the input of the Act 278 Stakeholders Group that was assembled and led by the Office of Planning. Although the Act was limited to the City and County of Honolulu, the Group had broad representation. We look forward to working with the Office of Planning as this bill moves forward.

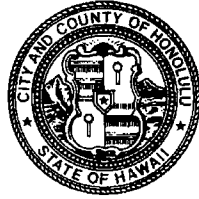
Thank you for the opportunity to testify on this important measure.



DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR



KATHY K. SOKUGAWA
ACTING DIRECTOR

TIMOTHY F. T. HIU
DEPUTY DIRECTOR

EUGENE H. TAKAHASHI
DEPUTY DIRECTOR

February 5, 2020

LATE

The Honorable Ryan I. Yamane, Chair
and Members of the Committee on Water, Land
and Hawaiian Affairs
Hawaii House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Yamane and Committee Members:

**Subject: House Bill No. 2602
Relating to Agricultural Lands**

The Department of Planning and Permitting (DPP) **strongly supports** House Bill No. 2602. It allows county input in the condominium property regime process involving agricultural lands. Counties can then assess the timely availability of necessary infrastructure, and identify concerns about potential effects on environmentally important or culturally significant resources, prior to the piecemeal sale of the property.

The Bill also introduces a definition of "farm dwelling" by adding a minimum income level. We take no position on this amendment, although we note that we would not limit farm dwellings to single-family dwellings, but also allow them as "duplex" and townhouse configurations.

We urge that this Bill be passed by your committee.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink that reads "Kathy Sokugawa".

Kathy K. Sokugawa
Acting Director

HB-2602

Submitted on: 2/5/2020 7:18:43 AM

Testimony for WLH on 2/5/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Miyamoto	Hawaii Farm Bureau	Support	No

Comments: