

Alex and Vanessa Garber
P.O. Box 911312
Waialua, HI 96791

April 24, 2021

State Land Use Commission
P.O. Box 2359
Honolulu, HI 96804

To the Members of the Land Use Commission,

In regards to the proposal for the designation of IAL lands for the island of Oahu, we would like to submit our testimony and request that you deny the County's proposal. The County has failed to abide by Hawaii Revised Statute 205-47.

In part the Statute states:

“(c) Each county, through its planning department, shall develop an inclusive process for public involvement in the identification of potential lands and the development of maps of lands to be recommended as important agricultural lands, including a series of public meetings throughout the identification and mapping process. ”

Regarding the IAL designation process, the County did have public outreach in the form of public meetings. However, by design or neglect, the administrators at these meetings provided **false and misleading information** regarding the effect of an IAL designation on landowners. The dissemination of false information prevented the effected farmers and landowners of fully understanding the impact of IAL designation. This violated the statute.

Documentation of the false and misleading information provided by the County and Department of Planning and Permitting (DPP) can be found in the LUC website in IAL Final Report Appendix D.

Meeting 2 Kapolei

41. Can you give examples of what uses will be more difficult to get permission for?

RESPONSE: The only difficulty really would be to try and urbanize your land. If your land is zoned AG at the county level--again I repeat myself--but you are entitled to take advantage of all the benefits that agricultural zoning allows you. As long as you are pursuing a legal use or a use that's identified in the zoning code, you're good to go.

37. What is the significant difference in IAL vs. agricultural land designated AG-1 or AG-2 now?

RESPONSE: The basic difference is that the designation of IAL opens up opportunities to take advantage of incentives.

Meeting 2 Hale'iwa

10. How does rezoning affect future building on the land?

RESPONSE: Again, this is not zoning. You can still develop and build as you would under the existing AG-1 or AG-2 zoning.

15. How will the IAL designation affect farm dwelling permitting for land already designated for AG?

RESPONSE: It would be the same process. You have to get a building permit for a farm dwelling, and you would be held to the responsibility of the law that says your unit is a farm dwelling. That's for both county and state law.

16. What am I able to construct on my IAL property?

RESPONSE: Anything that's allowed. If you're zoned AG-1, whatever's allowed in AG-1. If you're zoned AG-2, anything that's allowed in AG-2. If you're zoned Country, whatever's allowed in Country. The same rules apply even with the IAL designation.

Despite the claims made by the DPP, the change in designation from Agricultural District to Important Agricultural lands is substantial. HRS Chapter 205-4.5 pertains to permissible uses within the Agricultural District.

In regard to farm dwellings subsection 4 reads.

"(4) Farm dwellings, employee housing, farm buildings, or activities or uses related to farming and animal husbandry. "Farm dwelling", as used in this paragraph, means a single-family dwelling located on and used in connection with a farm, including clusters of single-family farm dwellings permitted within agricultural parks developed by the State, or where agricultural activity provides income to the family occupying the dwelling;"

In contrast, Chapter 205-45.5 pertains to farm dwelling on Important Agricultural Lands. Subsection 1 reads

*"(1) The farm dwellings and employee housing units shall be used **exclusively** by farmers and their immediate family members who **actively** and **currently** farm on important agricultural land upon which the dwelling is situated....." (emphasis mine)*

***Although not directly relevant to DPPs process I feel I need to point out that Chapter 205-45.5 is reprehensible in that it would require the elderly, disabled and very young to continue to actively and currently farm, or leave the family home at precisely the time they are most vulnerable to homelessness.

Clearly the change of designation from Agricultural District to Important Agricultural Lands will have a dramatic effect on the permissible use of the farm dwellings many of us currently make our homes in. I have provided documentation of multiple times during the public meetings that DPP officials were asked about how the change in designation would affect permitting and farm dwellings. At no time did the officials disclose to the public the drastic change in applicable

Hawaii Statute. Instead, they repeatedly minimized the importance of the change in land designation.

Statute 205-47 requires “an inclusive process for public involvement.” A public that is repeatedly given false information by its government is not being included. In addition to furthering the public’s distrust of the scandalized DPP, spreading misinformation effectively excluded the people most adversely effected by this change in land designation. Therefore, the Land Use Commission must decline the current proposal until the County has additional public meeting during which it fully and honestly discloses how the change in designation will affect those currently living on their land.

Sincerely,

Alexander and Vanessa Garber, Waialua Orchards