

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:

S.B. NO. 1195, RELATING TO WAI AHOLE VALLEY.

BEFORE THE:

SENATE COMMITTEE ON WATER AND LAND

DATE: Wednesday, February 15, 2023 **TIME:** 12:30 p.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Ciara W.K. Kahahane, Deputy Attorney General

Chair Inouye and Members of the Committee:

The Department of the Attorney General opposes this bill because section 2 of the bill likely violates the prohibition against special legislation and the separation of powers doctrine under the Hawai'i State Constitution.

Section 2 of this bill requires Hawai'i Housing Finance and Development Corporation (HHFDC) to, by January 1, 2024, offer every lessee of land in Waiāhole Valley who has a lease with a term expiring before 2028, a lease extension at current rents and other current terms ending June 29, 2028. Page 4, lines 12-20. Section 3 of the bill requires HHFDC to submit to the Legislature a report recommending whether HHFDC or a different state agency should retain responsibility for Waiāhole Valley.

HHFDC is the ground lessor of 93 leases in Waiāhole Valley. None of the leases have terms that expire before 2028. But all the leases set fixed rents for the initial rent periods ending on June 29, 2023, and require new rents to be set for the rent period beginning on June 30, 2023. Therefore, section 2 of this bill, which targets Waiāhole Valley lessees with *leases* expiring before 2028, would have no effect. However, to the extent the bill on page 4, lines 13-15, is intended to apply to leases with *rent periods* that expire before 2028, we believe the bill would be unconstitutional for two reasons:

1. Special legislation

Section 2 of this bill appears to be unconstitutional special legislation. Article XI, section 5, of the Hawai'i State Constitution states that "[t]he legislative power over the

lands owned by or under the control of the State and its political subdivisions shall be exercised only by general laws, except in respect to transfers to or for the use of the State, or a political subdivision, or any department or agency thereof." (Emphasis added.) Because this bill does not contemplate a transfer to or use of the State, the special legislation analysis applies.

To determine whether a law is special or general, a court first determines "whether the classification adopted by the legislature is a real or potential class," or whether the class created is so logically and factually limited as to be illusory. *Sierra Club v. Dept. of Transportation*, 120 Hawai'i 181, 203-204, 202 P.3d 1226, 1248-1249 (2009). If the law creates an illusory class, it is unconstitutional, and the second step of the analysis is unnecessary.

Genuine classes have the "potential for future applicability." *Id.* By contrast, an illusory class "is drawn so that it will never have any members other than those targeted by the legislation." *Id.* (emphasis added).

By targeting lessees in a specific geographical region with fixed lease rent periods expiring before a certain deadline, section 2 of this bill creates an illusory class that is unlikely to consist of any members other than those presently targeted. The eligible members of this class currently consist of only 93 ground lessees. Because section 2 of this bill requires HHFDC to offer lease extensions "no later than January 1, 2024" (page 4, line 12), the benefit of this bill will not be available to lessees who sign ground leases after January 1, 2024, even if the term of their leases also expire before 2028. Thus, it is impossible to become an eligible member of the class after January 1, 2024.

2. Separation of powers

Section 2 of this bill also appears to violate the separation of powers contemplated by the Hawai'i State Constitution. The separation of powers doctrine is meant to preclude a commingling of essentially different powers of government in the same hands, thereby preventing a situation where one branch of government would be controlled by or subjected, directly or indirectly, to the coercive influence of the other branches. *State v. Augafa*, 92 Hawai'i 454, 470 (App. 1999) (quoting *Pray v. Judicial Selection Comm'n of the State*, 75 Haw. 333, 353, 861 P.2d 723, 732 (1993)).

Here, the relevant division of governmental powers is the distinction between appropriating state funds, a legislative power, and spending or allotting state funds, an executive power. See *Hunter v. State*, 865 A.2d 381, 392 (Vt. 2004) ("[A]ppropriation is a legislative power, but spending is an executive power."). As required by the separation of powers, "an appropriations bill cannot interfere with the executive authority to allocate staff and resources, make contracts, enter into agreements, or limit the general administration of federal funds it receives." *Colorado General Assembly v. Owens*, 136 P.3d 262, 268 (Colo. 2006). The Legislature's role is to appropriate funds to HHFDC. As an agency of the executive branch, HHFDC must decide how to spend those funds.

