

From: [DBEDT LUC](#)
To: [Quinones, Natasha A](#)
Subject: FW: [EXTERNAL] Opposition to IAL Proposal
Date: Monday, May 24, 2021 7:25:32 AM

IAL

From: warmandfuzzyluc@aol.com <warmandfuzzyluc@aol.com>
Sent: Monday, May 24, 2021 6:29 AM
To: DBEDT LUC <dbedt.luc.web@hawaii.gov>
Subject: [EXTERNAL] Opposition to IAL Proposal

Honorable Jonathon Scheuer
Chair
Land Use Commission
P.O. Box 2359
Honolulu, Hawaii 96814-2359

Dear Chair Scheuer and Members of the Commission,

My name is Lena McCormack, and I am a landowner/farmer and owner of Happy Plants Nursery in Waimanalo and I own a small 2.6 acres plot. I recently received a letter from the Land Use Commission informing me that my property has been designated by the City and County of Honolulu as Important Agricultural Land (IAL). Furthermore, I was informed that the Land Use Commission may be taking action to accept the City and County of Honolulu's IAL designation which includes my property in Waimanalo. I understand the current regulations that are in place in regards to owning agricultural lands in Honolulu. My property is dedicated to farming and agriculture for the required ten years. I have done and am doing what the State and City and County of Honolulu has mandated. However, I object to the designation of my property as IAL for the following reasons: The process for the IAL designation was flawed and did not fully inform the landowners of the designation's impact; the LUC process did not provide adequate information as to how the acceptance of these maps would impact my property; there was no clear guidance on how I could "opt out" of the IAL designation; and lastly the process seems to be rushed and has caught not only me but, my family and neighboring farmers by surprise. We are all feeling confused and anxious.

I was able to work through the rules and regulations of the DPP and the DLNR in order to subdivide our family farm. It took almost ten years to plow through the difficult process and now we are faced with this IAL proposal. I feel that this IAL proposal doesn't take into consideration the difficulty the small farmers go through on a daily basis. Farming is a labor intensive job and not very glamorous as people think it is. I challenge anyone to work with me for a week and see if they don't change their mind about farming, which is a seven days a week job. I am not a young person anymore and I do not need nor want the powers that be, to dictate what I can or can't do with my own property. It is a choice and a commitment to do what we do.

If I had clearly understood the earlier letters, I would have tried to opt out of the program. However, the letters weren't clear and I waited for more guidance...five years go by and surprise...it's almost a done deal. It is all pretty frightening. Please reject the City and County's representation that it has followed all procedures, with respect to state statute. I don't feel that they have been successful in doing what they claim to have done. The IAL designation process needs more vetting and we landowners must be better informed about our options, and how such a designation will impact our lands, lives and most importantly, whether or not we have the ability to "opt out" of such designation, if we choose to do so. That would be, in my opinion, the right decision. As it stands right now it would be totally unfair to many of us small farmers who are working hard to contribute to our State and City, the best way we know how and then, to have to change everything just because someone thinks they know better than us.

Thank you for your consideration.

Ua Mau ke Ea o ka 'Aina i ka pono

Aloha,
Lena McCormack
Happy Plants Nursery

DOUGLAS & KATHIE STEWART
41-712 MOOIKI STREET
WAIMANALO, HAWAII 96795

SENT VIA E-MAIL: dbedt.luc.web@hawaii.gov

Honorable Jonathon Scheuer

Chair

Land Use Commission

P.O. Box 2359

Honolulu, Hawaii 96814-2359

SUBJECT: Opposition to Proposed Important Agricultural Lands Designation

Dear Chair Scheuer and Members of the Commission,

We are Douglas & Kathie Stewart and we are landowners/farmers in Waimanalo and own two 2 acre parcels (TMK: 41024028 & 41024105). We recently received letters from the Land Use Commission dated May 11, 2021 informing us that our properties have been designated by the City and County of Honolulu as Important Agricultural Lands (IAL). Further, we were informed that the Land Use Commission may be taking action to accept the City and County of Honolulu's Important Agricultural Lands designation which includes our properties in Waimanalo.

We live in and have been farming in Waimanalo for nearly 35 years. We were disappointed to hear that LUC meetings were being held in April and we received no notification from the LUC. Fortunate for us, the law firm of Durrett Lang Morse, LLP sent us a letter that we received after the fact informing us of the LUC April meeting and provided a very informative Webinar thereafter.

We follow the guidelines of the LUO and know how very important agriculture land is in Hawaii. Four years ago we purchased an abutting 2 acre property that was abused by dumpster firms and illegal dumping of trash, rocks, old cars and trucks, etc., which all by the way were reported numerous times to authorities by others to no avail. We took on this property to restore as best we could to a viable ranch with pasturing. Needless to say, this has taken an enormous amount of time, energy and money for us two kupuna to take on but we persevere still each day. We purchased these properties fully knowing the agriculture land requirements and until our individual concerns have been heard and the current LUO is enforced, we request the ability to opt out.

We object to the designation of our properties as IAL for the following reasons: the process for the IAL designation was flawed and did not fully inform landowners of the designation's impact; the LUC process did not provide adequate information as to how the acceptance of these maps would impact our properties; there was not clear guidance on how we could opt out of the IAL designation; and lastly the process was rushed and has left us confused and perplexed.

Please consider our concerns and reject the City and County of Honolulu's representation that it has followed all procedures with respect to state statute. The IAL designation process needs more vetting and landowners must be better informed about their options, how such designation will impact their lands, and whether or not they have the ability to "opt out" of such designation.

DOUGLAS & KATHIE STEWART
41-712 MOOIKI STREET
WAIMANALO, HAWAII 96795

Thank you for your consideration.

Sincerely,

Douglas & Kathie Stewart

Rodney and Michele Seibel
41-717 Kakaina Street, Waimanalo, HI 96795

SENT VIA E-MAIL: dbedt.luc.web@hawaii.gov

Honorable Jonathon Scheuer

Chair

Land Use Commission

P.O. Box 2359

Honolulu, Hawaii 96814-2359

SUBJECT: Opposition to Proposed Important Agricultural Lands Designation

Dear Chair Scheuer and Members of the Commission,

We are Rodney and Michele Seibel, private landowners of 2 acres in Waimanalo. We recently received a letter from the Land Use Commission informing us that our property has been designated by the City and County of Honolulu as Important Agricultural Lands (IAL). Further, we were informed that the Land Use Commission may be taking action to accept the City and County of Honolulu's Important Agricultural Lands designation which includes our property in Waimanalo.

We were blessed to purchase this fee simple property for our family 17 years ago from Mrs. Nam, shortly after she subdivided her 9 acres. We did not purchase the land to farm it for a living and that was never a stipulation in owning the property.

We object to the designation of our property as IAL for the following reasons: the process for the IAL designation was flawed and did not fully inform landowners of the designation's impact; the LUC process did not provide adequate information as to how the acceptance of these maps would impact our property; there was not clear guidance on how we could opt out of the IAL designation; and lastly the process was rushed and has left us confused and perplexed.

Please consider our concerns and reject the City and County of Honolulu's representation that it has followed all procedures with respect to state statute. The IAL designation process needs more vetting and landowners must be better informed about their options, how such designation will impact their lands, and whether or not they have the ability to "opt out" of such designation.

Thank you for your consideration.

Sincerely,

Rodney and Michele Seibel

Edith Teixeira, Etal.
86-346 Hālonā RD
Wai‘anae, HI 96792
TMK: 8-6-011-004

May 24, 2021

RE: Conformance of C&C of Honolulu Important Agricultural Lands (IAL) Recommendations
Land Use Commission Meeting May 26-27, 2021

Dear Land Use Commissioners,

This letter is written to express our family's OPPOSITION to the proposed IAL designation of our family property; TMK 8-6-011-004. Hereinafter "family property."

The meetings on May 26-27, 2021 intend to discuss whether the C&C of Honolulu has complied with legal requirements regarding the proper procedural, legal, statutory and public notice requirements that were met in developing the recommendations. Following is a list of evidence that demonstrates non-compliance by the C&C of Honolulu.

Landowner Notifications:

1. The methods of landowner notification by the C&C of Honolulu is questionable as many of our family members were unaware of the IAL designation and the impacts of such designation would have on our family property.
2. The use of mail, websites, zoom video conferencing, social media and newspaper articles have been proven to be ineffective, especially among our older family members who have barriers to accessing these sources of information.
3. Not every family member listed on our TMK received the two meeting notifications and those that did, reported that there was little to no information to landowners about the issues surrounding IAL.
4. The registration links provided on the letter mail outs were extremely long resulting in a high probability of incorrectly inputting the addresses.
5. In order to receive the actual hearing link an email was required, which many of our older owners do not have.
6. The second link;
https://us02web.zoom.us/webinar/register/WN_SC16ZGg_SJia4xkMAD5zYQ to register for the May 27th that was included in the May 11, 2021 letter does not work.
7. No one from the C&C of Honolulu made efforts to speak to any of our family members DIRECTLY about the IAL designation and the criteria that was set forth in qualifying our family property.

Process and Procedure:

1. In the C&C of Honolulu recommendations, soil quality was used as a large indicator of land viability. No one from the C&C of Honolulu contacted any one of our family landowners to conduct soil quality studies. No one from the C&C of Honolulu conducted interviews with our family landowners to see how our family land is currently being used.
2. There was no information that was shared on the potential negative impacts the IAL designation may have on our family and our family property. (i.e. Increase in taxes, reduction in occupancy, decrease in property value, cost of infrastructure, water access etc.)
3. The landowners of our family were not provided with a full explanation of but limited to; potentially harmful ramifications and consequences for individual landowner, how agricultural land currently used for livestock will be impacted, and if there will be an opportunity to opt-out of the IAL designation.
4. The option for landowners to petition for their land to be exempt from recommendation was not sufficiently communicated or clear. Several of our family members submitted a letter dated March 31, 2017 requesting that our family property be removed from the IAL designation and no response was ever received.
8. C&C of Honolulu, lacked full transparency in helping landowners, like our family in helping us to fully understand the IAL proposal and what it would mean for us, our land and our future.

