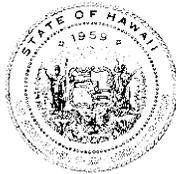


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LAND USE COMMISSION
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Statement of
Daniel E. Orodener
Executive Officer
Land Use Commission

Before the
Senate Committee on Ways and Means
February 26, 2015
9:00 AM
State Capitol, Conference Room 211

In consideration of
SB 511 SD1
RELATING TO THE LAND USE COMMISSION

Chair Tokuda, Vice Chair Kouchi, and members of the Committee on Ways and Means:

The Land Use Commission supports SB 511 SD1 in that it provides the Land Use Commission (LUC) with much needed enforcement powers.

Currently, the Land Use Commission has only the remedy of reversion if there is a violation of an LUC decision and order. Reversion of land back to its original classification is an extreme measure and often not in the best interest of the community. Under recent Supreme Court decisions it may not even be allowable if a developer has begun construction, even if the development is in direct violation of an LUC order.

Recognizing that most, if not all, of the conditions contained in LUC orders are designed to either protect the public interest under the umbrella of the public trust doctrine, or are designed to protect this body and the taxpayer from having to provide infrastructure improvements to the benefit of private developers, the lack of enforcement capabilities and the inability to craft appropriate remedies is troublesome. Given recent changes to Chapter 205 HRS that allow commercial solar activity on agricultural land under specific conditions, the ability to enforce provisions is critical to protecting the long term viability of agricultural land.

Currently the LUC must rely on the county planning departments to enforce conditions. This has proven problematic in that counties do not often have the motivation or resources to enforce conditions. In addition, the county process does not allow interested parties to contest its failure to enforce a condition. The LUC allows an aggrieved party, including members of the public at large, to bring a request for an "order to show cause" before the commission and to

have its grievance heard and present evidence to support its claim. This measure would allow the LUC the ability to fairly and beneficially deal with violations as they arose.

We appreciate and support the amended language in the current SD1 that addresses some of the issues stemming from the recent Supreme Court decision in the DW/Bridge `Āina Le`a case.

Thank you for the opportunity to testify on this matter.