Section 2 of this bill appears to interfere with HHFDC's authority to allocate resources that have already been appropriated to the agency as well as its authority to make contracts, including leases, and establish the amounts to be charged thereunder. See section 201H-9(c), Hawaii Revised Statutes. It directs HHFDC to spend funds in a particular fashion by mandating that HHFDC extend current rents under 93 ground leases for an additional five years. Because HHFDC incurs regular costs to manage and maintain Waiāhole Valley, including infrastructure in the valley, section 2 of this bill would force HHFDC to divert funds from its other projects and programs to subsidize its Waiāhole Valley operations. Thus, this bill appears to violate the separation of powers.

In conclusion, because section 2 of this bill raises multiple constitutional concerns, we respectfully ask the Committee to hold this bill or remove the section at issue from future drafts.

JOSH GREEN, M.D.
GOVERNOR



DENISE ISERI-MATSUBARA
EXECUTIVE DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
HONOLULU, HAWAII 96813
PHONE: (808) 587-0620
FAX: (808) 587-0600

IN REPLY PLEASE REFER TO:

Statement of
DENISE ISERI-MATSUBARA
Hawaii Housing Finance and Development Corporation
Before the

SENATE COMMITTEE ON WATER AND LAND

February 15, 2023 at 12:30 p.m.

State Capitol, Room 229

In consideration of
S.B. 1195
RELATING TO WAIAHOLE VALLEY.

HHFDC has **concerns** about S.B. 1195, which requires HHFDC to: 1) offer certain Waiahole Valley lessees a five-year lease extension at current rents; and 2) submit a report to the Legislature recommending whether the management duties for the valley should be transferred from HHFDC to a different State entity.

HHFDC has not wavered from the State's commitment to preserve the rural, agricultural nature of Waiahole Valley from the time it purchased the lands back in 1977. We find ourselves in a very tough situation. Although we empathize with and have compassion for these residents, we must also recognize our fiduciary responsibility under the lease agreements which is to renegotiate the rents at this juncture. What makes it even more difficult is trying to find a workable solution for a specific group in the community while balancing the responsibility of being a good steward of the public trust and the general public's tax dollars. We realize that subsidizing specific parts of the community to cover a homeowner's ground rent is not necessarily good public policy. We continue to be open to a workable solution that allows HHFDC to fulfill its responsibilities while helping certain residents in Waiahole Valley.

To that end, we offer information on the current situation:

The situation involves 93 residential- and agricultural-lot leases for 55 years and expiring in 2053, the terms of which were negotiated between the parties over many years and finally documented in 1998. The rents were set by a formula based on

property size and use. Except for a \$8.33/month increase for residential lot lessees in 2013 (which was documented in the 1998 leases), each lessee has paid the same monthly lease rent since 1998—rents that are significantly below market.

- The lease rent for a typical residential lot of approximately one-half acre is \$98.16/month.
- The lease rent for a typical agricultural lot of approximately four (4) acres with a dwelling unit on the lot is \$73.37/month.

Under the current contracts, lease rents must be renegotiated for a 15-year period beginning on June 30, 2023. As with the current rents set in 1998, the proposed renegotiated rents are based on a formula based on property size and use.

- The proposed lease rent for the typical residential lot is \$648/month until July 2038.
- The proposed lease rent for the typical agricultural lot is \$485/month until July 2038.

The proposed lease rents represent the first meaningful rent increase in 25 years and are still well below market rents. HHFDC started discussions with the community in April 2021 to prepare for this renegotiation process. To date, eight (8) agricultural-lot lessees and four (4) residential-lot lessees have negotiated new rents with HHFDC on terms mutually agreeable to both parties. Negotiations are ongoing and at various stages with the remaining lessees.

Offering to freeze lease rents for five years at current rates, which this bill attempts to do, would amount to “kicking the can down the road.” Furthermore, taking this type of action on HHFDC’s Waiahole leases could negatively impact the economics of over 500 affordable residential ground leases in our portfolio, particularly the 380 residential-lot leases in Waianae’s Uluwehi subdivision and the 134 residential-lot leases in Waimanalo Village.

HHFDC is open to exploring options to bring this situation to a mutually beneficial resolution, including the possibility of transferring the management duties for Waiahole Valley to another State entity.

Thank you for the opportunity to provide testimony.



