

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS M. ATTA
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE
BEFORE THE HOUSE COMMITTEE ON AGRICULTURE
FRIDAY, FEBRUARY 4, 2022
10:00 A.M.
VIA VIDEOCONFERENCE
HOUSE BILL NO. 2084
RELATING TO IMPORTANT AGRICULTURAL LANDS

Chairperson Hashem and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2084 that repeals the existing provision for farm dwelling and farm employee housing on Important Agricultural Lands and adopts a new provision for farm cluster housing as an incentive for the designation of lands as Important Agricultural Lands pursuant to Chapter 205.

The Department of Agriculture supports this measure with the following amendment.

(Page 5, lines 10-17 Deleted language is bracketed and struck through. New language is double underscored and bold text)

"(5) Submittal to the county of an agricultural plan or agricultural business plan that supports the plan for the farm cluster housing and evidence of a real property tax agricultural dedication granted by the county. The agricultural plan and agricultural tax dedication verification shall **be submitted to the appropriate county agency for review and comment and may be**



submitted to the department of agriculture for review and comment, prior to county action on the application."

The Department strongly recommends that the "agricultural plan" in support of farm cluster housing and agricultural tax dedication verification be authoritatively reviewed by the appropriate county agency prior to county action on the application. Reliance upon the Department will not result in the on-the-ground familiarity that only can come from the expertise residing in each county.

Thank you for the opportunity to provide our testimony on this measure.

HB-2084

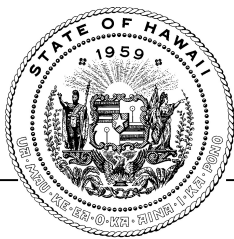
Submitted on: 2/2/2022 4:41:32 PM

Testimony for AGR on 2/4/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Morris Atta	Hawaii Department of Agriculture	Comments	Yes

Comments:

I am available to answer questions on behalf of the Department of Agriculture



STATE OF HAWAII OFFICE OF PLANNING & SUSTAINABLE DEVELOPMENT

DAVID Y. IGE
GOVERNOR

MARY ALICE EVANS
DIRECTOR

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-2846
Fax: (808) 587-2824
Web: <https://planning.hawaii.gov/>

Coastal Zone
Management
Program

Environmental Review
Program

Land Use Commission

Land Use Division

Special Plans Branch

State Transit-Oriented
Development

Statewide Geographic
Information System

Statewide
Sustainability Branch

Statement of
MARY ALICE EVANS
Director, Office of Planning and Sustainable Development
before the
HOUSE COMMITTEE ON AGRICULTURE
Friday, February 4, 2022
10:00 AM
State Capitol, Conference Room 325
Via Videoconference

in consideration of
HB 2084
RELATING TO IMPORTANT AGRICULTURAL LANDS.

Chair Hashem, Vice Chair Perruso, and Members of the House Committee
on Agriculture.

The Office of Planning and Sustainable Development (OPSD) strongly supports Administration bill, HB 2084. This measure would (1) repeal a provision in Hawai'i Revised Statutes (HRS) Chapter 205, that allows the development of multiple farm dwellings for farmers and farm employees on lands designated as important agricultural lands (IAL) by the State Land Use Commission (LUC), and (2) insert a new section that allows for farm cluster housing on IAL lands and related amendments that facilitate farm cluster housing development to meet the need for bona fide farmer and farm worker housing.

The existing provision for farm housing on IAL land in HRS § 205-45.5 was enacted in 2008 (Act 233) as part of an IAL incentives package. Enactment of IAL incentives was required by the IAL legislation enacted in 2005 (Act 183, Session Laws of Hawai'i (SLH) 2005) to be passed as a condition for the commencement of any IAL designation proceedings before the LUC. As currently written, HRS § 205-45.5 allows for the development of multiple farm dwellings for farmers and farm workers on IAL, provided that the occupants, including family members, are actively engaged in farming.

In hearings before the LUC on the City and County of Honolulu's petition for the designation of IAL lands for O'ahu under the county IAL designation process, many small landowners testified in opposition to the designation of their lands based on their concern that the farming requirement for all family members would apply to all farm dwellings on lands designated as IAL and was more

restrictive than allowed for lands in general in the State Agricultural District. This provision had a chilling effect on the City's IAL petition, which was remanded by the LUC to the City for further action.

The existing incentive also does not provide any relief from county land use and development standards and processes for the construction of farm housing on lands designated as IAL. Thus, it is ineffective as an incentive to farmers or landowners for IAL designation.

