



LAND USE COMMISSION

Komikina Ho'ohana 'Āina

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
Ka 'Oihana Ho'omōhala Pā'oihana, 'Imi Wai wai a Ho'omāka'ika'i

JOSH GREEN, MD
GOVERNOR

DANIEL E. ORODENKER
EXECUTIVE OFFICER

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Statement of
Daniel E. Orodener
Executive Officer
State Land Use Commission

Before the
**Senate Committees on Government Operations
and
Water and Land**

Tuesday March 19, 2024
3:10 PM
State Capitol, Room 225 and Video Conference

In consideration of
HB1542 HD2

RELATING TO LAND USE

Chairs McKelvey and Inouye; Vice Chairs Gabbard and Elefante; and members of the Senate Committees on Government Operations, and Water and Land:

The Land Use Commission ("LUC") has the following comments on this measure that would provide the counties a two-year window to petition to reclassify lands from the State Agricultural District into the State Rural District through the LUC's declaratory ruling process. The LUC would be required to promulgate rules to implement this measure.

We are willing to work with the counties and the State Office of Planning and Sustainable Development ("OPSD") on this issue. We remain concerned that due process is provided by county planning commissions throughout the process being proposed. To that end, we recommend adding that a county planning commission provide required due process for such district boundary amendments under constitutional and statutory law.

A key element of this measure is Section 2(b) which sets forth the process to be used by the LUC for handling such petitions. Current LUC administrative rules do not contemplate declaratory rulings being used for district boundary amendments. We concur that rules will need to be promulgated for an efficient process and to provide guidance to address due process concerns. Section 2(b) also provides much needed clarification on how to render decisions on such petitions.

In addition, in order that important State interests and public trust issues are adequately addressed in such processes; that OPSD should in every case appear as a party, at both the county and State level, and make recommendations to address State interests and public trust issues.

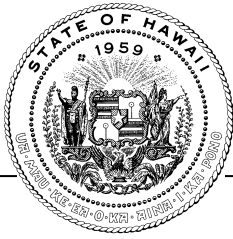
The proposed amended language is attached for your consideration.

Thank you for the opportunity to testify on this matter.

Proposed Language for Amendments

New Section 2 (a)(7) “**(C) Required due process for such district boundary amendments under constitutional and statutory law.**”

New Section 2 (a) “**(8) The state office of planning and sustainable development shall in every case appear as a party, at both the county and State level, and make recommendations to address State interests and public trust issues.**”



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

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR

MARY ALICE EVANS
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Statement of
MARY ALICE EVANS, Interim Director

before the
**SENATE COMMITTEES ON GOVERNMENT OPERATIONS
AND WATER AND LAND**

Tuesday, March 19, 2024

3:10 PM

State Capitol, Conference Room 225

in consideration of
**BILL NO 1542 HD2
RELATING TO LAND USE.**

Chairs McKelvey and Inouye, Vice Chairs Gabbard and Elefante, and Members of the Senate Committees on Government Operations and Water and Land:

The Office of Planning and Sustainable Development (OPSD) **supports with comments** HB1542 HD2, which allows the counties a temporary opportunity from July 1, 2024 through December 31, 2026 to petition for the redistricting of land from the Agricultural District to the Rural District through the Land Use Commission's (LUC) declaratory orders process, provided certain conditions are met.

HB1542 HD2 would allow counties to efficiently address existing non-conforming Agricultural District lands, such as in the Puna District of Hawaii County, which has large scale residential subdivisions that should be reclassified to the Rural District. The measure also provides for a Chapter 343, HRS, review if applicable, notice of all affected landowners and an opportunity for public comment.

OPSD's State Land Use Review of Districts (January 2022) found that reclassification of established rural subdivisions and rural centers from the Agricultural to the Rural District accommodate lower density rural settlement patterns and subsistence farming lifestyles. Such rural reclassifications could also consider lands with lower quality soils not conducive to commercial agriculture.

Reclassification, consistent with the county general plan and community development plan, is the most effective means to align State and county land use policy that seeks to separate non-farm residential uses from bona fide farming.

OPSD believes that the LUC's current rules governing Declaratory Orders are sufficient and requiring new rules would cause unnecessary delays for what is essentially a housekeeping

matter. OPSD suggests deleting this requirement and the additional language regarding the processing and timeframes for declaratory orders as these already exist in the current LUC rules. Finally, OPSD suggests adding requirements for technical studies as part of county petitions to demonstrate that the Hawaii Supreme Court's Ka Paakai decision requirements have been satisfied before the LUC makes its decision.

OPSD's recommended amendments are as follows:

“(6) The area petitioned for redistricting shall be supported by the applicable county plan and cultural, historical, and natural technical studies; and...”

