



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

DAVID Y. IGE
GOVERNOR

MIKE MCCARTNEY
DIRECTOR

CHUNG I. CHANG
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: dbedt.hawaii.gov

Telephone: (808) 586-2355
Fax: (808) 586-2377

Statement of
MIKE MCCARTNEY
Director

Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON WATER & LAND

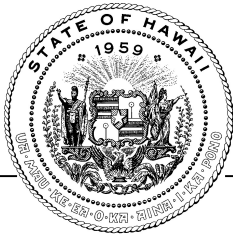
Thursday, February 17, 2022
8:30 AM
State Capitol, Conference Room 430
VIA VIDEOCONFERENCE

In consideration of
HB2084, HD1
RELATING TO IMPORTANT AGRICULTURAL LANDS.

Chair Tarnas, Vice Chair Branco and members of the Committee. The Department of Business, Economic Development and Tourism (DBEDT) supports Administration Bill, HB 2084, HD1. This measure repeals an existing incentive in Hawaii Revised Statutes (HRS) § 204-45.5 and adopts an improved incentive for the construction of farmer and farm employee housing on lands designated as Important Agricultural Land (IAL) by the State Land Use Commission.

Repeal of HRS § 204-45.5 addresses concerns of landowners that it imposes stricter limits on farm dwellings on lands proposed for designation as IAL under the mandated county IAL designation procedure in HRS § 205-49. The new incentive would make it easier to provide needed agricultural housing for farmers of IAL lands, but under conditions that provide safeguards that guard against non-agricultural residential use and minimize the amount of agricultural land taken out of production. It is our understanding that the Office of Planning and Sustainable Development (OPSD) supports the amendments in HD1, and we defer to OPSD for specific comments on HD1.

Thank you for the opportunity to testify.



**STATE OF HAWAII
OFFICE OF PLANNING
& SUSTAINABLE DEVELOPMENT**

DAVID Y. IGE
GOVERNOR

MARY ALICE EVANS
DIRECTOR

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-2846
Fax: (808) 587-2824
Web: <https://planning.hawaii.gov/>

Statement of
MARY ALICE EVANS
Director, Office of Planning and Sustainable Development
before the
HOUSE COMMITTEE ON WATER AND LAND
Thursday, February 17, 2022
8:30 AM
State Capitol, Conference Room 430
Via Videoconference

in consideration of
HB 2084, HD1
RELATING TO IMPORTANT AGRICULTURAL LANDS.

Chair Tarnas, Vice Chair Branco, and Members of the House Committee on Water and Land.

The Office of Planning and Sustainable Development (OPSD) **strongly supports** HB 2084, HD1. This measure would (1) repeal a provision in Hawai'i Revised Statutes (HRS) Chapter 205, that allows the development of multiple farm dwellings for farmers and farm employees on lands designated as important agricultural lands (IAL) by the State Land Use Commission (LUC), and (2) insert a new section that allows for farm cluster housing on IAL lands and related amendments that facilitate farm cluster housing development to meet the need for bona fide farmer and farm worker housing.

As currently written, HRS § 205-45.5 allows for the development of multiple farm dwellings for farmers and farm workers on IAL, provided that the occupants, including family members, are actively engaged in farming. In hearings before the LUC on the City and County of Honolulu's petition for the designation of IAL lands for O'ahu under the county IAL designation process, many small landowners testified in opposition to the designation of their lands based on their concern that this requirement would be imposed on all farm dwellings on IAL lands and is more restrictive than currently allowed for lands in the State Agricultural District. This provision had a chilling effect on the City's IAL petition, which was remanded by the LUC to the City for further action.

The existing incentive also does not provide any relief from county land use and development standards and processes for the construction of farm housing on lands designated as IAL. Thus, it is ineffective as an incentive to farmers or landowners for IAL designation.

The Administration bill was drafted and introduced to remedy these issues and to remove a potential barrier to future county efforts to carry out the State constitutional provision for the designation of important agricultural lands statewide.