**Environmental Caucus of
The Democratic Party of Hawai'i**

To: The Honorable Lorraine R. Inouye, Chair
The Honolulu Brandon J.C. Elefante, Vice Chair
Members of the Committee on Water and Land

Re: **SB 1195 – RELATING TO WAIAHOLE VALLEY**

Hearing: Wednesday, February 15, 2023, 12:00 p.m., Conference Room 229 & Videoconference

Position: **Strong support**

Aloha, Chair Inouye, Vice Chair Elefante, and Members of the Committee on Water and Land:

The Environmental Caucus of the Democratic Party of Hawai'i stands in strong support of SB 1195. This measure requires the Hawaii Housing Finance and Development Corporation to offer 5-year lease extensions to Waiahole Valley lessee at the current terms and it requires the Hawaii Housing Finance and Development Corporation to submit a report regarding whether a different entity should manage Waiahole Valley.

The Democratic Party of Hawai'i Agricultural Platform planks set goals toward a sustainable and self-sufficient future for Hawai'i based on a robust agricultural sector in our state that is capable of providing Hawai'i's people with sufficient, healthy and affordable food in perpetuity. We support the preservation and cultivation of sufficient land and marine agricultural resources to achieve this goal.

We support responsible development of these resources to achieve food security and self-sufficiency, while ensuring the sustainability of these resources for future generations to come. We support regulations that ensure the ethical and safe production and consumption of all agricultural products. [OUR PLATFORM | DPH \(hawaiidemocrats.org\)](https://www.hawaiidemocrats.org)

Requiring the Hawaii Housing Finance and Development Corporation to offer 5-year lease extensions to Waiahole Valley lessees at the current terms and requiring the Hawaii Housing Finance and Development Corporation to submit a report regarding whether a different entity should manage Waiahole Valley are consistent with the DPH Platform on agricultural policies toward a robust agricultural sector in our state.

This bill will help the farmers at Waiahole Valley to continue their goal in providing Hawai'i's people with fresh, healthy and affordable food.

Please support and pass this bill.

/s/ Melodie Aduja and Alan Burdick

Co-Chairs, Environmental Caucus of the Democratic Party of Hawai'i

February 13, 2023

To: /Senator Lorraine Inouye, Chair,
And members of the Committee on Water and Land

TESTIMONY IN SUPPORT OF SB 1195 RELATING TO WAIAHOLE VALLEY

We are a group of farmers who are agricultural lessees in the Waiahole Valley Agricultural Park, and we are in strong support of this bill.

Waiahole Valley is a thriving rural-agricultural community where we have opportunities to:

- Preserve rural character.
- Ensure proliferations of diversified agriculture.
- Sustain vibrant community life, and,
- Create economic and educational opportunities for current and future generations.

Its strengths include diverse community and crop diversity, which lead to sustainability, food security, and family resilience. We are engaging the next generation and training them for stewardship in perpetuity.

The Hawaii Housing Finance and Development Corporation (HHFDC) is proposing to raise lease rents by 660%. This does not support the state's goal of sustainable agriculture..

Let's look at the impact of the increase on agricultural lots of different sizes. Recognize that these increases come without any potential for increased agricultural revenues.

Lot Size	Increase	Notes
30 acres	\$16,800/year	Large lot
8 acres	\$7,207/year	Average size of Waiahole agricultural lots
2 acres	\$1,120/year	Minimum size for agricultural lot

The current average income for a farmer in Hawaii is \$32,290 per year (Zip Recruiter, October 2022).

Poverty level for a family of 4 in Hawaii is \$31,920 (U.S. DHHS).

The net income of the farmer on the 30-acre lot after lease increase would be \$15,490.

Our goal is lease terms to support sustainable agriculture. The proposed five-year extension of lease terms will:

- Allow time to complete the Waiahole Valley Strategic Plan, which was initiated by HHFDC several years ago but never completed..
- Enable farmers to continue to contribute to the food sustainability that Hawaii needs.
- Allow time to explore options for alternative management structures that are best suited to manage this unique and important resource.

Thank you for the opportunity to testify.

Sincerely,

Alan Jacobsen, Lot 81

Judith F. Clark, Lot 6

Daniel Bishop, Chance Tom, Lot 127

Maxine Prudencio, Lot 58

Llewelyn & Keti Kamalani, Lot 134

Clifford K. Miller, Lot 53

Vernon Ota, Lot 85

John L. Reppun, Charles F. Reppun, Paul S. Reppun, Calvin I. Hoe, Lot 78A

Arthur Reppun, Lot 128A

Mauro Ignacio, Rita Ignacio, Philip Ignacio, Lot 111

February 13, 2023

To: /Senator Lorraine Inouye, Chair,
And members of the Committee on Water and Land

TESTIMONY IN SUPPORT OF SB 1195 RELATING TO WAIAHOLE VALLEY

I am Judith Clark, an agricultural lessee in the Waiahole Valley Agricultural Park. I am in strong support of this bill.