“(b) The land use commission shall process petitions under subsection (a) as declaratory orders to remove uncertainty associated with such lands. ~~rulings within three hundred sixty five days from the petition being deemed complete. If the land use commission finds that there is insufficient evidence presented by the applicable county planning commission or that significant public trust issues are presented by the petition, the commission may:~~

~~(1) Deny the petition in whole or in part; or~~

~~(2) Schedule a contested case hearing on the matter consistent with its administrative rules.~~

~~(c) The land use commission shall adopt rules pursuant to chapter 91, Hawaii Revised Statutes, to implement this Act.”~~

Thank you for the opportunity to testify on this measure.

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

DEXTER KISHIDA
Deputy to the Chairperson

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**TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEES ON WATER AND LAND AND GOVERNMENT
OPERATIONS**

**TUESDAY, MARCH 19, 2024
3:10 PM
CONFERENCE ROOM 225**

**HOUSE BILL NO. 1542, HOUSE DRAFT 2
RELATING TO LAND USE**

Chairs Inouye and McKelvey, Vice Chairs Elefante and Gabbard and Members of the Committees:

Thank you for the opportunity to testify on House Bill 1542, HD2 that authorizes each county planning commission, between July 1, 2024, and December 31, 2026, to petition for the redistricting of land from the Agricultural to the Rural district through the Land Use Commission's declaratory ruling process. The Department of Agriculture (Department) offers comments.

There are seven requirements to merit a petition to redistrict lands in the Agricultural District to the Rural District (page 2, line 4 to page 3, line 7). Generally, the lands must be existing agricultural subdivisions of more than twenty lots and individual lot sizes not exceeding two acres, be with or without dwellings, having met the requirements of Chapter 343 (Hawaii Environmental Policy Act), the reclassification will not adversely affect the use of adjacent lands for agricultural purposes, the reclassification is supported by the applicable county plan, and the county planning commissions will have notified affected landowners and have public hearings.

The Department respectfully requests that the counties who take advantage of the provisions of this measure, should it be enacted, to consider concurrent revision of



their respective ordinances, plans, and rules affecting the subdivision (or other means of partitioning) of agricultural land to encourage or limit the establishment of large lot estates to the Rural District. This may stop, if not reverse, the continuing adverse impact that agricultural land subdivisions with little, if any, agricultural production have had on agricultural land values and access to these lands for agricultural production.

Thank you for the opportunity to present our testimony.

HB-1542-HD-2

Submitted on: 3/16/2024 2:02:14 PM

Testimony for WTL on 3/19/2024 3:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

We THE PEOPLE do not want More Houseing. We want less people. Get that through Your Empty Heads!!!!!!!!!!!!!!

HB-1542-HD-2

Submitted on: 3/18/2024 8:11:06 AM

Testimony for WTL on 3/19/2024 3:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Jackie Keefe	Individual	Oppose	Written Testimony Only

Comments:

Aloha Chairs Inouye and McKelvey, Vice Chairs Elefante and Gabbard, and Members of the Committees on Water & Land and Government Operations,

My name is Jackie Keefe and I am a resident of Lahaina. **I am writing in strong opposition to HB1542 HD2.**

I believe that this bill deeply misunderstands the intent of agricultural lands. It specifically mentions that these two acre parcels are too small for commercial farming operations, which may be true. What's untrue, however, is that commercial farming is sufficient. Not everything is about money...

As a resident of Lahaina, I can say that I know countless people who would thrive on two acres of land, as it should be used to grow and/or raise food. We have countless multi-generational families who belong on these lands but cannot afford them. This bill reads as though it was written by private entities who stand to benefit from changing the designation of zoning from agricultural to rural.

"I ke wa Mamua, ka wa Mahope." The future is in the past. Hawai'i was never meant to be home to commercial farming, and we should not change our zoning rules to accommodate it.

Regenerative farms and biodiversity should be what we see when we look up at Mauna Kahalawai, not acres of agricultural land covered in pools, lush green lawns, and decorative trees. Lahaina is a community that desires to grow food forest neighborhoods, but we don't have the water. Lahaina fire survivors' properties have been on water restrictions for years because they're on the Maui County-controlled system, which controls less than 25% of Maui's water. Communities like Launiupoko and Pineapple Hill have access to the private water systems that control more than 75% of Maui's water. These neighborhoods that are zoned for agriculture need to stay that way. *Changing the zoning from agricultural to rural would legalize doing to this land what the Lahaina community has vocally stood against for a long time - people with lots of money buying up large parcels of land and choosing not to farm.*

There are already multiple parcels for sale through West Maui Land Company, and the last thing that we need is more people using land designated as agricultural for other uses. Our land, once fertile, struggles to hold water and washes sediment out to sea, contributing to the killing of our reefs.

These lands need to go through reforestation and restoration, not further pillaging. We cannot enable lands like these to be rezoned away from agriculture.

Thank you for your consideration.

Jackie Keefe

HB-1542-HD-2

Submitted on: 3/18/2024 11:19:16 AM

Testimony for WTL on 3/19/2024 3:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Amy Stephens	Individual	Oppose	Written Testimony Only

Comments:

Keep Ag lands for agriculture! Do not give in to developers.