Our land has been in our family for 100 years and we continue to stand strong in keeping it that way for future generations. Let me reiterate as I stated in our letter to the C&C of Honolulu on March 30, 2017 to **OPT OUT** ... our Matriarch and her five offspring along with several of her grand and great grandchildren are resting in our private family cemetery. To desecrate her legacy with this bureaucracy is **NOT PONO!**

Thank you for your time and consideration of our written testimony.

With Love and Aloha,

Edith Teixeira



Rosemary Awong

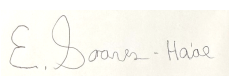


Orlando Soares POA Janet Soares-Kong




Clement Soares 

Eva Santos 

Eassie Soares-Haas 

Leiann Farrelly 

Jesse Lindley 

Koreen Perry 

Dalmacia Aldeguez 

Walterbea Aldeguez 

Juan Aldeguez  

Homelani Kozeniewski 

Kristi Arrriaga 

Maysana Lopes 

Jesus Molina 

FROM; DIANA YOUNG/TRUSTEE GERALD YH YOUNG /TRUST
41-655 KUMUHAU STREET BOX 2
WAIMANALO, HAWAII 96795
TMK# 41018022
Email: dbedt.luc.web@hawaii.gov
Honorable Jonathon Scheuer Chair

TO: LAND USE COMMISSION STATE OF HAWAII
DEPARTMENT OF PLANNING & PERMITTING DEPARTMENT
DEPARTMENT OF AGRICULTURE
DEPARTMENT OF LAND & NATURAL RESOURCES
DEPARTMENT OF FARM LAND BUREAU
MAYOR OF HONOLULU HAWAII
GOVERNOR OF STATE OF HAWAII

RE: Filing a formal Objection of the IAL PROJECT
Opposite to Proposed Important Agricultural Lands Designation

I have researched the minutes from WAA Meeting Recap from 3/9/17 Department of Agriculture it does say Land owners can "Opt out " by writing to DPP and explaining their reasoning. I did not know this project was in process or was going to involve our property. We have a small nursery in Waimanalo and plan to hand it down to the next 4th generation. I feel this program has lots of flaws for the community and very misleading. I was never informed properly of all these changes and was not notified this is a mandatory program. I am semi retired and still mourning over the lost of my husband that alone is a hard one to deal with everyday. The demands which are being put on the small land owner is really full of flaws and isn't fair to the home or land owner. We have lots of confusion and many friends and neighbors do not know or understand what is happening right now.

Decisions are being made without the community's input and being really involved. New rules are being put on top of the existing ones without input from the landowners. I work really hard everyday maintaining our nursery and property. It's not fair or right that you put such laws on fee simple owners. I don't see where they had a meeting saying you cannot opt out and its mandatory the guidelines are not clear. I don't find or have not been notified of any new incentives.

They have not informed us what we can raise or do to try and save our property from this IAL program. I find communications are really poor and nonexistent. You have to go searching for all the information I just joined the farmers association meeting last week hoping to find out answers, and didn't learn any thing new about IAL other than members there were confused as me. Our family has been doing Agriculture for generations and never had issues like this before.

I object to the designation of my property as (IAL) for the following reasons; the process for the IAL designation was flawed and did not fully inform landowners of the designation's impact; the LUC process did not provide adequate information as to how I could opt out of the IAL designation; and lastly the process was rushed and has left us all very confused and perplexed.

Policy and procedures are not in place for the public to review or know how it works. Streams in Waimanalo and the one next to my property are polluted and has it posted its health hazard warning LEPTOSPIROSIS. My property is also in a FLOOD ZONE which we have when there's heavy rains. I have lost many plants due to flooding in my own nursery and its has worsen since they don't maintain the streams. Due to these reasons please exempt our property.

I am requesting to be removed from the IAL PROJECT we are already doing Agriculture on our property and want to continue. Thank you for your understanding in this matter.
You may reach me at the following numbers Home telephone 808-259-5089 Cell number 808-391-7669 if you have any further questions.

Sincerely

Diana Young / Trustee Gerald YH Young Trust 41-655 Kumuhau Street Box 2 Waimanalo, Hawaii 96795

Cc: Land Use Commission of Honolulu Hawaii
David Orodener, Executive Officer
P.O. Box 2359
Honolulu, Hawaii 96804
Department of Business Economic Development

Department of Planning & Permitting of Honolulu Hawaii
%Raymond Young, Acting Chief, Brian Miyamoto
650 South King Street
Floor 7
Honolulu, Hawaii 96813

Department of Agriculture
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone 808-973-9600
Fax: 973-9613

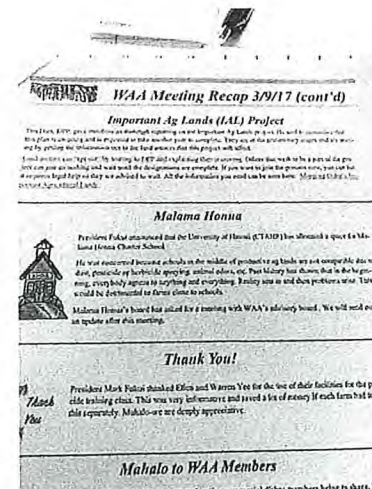
Department of Land & Natural Resources
1151 Punchbowl Street
Honolulu, Hawaii 96813

Hawaii Farm Bureau
95-1200 Mehe'ula Pkwy
Mililani, Hawaii 96789

Honolulu Hawaii Mayors Office
%Mayor Rick Blangiard
530 South King Street
Suite 300
Honolulu, Hawaii 96813
Phone: 808-768-4141
Fax: 808-768-5552

Governor of State Hawaii
Office of Governor The Honorable David Y. Ige
Executive Chambers
State Capital
Honolulu Hawaii 96813
Phone 808-586-0255
Fax : 808-586-0006
Website : <https://ltgov.hawaii.gov>

DURRETT LANG MORSE, LLLP
DAVIES PACIFIC CENTER



Hakoda, Riley K

From: philip rodgers <rodersp001@hawaii.rr.com>
Sent: Monday, May 24, 2021 9:31 AM
To: DBEDT LUC
Subject: [EXTERNAL] IAL Designation Meeting - 5/27/21 Testimony

I am strongly opposed to the IAL designation of my property in Waialua.

Our first notice of this forced IAL designation of our land was outlined in a form letter from Daniel Orodener, Executive Officer, State of Hawaii, LUC, dated 4/12/21. This letter states that I "should attend" the meeting held 3 weeks PRIOR on March 24-25, 2021! I then attempted to attend the April 28 & 29, 2021 meetings via zoom, but was advised by LUC on the day of the meetings that the meetings were full. The State of Hawaii and the City & County of Honolulu are obviously trying to push this IAL designation through without the knowledge, input, or consent of the effected small landowners.

It is my understanding that the IAL designation was originally voluntary and was designed to encourage agricultural landowners to keep their lands dedicated to agriculture, through incentives. The current IAL designation has simply become a way to enforce additional restrictions and limitations regarding land use, occupancy, dwellings, zoning and permitting, to the detriment of the small landowners. This, along with all of the undefined terms and conditions will destroy and discourage anyone from purchasing IAL designated lands and from farming. Is this really how the State of Hawaii and the City & County of Honolulu wants to promote agriculture on Oahu?

The State of Hawaii and the City & County of Honolulu have been trying to force me off my property since I purchased it, using zoning changes, additional restrictions and massive tax increases; while allowing the large landowners to avoid these changes, restrictions and taxes. The State of Hawaii and the City & County of Honolulu has done it again by allowing the large landowners to designate some of their land to IAL and allowing the rest of their land to be free of the IAL designation. I and other small landowners were not offered this opportunity, and it is my understanding that this opportunity is no longer available. I have dedicated my agricultural land to agriculture for the last 20 years and enjoy a reduction of my property taxes because of this dedication. With the IAL designation, the City & County of Honolulu can now deny this reduction in my property taxes since THEY have designated my land IAL, which will again result in a massive tax increase for me and more money for the City & County of Honolulu. Of course, the large landowners (whose agricultural lands are usually valued at 1/10th to 1/20th of my agricultural land) will still be rewarded with lower assessed value AND the agricultural dedication property tax benefits! In addition, the large landowners' unrestricted land will obviously be more valuable than the small landowners' completely restricted IAL designated land. With this IAL designation the State of Hawaii and the City & County of Honolulu are again enriching the large landowners at the expense of the small landowners.

This forced IAL designation of my land has caused my wife and I many sleepless nights and extreme stress and anxiety. My wife is disabled and I recently retired (due to health concerns) at 65 years old, with the expectation that we could live on the land we purchased, improved and maintained for the last 35 years. The IAL designation could force me out of retirement in order to meet the criteria of "actively farming" (whatever this means since it has not been defined by either the State of Hawaii or the City & County of Honolulu) and requiring me to be "actively farming" until my death. Any of our heirs or potential buyers of our property would also be forced into this "actively farming" or face unknown fines, fees, liens, limitations, restrictions, and even foreclosure and eviction. Basically this IAL designation will ENSLAVE the small landowner to the land into perpetuity. With this designation, will we even be allowed to live on our land? What about our home? The questions are unanswered and endless.

Our small amount of agricultural land (under 2 acres) will NOT affect the sustainability of agriculture on Oahu, but the State of Hawaii and the City & County of Honolulu have allowed the large landowners who COULD affect the sustainability of agriculture on Oahu to avoid the IAL designation on approximately half of their agricultural lands. Again, this will devalue the small landowners' land while making the large landowners' non IAL designated lands much more valuable.

The vast majority of the lands the City & County of Honolulu are trying to force into the IAL designation are in my area which will greatly impact my community, with little or no input from the impacted residents and landowners. The State of Hawaii and the City & County of Honolulu are using this IAL designation to impose additional restrictions, limitations, etc and to increase their tax revenue on small landowners while enriching the large landowners by

excluding approximately half of their agricultural lands from the IAL designation and allowing them to continue to receive a reduced property valuations and agricultural dedication property tax reductions.

Again, I strongly oppose the forced IAL designation of my land, and ask that the State of Hawaii Land Use Commission reject the City & County of Honolulu's proposed map of IAL designated properties since this designation is clearly unfair, will have unknown consequences regarding land use, occupancy, dwellings, zoning and permitting, property taxes, etc. and the City & County of Honolulu has NOT met the criteria required to designate these properties IAL.