The Hawaii Housing Finance and Development Corporation (HHFDC) is proposing to raise lease rents by 660%. The average income for farmers in Hawaii is barely above the poverty level for a family of 4. Increasing costs by 660% without any opportunity for revenue growth will make agriculture unfeasible for the farmers in Waiahole. This does not support the state's goal of sustainable agriculture and increasing the amount of our food that is grown locally.

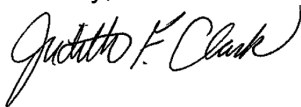
In 2019, the HHFDC began a strategic planning process that has never been completed. Maintaining the leases at the current rate for five years would enable HHFDC and residents to work together to create a plan for a sustainable agricultural community.

My goal is lease terms to support sustainable agriculture. The proposed five-year extension of lease terms will:

- Allow time to complete the Waiahole Valley Strategic Plan, which was initiated by HHFDC several years ago but never completed..
- Enable farmers to continue to contribute to the food sustainability that Hawaii needs.
- Allow time to explore options regarding which state agency or agencies are best suited to manage this unique and important resource.

Thank you for the opportunity to testify.

Sincerely,



Judith F. Clark
48-218 Kamehameha Hwy.
Kaneohe, HI 96744
jfclark@hotmail.com
808-499-9966

SB-1195

Submitted on: 2/9/2023 6:35:06 PM

Testimony for WTL on 2/15/2023 12:30:00 PM

Submitted By	Organization	Testifier Position	Testify
penny levin	Individual	Support	Written Testimony Only

Comments:

In strong support.

SB-1195

Submitted on: 2/10/2023 10:34:45 AM

Testimony for WTL on 2/15/2023 12:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Regina Gregory	Individual	Support	Written Testimony Only

Comments:

Support. Comments:

Lease extensions should be longer than 5 years

HFDC should not be the one to decide whether a different agency would be better.

SB-1195

Submitted on: 2/10/2023 3:02:05 PM

Testimony for WTL on 2/15/2023 12:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Colin Fujiki	Individual	Support	Written Testimony Only

Comments:

Dear Honorable Members of the Hawai‘i State Legislature,

I am writing to express my support for HB 1195, which requires the Hawai‘i Housing Finance and Development Corporation to offer 5-year lease extensions to Waiahole Valley lessees at the current terms. This bill is of critical importance to the farmers and agricultural communities in Waiahole Valley, as it provides stability and security for their livelihoods.

Farming is a difficult and challenging profession, and the uncertainty of their future in the valley has made it even more difficult for the farmers. The 5-year lease extension offered by HB 1195 will allow them to continue to grow their crops and produce high-quality agricultural products without having to worry about the threat of displacement.

Moreover, the agricultural industry is an essential component of Hawai‘i's economy, and supporting the lessees in Waiahole Valley will contribute to the continued growth and success of this industry. The provision in this bill to offer lease extensions will ensure that these farmers can continue to contribute to the economy, while also preserving the unique agricultural traditions and cultural heritage of Waiahole Valley.

In conclusion, I urge the members of the Hawai‘i State Legislature to support HB 1195. The bill is critical to the farmers and agricultural communities in Waiahole Valley, and it is time for the government to take action to support this essential industry and the hard-working people who have made Waiahole Valley their home.

Thank you for your time and consideration.

Sincerely,

Colin Fujiki

SB-1195

Submitted on: 2/10/2023 3:46:38 PM

Testimony for WTL on 2/15/2023 12:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Erica Yamauchi	Individual	Support	Written Testimony Only

Comments:

Aloha, Chair, Vice-Chair, and Committee Members:

I am writing in strong support of this bill to allow lessees in Wai‘ahole Valley to renew their leases at their current rate. The valley is one of the most beautiful places on this island, and the farmers there do so much for this precious āina, caring for it with aloha with their families.

We all benefit from their connection to the land and their culture. Please support this bill.

Erica Yamauchi, Kaimukī/Wilhelmina Rise

SB-1195

Submitted on: 2/12/2023 7:46:50 PM

Testimony for WTL on 2/15/2023 12:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

Please support SB1195.

SB-1195

Submitted on: 2/13/2023 8:36:00 AM

Testimony for WTL on 2/15/2023 12:30:00 PM

Submitted By	Organization	Testifier Position	Testify
John Witeck	Individual	Support	Written Testimony Only

Comments:

I strongly support SB1195 for extending the leases of Waiahole leaseholders and farmers. Given the heroic struggle they waged 4 decades ago to prevent their evictions and high-priced development on their agricultural lands, they deserve this consideration.

