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ECONOMIC DEVELOPMENT & TOURISM**

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Statement of  
**ABBEY SETH MAYER**  
Director, Office of Planning  
Department of Business, Economic Development, and Tourism  
before the  
**HOUSE COMMITTEE ON WATER, LAND, AND OCEAN RESOURCES  
AND  
HOUSE COMMITTEE ON AGRICULTURE**  
Monday, February 23, 2009  
9:00 AM  
State Capitol, Conference Room 325

in consideration of  
**HB 1048  
RELATING TO LAND USE.**

Chairs Ito and Tsuji, Vice Chairs Har and Wooley, and Members of the House Committees on Water, Land, and Ocean Resources and Agriculture.

The Office of Planning (OP) supports HB 1048, an Administration bill, which would redefine the policies and standards for the State Rural Land Use District to establish a more effective policy framework for rural and agricultural land use planning statewide. The Office of Planning believes this legislation is critically needed if we, as a State, are to achieve a rural land use pattern that provides long-term protection for Hawaii's agricultural lands, rural communities, and rural landscapes.

HB 1048 would, in part: (1) clarify the policy objectives for the State Rural Land Use District; (2) allow for a range of uses in the Rural District to be defined by the Counties in conformance with State rural policy objectives; (3) reduce the allowable dwelling unit density in the Rural District and provide flexibility for the Counties in determining minimum lot size; and (4) enable the Counties to determine how to deal with grandfathered density in the Rural District. These changes are key to directing higher-value, non-agricultural uses away from agricultural lands in the Agricultural District, and enabling the accommodation of growth in rural areas while still preserving much of what makes our rural areas so important to residents and visitors alike.

These changes are needed because the current Rural District provisions in Chapter 205, Hawaii Revised Statutes, impede the State and Counties' ability to effectively manage rural areas, notably:

1. **Activities and land uses in rural areas are not limited to the handful of permissible uses allowed in the Rural District under Chapter 205.** A wide range of uses and activities are found in rural areas—from mixed-use hamlets and rural commercial centers to working resource lands for agriculture or ranching to natural open space.
2. **Rural areas require policies and standards uniquely tailored to rural places and landscapes—distinct and different from the codes that govern our urban areas.** In particular, the density currently allowed in the Rural District far exceeds typical rural density standards as compared to other jurisdictions across the U.S., and contributes to suburban and rural sprawl, which imposes a fiscal burden on the State and the Counties in servicing scattered, low-density development. Rather, codes for rural areas need to be carefully crafted to ensure that they work to preserve open space, promote residential clustering and rural center infill development, and don't harm the character of their communities and the rural landscape.
3. **Rural areas, if they are to remain rural into the future, require the active use of a diverse set of tools to manage rural land use.** Zoning by itself—even large lot zoning—does not ensure that rural open space will remain open or that the character of that open space will remain rural. Counties with effective rural land use systems on the mainland rely on a range of tools and programs: from rural lands plans, rural infrastructure and service standards, and conservation subdivision codes to land preservation programs using purchase of development rights and/or transfer of development rights programs, and rural economic development services and programs that support the viability of rural industry, such as farming and ranching.

We have attached two documents to help illustrate some of the rural planning issues addressed by the bill. One provides a rough schematic of the kind of development pattern that the current rural lot size and density can produce, and how greater flexibility in clustering rural density can be achieved under this bill. The second document illustrates the predicament we face if we do not do something now to redefine the Rural District and adopt robust standards to ensure that rural areas and rural livelihoods remain a permanent feature of Hawaii's economic, cultural, and physical landscape. With so much at stake, we urge the Committee to consider and pass this measure.

I would be happy to address any questions you may have on the bill. Thank you for the opportunity to testify.

# Effect of Chapter 205 Rural Standards on Land Use Patterns

## Existing Standards

Half-acre minimum lot size  
1 dwelling unit (du) per half-acre

## If Amended

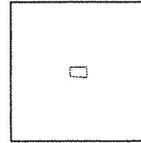
### DENSITY



4 du per 2 acres



1 du per 2 acres



1 du per 5 acres

**REDUCED DENSITY:**  
Rural density on Mainland typically starts at 1 du / 5 acres or higher

### CLUSTER & Min Lot Size



Maximum cluster allowed w/ min lot size (.5 ac or 21,780 sq ft)

