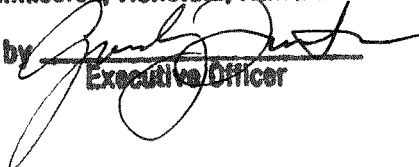


BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of a Declaratory Ruling)
to determine whether a single family)
dwelling may be established within the)
State Land Use Agricultural District) DOCKET NO. DR 83-8
if the agricultural activity proposed)
to be conducted by the family occupying)
the dwelling is for personal consump-)
tion and use only)
_____)

This is to certify that this is a true and correct
copy of the document on file in the office of the
State Land Use Commission, Honolulu, Hawaii.

9/14/83 by 
Date Executive Officer

DECLARATORY RULING REGARDING USE
IN AN AGRICULTURAL DISTRICT

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of a Declaratory Ruling)
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DECLARATORY RULING REGARDING USE
IN AN AGRICULTURAL DISTRICT

Upon its own motion, the Land Use Commission initiated a proceeding, pursuant to Section 91-8, Hawaii Revised Statutes, and Part VIII, State Land Use Commission Rules of Practice and Procedure, to determine whether a single-family dwelling may be established on property located within the State Land Use Agricultural District with soil classification of C and D and if the agricultural activity proposed to be conducted by the family occupying the dwelling is for personal consumption and use only. The Land Use Commission having considered the matter at its meeting in Wailea, Maui on August 10, 1983 finds that:

1. Section 205-5(b), Hawaii Revised Statutes, restricts the use of property in agricultural districts to the provisions of Section 205-2 as determined by the Land Use Commission.

(emphasis added). Section 205-2 permits dwellings which are accessory to agricultural uses or activities.

2. Section 205-4.5, Hawaii Revised Statutes, permits farm dwellings to be established within the State Land Use Agricultural District on all lands with an overall soil productivity rating of A or B by the Land Study Bureau. Under Section 205-4.5(4), Hawaii Revised Statutes, a "farm dwelling" is defined as:

"a single family dwelling located on and used in connection with a farm or where agricultural activity provides income to the family occupying the dwelling."

3. Section 3-3(4), State Land Use District Regulations, also permits a farm dwelling use within the Agricultural District and Section 1-4(10) State Land Use District Regulations further clarifies this permitted use by defining "farm dwelling" as:

"a single-family dwelling located on and used in connection with a farm where agricultural activity provides income to the family occupying the dwelling."

4. Both the Hawaii Revised Statutes and State Land Use District Regulations identify farm dwellings as a permissible use within the State Land Use Agricultural District.

5. The definition of farm dwelling under Section 205-4.5, Hawaii Revised Statutes, specifically apply to lands located in the State Land Use Agricultural District with an overall soil productivity rating of A or B by the Land Study Bureau. The farm dwelling definition under the State Land Use District regulation applies to all lands within the State Land Use Agricultural District.

6. The difference in the definition of a farm dwelling between the State Statutes and the Land Use District Regulation is the addition of the word "or" in the statutory version. The word "or" connotes that a choice is available in the statutory definition. The farm dwelling definition under the Land Use District Regulation does not contain the word "or" and offers no choice under which to establish a farm dwelling. The regulation states that the dwelling must be used in connection with a farm where agricultural activity provides income to the family occupying the dwelling.

7. The Land Use Commission is entitled to further

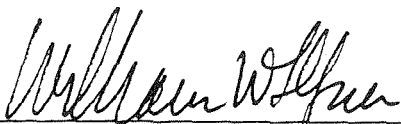
clarify provisions in the Hawaii Revised Statutes by adopting rules and regulations and has done so in this instance by not including the word "or" in defining farm dwelling under its regulation. This definition makes it clear that a dwelling can be construed to be a "farm dwelling" only if the dwelling is used in connection with a farm where agricultural activity provides income to the family occupying the dwelling. This definition is applicable to all lands in the Land Use Agricultural District regardless of overall soil productivity rating.

8. Senate Bill No. 993 (1983) purported to amend Section 205-4.5 to permit the raising of crops for both commercial and personal use. Governor Ariyoshi's veto of this bill is an expression of the State's policy that the agricultural activity must be commercial to be a permitted use on lands in the Agricultural District having an A or B soil productivity rating.

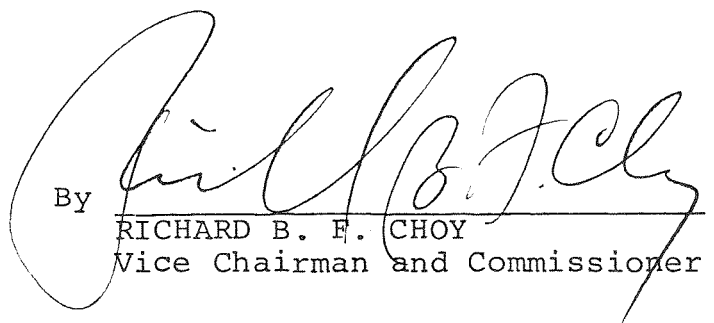
Based on the above, the Land Use Commission rules that a single-family dwelling can be defined as a farm dwelling only if the dwelling is used in connection with a farm where agricultural activity provides income to the family occupying the dwelling and that a single-family dwelling, which use is accessory to an agricultural activity for personal consumption and use only, is not permissible within the Land Use Agricultural District. This ruling is applicable to all lands located within the State Land Use Agricultural District.

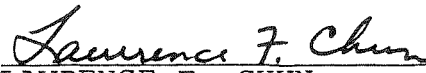
Done at Honolulu, Hawaii, this 8th day of September, 1983, per motion on August 10, 1983.


LAND USE COMMISSION
STATE OF HAWAII

By 

WILLIAM W. L. YUEN
Chairman and Commissioner

By 
RICHARD B. F. CHOY
Vice Chairman and Commissioner


By 
LAWRENCE F. CHUN
Commissioner

By 
SHINSEI MIYASATO
Commissioner

By 
TEOFILO TACBIAN
Commissioner

By 
ROBERT TAMAYE
Commissioner

By 
WINONA E. RUBIN
Commissioner

By 
FREDERICK P. WHITTEMORE
Commissioner