

From: [DBEDT LUC](#)
To: [Quinones, Natasha A](#)
Subject: FW: [EXTERNAL] Shuman IAL Details And Meetings Request
Date: Friday, April 23, 2021 2:43:34 PM

IAL

From: Michael Shuman <shumanm006@gmail.com>
Sent: Friday, April 23, 2021 2:39 PM
To: DBEDT LUC <dbedt.luc.web@hawaii.gov>
Subject: [EXTERNAL] Shuman IAL Details And Meetings Request

Hello, I am the property owner of the below address. I am deeply concerned about this activity with regard to this situation. My spouse and I attended a meeting in Kapolei several years ago. The issue has never been brought to our attention since then. We have not received any correspondence or been contacted by anyone since that meeting.

Please include us in any upcoming meetings and their schedules. We will be putting together our effort moving forward to litigate this to every extent possible.

v/r; Michael S Shuman

Michael S. Shuman
94-1067 Lumipolu St.
Waipahu, Hawaii 96797

TMK#: 94056002
808-676-8308 HM/ FAX
808-741-0104 Celular

shumanm006@gmail.com

From: [DBEDT LUC](#)
To: [Quinones, Natasha A](#)
Subject: FW: [EXTERNAL] Re: IAL law/statute 205
Date: Friday, April 23, 2021 2:41:29 PM

IAL public

From: John Foti <john@kaulanacorp.com>
Sent: Wednesday, April 21, 2021 2:42 PM
To: Rep. Lisa Marten <repmarten@capitol.hawaii.gov>
Cc: DBEDT LUC <dbedt.luc.web@hawaii.gov>; Representative Lauren Matsumoto <repmatsumoto@capitol.hawaii.gov>; Representative Sean Quinlan <repquinlan@capitol.hawaii.gov>; senlee@capitol.hawaii.gov; Senator Gil Riviere <senriviere@capitol.hawaii.gov>; repbranco@capitol.hawaii.gov
Subject: [EXTERNAL] Re: IAL law/statute 205

Hi Lisa,

Thanks for the response.

The answer is both.

Re: the current sister legislation, I expect you're referring to the process of determining what lands fall into the IAL category. That process is terribly flawed. My understanding is that if a property meets any one of three criteria, it makes the list for IAL designation without taking into account other key items that may render it an unreasonable choice for IAL. Ex: my Kahuku farm meets 2 of the three criteria. Unfortunately, it does NOT meet the most critical, which is the soil quality and growth conditions criteria. Our soil is terrible: it's called Pearl Harbor clay. Plus it's in close proximity to the ocean and heavy wind, which combine to make it anything but prime farmland, yet were on the IAL list. We're making a go of it anyway despite the marginal soil and conditions but now I have to waste time and energy learning about all this legislation and making a case that I should NOT be subject to IAL when I should be spending time maximizing farming ops! Its hard enough to make a go of it as it is!

Why should I have to defend against having my rights diminished?

This is all backwards. Someone should be coming to me and explaining why I would want to sign up for this IAL designation.

This segues to the underlying issue of the flawed existing IAL legislation (statute 205?).

Notification, education and consultation: Most farmers are not ma'a to the statute. They were too busy farming and in many cases too ignorant to spend the time and energy opposing this bad legislation so it happened without most farmers knowing what it was about. Until recently, I was one of the ignorant. I only just woke up to it because I received a letter last week noticing me that my property is on the IAL designation list, so now I have to educate myself. My crash course of that statute makes me realize that as good as the intention might be, this leg. never should have happened.

Why?

Lots of reasons including:

1) the fact that the law is missing details like definitions, (ex: what is "active farming" and who determines that?; who enforces the law and how?; what are the "penalties"?). Too many unknowns and too many opportunities for abuse of power, corruption, and incompetence. We are being set up to have a government bureaucrat that's likely never set foot on a farm or owned a business making these decisions.

2) It's a negative law. Where is the benefit to the farmer or farm land owner? There appears to be little if any benefit, only downside if you don't comply. This looks effectively like eminent domain of sorts without compensation. Its not right. Ask any Ag. landowner (or land leasing farmer) if they want their property to be included in the IAL. See how many sign up. My guess is next to zero. That should tell you something right there.