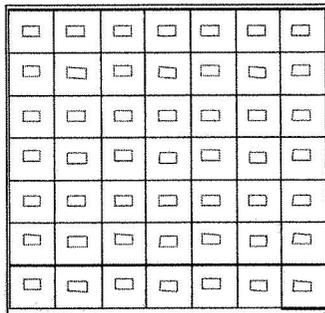


Minimum lot size determined by wastewater treatment rules for minimum lot size (DOH, 10,000 sq ft)

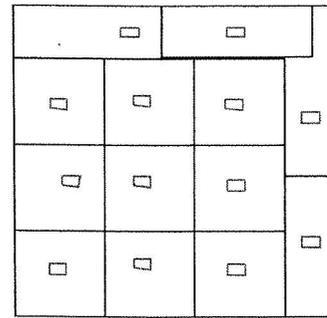
**EFFECTIVE CLUSTER:**  
No minimum lot size

## Example: 26-acre subdivision

### DENSITY

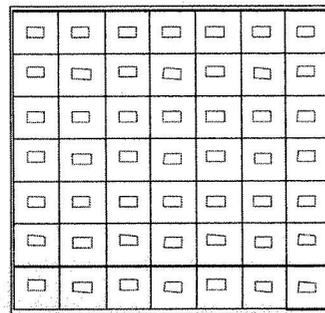


1 du per half-acre:  
52 dwellings\*

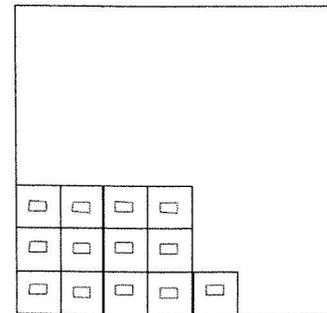


1 du per 2 acres:  
13 dwellings

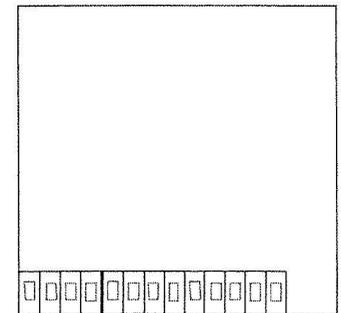
### CLUSTER & Min Lot Size



Maximum cluster allowed w/ min lot size of .5 ac: 52 dwellings\*



Effect of lower density (13 dwellings @ 1 du per 2 ac) with half-acre min lot size



Effect of lower density (13 dwellings @ 1 du / 2 ac) without minimum lot size (DOH, 10,000 sq ft)

\*Graphic displays only 49 du

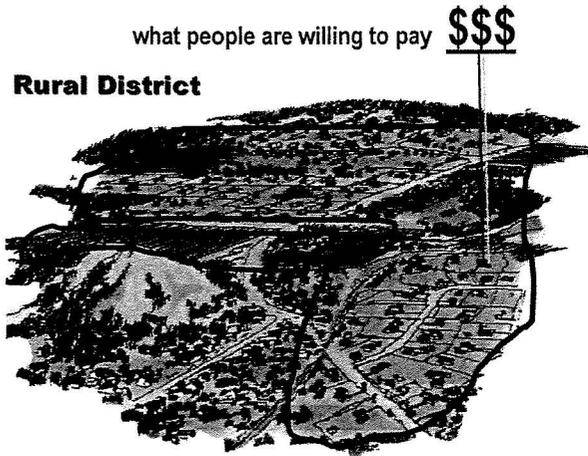
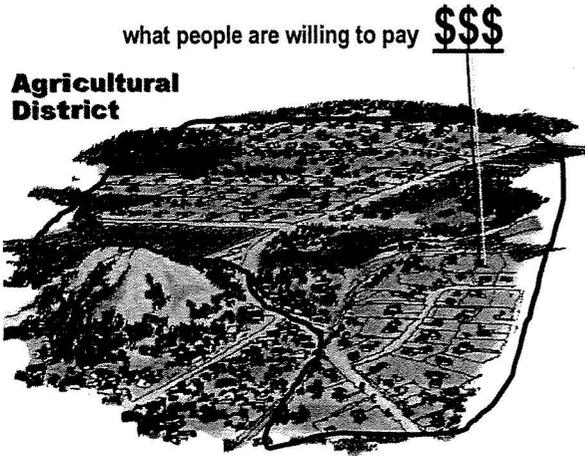
# Inconvenient Truths about Rural: Land Use and the Rural and Agricultural Districts

## 6

Even if the Rural District was expanded, under **existing** rural standards at both the State and county levels, the rural landscape is still very much at risk:

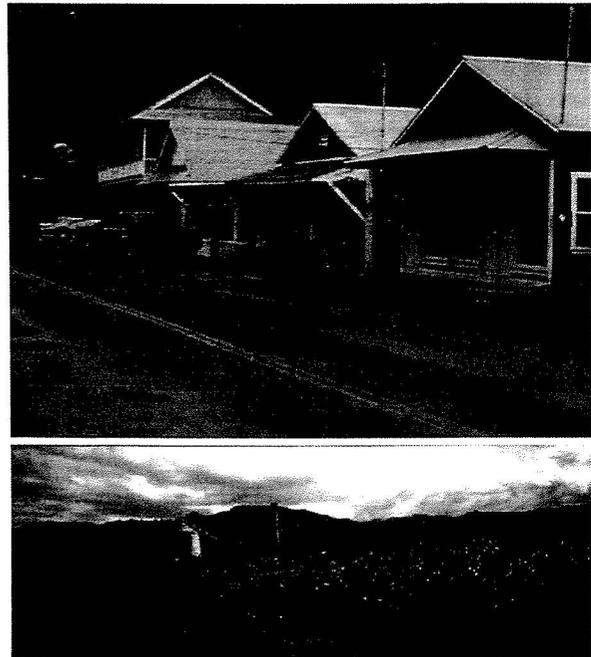
Potential buildout under existing Agricultural District

Potential buildout under existing Rural District



## 7

These uses or patterns aren't allowed in the Rural District under current law.

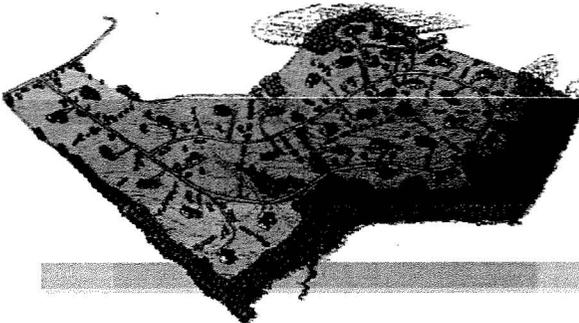
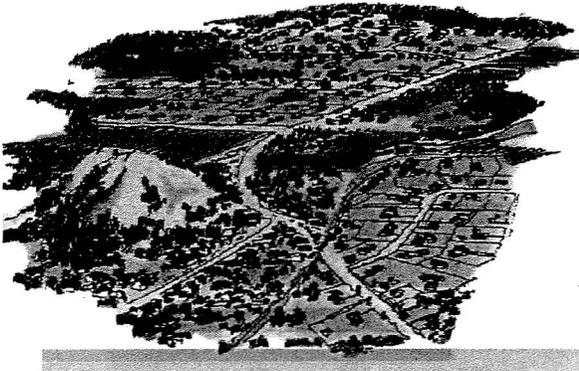


# Inconvenient Truths about Rural: Land Use and the Rural and Agricultural Districts

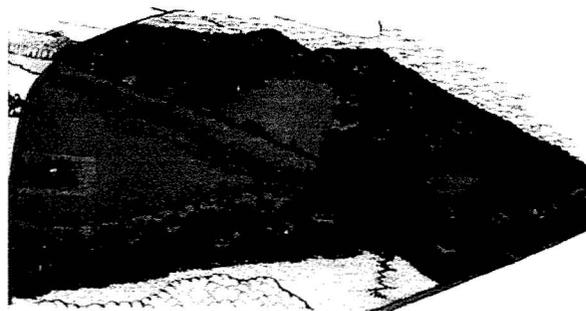
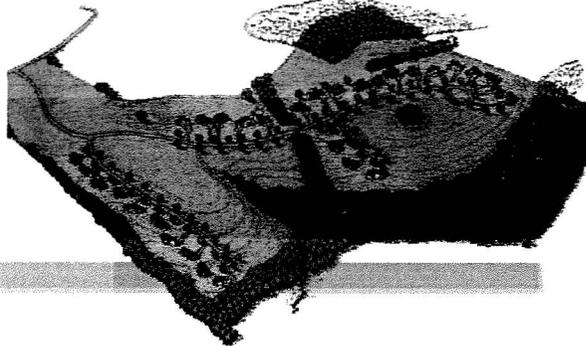
## 8

The Rural District needs to be redefined to enable and promote the maintenance of Hawaii's rural landscapes.

