



# 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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February 5, 2023

Statement of  
**Daniel E. Orodenker**  
**Executive Officer**  
State Land Use Commission

Before the  
**Senate Committees on Water and Land**  
**and**  
**Agriculture and Environment**

Monday February 5, 2024  
1:15 PM  
State Capitol, Room 229 and Video Conference

In consideration of  
**SB2596**  
**RELATING TO IMPORTANT AGRICULTURAL LANDS**

Chairs Inouye and Gabbard; Vices Chair Elefante and Richards; and members of the Senate Committees on Water and Land, and Agriculture and Environment:

The State Land Use Commission has the following comments on the SB2596:

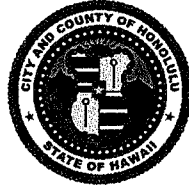
The nature of IAL proceedings and the associated legal issues are currently being considered at the State Supreme Court in a legal action brought by the City and County of Honolulu. The LUC recommends waiting for a decision by the courts that should provide needed guidance on any changes that are necessary in the statute.

Thank you for the opportunity to provide testimony on this matter.

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

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RICK BLANGIARDI  
MAYOR



DAWN TAKEUCHI APUNA  
DIRECTOR DESIGNATE

JIRO A. SUMADA  
DEPUTY DIRECTOR

February 5, 2024

The Honorable Lorraine R. Inouye, Chair  
and Members of the Committee on Water and Land  
The Honorable Mike Gabbard, Chair  
and Members of the Committee on Agriculture and Environment  
Hawai'i State Senate  
Hawai'i State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

**Subject: Senate Bill No. 2596  
Relating to Important Agricultural Lands**

Dear Chairs Inouye, Gabbard, and Committee Members:

The Department of Planning and Permitting (DPP) **supports** Senate Bill No. 2596, which clarifies that the Land Use Commission's decision-making for the adoption of county maps for the designation of Important Agricultural Lands (IAL) shall be through a rulemaking proceeding. This Bill also establishes an incentive that allows farm cluster housing on IAL under certain conditions and requires permitting agencies to establish a priority processing procedure for the farm cluster housings. This Bill also repeals existing law that governs farm dwellings and employee housing on important agricultural lands.

The proposed provisions address the challenges that surfaced during the City and County of Honolulu's petition for recommended IAL designation. Designating lands as IAL was meant to be policy making, comparable to O'ahu's long-range plan land use maps. It is a resource overlay, a planning tool, to inform decision-makers of the land's agricultural importance and to direct limited resources towards those designations to assist and preserve agricultural resources. O'ahu's long-range plan land use maps are similarly used to inform decision-makers of appropriate land uses for general areas depicted on the map. Accordingly, in making policy, not regulation or project approval, the concurrence of landowners is not a requirement.

Furthermore, Section 205-45.5, HRS, which was intended to be an incentive for IAL landowners, in reality created uncertainty around whether IAL designation imposes a removal of development rights or enacts a regulatory change. Since there was never

The Honorable Lorraine R. Inouye, Chair  
and Members of the Committee on Water and Land  
The Honorable Mike Gabbard, Chair  
and Members of the Committee on Agriculture and Environment  
Hawai'i State Senate  
Senate Bill No. 2596  
February 5, 2024  
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clarification on the effects of Section 205-45.5, HRS, on property rights, we support the repeal of the section. We are also supportive of the farm cluster housing language in the Bill, however, we believe more substantial incentives are needed to benefit all IAL landowners; large and small. We encourage the Legislature to develop and introduce an IAL incentives package that will empower farmers to want IAL designation, rather than be apprehensive towards it.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "Dawn Takeuchi Apuna". The signature is fluid and cursive, with a large initial "D" and "A".

Dawn Takeuchi Apuna  
Director

**JOSH GREEN, M.D.**  
Governor

**SYLVIA LUKE**  
Lt. Governor



**SHARON HURD**  
Chairperson, Board of Agriculture

**DEXTER KISHIDA**  
Deputy to the Chairperson

State of Hawai'i  
**DEPARTMENT OF AGRICULTURE**  
KA 'OIHANA MAHI'AI  
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**TESTIMONY OF SHARON HURD  
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEES ON AGRICULTURE AND ENVIRONMENT  
AND WATER AND LAND**

**MONDAY, FEBRUARY 5, 2024  
1:15 PM  
CONFERENCE ROOM 229**

**SENATE BILL NO. 2596  
RELATING TO IMPORTANT AGRICULTURAL LANDS**

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

Thank you for the opportunity to testify on Senate Bill 2596 that specifies the Land Use Commission's decision-making for the adoption of county maps for the designation of Important Agricultural Lands is to be through a rulemaking proceeding. This bill also allows farm cluster housing on Important Agricultural Lands under certain conditions and requires permitting agencies to establish a priority processing procedure as an incentive for the farm cluster housing. The existing law governing farm dwellings and employee housing on Important Agricultural Lands is repealed. The Department supports this measure that offers an incentive in support of housing development projects on Important Agricultural Lands that reduce costs while ensuring the housing developed does not contribute to the loss of agricultural land to non-agricultural residential uses or residential sprawl. Otherwise, we defer to the Land Use Commission and the Office of Planning and Sustainable Development.

Thank you for the opportunity to present our testimony.