I and most people are in agreement that we need to protect our ag lands. But negative legislation is not the answer. I'm happy to explain in detail how limiting housing options and imposing other land use restrictions, then penalizing violators will NOT have the desired effect. It won't work. If this law is instituted in its current form, it's going to blow up in our faces. Mark my words.

My suggestion is to flip the law from negative to positive: make it attractive to have lands in IAL. Give incentives to farmers and ag land owners (incentives that are simple, don't require lots of time, red tape and education) to keep lands in ag and keep them active. There are lots of possibilities, (starting with assorted tax relief/waivers, etc.). I've got lots of ideas if you're interested.

As you suggested, lets talk story from this point if you want more detail on the palu outlined above. If you can show me the benefit, I'll happily champion this effort. If not, I can give you a big list of additional reasons why it will have adverse effects.

Thanks for asking and listening.

John Foti
808 754 3312

On Tue, Apr 20, 2021 at 1:52 PM Rep. Lisa Marten <repmarten@capitol.hawaii.gov> wrote:

Hi John,

Thank you for reaching out with your concerns. Are you referring to any legislation in play right now, or just the ongoing program?

If it is current legislation, this is the week to act. If it is the ongoing program, lets talk story after this week so I can understand the unintended consequences on farmers and agricultural businesses and see what we can do about it.

Mahalo, Lisa

From: John Foti <john@kaulanacorp.com>

Sent: Tuesday, April 20, 2021 1:07 PM

To: dbedt.luc.web@hawaii.gov

Cc: Rep. Patrick Pihana Branco <repbranco@capitol.hawaii.gov>; Rep. Lisa Marten <repmarten@capitol.hawaii.gov>; Rep. Lauren Matsumoto <repmatsumoto@capitol.hawaii.gov>; Rep. Sean Quinlan <repquinlan@capitol.hawaii.gov>; Sen. Chris Lee <senlee@capitol.hawaii.gov>; Sen. Gil Riviere <senriviere@capitol.hawaii.gov>

Subject: IAL law/statute 205

Dear Hawaii State Government

Please stop your planned IAL program. Farming is difficult enough without the additional restrictions and regulations. As well meaning as you may think this program is, it will have adverse (unintended) consequences that will have the opposite effect of your intentions. It will make farming MORE difficult and less feasible, resulting in LESS agricultural land being actually farmed. Most farmers were completely unaware of this law and it's effect on farm lands. It is completely unfair to add these land use restrictions without adequate consultation and input of landowners and users.

I have a legitimate kalo farm located on affected land right now and therefore have first hand knowledge. Government functionaries have no business in our business. I can load you with specifics if you like.

Please listen and repeal this statute. Thank you for listening.

John Foti

808 754 3312



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From: [DBEDT LUC](#)
To: [Quinones, Natasha A](#)
Subject: FW: City & County of Honolulu IAL Petition
Date: Friday, April 23, 2021 2:39:12 PM
Attachments: [KLRF Proposed Designation of Important Agricultural Lands.pdf](#)

Public testimony IAL

From: Pepito Paguirigan Sr. <pep37cg@gmail.com>
Sent: Friday, April 23, 2021 2:13 PM
To: DBEDT LUC <dbedt.luc.web@hawaii.gov>
Subject: City & County of Honolulu IAL Petition

Dear Mr. Orondenker,

Attached was a copy of my letter regarding the City and County of Honolulu proposals for the Designation of Important Agricultural Lands for the KLRF subdivision.

As stated in the letter, the Dept. of Agriculture confirmed that the quantity of irrigation water was insufficient to designate KLRF as an IAL in February 2013. Another reason why it does not meet the designation was explained in the letter.

Mr. Orondenker, there has been over a half-a-dozen front-page story on the Star-Advertiser, regarding many violations on the KLRF Subdivision. We ask and pray for your honest decision and to please delay the IAL designation approval until the Court decide what is the nature of ownership. Farmers purchased the property as subdivided lot under ACT 271, HRS 205-4.5, 17(f) as lots of record. We want to have our farm we can call our own.