### Avoiding:



### Enabling:



- Compact development
- Preservation of working lands, open space
- Preservation of rural character
- Affordability of lands for rural enterprise
- Flexibility in managing the rural landscape

Images: *Planning for Prosperity: Building Successful Communities in the Sierra Nevada*, Sierra Business Council/Ward Young Architects and Planners, 1997.

# Inconvenient Truths about Rural: Land Use and the Rural and Agricultural Districts

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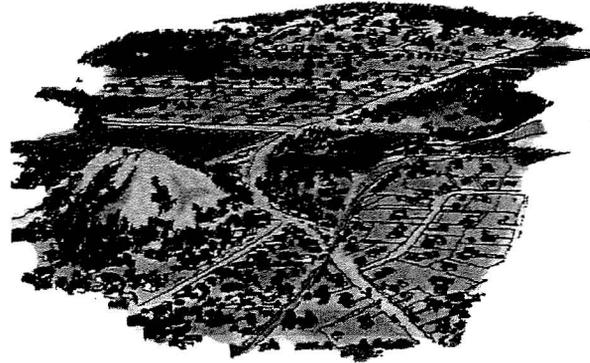
## 1

When non-farm uses are allowed in the Agricultural District, this is the way the market views these lands:

Existing landscape



Landscape potential



## 2

When non-farm uses are allowed in the Agricultural District, this is how the market is likely to **value** these lands...

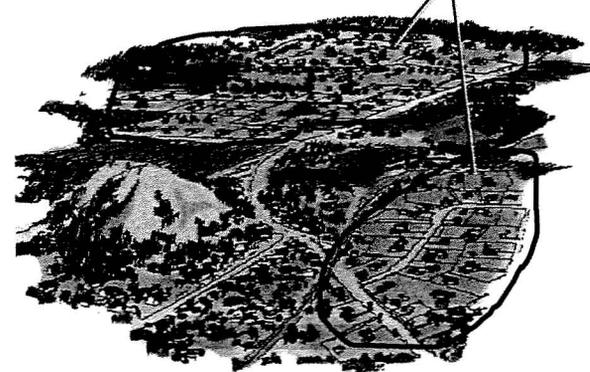
Existing landscape

what farmers can afford to pay **\$**



Landscape potential

what others are willing to pay **\$\$\$**



## 3

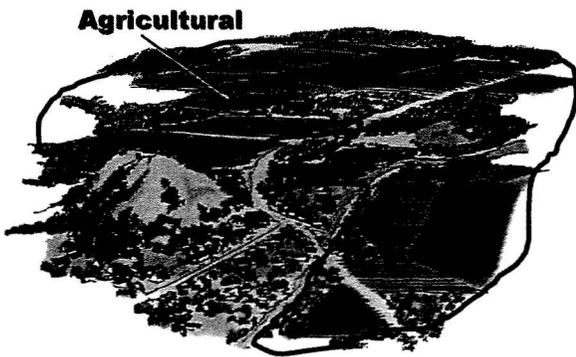
Farming retreats from the rural landscape in part due to higher land values and nuisance conflicts with non-farming neighbors.

# Inconvenient Truths about Rural: Land Use and the Rural and Agricultural Districts

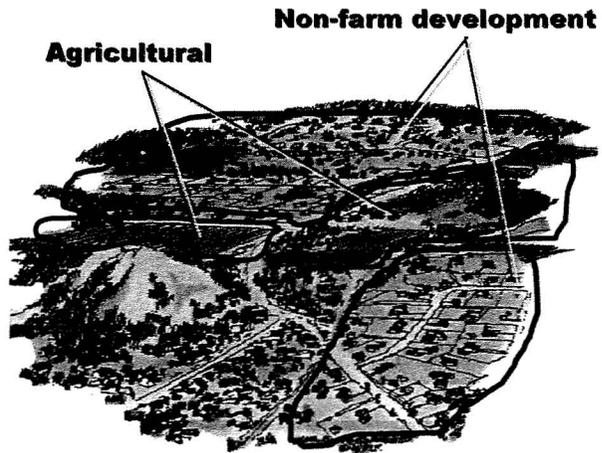
## 4

Reducing density, increasing lot sizes, and further restricting uses in the Agricultural District will help, but will also increase pressure to remove lands from the Agricultural District for non-farm development...