The new section for clustered farmer and farm employee housing would preserve the intent of the original incentive for those landowners or farmers wishing to provide affordable farm worker housing. It would offer partial relief from the considerable cost of requiring the housing to be improved to urban residential subdivision standards, which results in infrastructure improvements that, while not needed for working farm lands, would raise the cost of farmer and farm employee housing.

OPSD supports the amendments contained in HD1 and offers the following comments for the Committee's consideration:

1. Page 4, lines 3-5. OPSD recommends replacing "ordinances" with "ordinance" in each instance to be clear that only one unified authorizing ordinance is necessary.
2. Page 5, lines 16-17. OPSD recommends replacing "eight hundred feet" with "eight hundred square feet of total floor area."

If HRS § 205-45.5 is not amended or repealed, the State constitutional mandate to identify IAL to sustain agriculture in Hawai'i for the future may not be realized. In addition, the proposed new incentive would offer real benefits to farmers and would provide State agricultural land policy thresholds essential for effective county permitting and regulation of farm cluster housing on IAL. The bill attempts to strike a balance between providing the counties with flexibility while ensuring incorporation of necessary safeguards to protect the State's productive agricultural lands from non-farm residential use, fragmentation, and sprawl.

Thank you for the opportunity to testify on this measure.

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
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON WATER AND LAND

FRIDAY, FEBRUARY 17, 2022
8:30 A.M.
VIA VIDEOCONFERENCE

HOUSE BILL NO. 2084, HD 1
RELATING TO IMPORTANT AGRICULTURAL LANDS

Chairperson Hashem and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2084, HD1 that allows landowners and lessees of Important Agricultural Lands to apply to the counties to develop, construct, and maintain farm cluster housing on the lands for rent to farmers and farm employees who actively and currently farm on the land. The bill also removes restrictions on farm dwellings on Important Agricultural Lands that are stricter than that for farm dwellings as provided in Chapter 205.

The Department of Agriculture ("Department") supports this measure with the following amendment.

(Page 4, lines 13-21 to page 5, lines 1-3) Deleted language is bracketed and struck through. New language is double underscored and bold text)

"(5) Require submittal to the county of an agricultural plan or agricultural business plan that supports the plan for the farm cluster housing and provides evidence of a real property tax agricultural dedication granted by the county;

provided that at least one public hearing on the proposed ordinance shall be held prior to its adoption; provided



further that the ordinance shall require the agricultural plan and verification of the real property tax agricultural dedication **shall first be reviewed and commented upon by the appropriate county agency and may be** [to be] submitted to the department of agriculture for review and comment prior to county action on the application."

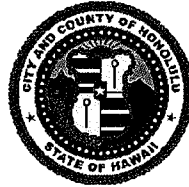
The Department strongly recommends that county action on the application should be predicated on the "agricultural plan" review in support of farm cluster housing and agricultural tax dedication verification being conducted by the appropriate county agencies, followed by a discretionary review by the Department. Primary reliance on the Department to conduct such reviews will not result in a reliable assessment reflecting the on-the-ground familiarity that only can come from the expertise residing in each county. Our amendment will reinforce county home rule.

Thank you for the opportunity to provide our testimony on this measure.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honolulu.dpp.org • CITY WEB SITE: www.honolulu.gov

RICK BLANGIARDI
MAYOR



DEAN UCHIDA
DIRECTOR

DAWN TAKEUCHI APUNA
DEPUTY DIRECTOR

EUGENE H. TAKAHASHI
DEPUTY DIRECTOR

February 17, 2022

The Honorable David A. Tarnas, Chair
and Members of the Committee on Water & Land
Hawaii State House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Tarnas and Committee Members:

**Subject: House Bill No. 2084, HD1
Relating to Important Agricultural Lands**

The Department of Planning and Permitting (DPP) **offers comments** on House Bill No. 2084, HD 1, which repeals Section 205-45.5, Hawaii Revised Statutes (HRS), and establishes a new section that aims to facilitate the development of cluster housing for farmers and farm employees on Important Agricultural Lands (IAL).

