

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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DEPUTY DIRECTOR

March 25, 2009

The Honorable Clift Tsuji, Chair
and Members of the Committee on Agriculture

The Honorable Ken Ito, Chair
and Members of the Committee on Water,
Land, & Ocean Resources
State House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chairs Tsuji and Ito and Members:

**Subject: Senate Bill No. 1152
Relating to Agricultural Lands,**

The Department of Planning and Permitting **opposes** Senate Bill No. 1152, which would set a one hundred (100) year moratorium on any building or development on agricultural lands for which general planning has not commenced. The bill is overly vague and could result in significant litigation.

The stated concern appears to be the reduction in cultivated land and concerns over housing in the state agricultural district. If the bill is supposed to stop development in general, we do not see how this addresses the concerns. On the other hand, under criteria (4), the bill stipulates that the moratorium only affects projects not permissible within the agricultural district. Since we do not approve projects that are in conflict with Section 205-4.5, HRS, we do not see how this bill has any effect on projects. Some of our other concerns are as follows:

- There is no justification for application to two (2) senatorial districts only. Based on the concern, should the moratorium apply to all agricultural lands? Establishing a moratorium for only "agricultural lands located in state senate districts twenty-two and twenty-three" seems to be legislation in a piece-meal fashion. Is this a reference to any lands zoned agricultural by the counties (AG-1 Restricted Agricultural and AG-2 General Agricultural on Oahu), and/or presently under agricultural use?
- Funding for compensation should be provided for likely claims against the state and county for stopping construction which was based on reliance of permits issued.

The Honorable Clift Tsuji, Chair
and Members of the Committee on Agriculture

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

Re: Senate Bill No. 1152

March 25, 2009

Page 2

- Section 2(a)(4) of the bill is overly broad as it could apply to any building or development not a "permissible use" under Section 205-4.5, HRS. For clarification, the bill should provide a definition of "development project."
- Section 205-4.5, HRS, makes reference to special use permits. We assume that applications for special use permits can still be processed and approved and building permits issued for them, provided the proposal is in compliance with the other cited criteria.
- The bill lacks justification for establishing a one hundred (100) year moratorium. We know of no state or county planning process that uses such a long a time frame. Generally, a timeframe of 20-30 years is used for county long range land use plans and zoning districts, and addresses the entire island and not just two senatorial districts. Further, a moratorium is established to provide only sufficient time to resolve a public problem, and no more. Senate Bill 1152 makes no such provision, but essentially creates a permanent restriction. It becomes effectively, an amendment to Chapter 205. We question whether a moratorium is the appropriate means to change regulations, rather than a direct amendment to the problematic regulation.
- Section 2(a)(3) of the bill: Agricultural land "located in the State of Hawaii" should be changed to "in senate districts twenty-two and twenty-three" for consistency.
- Finally, Section 2(c) of the bill fails to define "visible construction." Does it include the completion of planning, engineering and design, or does it start with grubbing and clearing activities, or the pouring of the foundation?

Our county policies and zoning reflect a commitment to preserve valuable agricultural land and the agricultural industry. However, we cannot agree that the proposed moratorium contributes towards attaining these goals. Rather, it provides uncertainty to the counties in how to proceed with permit processing in the agricultural districts. Protecting agricultural lands from speculation and unwanted uses is a complex issue, and cannot be solved by a moratorium. A moratorium does not increase the availability of water, nor require land be put into cultivation of food crops.

Our records show that the amount of land in the state agricultural district has not changed significantly since 1995 – a total of 129,000 acres. It is ironic that this bill would not prohibit the withdrawal of any of these lands from the agricultural district.

The Honorable Clift Tsuji, Chair
and Members of the Committee on Agriculture

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

Re: Senate Bill No. 1152

March 25, 2009

Page 3

In short, this bill raises too many questions and should be filed.

Thank you for the opportunity to testify.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'D. Tanoue', with a long horizontal flourish extending to the right.

David K. Tanoue, Director
Department of Planning and Permitting

DKT: jmf
sb1152-kst3.doc



PRESENTATION TO HOUSE COMMITTEE ON AGRICULTURE
&
HOUSE COMMITTEE ON WATER, LAND & OCEAN RESOURCES

Wednesday, March 25, 2009 at 9 a.m.