Existing landscape with agricultural restrictions enforced



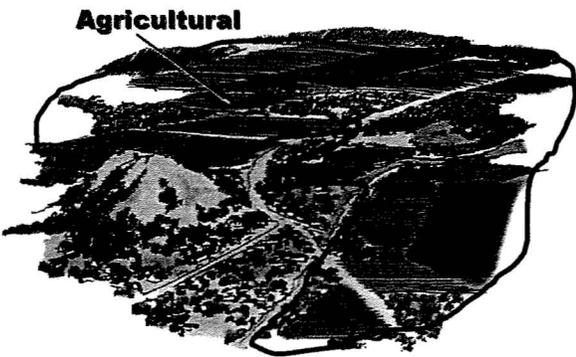
Landscape potential



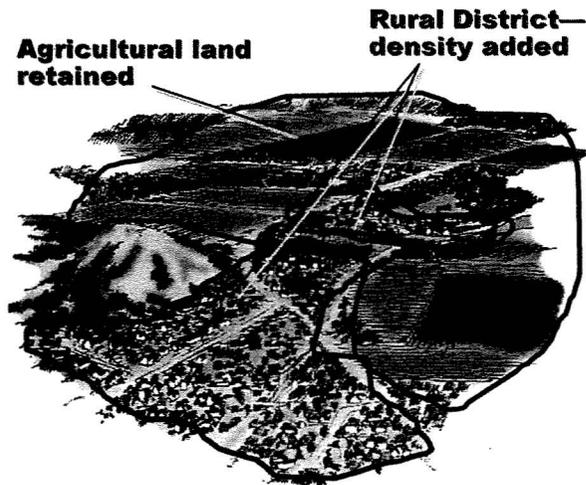
## 5

#4 occurs because there is no where else for these non-farm activities to go: there is little land in the Rural District. Expansion of the Rural District could accommodate some growth.

Existing landscape with agricultural restrictions enforced



Landscape potential with managed development



**LINDA LINGLE**  
Governor



State of Hawaii  
**DEPARTMENT OF AGRICULTURE**  
1428 South King Street  
Honolulu, Hawaii 96814-2512

**SANDRA LEE KUNIMOTO**  
Chairperson, Board of Agriculture

**DUANE K. OKAMOTO**  
Deputy to the Chairperson

**TESTIMONY OF SANDRA LEE KUNIMOTO  
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEES ON  
WATER, LAND, AND OCEAN RESOURCES  
AND  
AGRICULTURE  
MONDAY, FEBRUARY 23, 2009  
9:00 a.m.  
Room 325**

**HOUSE BILL 1048  
RELATING TO LAND USE**

Chairpersons Ito and Tsuji and Members of the Committees:

Thank you for the opportunity to testify on House Bill No. 1048 which is an Administration measure. The Department of Agriculture strongly supports this measure that systematically and comprehensively enables a broader use of the Rural District thereby helping to redirect non-agricultural development away from the Agricultural District. We defer to the Office of Planning regarding the specific features of this measure.

HB1048\_AGR\_02-23-09\_WLO-AGR

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

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MUFI HANNEMANN  
MAYOR



DAVID K. TANOUÉ  
ACTING DIRECTOR  
ROBERT M. SUMITOMO  
DEPUTY DIRECTOR

February 23, 2009

The Honorable Ken Ito, Chair  
and Members of the Committee on Water,  
Land, & Ocean Resources

The Honorable Clift Tsuji, Chair  
And Members of the Committee on Agriculture  
State House of Representatives  
State Capitol  
Honolulu, Hawaii 96813

Dear Chairs Ito, Tsuji and Members:

**Subject: House Bill 1048  
Relating to Land Use**

The Department of Planning and Permitting has **comments** on House Bill 1048, which would give the counties greater authority and flexibility to define uses and regulate land use in the State Rural District.

As you may know, there is no state rural district on Oahu. Nevertheless, the City and County of Honolulu takes pride in preserving rural areas and "keeping the country, country." This has been our explicit, official policy for over thirty years, as reflected in our Oahu general plan. Further, the development policies and guidelines of our county's Sustainable Communities Plans (SCPs) (i.e. Koolau Loa, Koolau Poko, North Shore and Waianae) effectively work toward the preservation and enhancement of rural communities and agricultural lands for each respective region. Of significance is that these plans designate growth boundaries that prohibit urban intrusion into rural and agricultural areas.

Furthermore, through our Development Plan Implementation Project, we are in the process of evaluating and amending our land use ordinances and development standards to strengthen the implementation of the policies and guidelines of the rural SCPs. As examples, we are looking at low impact infrastructure standards and rural design standards.

Lastly, this bill may be premature in that the Important Agricultural Lands (IAL) should be designated first, and a determination on the status of non-IAL lands in the state agricultural district be more decisively determined. It may be that this determination could affect state rural district regulations.