The Administration bill was drafted and introduced to remedy these issues and to remove a potential barrier to future county efforts to carry out the State constitutional provision for the designation of important agricultural lands statewide.

Repeal of HRS § 205-45.5 would relieve small farmers and landowners of concerns that they would be subject to the restrictions on farm dwelling occupancy contained in the existing section. The new section for clustered farmer and farm employee housing would preserve this incentive for those landowners or farmers who wish to avail themselves of the opportunity to provide much-needed affordable farm housing, without requiring the housing to be improved to urban residential subdivision standards, which would be inappropriate in farm areas. The new incentive provides safeguards for counties to use in permitting and regulating the development of farm housing clusters on IAL.

If HRS § 205-45.5 is not amended or repealed, it is possible that the counties will not pursue IAL designation because of the opposition they would likely face, and the State would not fulfill its constitutional provision to identify IAL in support of future agriculture self-sufficiency in Hawai'i. We also believe that the new incentive strikes a balance between meeting the industry need for affordable farm housing and protecting agricultural lands from non-agricultural residential uses and sprawl.

Thank you for the opportunity to testify on this measure.



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

DAVID Y. IGE
GOVERNOR

MIKE MCCARTNEY
DIRECTOR

CHUNG I. CHANG
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: dbedt.hawaii.gov

Telephone: (808) 586-2355
Fax: (808) 586-2377

Statement of
MIKE MCCARTNEY
Director

Department of Business, Economic Development, and Tourism
before the

HOUSE COMMITTEE ON AGRICULTURE

Friday, February 4, 2022
10:00 AM

State Capitol, Conference Room 325
VIA VIDEOCONFERENCE

In consideration of
HB 2084
RELATING TO IMPORTANT AGRICULTURAL LANDS.

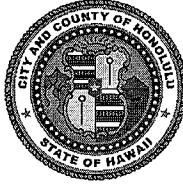
Chair Hashem, Vice Chair Perruso and members of the Committee. The Department of Business, Economic Development and Tourism (DBEDT) supports Administration Bill, HB 2084, which amends Hawaii Revised Statutes (HRS) Chapter 205 to adopt an improved incentive for the construction of clustered farmer and farm employee housing on lands designated as Important Agricultural Land (IAL) by the State Land Use Commission. This measure would repeal HRS § 204-45.5, the existing incentive for farmer and farm employee housing that was adopted in 2008 as part of a set of State incentives for the designation of IAL.

Repeal of the existing provision would eliminate what is interpreted as more restrictive use of farm dwellings on lands designated as IAL, which has concerned landowners whose land is being proposed for designation as IAL under the mandated county IAL designation procedure in HRS § 205-49. The new incentive would make it easier to provide needed agricultural housing for farmers of IAL lands, but under conditions that provide safeguards that minimize the amount of agricultural land taken out of production.

Thank you for the opportunity to testify.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU
650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honoluluodpp.org • CITY WEB SITE: www.honolulu.gov

RICK BLANGIARDI
MAYOR



DEAN UCHIDA
DIRECTOR
DAWN TAKEUCHI APUNA
DEPUTY DIRECTOR
EUGENE H. TAKAHASHI
DEPUTY DIRECTOR

February 4, 2022

The Honorable Mark J. Hashem, Chair
and Members of the Committee on Agriculture
Hawaii State House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Hashem and Committee Members:

**Subject: House Bill No. 2084
Relating to Important Agricultural Lands**

The Department of Planning and Permitting (DPP) provides **comments** on House Bill No. 2084, which repeals Section 205-45.5, Hawai'i Revised Statutes (HRS), and establishes a new section that would facilitate the development of cluster housing for farmers and farm employees on Important Agricultural Lands (IAL).

We are in strong support of repealing Section 205-45.5, HRS. However, language in House Bill No. 2084 mandating the counties to adopt an IAL farm cluster housing ordinance conflicts with the City and County of Honolulu's zoning regulations and oversteps county homerule responsibilities. Specifically, it contains provisions that are in conflict with existing agricultural cluster definitions and development standards defined in the City's Land Use Ordinance (LUO), Sections 21-3.50-1 through 3, Revised Ordinances of Honolulu.