The State should not be raising their lease fees by such a substantial amount -- and any hikes , if necessary, should be measured and applied incrementally over time---to ensure that the residents/leaseholders can afford them.

I would also urge that the bill be amended to extend the leases for 10 years at the current lease rate. The State owes that to these farmers and citizens who took such a significant stand to protect ag lands and their lifestyles and halt the high-priced development of their beautiful and productive valley.

If leases are not extended at a reasonable price and this results in leaseholders unable to pay the higher lease fees, many of us again will support the people there and block the highway, if necessary, to block any unjust evictions.

Mahalo for considering my testimony.

Chair Lorraine Inouye
Vice Chair Brandon Elefante

Senate Committee on Water & Land

Wednesday, February 15, 2023
12:30PM

**TESTIMONY IN STRONG SUPPORT OF SB1195 RELATING TO WAIAHOLE
VALLEY**

Aloha Chair Inouye, Vice Chair Elefante, Members of the Senate Committee on Water & Land,

My name is Jun Shin. I am a graduate of the University of Hawai‘i at Mānoa and a member of the Hawai‘i State Youth Commission, testifying as an individual in **Strong Support** of **SB1195**, Relating to Waiahole Valley. The State of Hawai‘i must honor a compromise that was built on struggle.

The Waiāhole community and their allies successfully fought to prevent the paving over of the valley and the eviction of local people and Hawaiians in the 1970s. The agreement between the state and the community preserved people’s homes and the lands they worked on. This community has unfortunately had to continue to struggle with the state to address issues with the long-term leases¹. Now we have reached a point where we might be dealing with evictions once again.

Severe rent hikes means that tenants whose families were able to live for years and years under what has essentially been an affordable housing program will potentially be forced to leave and struggle with an exasperated cost-of-living crisis. Also local farmers who have been working in Waiāhole valley will potentially be having to relocate or completely leave their agricultural work behind, just when the state and our people need it the most.

This committee and the broader legislature must intervene in this struggle. Rather than 5 years, extend the leases for 10 years at the current lease rate. The legislature needs to work with the current lessor, the Hawai‘i Housing Finance and Development Corporation and the community to either address the issues taking place or maybe even find a new public agency or department that would be able to take over as this bill suggests. At the end of the day, the community must always be a key part of this process.

¹ <https://news.yahoo.com/waiahole-valley-residents-oahu-fear-170100879.html>

Please **PASS Senate Bill 1195** and do not let past struggles be in vain. There are those of us who are very much ready to support the community again like our predecessors did in the 1970s.

Mahalo for the opportunity to testify,

Jun Shin,

State House District 23 | State Senate District 12

Cell: 808-255-6663

Email: junshinbusiness729@gmail.com

SB-1195

Submitted on: 2/14/2023 10:26:06 PM

Testimony for WTL on 2/15/2023 12:30:00 PM

Submitted By	Organization	Testifier Position	Testify
John L Reppun	Individual	Comments	Written Testimony Only

Comments:

Testimony on SB1195 Relating to Waiahole

February 15, 2023



Aloha Chair Inouye, Vice Chair Elefante & Senate Water/Land Committee Members:

Mahalo for the opportunity to testify on this measure relating to Waiahole Valley. I also want to send my appreciation out to our area Senator Brenton Awa and our Windward O'ahu legislators - for taking time to listen and provide their input on the complexity of issues surrounding agriculture in our area. Small, rural family farming is not agribusiness. It is not the most lucrative line of work to be in... but it does put food on tables both within our Ko'olau moku and across the mountains to markets & tables served by food hubs, the Peoples Open Markets and more.

Farmers in places like Waiahole-Waikane, Hakipu'u, Hau'ula, Maunawili, Luluku - the many niches and nooks in diverse ahupua'a on our side - are passionate about their work and their lifestyle. We live on our farms and raise our families in this lifestyle with the intent of doing so in perpetuity, wanting to hand down the lexicon of sustainability that this island state must never lose sight of – the legacy of diverse ethnicities that make up our ranks. Residing on our Ag lots means we are also deeply and constantly invested-in civic engagement for the betterment of community. We are often the "canaries in the coal mine", alerting agencies and entities of situations that crop up - weather events, criminal activity, emergencies and more - serving as "first responders" when needed.