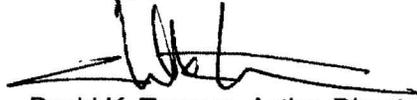
The Honorable Ken Ito, Chair  
and Members of the Committee on Water,  
Land, & Ocean Resources

The Honorable Clift Tsuji, Chair  
And Members of the Committee on Agriculture  
State House of Representatives  
Re: House Bill 1048  
February 23, 2009  
Page 2

In sum, while we concur that there is a need to preserve the State's agricultural and rural lands, we do not see a need for House Bill 1048 at this time.

Thank you for the opportunity to testify.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'David K. Tanoue', written over a horizontal line.

David K. Tanoue, Acting Director  
Department of Planning and Permitting

DKT: jmf  
hb1048kst.doc

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Director of Council Services  
Ken Fukuoka

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WAILUKU, MAUI, HAWAII 96793  
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February 21, 2009

TO: Honorable Ken Ito, Chair  
House Committee on Water, Land, & Ocean Resources  
Honorable Clift Tsuji, Chair  
House Committee on Agriculture

FROM: Danny A. Mateo  
Council Chair 

SUBJECT: **HEARING OF FEBRUARY 23, 2009; TESTIMONY IN OPPOSITION OF HB 1048,  
RELATING TO LAND USE**

Thank you for the opportunity to testify in opposition of this important measure. The purpose of this measure is to amend Chapters 46 and 205, Hawaii Revised Statutes, to enable the rural district to play a stronger role in preserving the State's agricultural lands and rural areas as permanent features of Hawaii's landscape.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I oppose this measure for the following reasons:

1. This measure will not accomplish its stated purpose to preserve the State's agricultural lands and rural areas. The measure asserts that its "amendments will allow the rural district to absorb development pressures that are currently directed at the agricultural district." Rural lands make up less than 1 percent of land in Hawaii and agricultural lands make up approximately 46 percent of lands in Hawaii. Given the limited amount of land designated as rural compared to the amount of land designated as agricultural, it is unclear how rural lands will be able to "absorb" development pressures on agricultural lands. It seems, instead, that these amendments will significantly alter the limited rural landscape by permitting rural centers with a mix of residential uses, public and commercial services, and economic activities, without significantly changing development pressures on the agricultural districts.
2. Each county faces unique challenges related to housing, infrastructure, natural resource protection, and economic opportunities. The best land use decisions are those made at the local level of government. While this measure does have the effect of expanding the counties' ability to plan and manage land use in rural areas by deleting the current minimum lot size requirement, the measure then turns around and creates more policies, standards, and limitations within which the counties must comply, resulting in interference with home rule principles.

To Honorable  
February 21, 2009  
Page 2

For the foregoing reasons, I oppose this measure.

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February 22, 2009

**The Honorable Ken Ito, Chair**  
House Committee on Water, Land & Ocean Resources  
**The Honorable Clift Tsuji, Chair**  
House Committee on Agriculture  
State Capitol, Room 325  
Honolulu, Hawaii 96813

**RE: H.B. 1048 Relating to Land Use**

**Hearing Date: Monday, February 23, 2009 @ 9:00 a.m.**

Aloha Chair Herkes, Chair Tsuji and Members of the Joint Committees:

I am Myoung Oh, here to testify on behalf of the Hawai'i Association of REALTORS® (HAR) and its 9,600 members in Hawai'i. HAR **opposes** H.B. 1048 which amends chapters 46 and 205, Hawaii Revised Statutes, to give the counties greater authority and flexibility to define uses and regulate land use in the State Rural District.

HAR believes the state should not attempt to manage rural lands. Those decisions are best left to the individual counties, as the circumstances and needs of the counties differ county to county. The present state guidelines are adequate and appropriate.

#### **Density**

H.B. 1048 increases the minimum rural lot size for one dwelling from the current half-acre to a new requirement of one dwelling per 2 acres. This proposed requirement is likely to result in fewer rural district landowners. The lands will become more expensive, and as a result, will likely limit ownership to the wealthy.

#### **County Determination**

The proposed measure sets strict standards and restrictions that all of the counties' land use plans, ordinances and rules must follow. H.B. 1048 removes nearly all discretion from the counties to formulate their own policy in rural districts based on their unique lands, uses and island culture.

#### **Non-Conformity**

Finally, H.B. 1048 would create many non-conforming uses, putting many owners in a state of uncertainty. We feel that such changes during a time of economics distress is unwise.

Mahalo for the opportunity to testify.