Sincerely,

Philip J. Rodgers
68-346 Olohio St.
Waialua, HI 96791
(808) 223-7321
rodgersp001@hawaii.rr.com

Hakoda, Riley K

From: Jeff Bloom <jeffcta@hotmail.com>
Sent: Monday, May 24, 2021 9:39 AM
To: DBEDT LUC
Subject: [EXTERNAL] Opposition to Proposed Important Agricultural Lands Designation for LUC May 26 and 27 hearing
Attachments: Waimanalo Blooms Letter to LUC - Oppose IAL Process by LUC.pdf

Please find my written testimony (attached) for the LUC May 26 and 27 hearing re Important Agricultural Lands Designation.

Please confirm receipt.

Mahalo

Jeff Bloom

SENT VIA E-MAIL: dbedt.luc.web@hawaii.gov

Honorable Jonathon Scheuer

Chair

Land Use Commission

P.O. Box 2359

Honolulu, Hawaii 96814-2359

SUBJECT: Opposition to Proposed Important Agricultural Lands Designation

Dear Chair Scheuer and Members of the Commission,

My name is Jeff Bloom, and I am a landowner/farmer in Waimanalo and own 2 acres, zoned AG2. I recently received a letter from the Land Use Commission informing me that my property has been designated by the City and County of Honolulu as Important Agricultural Lands (IAL). Further, I was informed on April 12, 2021 that the Land Use Commission may be taking action to accept the City and County of Honolulu's Important Agricultural Lands designation which includes my property in Waimanalo.

I object to the designation of my property as IAL for the following reasons: the process for the IAL designation was flawed and did not fully inform me of the designation's impact; the LUC process did not provide adequate information as to how the acceptance of these maps would impact my property; I was never given the opportunity to meet with City & County and other officials to ask questions or fully understand the impact of this law; clear guidance on how I could opt out of the IAL designation hasn't been provided; and lastly the process was rushed and has left my family and I confused and perplexed.

Please consider my concerns and reject the City and County of Honolulu's representation that it has followed all procedures with respect to state statute. The IAL designation process needs more vetting, and landowners must be better informed and made aware about their options, how such designation will impact their lands, and whether they have the ability to "opt out" of such designation.

Mahalo for your consideration.

Sincerely,

Jeff Bloom

Jeff Bloom

Hakoda, Riley K

From: Clarence <clarence_nakata@yahoo.com>
Sent: Monday, May 24, 2021 11:35 AM
To: DBEDT LUC
Subject: [EXTERNAL] Nakata Landowner Testimony for IAL Designation Removal
Attachments: Nakata TMK 41008016 IAL Testimony.pdf

Aloha LUC,
Please accept my attached testimony for the coming meeting this week.
Let me know if you have any issues opening the pdf document or have any questions.

Mahalo,
Clarence Nakata
858-752-5025
clarence_nakata@yahoo.com

Clarence Nakata
3986 Montefrio Ct., San Diego, CA 92130
Phone: 858-752-5025
Email: clarence_nakata@yahoo.com

Land Use Commission
PO Box 2359, Honolulu, HI 96814-2359
Email: dbedt.luc.web@hawaii.gov

Aloha Land Use Commission,

This is a response to a letter I received dated April 12, 2021 from the Land Use Commission notifying me of the LUC meeting on April 28-29, 2021 on the proposed Important Agricultural Lands (IAL). I request my property be removed from being considered for IAL designation for the reasons described below.

My property in Waimanalo (TMK is 41008016) has five houses on 1.1 acres, abuts Kalanianaʻole Hwy, and is surrounded on two sides by other residential properties.

I do not believe my property fits the following criteria, according to HRS 205-44. Please see my reasoning in italics below for each criteria;

- (1) Land currently used for agricultural production;
 - *My property has been used for our family residence and four single-family rentals for nearly seven decades.*
 - *My property is not currently and has never been used for agricultural production.*
 - *The City and County of Honolulu Property Class is "Residential".*
- (2) Land with soil qualities and growing conditions that support agricultural production of food, fiber, or fuel- and energy-producing crops;
 - *My property has the productivity rating of C and E grade determined by the Land Study Bureau. An E designation is the lowest productivity quality.*
- (3) Land identified under agricultural productivity rating systems, such as the agricultural lands of importance to the State of Hawaii (ALISH) system adopted by the board of agriculture on January 28, 1977;
 - *I could not locate records that my property was identified under ALISH, however in reviewing the classification criteria I am confident my property does not qualify for any of the three classes of agricultural land: Prime, Unique, Other Important.*
- (4) Land types associated with traditional native Hawaiian agricultural uses, such as taro cultivation, or unique agricultural crops and uses, such as coffee, vineyards, aquaculture, and energy production;
 - *My 1.1 acre property with 5 homes does not have area for any agricultural use.*
- (5) Land with sufficient quantities of water to support viable agricultural production;
 - *Approximately 142 ft of the property is adjacent to a 50 ft wide, concrete-lined canal built for flood control. Most of the year the water level is about an inch and due to the*

concrete structure and cannot be pumped from my property. This water source cannot support any agricultural production.

- (6) Land whose designation as important agricultural lands is consistent with general, development, and community plans of the county;
- *My property would not be suitable for agriculture and has rental homes that provide affordable housing that the community needs. I have (and had) tenants that have lived on the property for over 10 years.*
- (7) Land that contributes to maintaining a critical land mass important to agricultural operating productivity; and
- *I do not know how these criteria was determined for my property and request access to this record.*
- (8) Land with or near support infrastructure conducive to agricultural productivity, such as transportation to markets, water, or power. [L 2005, c 183, pt of §2; am L 2008, c 233, §18]
- *As described in (5), there is no access to water sufficient to support agricultural production.*

As I described above, I believe my property is not qualified for IAL under HRS 205-44 and I request my property to be removed from consideration from the IAL map. I will request LUC records of how my property meets each of the above eight criteria for further steps if required.

In addition to the issue of my property not meeting the IAL criteria, I have the following important concerns:

- The first notice I received of my property being considered for IAL was from the April 12, 2021 LUC letter notifying me of the meeting on April 28-29, 2021. I have not received notification of this process prior to this letter, and I am notifying the LUC in this testimony that the required process was not followed in my case.
- My 1.1-acre property provides vital, long-term, and affordable rental housing and is a much better use for this purpose than for agriculture.

Please remove my property at 41-1702 Kalanianaʻole Hwy, Waimanalo (TMK is 41008016) from IAL consideration.

Mahalo,

Clarence Nakata

Phone: 858-752-5025

Email: clarence_nakata@yahoo.com

Hakoda, Riley K

From: brian@hfbf.org
Sent: Monday, May 24, 2021 3:15 PM
To: DBEDT LUC
Subject: [EXTERNAL] Hawaii Farm Bureau Testimony for LUC Meeting
Attachments: Letter to LUC_process map designations_5_24_21.pdf

Aloha Land Use Commission,

I have attached the Hawaii Farm Bureau's testimony for the May 26-27, 2021 LUC Meeting via Zoom Webinar for the Conformance of C&C of Honolulu Important Agricultural Lands (IAL) Recommendation to Applicable Statutory and Procedural Requirements.

Mahalo,
Brian Miyamoto
Executive Director
Hawaii Farm Bureau Federation
P.O.Box 253
Kunia, Hawaii 96759
(808) 848-2074
www.hfbf.org

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

May 26, 2021

Land Use Commission
Department of Business, Economic Development & Tourism
Land Use Commission
P.O. Box 2359
Honolulu, Hawaii 96814-2359
dbedt.luc.web@hawaii.gov

Re: **May 26-27, 2021 LUC Meeting via Zoom Webinar**
Conformance of C&C of Honolulu Important Agricultural Lands (IAL)
Recommendation to Applicable Statutory and Procedural Requirements

Aloha Members of the Land Use Commission:

Organized since 1948, the Hawaii Farm Bureau is comprised of nearly 1,800 farm family members statewide, and serves as Hawaii's voice of agriculture, to ensure that farming remains viable and able to move our islands toward greater self-sufficiency.

The Hawaii Farm Bureau (HFB) offers the following testimony on behalf of our organization, our members, and other agricultural landowners who will be affected by the outcome of decisions made by the Land Use Commission (LUC) regarding whether the City and County of Honolulu recommendations for the designation of Important Agricultural Lands on Oahu complies with the requirements of Sections 205-47, 205-48 and 205-49, HRS and whether the proper procedural, legal, statutory and public notice requirements were met in developing the recommendations.

HFB believes that these requirements were not met. We respectfully request that the Land Use Commission reject the recommendation by the City and County of Honolulu for the designation of Important Agricultural Lands.

Many, if not most affected landowners are unaware of how IAL designation will impact their land use and rights. Many have no knowledge about the process or have been given conflicting information about what it means from a practical standpoint. Clarification of critically important information is needed before final decision-making about their properties is made. For example, agricultural landowners are justifiably concerned about the occupancy limits on farm dwellings, especially those who plan to retire on their farm, as the 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.

Farmers have asked HFB how their property came to be designated as IAL. Our understanding of the law was that the City & County was to develop its maps of lands considered for IAL designation in consultation and cooperation with landowners and that eight specific standards and criteria were to be weighed together to determine designation. Apparently, the County Department of Planning and Permitting (DPP) recommendations include use of only one criterion determined by that agency. Furthermore, from conversations with affected agricultural landowners, the required consultation and cooperation process with landowners does not appear to have taken place. In fact, many of these farmers are shocked to find out that there may be significant long-term consequences of IAL designation of their property and that they could have made a formal request to exclude their land from designation. Those that became aware of and attended meetings were assured that their ownership rights and land values would not be affected by the designation.

In light of the substantial and still unaddressed concerns of the agricultural community, HFB believes that the City and County of Honolulu has *not* complied with the requirements for designation of lands on the Island of Oahu as IAL. We respectfully request that you reject its recommendations for the designation of these lands until such time as the proper procedural, legal, statutory, and public notice requirements are met in developing the recommendations.