TESTIMONY – SENATE BILL 1152
Important Agricultural Lands; Development Projects; Moratorium

TO: The Honorable Clift Tsuji, Chair
The Honorable Jessica Wooley, Vice Chair
Members of the House Committee on Agriculture

TO: The Honorable Ken Ito, Chair
The Honorable Sharon Har, Vice Chair
Members of the House Committee on Water, Land & Ocean Resources

My name is Robin L. Nonaka and I represent Bank of Hawaii in its role as the Trustee of the Trust established by the Estate of George Galbraith (deceased). Bank of Hawaii and its predecessor have been the Trustee for more than 100 years, and are responsible for approximately 1,700 acres of agricultural land in central Oahu.

Although we understand and appreciate the intent of SB1152, we respectfully oppose the bill and believe it is unfair and unnecessary. It is unfair because it singles out a particular class of land owner for a 100-year moratorium when it is unclear that this will advance the stated objective of preserving agricultural land. It is unnecessary because the land is already classified and zoned for agricultural use, and any change would require approval by both the State Land Use Commission and the Honolulu City Council.

For those reasons, we respectfully ask the committees to hold this bill.

Thank you for the opportunity to submit testimony.

Robin L. Nonaka, Vice President
Bank of Hawaii as Trustee
of the Estate of George Galbraith (deceased), and
not in its individual capacity

694.4567 (T)



March 13, 2009



To: Representative Cliff Tsuji, Chairman Agriculture Committee
Representative Jessica Wooley, Vice Chair Agriculture Committee

From: Ernest Tottori, Chairman of HPC Foods, Ltd.
288 Libby Street
Honolulu, Hawaii 96819
Telephone No. 848-2431, Fax # 845-5155

Reference: Testimony in Support for SB 1152

I am Ernest Tottori, Owner and Chairman of HPC Foods, Ltd. HPC Foods, Ltd., is a closely held family corporation started by my family over 60 years ago. We currently are manufacturers and distributors of poi, fresh-cut fruit and vegetable products, and other local products.

Our firm supports SB 1152 and we urge your passage of this bill.

Even during this economic recession, there is one line of business that continues almost without any interruption and it is the food industry. While demand for certain specialty food products does fluctuate with the changing economy, the demand for reasonably priced, nutritious food products such as fresh fruits and vegetables remains. Because of the continued demand for food products, this industry provides stable employment and opportunities for the entire State of Hawaii in good and bad times.

While this industry provides stability to the Hawaii economy, because 85% or more of the food products we consume is currently imported from out-of-state producers and manufacturers, there is significant amount of jobs and business opportunities lost every day in producing the raw fruit and vegetable products, as well as producing the valued-added products for the final consumption by our residents. At every level of the food chain, there is a significant loss of revenue to the State when products are imported. Dependence on imports of fruits and vegetables that can be produced in our State also exposes our State to shipping disruptions as well as security risks in shipping overseas products from mainland and foreign countries.

We strongly support SB 1152 and I feel that this bill would stop the speculation of our valuable agriculture land for development. This bill will directly support our local farmers by giving them some assurance that their investment in new farm ventures is protected from speculative sales of land from under their feet. Long-term leases would allow the farmers to obtain the proper financing to improve their farms and to reach larger scale efficiencies that cannot be obtained from the current year-to-year leases available.

Oahu has over 900,000 people. If each individual spends \$10.00 on a local food sourced and manufactured product, this initially generates almost \$9,000,000.00 in sales and tax revenue. However, when a local produced food product is sold, because of the multiplier effect, this generates a significantly larger tax base and boost to our fragile economy. The land addressed by SB 1152 is some of the best agriculture land on Oahu. At different elevations, we have the different micro-climates that would enable farmers to grow a whole host of crops to replace imported produce. This bill would generate jobs and will support and diversify our economy when it is needed most. It will also help to provide the stable economy base to insure the long-term self-sufficiency for our State.

I urge your passage of this bill that would reduce our exposure to forces we cannot control and put a stop to money flowing out of our State. Let's work together to make agriculture happen and build a sustainable Hawaii.

February 20, 2009

To: Representative Cliff Tsuji, Chairman Agriculture Committee
Representative Jessica Wooley, Vice Chair Agriculture Committee

From: Independent Diversified Farmers on Oahu

Reference: Testimony in Support of SB 1152

We are independent diversified farmers on Oahu and, we strongly support SB 1152.