The DPP is in **strong support of repealing** Section 205-45.5, HRS. Section 205-45.5, HRS, was intended to be beneficial for IAL landowners by making it easier to provide farmer and farmworker housing on IAL. However, evident from the hundreds of landowners who provided written and oral testimony to DPP and the State Land Use Commission (LUC) in opposition of the City's recommendation for IAL designation, Section 205-45.5, HRS, has been misinterpreted as being a disincentive that applies greater restrictions than what is currently permitted in the State Agricultural District. Repealing Section 205-45.5, HRS, would alleviate those concerns.

Repealing this Section could be the first step towards moving ahead with the IAL efforts of the State of Hawaii. If the Section is not repealed, it is probable there will be no movement from the counties regarding recommending IAL designations to the LUC due to the public perception that IAL infringes on property rights.

Although the DPP supports the addition of IAL incentives, the DPP is in **opposition** to the language in the House Draft 1 mandating the counties to adopt an IAL farm cluster housing ordinance with specific provisions. This Bill contains requirements that conflict with the City and County of Honolulu's zoning regulations and oversteps county home rule responsibilities. Specifically, this Bill requires provisions that are not consistent with existing agricultural cluster definitions and development

The Honorable David A. Tarnas, Chair
and Members of the Committee on Water & Land
Hawaii State House of Representatives
House Bill No. 2084, HD 1
February 17, 2022
Page 2

standards listed in the City's Land Use Ordinance (LUO), Sections 21-3.50-1 through 3, Revised Ordinances of Honolulu.

There are instances where the farm cluster housing requirements in this Bill would be more restrictive than what is currently allowed by county zoning. For example, the LUO defines the minimum land area for an agricultural cluster as six contiguous acres in the AG-2 general agricultural zoning district. This Bill only allows farm cluster housing on lots of record that are greater than or equal to 10 acres. In addition, this Bill requires farm cluster housing units not exceed 800 square feet (the Bill reads "eight hundred feet" on page 5 line 17, which we assume is a typo). This requirement is significantly more restrictive than our agricultural cluster development standards, which do not have a maximum square footage. Adding "incentives" into the IAL Statute that can be perceived as more restrictive than what current land use laws permit should be avoided if IAL is to succeed in the State of Hawaii.

Lastly, the LUO requires agricultural clusters be approved, approved with conditions, or denied within 60 days of accepting the application for processing. It is unclear how the DPP would "establish priority review and processing for farm cluster housing," as mandated by this Bill, while giving agencies and relevant members of the community enough time to comment on the project. Furthermore, it is unclear how farm cluster housing units are to meet building code and infrastructure requirements and standards "reduced to the minimum requirements necessary to ensure safe and healthful occupancy."

The DPP encourages amending this Bill to exempt counties that have already codified a form a "farm cluster housing," as defined on page 7, lines 8-12, of House Bill No. 2084, HD 1, or remove the farm cluster housing language completely.

Thank you for this opportunity to testify.

Very truly yours,



Dean Uchida
Director



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

February 17, 2022

HEARING BEFORE THE
HOUSE COMMITTEE ON WATER AND LAND

TESTIMONY ON HB 2084, HD1
RELATING TO IMPORTANT AGRICULTURAL LANDS

Conference Room 430 & Videoconference
8:30 AM

Aloha Chair Tarnas, Vice-Chair Branco, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawaii Farm Bureau supports HB 2084, HD1, which allows landowners and lessees of important agricultural lands to apply to the counties to develop, construct, and maintain farm cluster housing on the lands for rent to farmers and farm employees who actively and currently farm on the land. Removes restrictions on farm dwellings on important agricultural lands that are stricter than that for farm dwellings under the agricultural land use district.