Sincerely,

Brian Miyamoto
Executive Director

Hakoda, Riley K

From: Allen Smith <allenssmith@hotmail.com>
Sent: Monday, May 24, 2021 4:02 PM
To: DBEDT LUC
Subject: [EXTERNAL] Testimony re City's proposal for designation of IAL for the Island of Oahu - In opposition

May 24, 2021

Via email on 5/24/2020, dbedt.luc.web@hawaii.gov

State of Hawaii Land Use Commission
State Office Tower
Leiopapa A Kamehameha
235 South Beretania Street, Room 406
Honolulu, Hawai'i 96813

Re: Conformance of City and County of Honolulu Important Agricultural Lands (IAL)
Recommendation to Applicable Statutory and Procedural Requirements; LUC meeting on May 26-27; Testimony in Opposition

Dear Land Use Commission Members,

My name is Allen Smith. **I am testifying in opposition to the City's proposal for designation of IAL for the Island of Oahu.**

The TMK number of my Waimanalo property, which is jointly owned by other family members, is 4-1-010-068, and the address is 41-1040 Waikupanaha Street, Waimanalo, HI 96795. I own a 1/4th interest in the property which is a total of 1.78 acres. My property has been in my family for generations. My grandfather, John Teixeira, acquired the property many decades ago, conveyed it to his children in 1973, and my mother, Lorraine Smith, conveyed to me a 1/6th interest in the property in 2014, and a 1/12th interest in 2018. I intend to convey my 1/4 interest to my children.

The first I've ever heard about the City's proposed designation of my family's property as IAL was when I received the April 12, 2021 letter from the Land Use Commission advising me of such designation, and of the LUC meeting on April 28-29, 2021. I had no idea that my property was even being considered for an IAL designation.

The City failed to meet the process outlined in HRS § 205-47. In particular,

- HRS § 205-47(b) required the City to "develop maps of potential lands to be considered for designation as important agricultural lands **in consultation and cooperation with landowners**." I was not consulted by, nor did I cooperate with the City, in developing maps of potential IAL.
- HRS § 205-47(c) required the City, through its planning department, to develop an **inclusive process for public involvement in the identification of IAL**. Although I heard during the LUC's April 28-29th meeting that a public meetings were held, I do not recall ever hearing about such meetings, nor do I recall receiving any notice of such meetings. How could the City's process be deemed "inclusive"?

- HRS § 205-47(d) required the City to take **reasonable action to notify each owner of those lands by mail or posted notice on the affected lands to inform them of the potential designation of their lands** upon identification of potential lands to be recommended to the City Council as potential IAL. I have not received any mailed notice of any City Council meeting, nor was any notice posted on my property.

The fact that the LUC was able to provide a clear notice of its meetings to consider the City's proposed designation is evidence of the City's shortcomings. The LUC's notice informed me that my property might be affected, and gave me clear instructions on how to participate in the Zoom meeting. The City could have done, but failed to do, something similar. The City's process was not reasonable, not inclusive, not cooperative, and failed to meet even minimum statutory requirements for consultation and notice. In conclusion, the City failed to comply with requirements for designating IAL, and failed to meet proper procedural, legal, statutory and public notice requirements in developing the recommendations.

I respectfully request that the LUC deny the City's proposal for designation of IAL for the Island of Oahu, when the LUC considers this matter on May 26-27. Thank you for your consideration.

Allen Smith
PO Box 720
Waimanalo, HI 96795

Hakoda, Riley K

From: Kimberleigh Villasenor <pcful_1@mac.com>
Sent: Monday, May 24, 2021 6:24 PM
To: DBEDT LUC
Cc: ckysay@honolulu.gov; atupola@honolulu.gov
Subject: [EXTERNAL] Important Agricultural Lands (IAL): Formal Objection & Contested Case Hearing Request
Attachments: IAL Designation Letter.docx

Aloha,

Please find attached: Written Testimony - Formal Objection to Important Agricultural Lands (IAL) designation and Contested Case Hearing request.

Please contact Kimberleigh (Peters) Villasenor @ 808-630-7708 or email @ pcful_1@mac.com with any questions.

Mahalo,

Kimberleigh (Peters) Villasenor
POA for Henry H. Peters

5/24/2021

TO: Land Use Commission
Dept of Business, Economic Development & Tourism
State of Hawai'i

FROM: Kimberleigh K. Villasenor
(POA for Henry H. Peters, Trustee for Joe W. Drake
and Hoaliku Drake Trusts)
84-929 Moua Street
Wai'anae, HI 96792

RE: IAL: Important Agricultural Land designation
TMK 1-8-7-21-19
87-1610 Ulehawa Rd.
Wai'anae, HI 96792

Aloha,

I am submitting this testimony regarding the County proposal for Designation of Important Agricultural Lands for the Island of Oahu. I formally strongly object to this designation and call into question the validity of this process, procedures, and criteria utilized to propose designation of the aforementioned land owned by my Grandparents' Trusts. An IAL designation will erode our rights to develop and use our agricultural property and as with much of the land zoned as agricultural in Hawai'i, our land has little if any real potential for economically-viable agricultural production. Therefore, I am requesting a contested case hearing, pursuant to HRS 91 and HRS 205-49 (a) (3).

In 2005, the state legislature enacted the IAL laws stating that agriculturally zoned lands that met certain agricultural production criteria (adequate soil, water, access to markets, past agricultural production, etc.) were to be designated as IAL through either the voluntary petition of the landowner, or through the **involuntary method of recommendation by each of the counties to the State LUC**.

Although the counties were to have submitted their recommendations to the LUC within three years of the enactment of these laws, the City & County of Honolulu was the first county to submit its proposed IAL map to the LUC in June of 2019.

During 2015-2017, we were not aware that we could've submitted written objection to the IAL designation and a formal written request to the City & County's Dept. of Planning and Permitting to exclude our land from the IAL map boundaries. It has

recently come to our attention that although some landowners did, in fact, do this, and were granted exclusion from the IAL map boundaries, other landowners' requests were denied or not responded to at all. This is unacceptable.

Sincerely,
Kimberleigh Villasenor

Hakoda, Riley K

From: kalamapaddler <kalamapaddler@gmail.com>
Sent: Tuesday, May 25, 2021 12:58 AM
To: DBEDT LUC
Subject: [EXTERNAL] FW:

Sent from my T-Mobile 4G LTE Device

----- Original message -----

From: Kimberly Kalama <fourhoofing@gmail.com>
Date: 5/25/21 12:51 AM (GMT-10:00)
To: David Kalama <kalamapaddler@gmail.com>
Subject:

Sent from Mail for Windows 10

City and County of Honolulu

May 24, 2021

Land Use Commission

Aloha, thank you for giving me the opportunity to comment, give my testimony on the proposed recommendation for Important Agricultural Lands.

Myself and my Ohana are in opposition and object to the proposed map for important agricultural lands recommendations.

Because of this process and the alleged serious change of land zoning designation to our property from Residential/Agricultural to Important Agricultural Land. Has and will set forth Rules and Regulations that we did not commit to. As fee simple home owner, we are now in defense to protect our rights to our land, home, family, culture and well-being. This issue has elevated detrimental impacts on our family.

This process of elimination is another form of terroristic threatening and another form of extortion by the Government. I do not accept this attempted forced upon decision in such corrupt affairs.

Our family has lived on this land for Generations. Our Kupuna are buried on this property. Our Grandfather, Mother, My Husband and myself, our children and grandchildren all reside and lived on this land. That is already 6 Generations rooted.

Not to mention our property is crowned lands and given us the right to be here by our King Kauikeaouli and our Kupuna, his wife, Queen Kalama.

This is an unfair process. For the City and County of Honolulu to be able to meet with some larger land owners and give them special privilege to alter and to secure changes on their properties to not be designated as IAL in private session. It is unfair, sneaky and under handed. The rest of us will be reviewed in bulk process by the LUC to make decisions on our determined outcome.

As I reiterate this process threatens the lives of hundreds if not thousands of individuals and families for what purpose?

While looking over the criteria to determine what lands will be recognized as potential IAL use. The criteria clearly states "Agricultural lands useful as quality production lands". The area we live including our neighbors who all have been given notice are parcels of different shapes and sizes. We are not large land mass. We are families who live and own fee simple properties for generations. We do not fall in the criteria as stated and if we say nothing we face consequence of losing our life as we know it.

It is sad to know that the City would rather attack us small land owners rather than fight for uninhabited prime agricultural lands with no inhabitants. For example, Koa Ridge. Before a developer snagged it politically. The City would rather see a developer turn all that prime Agricultural land to TMK's for profit that most of us can't afford. The City failed to recognize prime agricultural lands that should have been preserved and saved from future development for the purpose of agriculture only. One of the main criteria in their standard. Not to mention numerous other projects that are on prime Agricultural lands.

Again I am in opposition to the proposed map for important agricultural Lands recommendations.

Mahalo for your time, Kimberly Kalama

41-1016 Waikupanaha Street Waimanalo, Oahu 96795

Hakoda, Riley K

From: Irons, Tim <tim.iron@dentons.com>
Sent: Monday, May 24, 2021 8:12 PM
To: DBEDT LUC
Cc: Vega, Courtney A.
Subject: [EXTERNAL] RE: Action Item V. Conformance of C&C of Honolulu Important Agricultural Lands (IAL) Recommendation to Applicable Statutory and Procedural Requirements [DEN-US_Active.FID15310948]
Attachments: May 24 2021 LUC IAL Submittal The Edmund C. Olson Trust No. 2.pdf

Please find attached written testimony addressing the Land Use Commission's May 26-27, 2021 board meeting on Conformance of C&C of Honolulu Important Agricultural Lands (IAL) Recommendation to Applicable Statutory and Procedural Requirements.

Sincerely,



Tim Irons

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From: Irons, Tim
Sent: Tuesday, April 27, 2021 6:45 AM
To: dbedt.luc.web@hawaii.gov
Cc: Vega, Courtney A. <courtney.vega@dentons.com>
Subject: Action Item V. Conformance of C&C of Honolulu Important Agricultural Lands (IAL) Recommendation to Applicable Statutory and Procedural Requirements [DEN-US_Active.FID15310948]

Please find attached written testimony addressing the Land Use Commission's April 28-29, 2021 board meeting on Conformance of C&C of Honolulu Important Agricultural Lands (IAL) Recommendation to Applicable Statutory and Procedural Requirements.