Sincerely Yours,
Pepito R, Paguirigan

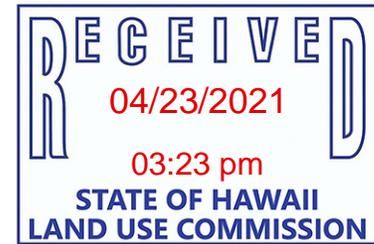
MCCORRISTON MILLER MUKAI MACKINNON LLP

ATTORNEYS AT LAW

April 23, 2021

Via First Class Mail and
Email: dbedt.luc.web@hawaii.gov

State Land Use Commission
P.O. Box 2359
Honolulu, Hawai'i 96814-2359



Re: Meeting on April 28, 2021, Agenda Item V
Conformance of C&C of Honolulu Important Agricultural Lands (IAL)
Recommendation to Applicable Statutory and Procedural Requirements

Dear Commissioners:

We bring to your attention an error in the agenda that was posted for your meeting on April 28, 2021. Item V in the agenda, which relates to lands to be designated as “Important Agricultural Lands” (or “IAL”), contains the following statement: “. . . *The lands recommended for designation are listed in Appendix H of the C&C’s IAL petition . . .*” (emphasis added). As you may know, Appendix H is dated August 2018, and appears to have been part of the Department of Planning and Permitting’s Departmental Communication 578 (2018), transmitted to the Honolulu City Council on August 21, 2018. Appendix H was also used as Exhibit A to Council Resolution 18-233, introduced before the Honolulu City Council on October 18, 2018.

On April 19, 2019, Resolution 18-233 was **amended** and reported out of the City Council’s Zoning and Housing Committee, as Resolution 18-233, CD1. Then, on June 5, 2019, Resolution 18-233 was **further amended** and adopted by the unanimous vote of the full City Council as Resolution 18-233, CD1, FD1. Importantly, these amendments included, among other things, changes to the initial list of parcels that were being recommended for IAL status. As a result, the list of parcels in Appendix H is materially different from the list of parcels in the Resolution 18-233, CD1, FD1. Therefore, contrary to what is stated in the LUC’s agenda, the Commission should not be considering the list of parcels contained in outdated Appendix H but should be considering the list of parcels contained in Resolution 18-233, CD1, FD1. This fact is further confirmed by, among other things:

1. The City’s filing of Resolution 18-233, CD1, FD1 with the Commission;
2. The City’s Recommendation of Important Agricultural Lands, filed with the Commission on April 21, 2021, which states, in part “. . . *The City’s recommendation for IAL designation was transmitted to the LUC under Honolulu City Council Resolution No. 18-233, CD1, FD1 . . .*”);

3. The comment letter from the State Office of Planning dated February 10, 2021, which recognizes the list of parcels being recommended for IAL status as those parcels listed in Resolution 18-233, CD1, FD1; and
4. The comment letter from the State Department of Agriculture dated February 9, 2021, which recognizes the list of parcels being recommended for IAL status as those parcels listed in Resolution 18-233, CD1, FD1.

As you know, HRS 92-7(a) requires, among other things, that notice of any regular meeting “. . . shall include an agenda that lists all of the items to be considered at the forthcoming meeting”. In other words, the agenda must be sufficiently detailed so as to provide the public with adequate notice of the matters that the [commission] will consider so that the public can choose whether to participate. See Office of Information Practices – Guide to “The Sunshine Law” (July 2018).

To the extent that the list of property owners whose properties are listed in Resolution 18-233, CD1, FD1 differs from the list of property owners whose properties are listed in Appendix H, certain members of the public may not have been provided with adequate notice of the matters that the Commission will consider.

Very truly yours,

McCORRISTON MILLER MUKAI MacKINNON LLP



Randall F. Sakumoto

RFS:dkc

cc: Daniel Orodenker
LUC Executive Officer
Via email: daniel.e.orozenker@hawaii.gov