Section 205-45.5, HRS, was intended to be beneficial for IAL landowners by making it easier to provide farmer and farmworker housing on IAL. However, evident from the hundreds of landowners who provided written and oral testimony to DPP and the State Land Use Commission (LUC) in opposition of the City's recommendation for IAL designation, Section 205-45.5, HRS, has been misinterpreted as being a disincentive that applies greater restrictions than what is currently permitted in the State Agricultural District. This Bill would alleviate those concerns while adding an incentive that relaxes certain development standards for cluster housing on IAL.

The Honorable Mark J. Hashem, Chair
and Members of the Committee on Agriculture
Hawaii State House of Representatives
February 3, 2022
House Bill No. 2084
Page 2

Repealing Section 205-45.5, HRS, could be the first step towards moving ahead with the IAL efforts of the State of Hawaii. If Section 205-45.5, HRS, is not repealed, it is probable there will be no movement from the counties regarding recommending IAL designations to the LUC due to the public perception that IAL infringes on property rights.

Thank you for this opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "Uchida", written over a horizontal line.

Dean Uchida
Director



P.O. Box 37158, Honolulu, Hawai'i 96837-0158
Phone: 927-0709 henry.lifeoftheland@gmail.com

COMMITTEE ON AGRICULTURE
Rep. Mark J. Hashem, Chair
Rep. Amy A. Perruso, Vice Chair

DATE: Friday, February 4, 2022
TIME: 10:00 a.m.

HB 2084 Relating to Important Agricultural Lands **Amendment Needed for Passage**

Aloha Chair Hashem, Vice Chair Perruso, and Members of the Committee

Life of the Land is Hawai'i's own energy, environmental and community action group advocating for the people and `aina for 52 years. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

Life of the Land strongly advocates for real sustainable diverse agriculture

Poamoho Estates between Wahiawa and Waialua is an example of how not to add housing to agricultural lands.

Multi-million-dollar homes with magnificent views were permitted to exist in a gated community. Honolulu County stated that if the homeowner fenced in his yard and hired a horse one day a year to eat the grass, then the property owner could pay less taxes for owning agricultural land. The developer violated state regulation by not permitting the private water utility.

HB 2084 purports to allow agricultural land to have housing clusters to promote agriculture. But nothing in the law would prevent a county from lax oversight.

Amendment: *At a minimum, the bill must include a public hearing.*

Furthermore, landowners who have skirted land use laws should not be permitted to qualify.

The bill states, “In 2008, the legislature passed a package of incentives for lands designated as important agricultural lands pursuant to section 3 of article XI of the Hawaii state constitution. Enacted as Act 233, Session Laws of Hawaii 2008, the incentives were intended to promote agricultural viability, sustained growth of the agricultural industry, and the long-term use and protection of lands designated as important agricultural lands.”

If that were so, then landowners would have had to save their best land for agriculture, but several didn't. Some landowners chose better quality land for urbanization. How many times should we open the gates and allow the grabbing of more prime agricultural land for non-agricultural developments?

Mahalo

Henry Curtis

Executive Director



P.O. Box 253, Kunia, Hawai'i 96759
Phone: (808) 848-2074; Fax: (808) 848-1921
e-mail info@hfbf.org; www.hfbf.org

February 4, 2022

HEARING BEFORE THE
HOUSE COMMITTEE ON AGRICULTURE

TESTIMONY ON HB 2084
RELATING TO IMPORTANT AGRICULTURAL LANDS

Conference Room 325 & Videoconference
10:00 AM

Aloha Chair Hashem, Vice-Chair Perruso, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawaii Farm Bureau supports HB 2084, which repeals the provision for farm dwelling and farm employee housing on Important Agricultural Lands and adopts a new provision for farm cluster housing as an incentive for the designation of lands as Important Agricultural Lands pursuant to chapter 205, Hawaii Revised Statutes.

The identification and designation of Important Agricultural Lands (IAL) was first proposed at the 1978 Constitutional Convention and subsequently approved by voters in the same year. Enacted as Article XI, Section 3, of the Constitution of the State of Hawaii, the State is required to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands.

Several attempts to establish IAL in statute were attempted over the years, but it was only in 2005 that Act 183 was enacted. In 2008, Act 233 was enacted to establish incentives, such as tax credits, loan guarantees, and expedited regulatory processing to encourage landowners to designate their lands as IAL.

Another incentive allows landowners to develop farm dwellings and employee housing for their immediate family members and their employees. It limits the farm dwelling to 5% of the total IAL or 50 acres, whichever is less. It also requires that plans for farm dwellings and employee housing be supported by agricultural plans approved by HDOA.