Sincerely,



Tim Irons

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May 24, 2021

VIA E-MAIL ONLY

State of Hawaii, Land Use Commission
P.O. Box 2359
Honolulu, HI 96814-2359
dbedt.luc.web@hawaii.gov

Dear Chair Scheuer and Commissioners:

This letter is a follow up to our previous letters of April 26 and April 29, 2021 on behalf of The Edmund C. Olson Trust No. 2 ("Trust") concerning the City & County of Honolulu's ("C&C") IAL mapping proposal. We understand a continued meeting is being held to consider whether C&C's IAL process complied with the requirements of Hawaii Revised Statutes ("HRS") Sections 205-47, 205-48 and 205-49 and whether procedural, legal, statutory and public notice requirements were met in developing the recommendations. We reiterate our position that a Land Use Commission ("LUC") determination that C&C's process complies with State law will impact the legal rights, duties and privileges of all landowners, including the Trust, whose land has been proposed for IAL designation, for which due process mandates a hearing.

On May 20, 2021, the State Office of Planning ("OP") submitted a second letter claiming that C&C designation process was compliant with State law but then arguing for exclusion of over 700 parcels from consideration.¹ OP claims that the IAL County process only sets forth two requirements (1) an inclusive process of public involvement and (2) after identification of proposed IAL, reasonable action to notify affected land owners. This is incorrect. OP ignores the requirement of consulting and cooperating with landowners prior to proposing their lands for designation (HRS § 205-47(b)) and the requirement of reporting on representations and position statements of affected landowners (*Id.* (d)(5)). Had these requirements been met (and the IAL criteria followed), there would have been no need for OP to now recommend excluding over 700 parcels. This is because the land owners would have confirmed that productive commercial farming on parcels less than two acres is not viable. Further, OP provides no justification for C&C failing to weigh the statutory criteria for designating IAL as required by State law, and relying on only one of three criteria.² C&C's process was not compliant and efforts to salvage the flawed process should be disregarded as it is not the LUC's role to create the evidentiary record necessary to support the IAL designation.

¹ OP recommends eliminating 709 of the 1,781 parcels recommended by C&C for IAL designation. OP also recommends excluding certain State lands acquired after the C&C recommended lands for IAL designation.

² For example, the Trust's Palehua Property was recommended for inclusion based on a single criterion (land currently used for agricultural production) that itself is unsupported by any evidence upon which the LUC could make the IAL designation.

With regard to flaws in the process we offer the following additional considerations:

1. Not All State LUC Agricultural District Land Is Suitable As IAL

As noted in our April 26, 2021 letter, the Trust's Palehua Property is proposed for IAL designation based solely on criterion number 1 (i.e., the land is currently used for agricultural production). The use of criterion 1 was based on the 1978-1980 Island of Oahu Agricultural Land Use Map and the fact that the land receives an AG exemption for tax purposes. In other words, the Palehua Property is included in C&C's IAL proposal because it is within the State LUC Agricultural District and, as such, receives a tax exemption. This is circular logic that would allow all AG lands to be designated IAL. Much of the land in the State LUC Agricultural District, however, is marginal land unsuitable for agricultural production. See HRS § 205-2(d) ("Agricultural districts include areas that are not used for, or that are not suited to, agricultural and ancillary activities by reason of topography, soils, and other related characteristics."). See also Hawaii Administrative Rules ("HAR") §15-15-19. Because a lot of unsuitable land was put into the LUC Agricultural District, it is a very poor screening tool for selecting land for IAL designation.

2. C&C's Characterization Of The Affects Of IAL Designation Is Misleading—IAL Designation Triggers New Land Use Plans, Ordinances And Rules To Promote IAL Policies

During C&C's presentation before the LUC on April 29, 2021, C&C maintained its position that IAL designation merely provides AG incentives and does not in any way limit the use of the land. OP, in its May 20, 2021 letter, similarly argues that IAL is merely a "resource overlay" that helps the State to direct significant incentives.³ This is extremely misleading. HRS § 205-43 mandates that State and County laws promote IAL policies, including policies that prevent uses that are otherwise permitted within the State LUC Agricultural District.

HRS § 205-43 (titled IAL policies) provides in relevant part:

State and county agricultural policies, tax policies, **land use plans, ordinances, and rules** shall promote the long-term viability of agricultural use of important agricultural lands and **shall be consistent with and implement the following policies:**

* * *

(3) Direct nonagricultural uses and activities⁴ from important agricultural lands to other areas and ensure that uses on important agricultural lands are actually agricultural uses;

³ OP's letter is very carefully worded to promote the idea that IAL designation will not negatively impact affected landowners. For example, OP claims that "there are very few if any interests being deprived". Which is it, few or none? OP focuses on "uses" but does not address the IAL policies to enact land use laws that will promote or prevent agricultural "activities" that are much more narrowly defined than "uses". OP's statements are also couched in terms of existing uses, i.e. "if renewable energy is allowed on the land now, it will still be allowed after IAL designation." What if a renewable energy project is proposed after IAL designation, will it be allowed then? The answer is it will depend what land use plans, ordinances and rules have been adopted to promote actual agricultural uses and how courts decide challenges to approvals of non-agricultural activities on constitutionally protected IAL.

⁴ "Agricultural activity" is limited to: (1) Cultivation of crops, including crops for bioenergy, flowers, vegetables, foliage, fruits, forage, and timber; (2) Game and fish propagation; (3) Raising of livestock, including poultry, bees, fish, or other animal or aquatic life that are propagated for economic or personal use. See HRS § 205-4.5 (a)(17).

(4) Limit physical improvements on important agricultural lands to maintain affordability of these lands for agricultural purposes;

* * *

Contrary to C&C's claim that IAL designation will not affect the range of uses permitted, the statute actually mandates that C&C's land use plans, and its laws and rules, promote policies that prevent non-agricultural uses and activities on these lands.⁵

Just a few of the currently permitted uses within the State LUC Agricultural District that appear to be contrary to HRS § 205-43 include: (i) wind-generated energy production, (ii) biofuel processing, (iii) **solar energy facilities**, (iv) agricultural-based commercial operations, (v) hydroelectric facilities, (vi) public and private open area recreational uses, (vii) utility lines, roadways, transformer stations, communications equipment buildings, solid waste transfer stations, major water storage tanks, and appurtenant small buildings such as booster pumping stations, (viii) mills, storage, and processing facilities, maintenance facilities, photovoltaic, biogas, and other small-scale renewable energy systems, and (ix) wireless communication antennas. See HRS §§ 205-2(d), 205-4.5(a).

Landowners and decision-makers have been given misleading information from C&C about the impact that IAL designation would have on permitted uses of their land. As a result, relatively few members of the public got involved during C&C's process. In addition, the public has not been shown the land use plans, ordinances, and rules that the State and County governments plan to enact in adherence with the policies under HRS § 205-43. Proposing or establishing IAL maps puts the cart before the horse because the public cannot understand what IAL means unless and until the required changes to State and local laws are presented and enacted. The LUC should not go forward with this IAL process until the required IAL policies are enacted and understood.

3. **C&C's Proposed IAL Designation Fails To Take Into Account The State's Countervailing Energy And Climate Policies And Goals**

Act 159 of 2007 amended HRS Chapter 205 in recognition of Hawaii's dependence on petroleum and extreme vulnerability to oil embargos, supply disruptions, and international market dysfunctions. "To shape Hawaii's energy future and achieve the goal of energy self-sufficiency for the State of Hawaii, efforts must continue on all fronts, integrating new and evolving technologies, seizing upon economic opportunities to become more energy efficient and economically diversified, and providing incentives and assistance to address barriers." See Act 159 (2007) (SB1943 SD2 HD2 CD1). Act 31 of 2008 amended permitted uses within the LUC Agricultural District to allow for solar energy facilities, in recognition of the serious risks to Hawaii's economic and energy security and sustainability, and the value of increasing the use of Hawaii's abundant renewable energy resources to reduce greenhouse gas emissions, and contributions to global warming (as well as creating new job opportunities and economic diversification). The Legislature continued this crucial trend toward promoting Hawaii's energy self-sufficiency in 2011 through the enactment of Act 217, which expanded the range of LUC Agricultural District lands where solar energy facilities could be located. In explaining its rationale for this change, "[t]he legislature further finds that allowing renewable energy facilities within the agricultural district furthers and is consistent with the purposes, standards, and criteria for uses within agricultural lands. Renewable energy facilities increase the State's energy self-sufficiency and agricultural sustainability." *Id.* at Section 1. And, in 2015, Act 97 was enacted, requiring 100 percent of Hawaii's electricity sales to come from renewable resources

⁵ OP's May 20, 2021 letter submittal fails to sufficiently address this issue. A simple question should be asked: If IAL designation does not change land use or restrict activities on the land, then why is it necessary to force a landowner to accept the designation? In other words, if IAL designation is merely an incentive program then it should be one hundred percent voluntary. Of course, the truth is that IAL is a new land use designation (enshrined in the Hawaii Constitution) that will impact the use and activities permitted upon the land that is the entire point of this process. That is why large landowners have spent large sums of money voluntarily designating 51% of their lands to avoid the designation on the remaining 49%. As such, property interests are at stake and due process requires a contested case hearing.

by 2045. "The legislature finds that Hawaii's dependency on imported fuel drains the State's economy of billions of dollars each year. A stronger local economy depends on a transition away from imported fuels and toward renewable local resources that provide a secure source of affordable energy. . . . This target will ensure that Hawaii moves beyond its dependence on imported fuels and continues to grow a local renewable energy industry." The Acts are attached for reference.

Currently, solar energy facilities may be permitted on land with LSB "B" and "C" rated soils. HRS § 205-2(d)(6). Recently, there has been a push to allow utility grade solar fields on LSB "A" rated AG land (House Bill 593) to accommodate the renewal energy needs of the State of Hawaii and particularly Oahu. The IAL designation will restrict any development that is not a true agricultural activity (including solar energy facilities); regardless of whether a particular use is a permitted use. Opponents will claim that given the limited acreage of IAL on Oahu, none of it can be spared for non-agricultural activities such as solar energy generation. Ironically and contrary to the intent of State law, solar energy projects will be directed off of marginal IAL with "E" and "F" soil ratings and onto non-IAL with "B" and "C" soil ratings. This perverse incentive structure is a direct result of C&C ignoring the importance of ALISH and soil classification criteria in favor of an approach designed to be as inclusive as possible.