The above is meant to emphasize the importance of negotiating lease-terms that will ensure continuity of our role in the economy and social fabric can continue...in perpetuity. The negotiation process has and continues to be a difficult one, especially given Waiahole-Waikane's history - as described in HHFDC's own testimony – wherein the housing branch of the state took on management of a community that was/is not quite "in its wheelhouse". We understand this dilemma. When then-Governor George Ariyoshi stepped in, in the 70's, to help diffuse a volatile & contentious eviction situation, he reached for the most readily available funding source to buy out those development interests: the Dwelling Unit Revolving Fund (DURF), a critical source of funds for the Housing Branch. No one else (DLNR, Dept of Ag, others) wanted to step into the

fray, daunted by the management challenges inherent in taking on an existing community that combined both residences and farms.

That HHFDC (formerly HHA) took us on is laudable and appreciated, wading into making much-needed capital improvements such as an updated and reliable water system for both potable uses and irrigation, replacing aging bridges in the valley and, of course, fashioning long-term leases to support the underlying agrarian community. That work was not easy nor has it been without growing challenges. Restoration of a community - and I mean "restoration" - to stability and productivity is not easy. Waiahole-Waikane, not unlike other rural areas in lush windward valleys on any island during the rise of large plantations, followed by post statehood development schemes, saw major diversion of streams and water resources, the creeping loss of tenure that came with adverse possession on of lands, WWII use of other areas – all conspiring to leave communities like ours vulnerable to eviction in favor of other's dreams. Our windward coast faced these challenges head-on, nonetheless, beginning soon after Statehood, learning to organize and push back. Today, HHFDC knows all-too-well the threat of residual fist-in-the-air resistance... to anything that resembles a landlord. The challenge that faces both the agency and the valley residents/farmers, still, is one of developing trust, learning to shoulder kuleana - on both sides. To HHFDC's credit, our suggestion to former Executive Director Craig Hirai - that a way forward for the agency as a "reluctant landowner" might be helped by having a "Strategic Plan" - was well received. Director Hirai put money in their budget and, together, we embarked on that planning effort in 2017. A synopsis of the chronology and its outcome (or lack thereof) of is captured in the staff submittal to HHFDC's Board in their meeting of June 9, 2022:

https://dbedt.hawaii.gov/hhfdc/files/2022/06/2022-0609-III.B.-Waiahole-Valley_Lease-Rent-Renegotiations.pdf .

The intent of that effort was most honorable...and welcomed by the valley, especially as it included **preparing for “the upcoming lease rent negotiations”**. It also helped valley residents and farmers to acknowledge the many challenges that the landlord also faced in terms of management (“historical net operation losses, substandard housing conditions, low agricultural lot utilization, long-term lot vacancies, water system deficiencies...”).

So here we are, in 2023, feeling that both sides are unprepared for what is now unfolding as prescribed by our lease terms. The staff submittal from that June meeting acknowledges that the effort was not completed. No plan was approved; Covid interrupted a subsequent contract meant to move planning forward. Both HHFDC's board and the area community association pulled back (the farmer's group of which I am a part did not favor this) and we are now left struggling to negotiate lease rents **without the benefit of such a plan or the analysis of options, and issues, let alone exploration of opportunities for management alternatives**, Auwe! The great “experiment” that a Waiahole-Waikane was meant to be, from the 70s struggle forward, is hampered by the failure of planning. Hence this Senate Bill – a plea from our elected officials, on behalf of constituents, for time to complete that essential process; time to further explore ways in which to “preserve the rural, agricultural character of the valley”, supporting the best parts of the Waiahole-Waikane adventure while not turning a blind eye to the obstacles and hard lessons.

Our farmers are committed to forward progress, with or without the moratorium. We are committed to achieving better compliance such that lands “are substantially farmed” as required on our Ag leases; committed to collaboration with HHFDC and other stakeholders in our two green valleys. Those stakeholders are easily identified and include, but are not limited to: Various elements from our community; DLNR/DOFAW; the State Commission on Water Resource Management; the Dept. of Education; the Agribusiness Development Corporation – managing the ditch tunnel; the Department of Hawaiian Homelands; Office of State Planning & Sustainable Development; the City and County of Honolulu, and more. **This measure, if approved by the legislature, would be a “Plan B” – holding our collective toes to the fire as we continue to negotiate, in good faith we hope. Should we succeed in those negotiations over the few months ahead (and I hope we do), both sides may find themselves in agreement that the bill need not be signed into law.**

Mahalo, John L. Reppun, Waiahole Valley Ag Lot tenant, long-time community-based planner and advocate. jreppun@gmail.com (cell) 808.277-8686