*Hawaii's Thousand Friends*

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February 5, 2024

COMMITTEE ON WATER AND LAND

Senator Lorraine R. Inouye, Chair  
Senator Brandon J.C. Elefante, Vice Chair

COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Senator Mike Gabbard, Chair  
Senator Herbert M. "Tim" Richards, III, Vice Chair

SB 2596

RELATING TO IMPORTANT AGRICULTURAL LANDS

Hawaii's Thousand Friends, a statewide non-profit water and land use planning organization dedicated to protecting the environment, human health, and cultural and natural resources opposes SB 2596 that eliminates the contested case in favor of a one-time rule making process and allows cluster housing on Important Agricultural Lands (IAL).

Hawaii's State Land Use Law (HRS 205), adopted in 1961, created the Land Use Commission with the responsibility for preserving and protecting Hawaii's lands and encouraging those uses to which lands are best suited.

The Commission's primary role is to ensure that areas of state concern are addressed and considered in the land use decision-making process.

Hawaii has severe resource constraints so land use decisions including identifying important agricultural lands should be deliberative and fact based.

SB 2596 eliminates the current Land Use Commission requirement that designation of important agricultural lands and adoption of maps of those lands be based on "findings of fact."

The Land Use Commission decision-making process is not ambiguous but outlines the quasi-judicial process, which is similar to a court proceeding that must follow stricter procedural requirements than the administrative rule-making process.

The Land Use Commission quasi-judicial decision-making process ensures that the rights of those most directly involved or affected by the decision are accorded due process by petitioning the Commission to intervene in the proceeding.

Eliminating the opportunity for a contested case removes the public's right to challenge inappropriate decisions, question developers and their expert witnesses, the right to appeal decisions, and the right to have decisions made based upon evidence and facts.

Having one public hearing limits public involvement in IAL decisions, means that land use decisions will not be fact based and more susceptible to politics and misinformation.

Important Agricultural Lands are lands capable of producing sustained high agricultural yields when treated and managed, contribute to the State's economic base and produce agricultural commodities for export or local consumption, and are needed to promote the expansion of agricultural activities.

SB 2596 wrongly promotes cluster housing on Important Agricultural Lands (IAL) and expands the amount of housing allowed on Hawaii's most productive lands.

If Hawaii is to achieve food security and meet the Aloha+ Challenge for local food production and consumption by 2030 we must increase land resources to support production, processing, distribution, and consumption of local food.

To preserve the public's right to be involved in Land Use Commission decision making and protect those lands important to agriculture and food security we urge you to hold SB 2596.



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February 5, 2024

HEARING BEFORE THE  
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT  
SENATE COMMITTEE ON WATER AND LAND

**TESTIMONY ON SB 2596**  
RELATING TO IMPORTANT AGRICULTURAL LANDS

Conference Room 229 & Videoconference  
1:15 PM

Aloha Chairs Gabbard and Inouye, Vice-Chairs Richards and Elefante, and Members of the Committees:

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

**The Hawai'i Farm Bureau supports SB 2596**, which clarifies that the Land Use Commission's decision-making for the adoption of county maps for the designation of important agricultural lands shall be through a rulemaking proceeding, establishes an incentive that allows farm cluster housing on important agricultural lands under certain conditions and requires permitting agencies to establish a priority processing procedure for the farm cluster housings, repeals existing law that governs farm dwellings and employee housing on important agricultural lands.

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 Hawai'i, 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.

SB 2596 seeks to facilitate the designation of IAL by clarifying the process for county IAL petitions by allowing IAL designations through rulemaking.

Thank you for the opportunity to testify on this measure.





# Food+ Policy Internship 2024

[food@purplemaia.org](mailto:food@purplemaia.org)

February, 4 2024

Subject: *S.B.2596, Relating to Important Agricultural Lands*

Aloha Chair Gabbard, Vice Chair Richards, and Members of the Senate Agriculture and Environment Committee, Chair Inouye, Vice Chair Brandon, and Members of the Senate Water and Land Committee

The Hawaii Food+ Policy is in full support of SB 2414. Our Intern, Nanea Kelii, is an organic farmer and current student at UH West Oahu pursuing the Sustainable Community Food Systems program. She believes maps are a very powerful tool that should be utilized more by the public for decision-making. At UH West Oahu, she had the opportunity to attend a geographical information systems (GIS) class that truly made her aware of the power of information-telling by maps. Having public hearings for communities to designate important agricultural lands is so important for the context building of designation. Many people in our communities have important stories and historical connections to places. To hear them together in one place is so much more powerful than waiting for their input on a case-to-case basis.

Relative to the second part of this bill, our farmers need more support not just in terms of their work but in their quality of life. Our farmers, our food producers take on one of the most important jobs in the world; and that is to sustain life. She believes it is only equitable to sustain theirs. Through this bill, creating incentives and prioritized processing for ag-cluster housing is one way to create more equity for farmers. As a farmer in Hawaii, Nanea believes she needs to support her fellow farmers through this bill because she knows her fellow farmers work extremely hard. To make sure they have a place of rest, a safe space for after the work is done, is only the bare minimum.

Mahalo,  
Hawaii Food+ Plus Policy

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**The Food+ Policy internship** develops student advocates who learn work skills while increasing civic engagement to become emerging leaders. We focus on good food systems policy because we see the importance and potential of the food system in combating climate change and increasing the health, equity, and resiliency of Hawai'i communities.

In 2024, the cohort of interns are undergrads and graduate students from throughout the UH System. They are a mix of traditional and nontraditional students, including parents and veterans, who have backgrounds in education, farming, public health, nutrition, and Hawaiian culture.

**SB-2596**

Submitted on: 2/4/2024 4:36:06 PM

Testimony for AEN on 2/5/2024 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

All Farm lands are important not just certin ones that you get paid from!!!!