4. The LUC Must Make The Threshold Determination That The Evidence Submitted Is Complete Prior To Determining C&C's Compliance

Nothing in the record presented on the LUC's website indicates whether the LUC ever made the threshold determination required under HAR § 15-15-125(c), which states that a county-submission "shall not be deemed complete unless all of the evidence set forth in section 15-15-125(b) **has been transmitted and accepted by the commission.**" This initial requirement for an IAL process at the LUC is similar to the LUC's requirement that, before any other steps can be taken on a filed petition for district boundary amendment, the LUC's executive officer must determine whether the petition is a proper filing and is accepted for processing. See HAR § 15-15-50(e), (f). The record does not reflect whether the LUC made the required determination of completeness and acceptance of C&C's submission or what the LUC's rationale was. Therefore, the public cannot ascertain the current stage of these proceedings, and all actions taken pursuant to these proceedings suffer from this lack of notice and due process.

The LUC was required to make that threshold determination of acceptance and completeness before C&C's IAL submission was circulated to the State Department of Agriculture ("DOA") and the State Office of Planning ("OP"). If that was not done, the DOA and OP filings are improper and should be disregarded. HRS § 205-48(b) requires the DOA and OP to "review the county report and recommendations and provide comments to the land use commission **within forty-five days of the receipt of the report and maps by the land use commission.**" It does not appear that this was done. The LUC did not transmit anything to the DOA or OP. Moreover, the DOA and OP made submissions to the LUC months after C&C's submittals to those agencies were made.⁶ Indeed, OP submitted a letter on May 20, 2021 arguing that C&C met the procedural requirements for submitting its IAL recommendations

⁶ C&C's 4/21/2021 "Recommendation" filing with the LUC (<https://luc.hawaii.gov/wp-content/uploads/2021/04/DR-CC-HNL-IAL-003.pdf>) recites that the City Council submitted a complete record of its proceedings to the LUC on 9/22/2020. *Id.* at 21. C&C's 4/21/2021 Recommendation filing recites that on 9/22/2020, C&C served "a complete record of its proceedings in support of its IAL recommendation to the DOA and the OP[.]" C&C Recommendation at 22. As such, DOA and OP were required by law to provide their comments within 45 days under HRS § 205-48(b) and HAR § 15-15-125(f), or by November 6, 2020. That did not happen. Instead, those submittals were over three months late. DOA's submittal to the LUC is file stamped 2/10/2021. OP's submittal to the LUC is file stamped 2/10/2021. See <https://luc.hawaii.gov/wp-content/uploads/2021/04/DOA-Comments-on-City-IAL-petition-to-LUC-2021.pdf>; and see <https://luc.hawaii.gov/wp-content/uploads/2021/02/Citys-IAL-Recommendations-to-LUC-OP-comments-Signed.pdf>.

and that affected landowners are not entitled to a contested case hearing. This untimely submission should be rejected as well.

These procedural irregularities, together with potentially missing documents that the C&C relies upon in its Recommendation filing with the LUC,⁷ are contrary to notions of due process and fair notice. **In the absence of timely and proper filings, made only after the LUC provides its threshold determination of acceptability and completeness, the LUC must reject the C&C's proposal, remand the matter and close these proceedings.**

5. The State Agricultural District Designations Should Be Updated Before Imposing IAL Designations On Private Lands

From the initial enactment of Hawaii's land use law in 1963, it was understood that land put into the LUC Agricultural District would include marginal, non-agricultural lands. "Agricultural districts shall include activities or uses as characterized by the cultivation of crops, orchards, forage, and forestry; farming activities . . . These districts may include areas which are not used for, or which are not suited to, agricultural and ancillary activities by reason of topography, soils, and other related characteristics." HRS § 205-2(d) and HAR §15-15-19. But the initial LUC designations were never intended to be static, but so far the government has not updated such designations. Because marginal land remains in the State LUC Agricultural Districts, C&C's starting point for IAL determination is inherently flawed because it is relying on old decisions that should have been updated on a regular basis.

HRS § 205-18 calls for periodic reviews of State LUC districts. OP is obligated to undertake a review of **all** lands in the State **every five years**, starting in 1990. OP is also empowered to initiate State LUC boundary amendments. Before this power was delegated to OP, it was the responsibility of the LUC. These boundary reviews have not taken place. Because of this, decisions that were made in the 1960s, when land was first put into State LUC districts (including districts that were acknowledged as inappropriate at the time), are controlling land uses and activities to this day. **Before C&C or any governmental agency tries to impose IAL designations on private lands, the government should first comprehensively assess the propriety and viability of existing State LUC Agricultural District designations.**

6. C&C Ignored The Majority Of The Statutory Criteria Under HRS § 205-44, Undermining The LUC's Obligations Under HRS § 205-49(A)(1) To Determine That the Proposal "Meets The Standards And Criteria Under Section 205-44."

C&C's IAL identification process is not consistent with the requirements under HRS § 205-44(a), which require consideration of each of the 8 criteria, and a weighing of those standards and criteria as applied to each property in order to meet the constitutionally mandated purposes in Article XI, section 3 of the Hawaii Constitution. Because C&C ignored 5 of the 8 statutory criteria, the LUC will not be able to comply with its mandate under HRS § 205-49 (a)(1) to "consider the extent to which: (1) the proposed

⁷ Note that the C&C's Recommendation filing with the LUC, at p. 22, refers to a letter from OP dated 2/19/2021, where OP apparently concurred with C&C's IAL recommendation. This document is not posted on the LUC's website, but C&C relies on it to support its position before the LUC. The LUC must, in the interest of due process, disregard late submittals and those that were never presented on the LUC's website. And the LUC must strike the relevant portion of C&C's Recommendation filing that relied on this OP letter, i.e. the last paragraph on p. 22 and the first paragraph on p. 23.

Similarly, C&C's Recommendation at p. 11 refers to DOA having submitted comments to the LUC on 2/2/2021, and claims that DOA commented that the City's IAL mapping submittal meet the county's IAL mapping requirements under HRS Chapter 205. This reference to the DOA submittal and any related conclusions must be stricken from the C&C's Recommendation in the interest of due process, as no such DOA letter has been posted to the LUC website.

lands meet the standards and criteria under section 205-44." Therefore, this process should not go forward. Should C&C wish to make a later proposal for IAL, it must first identify lands after considering all standards and criteria under HRS § 205-44.

C&C admits that it deviated from statute and created its own methodology for weighing the statutory criteria. See C&C's 4/21/2021 "Recommendation" filing with the LUC (<https://luc.hawaii.gov/wp-content/uploads/2021/04/DR-CC-HNL-IAL-003.pdf>) at 13-14. While it is true that land designated for IAL "need not meet every standard and criteria listed in [HRS § 205-44] subsection (c)" that was not the issue that was before C&C. In identifying lands for IAL consideration, C&C must apply **all** of the standards and criteria under HRS § 205-44.⁸ Despite that requirement, C&C, in consultation with its technical advisory committee, selected only 3 criteria to use for its screening process. See 2018 IAL Report, Appendix G.

It ignored criteria (3), which identifies ALISH lands (agricultural lands of importance to the State of Hawaii), as adopted by the board of agriculture as a key criteria for IAL consideration. C&C also disregarded whether any lands were associated with traditional native Hawaiian agricultural uses or unique crops and uses (criteria (4)), and it ignored whether the lands had or were near infrastructure to support agricultural productivity (criteria 8).

By law, C&C was obligated to evaluate each of the statutory criteria when identifying lands for IAL consideration. Only after it assessed the consistency with each criteria (so that the appropriate range of information was provided and analyzed) could C&C then engage in a ranking methodology to determine what criteria and lands were most well suited for IAL. Instead, it is clear that C&C developed a methodology to include all eligible LUC Agricultural District lands. **This flawed process should not go forward because the LUC has not been given the information it needs to exercise its statutory obligations under HRS § 205-49(a), and confirm that C&C's proposed lands "meet with the standards and criteria under section 205-44."**

7. C&C's Process Ignored Facts On The Ground And State-Recognized Soil Determinations

In its 4/21/2021 "Recommendation" filing with the LUC (<https://luc.hawaii.gov/wp-content/uploads/2021/04/DR-CC-HNL-IAL-003.pdf>), C&C claims that its proposal presents a "long-term vision for quality farm land most suited to farming" and that it "attempts to reserve the best lands for agricultural production[.]" *Id.* at 1, 2. This is, however, not accurate according to the agricultural standards applied in the State of Hawaii, including the standards applied by the LUC pursuant to HRS Chapter 205.

C&C ignored the ALISH soils ratings in crafting its proposal, despite the fact that HRS § 205-44(c)(3) expressly identifies ALISH ratings as a standard and criteria to be considered in the identification of IAL. ALISH soils statewide were categorized based on field surveys that incorporated a broad range of factors including soil properties, climatic factors, growing season, moisture supply, drainage, crop yields, etc. This is a recognized soil inventory that was approved by the State Board of Agriculture, but was disregarded by C&C.

On this basis alone, the Trust's Palehua Property should have been eliminated from consideration. Over 97% of the Palehua Property lands are either unclassified or classified as "other" under the ALISH classification system. In other words, less than 3% of the land is classified as Prime or Unique. This is information that was readily available to C&C and ignored. Moreover, over 72% of the land has slopes greater than 20%. Pursuant to its February 10, 2021 filing, OP disagreed with the designation of large

⁸ "(a) Each county shall identify and map potential important agricultural lands within its jurisdiction based on the standards and criteria in section 205-44 and the intent of this part, except lands that have been designated, through the state land use, zoning, or county planning process, for urban use by the State or county." HRS § 205-47.

land areas with slopes greater than 20% due to the fact that any agricultural activity is severely constrained. As can be seen on Figure 1 (referenced in OP's submittal), the vast majority of the Trust's Palehua Property falls within the lands that OP deems to be "severely constrained." See Figure 1, attached. Accordingly, the Palehua Property should never have been included in C&C's recommended IAL mapping and is a prime example of C&C's flawed process.