Many small landowners are unaware of how IAL designation will impact their land use and rights. Agricultural landowners are justifiably concerned about the occupancy limits on farm dwellings, especially those who plan to retire on their farm, as they believe IAL law restricts occupation to those who are actively farming. They worry that they may be forced to leave their homes once they are no longer physically able to do the work required to farm. Additionally, some of the long-time small farmers had intended to pass on their property to each of their adult children through subdividing. Because of the limitations and uncertainty associated with approvals of that process under an IAL designation, they are understandably uneasy about their future and their succession planning. Unfortunately, they have not been able to get clarification about this and other issues associated with IAL designation.

HB 2084 seeks to clarify the Legislative Intent of Act 233 SLH regarding the Farm Dwellings and Employee Housing Incentive for lands designated as IAL.

Thank you for the opportunity to testify on this measure.

HB-2084

Submitted on: 2/1/2022 4:33:34 PM

Testimony for AGR on 2/4/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Chuck Prentss	Hawaii's Thousand Friends	Oppose	No

Comments:

Oppose. If adopted, this will result in a number of large cluster developments as long as the City and County of Honolulu continues to allow homes on 2-acre Agricultural Zoned lands. As a result, it will make it more difficult to implement State Constitutional provisions and policies to preserve agricultural lands and sustainable agriculture.



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

**HEARING BEFORE THE HOUSE COMMITTEE ON
AGRICULTURE
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 325
Friday, February 4, 2022 AT 10:00 A.M.**

To The Honorable Mark J. Hashem, Chair
The Honorable Amy A. Perruso, Vice Chair
Members of the committee on Agriculture

SUPPORT HB2084 RELATING TO IMPORTANT AGRICULTURAL LANDS

The Maui Chamber of Commerce supports HB2084 which adopts a new provision for farm cluster housing as an incentive for the designation of lands as Important Agricultural Lands. We strongly support options that provide more housing alternatives for farm workers.

When it comes to farm dwellings and farm worker housing, the Chamber supports increasing flexibility and not removal of existing options. We support as much land as possible to be designated as Important Agricultural Land.

For these reasons, we support the passage of HB2084 to the next committee.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

HB-2084

Submitted on: 2/2/2022 10:43:23 PM

Testimony for AGR on 2/4/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kimeona Kane	Individual	Oppose	Yes

Comments:

Aloha nui kākou,

I am Kimeona Kane of Waimānalo, a long standing agriculture community threatened by gentlement farms. I am opposed to the current bill relating to ag cluster homes specifically section D #6. While I do believe there is value and need in supplying housing, I am afraid that the types of housing we will be seeing, will continue to be that associated with gentlemen farms, which currently exist and is on the rise in our community. In an ideal world, I would expect to see the land owner or master lessee take this responsibility to heart, but I feel like there needs to be an additional level of oversight and verification. Furthermore, what happens if it is discovered that there are violations of these expectations? There is currently a "ag cluster" project slated for Olomana, called The Ridge, at Olomana. In their renderings, I do not believe it meets the criteria of an ag cluster project. We really need to protect agriculture lands and conservation lands even more so. Please re evaluate the reality of these ag clusters and help communities like ours, to address those who are abusing the use of the agriculture zoned land. Mahalo nui,
Kimeona Kane

HB-2084

Submitted on: 2/4/2022 7:34:12 AM

Testimony for AGR on 2/4/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kenani Gramberg	Individual	Comments	No

Comments:

Aloha, It'll be amazing to see the day agriculture is being utilized for it's actual definition with no addition. I'd really like to see Agriculture Lands in Waimānalo producing more food! Have you ever been to the Waimānalo POM? There's only 2 vendors and they're not from Waimānalo. Waimānalo is an agriculture rich community, with no food to offer to the community. Who is and How often are these leases being inspected for pono practices on Agriculture Lands? Who's inspecting how much dwellings are going up and being rented out to non farmers? How do we get the Waimānalo agricultural businesses to create a Future Business Plan?, so we can **stop importing plants**, and start planting from seed to fulfill the Plans created by those particular businesses. Waimānalo has the perfect climate to perform this procedure and more. There are too many non-agricultural activities happening in Waimānalo on agricultural lands. We have so many ranches, stables, housing, trucking companies, dog parks/ facilities, just to name a few, on Agriculture lands in Waimānalo. Horses kept for recreation, sport, and business are not classed as an agricultural activity. My conclusion to this is to please keep agriculture lands for what it's defenition states and nothing more. Mahalo Kenani Gramberg