Honolulu, Hawaii

Fely 3, 2006

RE: H.B. No. 1938 H.D. 1

Honorable Calvin K.Y. Say Speaker, House of Representatives Twenty-Third State Legislature Regular Session of 2006 State of Hawaii

Sir:

Your Committees on Water, Land, & Ocean Resources and Agriculture, to which was referred H.B. No. 1938 entitled:

"A BILL FOR AN ACT RELATING TO LAND USE,"

beg leave to report as follows:

The purpose of this bill is to strengthen the use restrictions of lands in the state land use agricultural district by clarifying that counties shall not permit any use in the agricultural district that is not a statutorily permitted use.

The Department of Agriculture and Hawaii Chapter of the Sierra Club supported the intent of this bill. The Office of Planning, Office of the Corporation Counsel of the County of Hawaii, and Land Use Research Foundation of Hawaii submitted testimony in opposition to this measure. The Land Use Commission and Hawaii Agriculture Research Center offered comments on this bill.

Your Committees strongly concur with the original intent of the bill and that through escalating abuses and circumvention of the law, undesirable precedence has resulted in inappropriate and increasing non-agricultural developments, including luxury estates, on lands in the agricultural district.

Your Committees note that by reference only to section 205-4.5, Hawaii Revised Statutes, the bill would only apply to lands rated "A" or "B" in the agricultural district.

HB1938 HD1 HSCR WLO-AGR HMS 2006-1457



Your Committees find that the use restriction of lands in the agricultural district must be further strengthened. Accordingly, your Committees have amended this bill by:

- (1) Specifically prohibiting resort facilities, including commercial vacation facilities or homes, within the agricultural district;
- (2) Expanding the soil-rating classfication from "A" or "B" to all soil-rating classifications, and prohibiting any government agency, including counties, from approving the subdivision of agricultural lands, unless the restriction that the use shall be primarily agricultural be applied;
- (3) Repealing the county's authorization to further define "accessory agricultural uses and services" in relation to the statutory permitted uses in the agricultural district;
- (4) Clarifying the county's authorization to issue special permits for "unusual and reasonable uses" within the agricultural district by prohibiting golf-related facilities and resort facilities; and
- (5) Making technical, nonsubstantive amendments for the purpose of clarity.

Additionally, the bill as amended would help keep agricultural lands affordable for farmers by preventing increases in agricultural land valuations resulting from high value, non-agricultural activities and developments on agricultural land.

As strongly emphasized in the public hearing, any desired or needed development can take place on lands in the agricultural district through the state and county boundary amendment process.

For the reasons cited, this is a critically important measure for your Committees and the people of Hawaii, and would accomplish what has been unsuccessfully attempted for the past five years.

As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1938, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1938, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on behalf of the members of the Committees on Water, Land, & Ocean Resources and Agriculture,

FELIPE P. ABINSAY, JR., Chair

EZRA R. KANOHO, Chair



State of Hawaii House of Representatives The Twenty-third Legislature

Record of Votes of the Committee on Water, Land, & Ocean Resources

Bill/Resolution No.:	Date:	1/27/	06			
Committee Referral: WLO/AGR, FIN	☐ The comprevious	☐ The committee is reconsidering its previous decision on the measure.				
The recommendation is to: Pass, unamended	D Pa	Pass, with amendments				
☐ Hold	□ Recommit					
WLO Members	Ayes	Ayes (WR)	Nays	Excused		
1. KANOHO, Ezra R. (C)	1/_					
2. SCHATZ, Brian (VC)						
3. BERG, Lyla B., Ph.D.	<u>//</u>					
4. CARROLL, Mele	1					
5. EVANS, Cindy		1				
6. HARBIN, Bev						
7. MORITA, Hermina M.				V		
8. WATERS, Tommy						
9. MEYER, Colleen Rose				V		
10. THIELEN, Cynthia						
TOTAL	7	1		2		
The recommendation is: Adopted Not Adopted						
If joint referral,con	nmittee acronym	did not supp (s)	ort recommendation	1.		
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State of Hawaii House of Representatives The Twenty-third Legislature

Record of Votes of the Committee on Agriculture

Bill/Resolution No.: HB 1938	Date:	1/27/06				
Committee Referral: WLO/AGR, FIN		☐ The committee is reconsidering its previous decision on the measure.				
The recommendation is to: Pass, unamended	Pass, with amendments					
☐ Hold	□ R	ecommit				
AGR Members	Ayes	Ayes (WR)	Nays	Excused		
1. ABINSAY, Felipe P., Jr. (C)	V					
2. TSUJI, Clift (VC)	✓					
3. CHANG, Jerry L.				~		
4. HERKES, Robert N.						
5. KARAMATSU, Jon Riki	V		4.6			
6. MAGAOAY, Michael Y.	✓					
7. WAKAI, Glenn	V					
8. YAMASHITA, Kyle T.						
9. HALFORD, Chris 10. STONEBRAKER, Bud						
TOTAL	6			4		
Vice Chair's or designee's signature:	mmittee acronym(did not suppor (s) w) – Clerk's Office	t recommendation.			
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