Sincerely,

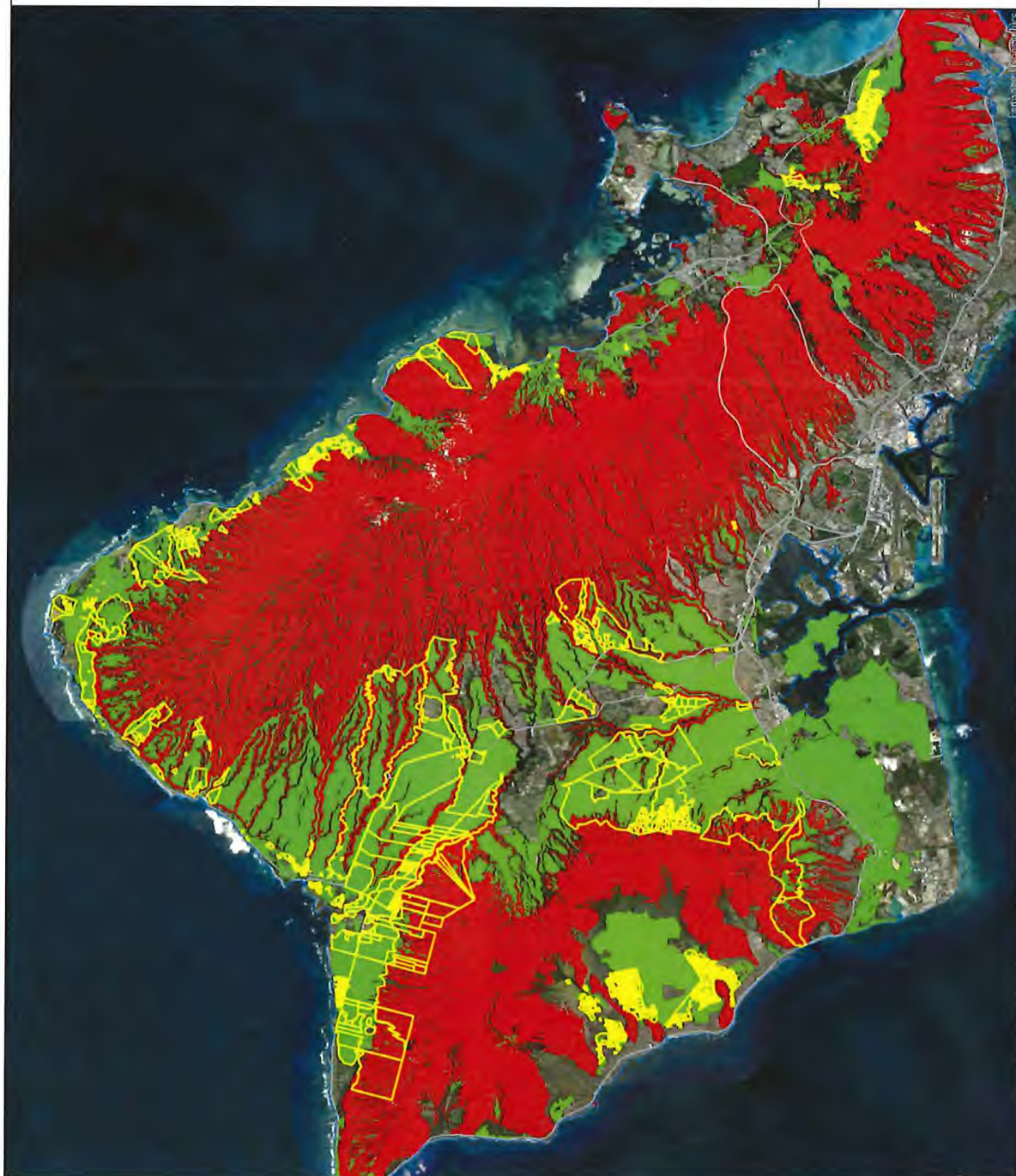


Timothy H. Irons
Dentons US LLP
On Behalf of The Edmund C. Olson Trust No. 2

Attachment

Figure 1.

**Agricultural Productivity Ratings
and Slope of Lands Proposed for
Designation as Important
Agricultural Lands, Island of Oahu**



- Lands proposed for IAL designation, adopted by City Council, 2018
- Lands rated as Land Study Bureau (LSB) A, B, or C or classed as Agricultural Lands of Importance to the State of Hawaii (ALISH) Prime, Unique, or Other
- Lands with slope greater than 20 percent
- Major roads

RECEIVED
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STATE OF HAWAII
LAND USE COMMISSION

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HAWAII STATEWIDE GIS PROGRAM
HAWAII STATE
OFFICE OF PLANNING

This map was prepared by the Office of Planning (OP) for planning purposes. It should not be used for any other purpose. The map is a generalization of the information presented in the map. The accuracy of the data presented can be obtained from OP.
Sources:
Lands proposed for IAL designation, Major roads, CAC of Honolulu, ALISH, LSB ratings, State Office of Planning, Percent Slope, USGS.
Map Name: 20210104-01-EE
Map Date: 1/25/2021 4:42 PM



GOV. MSG. NO. 662

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

April 23, 2008

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on April 23, 2008, the following bill was signed into law:

HB2502 HD2

A BILL FOR AN ACT RELATING TO SOLAR
ENERGY.
(ACT 31)

Sincerely,


LINDA LINGLE

Approved by the Governor

on APR 23 2008

HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2008
STATE OF HAWAII

ACT 031

H.B. NO. 2502
H.D. 2

A BILL FOR AN ACT

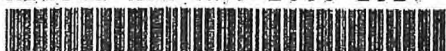
RELATING TO SOLAR ENERGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that renewable energy
2 resources can greatly benefit Hawaii's economy, environment,
3 energy security, and sustainability. The increased use of
4 Hawaii's abundant renewable energy resources, such as wind,
5 solar, ocean thermal, wave, and biomass resources, is key to
6 reducing Hawaii's green house gas emissions and contribution to
7 global warming and creating new job opportunities and economic
8 diversification.

9 The legislature also finds that Hawaii's trade deficit is a
10 significant impediment to Hawaii's goal of economic and energy
11 security and sustainability. Specifically, in 2006, Hawaii
12 goods and services exports were only \$16,300,000,000, including
13 visitor spending, while imports were approximately
14 \$24,000,000,000. The legislature further finds that Hawaii's
15 oil imports totaled \$3,400,000,000 for the year, accounting for
16 approximately 15 per cent of the total imports. Over 93 per
17 cent of Hawaii's energy is supplied by fossil fuel. The
18 legislature further finds that allowing solar energy facilities

HB2502 HD2 HMS 2008-2517



1 to be built on marginal agricultural lands may have more
2 beneficial effects for Hawaii's economy, environment, and energy
3 security than leaving such lands unused.

4 The purpose of this Act is to include a solar energy
5 facility as a permitted use within the agricultural district on
6 land with soil classified D or E.

7 SECTION 2. Section 205-2, Hawaii Revised Statutes, is
8 amended by amending subsection (d) to read as follows:

9 "(d) Agricultural districts shall include:

- 10 (1) Activities or uses as characterized by the cultivation
11 of crops, crops for bioenergy, orchards, forage, and
12 forestry;
- 13 (2) Farming activities or uses related to animal
14 husbandry[7] and game and fish propagation;
- 15 (3) Aquaculture, which means the production of aquatic
16 plant and animal life within ponds and other bodies of
17 water;
- 18 (4) Wind generated energy production for public, private,
19 and commercial use;
- 20 (5) Biofuel production, as described in section
21 205-4.5(a)(15), for public, private, and commercial
22 use;

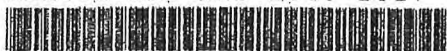


1 (6) Solar energy facilities; provided that this paragraph
2 shall apply only to land with soil classified by the
3 land study bureau's detailed land classification as
4 overall (master) productivity rating class D or E;

5 ~~[(6)]~~ (7) Bona fide agricultural services and uses that
6 support the agricultural activities of the fee or
7 leasehold owner of the property and accessory to any
8 of the above activities, regardless of whether [or
9 ~~not]~~ conducted on the same premises as the
10 agricultural activities to which they are accessory,
11 including but not limited to farm dwellings as defined
12 in section 205-4.5(a)(4), employee housing, farm
13 buildings, mills, storage facilities, processing
14 facilities, vehicle and equipment storage areas,
15 roadside stands for the sale of products grown on the
16 premises, and plantation community subdivisions as
17 defined in section 205-4.5(a)(12);

18 ~~[(7)]~~ (8) Wind machines and wind farms;

19 ~~[(8)]~~ (9) Small-scale meteorological, air quality, noise,
20 and other scientific and environmental data collection
21 and monitoring facilities occupying less than one-half
22 acre of land; provided that these facilities shall not



1 be used as or equipped for use as living quarters or
2 dwellings;
3 ~~[(9)]~~ (10) Agricultural parks;
4 ~~[(10)]~~ (11) Agricultural tourism conducted on a working
5 farm, or a farming operation as defined in section
6 165-2, for the enjoyment, education, or involvement of
7 visitors; provided that the agricultural tourism
8 activity is accessory and secondary to the principal
9 agricultural use and does not interfere with
10 surrounding farm operations; and provided further that
11 this paragraph shall apply only to a county that has
12 adopted ordinances regulating agricultural tourism
13 under section 205-5; and

14 ~~[(11)]~~ (12) Open area recreational facilities.
15 Agricultural districts shall not include golf courses and golf
16 driving ranges, except as provided in section 205-4.5(d).
17 Agricultural districts include areas that are not used for, or
18 that are not suited to, agricultural and ancillary activities by
19 reason of topography, soils, and other related characteristics."

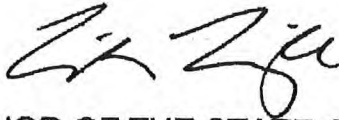
20 SECTION 3. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22 SECTION 4. This Act shall take effect upon its approval.



H.B. NO. 2502
H.D. 2

APPROVED this 23 day of APR, 2008



GOVERNOR OF THE STATE OF HAWAII

ACT 97

H.B. NO. 623

A Bill for an Act Relating to Renewable Standards.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that Hawaii's dependency on imported fuel drains the State's economy of billions of dollars each year. A stronger local economy depends on a transition away from imported fuels and toward renewable local resources that provide a secure source of affordable energy.

The legislature further finds that alternative energy technologies have advanced significantly in recent years, leading to an explosion of new markets, jobs, and local energy sources. Due to these and other advances, Hawaii is currently ahead of its timeline in reaching its goal of becoming forty per cent renewable by 2030.