In recent years, numerous bills have been proposed to protect Important Agriculture Lands in Hawaii. To date, despite strong support from many of our farmers and local residents, none of the bills were successfully passed by our legislature. We are hopeful that some of these bills, including SB1152, will be introduced and passed in the current session.

Because no strong measures are currently available to protect our prime agriculture lands, we have seen some of our most productive lands sold and passed on to "occasional part-time farmers". Many of these occupants have not seriously utilized the land to support the preservation and expansion of our local agriculture industry. Further, with the possibility of obtaining higher returns on original land investments, many of these tenant/owners have been trying to subdivide the large tracts of land while providing short-term leases to farmers. The short-term leases allow the owners to move the land quickly when the opportunity arises.

Because there have also been no strong measures requiring the large land owners to commit their prime agriculture land to long-term leases, the small local diversified farmers interested in farming have been forced to work with short-term leases and increasingly higher rents.

Currently, even during this economic recession, there are many independent farmers who are very interested in starting new farms and/or expanding existing farms to make them more productive and efficient.

Opening of the new farms will provide immediate employment for our labor force, reduce our dependence on imported fruit and vegetable supplies, and provide a boost to our local economy at its most critical period.

Passage of this bill will give our farmers the opportunity to negotiate long-term leases with the landowners and more importantly, make the necessary capital investments to progressively grow and improve their farms. This type of local farming business will also provide a stable economic base to allow our State to progressively become more self sufficient in the coming years.

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We strongly support SB 1152 and we feel that this bill will directly support our local farmers by giving them assurance that their investment in new farms is protected from the land being sold from under their feet. Long-term leases would allow the farmers to obtain the proper financing to improve their farms and to reach larger scale efficiencies that cannot be obtained from the current year-to-year leases available. By working together, we know we can expand our agriculture industry and help to build a solid and sustainable local economy.

Respectively submitted,

Independent Diversified Farmers on Oahu

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Khamxath Baccam	371-2797
Sihong Vongsaketa	780-1187
KONGCHAN KHENMY	392-8952
BOONMEE SAENKITHONE	693-5772
Keo Yanny	699-4282
Andrew Wai	744-5123
Steven Torres	484-1930
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Shirley Domingo	"
Christ "	323-190412

Independent Diversified Farmers on Oahu

YUMI COOK	744-5723
Michelle Cruz	744-5723
Jeff Cook	✓
Nick Cook	✓
Crista Cook	✓
Mel Colett	744-5723
TEAM COOK	✓
YABONG LUANG-SIYOTHA	450-0184
TAN LUANGSIYOTHA	450-9390
JASON LUANGSIYOTHA	450-9203
SAHNIANG TREJO	330-4697
Pisamai W. Walter	685-3158
Angelo Cabanog	455-1261
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Rita Sumpay	677-9472
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Lee Dempsey	381-8738
LO Vongkhamchanh	452-5289
MEUNE PHANTAVONG	696-5659
Somphone Saen Sombat	696-7539
MCKINLEY BACCAM	292-8515 or 853-1822
ZACHARY BACCAM	778-6169

provide a stable economic base to allow our State to progressively become more self sufficient in the coming years.

We strongly support SB 1152 and we feel that this bill will directly support our local farmers by giving them assurance that their investment in new farms is protected from the land being sold from under their feet. Long-term leases would allow the farmers to obtain the proper financing to improve their farms and to reach larger scale efficiencies that cannot be obtained from the current year-to-year leases available. By working together, we know we can expand our agriculture industry and help to build a solid and sustainable local economy.

Respectively submitted,

Independent Diversified Farmers on Oahu

* LOUAN TARO FARM LLC CELL 799-1323.
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Independent Diversified Farmers on Oahu

David Adriano

388.4250

Kaylyn Adriano

Lucky Vongkhamchanh

Larry Vongkhamchanh

} 450.5289

We strongly support SB 1152 and we feel that this bill will directly support our local farmers by giving them assurance that their investment in new farms is protected from the land being sold from under their feet. Long-term leases would allow the farmers to obtain the proper financing to improve their farms and to reach larger scale efficiencies that cannot be obtained from the current year-to-year leases available. By working together, we know we can expand our agriculture industry and help to build a solid and sustainable local economy.

Respectively submitted,

Independent Diversified Farmers on Oahu

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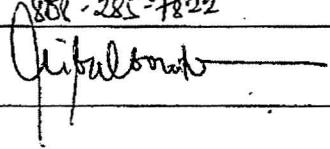
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