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

**BEFORE THE HOUSE COMMITTEES ON  
WATER, LAND, AND OCEAN RESOURCES  
AND  
AGRICULTURE  
FRIDAY, FEBRUARY 13, 2009  
9:00 a.m.  
Room 325**

**HOUSE BILL NO. 251  
RELATING TO LAND USE**

Chairpersons Ito and Tsuji and Members of the Committees:

Thank you for the opportunity to testify on House Bill No. 251 which provides for two methods of automatic reclassification of Agricultural District lands into the Rural District, one of which we support the intent and the other which we oppose.

1. Existing subdivisions of agricultural land with 200 or more lots averaging less than 3 acres in size and with a prohibition on further subdivision of affected lots. The Department of Agriculture supports the intent of reclassifying established agricultural subdivisions comprised of many small lots, provided that the majority of lots do not have substantial agricultural use.

2. Agricultural lands with Land Study Bureau overall productivity ratings of "D" and "E" if requested by the developer of a project on these lands.

We oppose the automatic reclassification of "D" and "E" rated lands if requested by the developer of a project on these lands. Agricultural lands with "D" and "E" ratings often have improved agricultural production potential if irrigation is made available.

Agricultural lands used for cattle grazing are often rated "D" and "E". Kona coffee and papayas grown in the Kapoho area of the Big Island thrive on rocky and unirrigated agricultural land.

Automatic reclassification may result in the creation of "spot zones" of Rural District lands in the midst of higher quality agricultural lands. Also, Rural Districts can segment contiguous agricultural lands that otherwise would qualify for Important Agricultural Land designation. Finally, residents of Rural District spot zones may complain about the agricultural activities occurring on surrounding agricultural lands.



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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**  
Friday, February 13, 2009  
9:00 AM  
State Capitol, Conference Room 325

in consideration of  
**HB 251**  
**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) opposes HB 251, which proposes to allow developers of projects in the State Agricultural Land Use District meeting certain criteria to request the reclassification of these lands to the State Rural District, without the need for any proceedings before the State Land Use Commission.

OP believes that shifting higher-valued, non-conforming, non-farm uses from the Agricultural District to the Rural District is key to protecting the State's agricultural lands and ensuring the affordability of agricultural lands. However, we do not support measures that do not offer a more comprehensive and lasting solution to the problem of residential subdivisions in the Agricultural District.

Such a solution must deal not only with identifying those developed subdivisions that should be removed from the Agricultural District and those lands that should be protected for long-term agricultural use, but also the adoption of legislation to prevent the same problems from occurring in the future. This would include redefining the Rural District to accommodate non-agricultural uses while retaining rural character and an open landscape, as in HB 1008, an administration bill. Also, a long-term solution will not be complete without revising the standards of the Agricultural District.

Furthermore, we oppose any provision that would freeze the collection of appropriately-assessed County real property tax payments. For these reasons, we recommend this bill be held.

Thank you for the opportunity to testify. If there are questions, I would be happy to respond.

Testimony from: Penny Levin  


**TO:** Committee on Water, Land and Ocean Resources and Committee on Agriculture,  
Rm325, February 13<sup>th</sup>, 9:00am

**RE: Testimony for HA251 *Relating to Land Use***

Aloha Honorable Committee members;

Regarding HB251 *Relating to Land Use*, I strongly oppose the proposed legislation to allow further erosion of agricultural lands designations in the State of Hawaii on the basis of developers claims that we need to build more to keep our economy healthy.

Maui County has spent a great deal of time creating a progressive growth plan which is in the process of being finalized this year. This effort had the input of hundreds of Maui residents from throughout the County. HB251 overrides County zoning ordinances and local determination for urban growth and other land use designations.

HB251 states that of the estimated 1.932 million acres of agriculture zoned lands, only approximately 211,000 acres are currently under crop production. It suggests, as innumerable bills have in the past, that lands designated as other than prime, are no good for agricultural use. Included in this picture is another bill (SB157) in this year's legislature that attempts to increase the 15% allowable conversion of prime agricultural lands to 20%.

Fundamentally, across discussions of agriculture lands 'take' is a failure to recognize the bias in the existing designations and what really constitutes "marginalized" lands, as well as what may be our future needs for agricultural production.

The numbers quoted in HB251 document only self-reported crop producing lands and not what the DOA might consider "minor crops" or small growers. They also do not include range lands for grazing, or rotational fields and lands set aside for long-term fallow that allow a farmer to rest the soil or his pasture; a necessity for tropical soil regimes.

What developers would have you believe are "under-utilized lands" are in reality "fallow lands" - lands at rest. The practice of fallow is a critically important part of a healthy farming system. You don't till or graze all your lands in a drought. You don't open all your fields in the rainy season to protect your topsoil. You don't plant all your lands at once to allow for field rotations that help soils recover between plantings. And, if your bank account is short, you farm what you can afford to and hold the rest for the future, even if that means your grandchildren are the ones to reopen the fields. That is just good farming sense. Tax relief for fallow lands would remove some of the pressure to convert to rural or urban use.

The second flaw in the assessment of prime vs other agricultural lands is the definition of what constitutes prime agriculture lands deserving of protection. Prime agriculture lands are

skewed towards the soil needs and income generation levels of a subsidized sugar and pineapple industry, with little context for alternative crops or cropping systems. For example, many former and current taro-producing lands throughout the state are labeled marginal agriculture lands, as are some coffee and papaya lands as well as thousands of acres of grazing land. Preserving the integrity of contiguous agricultural parcels protects the flow of resources and access and reduces the encroachment of agricultural product theft.

The presence of extensive traditional Hawaiian growing systems (dry or wet) in areas such as Kohala, Hawai'i and dry regions of each island provides evidence that it is not only the soil that determines the quality of agricultural production, but the way in which we farm. It takes more than N-P-K and mineral supplement fertilizers to make for good production rates even in deep soils. More than 60 years of chemical fertilizers and pesticides and the loss of critical watersheds have depleted the structural and organic health of agricultural lands and their capacity to retain moisture.

The constant whittling away of agriculture lands for other uses fails to protect our future needs for food production and fails to recognize the ability of so-called marginal lands to become productive under alternative management strategies.

The call to allow development on marginal agriculture lands also fails to recognize that some marginal lands are so designated due to steep slopes, rocky terrain or shallow soils, shifting sands, clays that crack when dry and fail to perc (drain) when wet, or other highly erodible soils that are equally unsuitable for development.

The realtor and development industries are unqualified to make a judgment on whether agricultural land is expendable or not, particularly as its business depends on continual build out or housing inventory with little commitment to reigning in an overuse of resources. Such zoning changes within an agricultural district increase pressure on dwindling water resources intended for agriculture and to sustain a healthy natural environment – the reason many people come to Hawai'i in the first place.

Should all else fail in this economy and we still have the land and resources to feed and fuel ourselves, we will survive. We can not, however, eat million dollar homes or even affordable homes 'grown' on agricultural lands. We can only grow food if we properly protect and care for the fallow lands we have now.

The State of Hawaii made a commitment to protect agricultural lands from further development. I urge the members of the Water, Land and Ocean Resources Committee and the Agriculture Committee to uphold this commitment by opposing HB251.

Respectfully,  
Penny Levin  
[transmitted by email 12 Feb 2009]