The identification and designation of Important Agricultural Lands (IAL) was first proposed at the 1978 Constitutional Convention and subsequently approved by voters in the same year. Enacted as Article XI, Section 3, of the Constitution of the State of Hawaii, the State is required to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands.

Several attempts to establish IAL in statute were attempted over the years, but it was only in 2005 that Act 183 was enacted. In 2008, Act 233 was enacted to establish incentives, such as tax credits, loan guarantees, and expedited regulatory processing to encourage landowners to designate their lands as IAL.

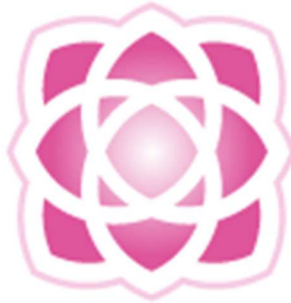
Another incentive allows landowners to develop farm dwellings and employee housing for their immediate family members and their employees. It limits the farm dwelling to 5%

of the total IAL or 50 acres, whichever is less. It also requires that plans for farm dwellings and employee housing be supported by agricultural plans approved by HDOA.

Many small landowners are unaware of how IAL designation will impact their land use and rights. Agricultural landowners are justifiably concerned about the occupancy limits on farm dwellings, especially those who plan to retire on their farm, as they believe IAL law restricts occupation to those who are actively farming. They worry that they may be forced to leave their homes once they are no longer physically able to do the work required to farm. Additionally, some of the long-time small farmers had intended to pass on their property to each of their adult children through subdividing. Because of the limitations and uncertainty associated with approvals of that process under an IAL designation, they are understandably uneasy about their future and their succession planning. Unfortunately, they have not been able to get clarification about this and other issues associated with IAL designation.

HB 2084, HD1 seeks to clarify the Legislative Intent of Act 233 SLH regarding the Farm Dwellings and Employee Housing Incentive for lands designated as IAL.

Thank you for the opportunity to testify on this measure.



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

HEARING BEFORE THE HOUSE COMMITTEE ON
WATER & LAND
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 430
Thursday, February 17, 2022 AT 8:30 A.M.

To The Honorable David A. Tarnas, Chair
The Honorable Patrick Pihana Branco, Vice Chair
Members of the committee on Water & Land

SUPPORT HB2084 HD1 RELATING TO IMPORTANT AGRICULTURAL LANDS

The Maui Chamber of Commerce **supports HB2084 HD1 (with comments)** which adopts a new provision for farm cluster housing as an incentive for the designation of lands as Important Agricultural Lands. We strongly support options that provide more housing alternatives for farm workers.

When it comes to farm dwellings and farm worker housing, the Chamber supports increasing flexibility and not removal of existing options. We support as much land as possible to be designated as Important Agricultural Land.

We noticed that there appears to be ambiguous language regarding the size of the unit allowed in the cluster: *"Each farm cluster housing unit shall not exceed eight hundred feet."* We are assuming that the size limit is 800 square feet. If this is the case, we would suggest that the 800 be amended to 1,200. Suppose a farmworker has a spouse and two children, 800 sq. ft. is pretty tiny for 4 people.

For these reasons, we support the passage of HB2084 HD1 to the next committee.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

HB-2084-HD-1

Submitted on: 2/14/2022 3:42:36 PM

Testimony for WAL on 2/17/2022 8:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Drew Wilkinson	Individual	Support	No

Comments:

As owner and operator of Growing Together Edible Landscaping and a 5 acre farm in Waialua, we support HB2084 with an amendment to the following:

(1) Farm cluster housing shall be allowed only on lots of record that are greater than or equal to ~~ten acres~~ five acres.

Small scale farmers deserve the same rights as large scale farm operations to setup affordable housing for farm owners and employees working the land.

Farmers face extreme hardships finding affordable housing. This bill helps alleivate this problem and will significantly help farmers to do their jobs and allow for more food production as a result.

Thank you for your consideration,

Drew Wilkinson

Owner and Operator of Growing Together Edible Landscaping and 5 acre farm in Waialua