The legislature also finds that Hawaii is in a period of energy transition, with many long-term agreements soon to be executed for new forms of imported fuels that may act as temporary "bridge" fuels until local sources of renewable energy can be developed.

The purpose of this Act is to update and extend Hawaii's clean energy initiative and renewable portfolio standards to ensure maximum long-term benefit to Hawaii's economy by setting a goal of one hundred per cent renewable by 2045; provided that extending the renewable portfolio standard goals and transition to energy independence beyond 2030 shall be undertaken in a manner that benefits Hawaii's economy and all electric customers, maintains customer affordability, and does not induce renewable energy developers to artificially increase the price of renewable energy in Hawaii. This target will ensure that Hawaii moves beyond its dependence on imported fuels and continues to grow a local renewable energy industry.

SECTION 2. Section 269-92, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:
"(a) Each electric utility company that sells electricity for consumption in the State shall establish a renewable portfolio standard of:
(1) Ten per cent of its net electricity sales by December 31, 2010;

- (2) Fifteen per cent of its net electricity sales by December 31, 2015;
 - (3) ~~[Twenty-five]~~ Thirty per cent of its net electricity sales by December 31, 2020; ~~[and]~~
 - (4) Forty per cent of its net electricity sales by December 31, 2030[-];
 - (5) Seventy per cent of its net electricity sales by December 31, 2040;
and
 - (6) One hundred per cent of its net electricity sales by December 31, 2045."
2. By amending subsection (d) to read:
- "(d) Events or circumstances that are outside of an electric utility company's reasonable control may include, to the extent the event or circumstance could not be reasonably foreseen and ameliorated:
- (1) Weather-related damage;
 - (2) Natural disasters;
 - (3) Mechanical or resource failure;
 - (4) Failure of renewable electrical energy producers to meet contractual obligations to the electric utility company;
 - (5) Labor strikes or lockouts;
 - (6) Actions of governmental authorities that adversely affect the generation, transmission, or distribution of renewable electrical energy under contract to an electric utility company;
 - (7) Inability to acquire sufficient renewable electrical energy due to lapsing of tax credits related to renewable energy development;
 - (8) Inability to obtain permits or land use approvals for renewable electrical energy projects;
 - (9) Inability to acquire sufficient cost-effective renewable electrical energy;
 - (10) Inability to acquire sufficient renewable electrical energy to meet the renewable portfolio standard goals beyond 2030 in a manner that is beneficial to Hawaii's economy in relation to comparable fossil fuel resources;
 - ~~[(10)]~~ (11) Substantial limitations, restrictions, or prohibitions on utility renewable electrical energy projects; and
 - ~~[(11)]~~ (12) Other events and circumstances of a similar nature."

SECTION 3. Section 269-95, Hawaii Revised Statutes, is amended to read as follows:

"§269-95 Renewable portfolio standards study. The public utilities commission shall:

- (1) By December 31, 2007, develop and implement a utility ratemaking structure, which may include performance-based ratemaking, to provide incentives that encourage Hawaii's electric utility companies to use cost-effective renewable energy resources found in Hawaii to meet the renewable portfolio standards established in section 269-92, while allowing for deviation from the standards in the event that the standards cannot be met in a cost-effective manner or as a result of events or circumstances, such as described in section 269-92(d), beyond the control of the electric utility company that could not have been reasonably anticipated or ameliorated;
- (2) Gather, review, and analyze empirical data to:
 - (A) Determine the extent to which any proposed utility ratemaking structure would impact electric utility companies' profit margins; and

- (B) Ensure that the electric utility companies' opportunity to earn a fair rate of return is not diminished;
- (3) Use funds from the public utilities special fund to contract with the Hawaii natural energy institute of the University of Hawaii to conduct independent studies to be reviewed by a panel of experts from entities such as the United States Department of Energy, National Renewable Energy Laboratory, Electric Power Research Institute, Hawaii electric utility companies, environmental groups, and other similar institutions with the required expertise. These studies shall include findings and recommendations regarding:
 - (A) The capability of Hawaii's electric utility companies to achieve renewable portfolio standards in a cost-effective manner and shall assess factors such as:
 - (i) The impact on consumer rates;
 - (ii) Utility system reliability and stability;
 - (iii) Costs and availability of appropriate renewable energy resources and technologies, including the impact of renewable portfolio standards, if any, on the energy prices offered by renewable energy developers;
 - (iv) Permitting approvals;
 - (v) Effects on the economy;
 - (vi) Balance of trade, culture, community, environment, land, and water;
 - (vii) Climate change policies;
 - (viii) Demographics; ~~and~~
 - (ix) Cost of fossil fuel volatility; and
 - ~~(ix)~~ (x) Other factors deemed appropriate by the commission; and
 - (B) Projected renewable portfolio standards to be set five and ten years beyond the then current standards;
- (4) Evaluate the renewable portfolio standards every five years, beginning in 2013, and may revise the standards based on the best information available at the time to determine if the standards established by section 269-92 remain effective and achievable; and
- (5) Report its findings and revisions to the renewable portfolio standards, based on its own studies and other information, to the legislature no later than twenty days before the convening of the regular session of 2014, and every five years thereafter."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2015.

(Approved June 8, 2015.)



GOV. MSG. NO. **917**

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 8, 2007

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 8, 2007, the following bill was signed into law:

SB1943 SD2 HD2 CD1

A BILL FOR AN ACT RELATING TO ENERGY.
(ACT 159)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

Approved by the Governor

on JUN 8 2007

THE SENATE
TWENTY-FOURTH LEGISLATURE, 2007
STATE OF HAWAII

ACT 159
S.B. NO. 1943
S.D. 2
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO ENERGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Hawaii's dependence
2 on petroleum for about ninety per cent of its energy needs is
3 more than any other state in the nation. This makes the state
4 extremely vulnerable to oil embargos, supply disruptions,
5 international market dysfunctions, and many other factors beyond
6 the control of the state. Furthermore, the continued
7 consumption of conventional petroleum fuel negatively impacts
8 the environment. At the same time, Hawaii has some of the most
9 abundant renewable energy resources in the world, in the form of
10 solar, geothermal, wind, biomass, and ocean energy assets.

11 The legislature also finds that increased energy efficiency
12 and use of renewable energy resources would increase Hawaii's
13 energy self-sufficiency, achieving broad societal benefits,
14 including increased energy security, reduced impact of increases
15 in oil prices, environmental sustainability, economic
16 development, and job creation.



1 To shape Hawaii's energy future and achieve the goal of
2 energy self-sufficiency for the State of Hawaii, efforts must
3 continue on all fronts, integrating new and evolving
4 technologies, seizing upon economic opportunities to become more
5 energy efficient and economically diversified, and providing
6 incentives and assistance to address barriers.

7 It is the intent of the legislature that Hawaii-based
8 production of energy feedstock shall become a significant
9 portion of the total feedstock intake for Hawaii biofuels
10 processing facilities.

11 The purpose of this Act is to encourage further production
12 and use of biofuels in Hawaii by:

- 13 (1) Establishing biofuel processing facilities as a
14 permitted use in designated agricultural districts
15 under chapter 205, Hawaii Revised Statutes; and
16 (2) Establishing an energy feedstock program within the
17 department of agriculture to encourage the production
18 of energy feedstock in Hawaii and establish milestones
19 and objectives for energy feedstock to be grown in the
20 state to meet Hawaii's energy requirements.

21 PART I. BIOFUEL PROCESSING FACILITIES



1 SECTION 2. Section 205-2, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) Agricultural districts shall include:

4 (1) Activities or uses as characterized by the cultivation
5 of crops, crops for bioenergy, orchards, forage, and
6 forestry;

7 (2) Farming activities or uses related to animal
8 husbandry, and game and fish propagation;

9 (3) Aquaculture, which means the production of aquatic
10 plant and animal life within ponds and other bodies of
11 water;

12 (4) Wind generated energy production for public, private,
13 and commercial use;

14 (5) Biofuel production as described in section
15 205-4.5(a)(15) for public, private, and commercial
16 use;

17 ~~[(+5)]~~ (6) Bona fide agricultural services and uses that
18 support the agricultural activities of the fee or
19 leasehold owner of the property and accessory to any
20 of the above activities, whether or not conducted on
21 the same premises as the agricultural activities to
22 which they are accessory, including but not limited to



1 farm dwellings as defined in section 205-4.5(a)(4),
2 employee housing, farm buildings, mills, storage
3 facilities, processing facilities, vehicle and
4 equipment storage areas, roadside stands for the sale
5 of products grown on the premises, and plantation
6 community subdivisions as defined in section
7 205-4.5(a)(12);

8 ~~[(+6)]~~ (7) Wind machines and wind farms;

9 ~~[(+7)]~~ (8) Small-scale meteorological, air quality, noise,
10 and other scientific and environmental data collection
11 and monitoring facilities occupying less than one-half
12 acre of land; provided that these facilities shall not
13 be used as or equipped for use as living quarters or
14 dwellings;

15 ~~[(+8)]~~ (9) Agricultural parks;

16 ~~[(+9)]~~ (10) Agricultural tourism conducted on a working
17 farm, or a farming operation as defined in section
18 165-2, for the enjoyment, education, or involvement of
19 visitors; provided that the agricultural tourism
20 activity is accessory and secondary to the principal
21 agricultural use and does not interfere with
22 surrounding farm operations; and provided further that



1 this paragraph shall apply only to a county that has
2 adopted ordinances regulating agricultural tourism
3 under section 205-5; and

4 ~~[+10+]~~ (11) Open area recreational facilities.

5 Agricultural districts shall not include golf courses and golf
6 driving ranges, except as provided in section 205-4.5(d).

7 Agricultural districts include areas that are not used for, or
8 that are not suited to, agricultural and ancillary activities by
9 reason of topography, soils, and other related characteristics."

10 SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) Within the agricultural district, all lands with soil
13 classified by the land study bureau's detailed land
14 classification as overall (master) productivity rating class A
15 or B shall be restricted to the following permitted uses:

16 (1) Cultivation of crops, including but not limited to
17 crops for bioenergy, flowers, vegetables, foliage,
18 fruits, forage, and timber;

19 (2) Game and fish propagation;

20 (3) Raising of livestock, including but not limited to
21 poultry, bees, fish, or other animal or aquatic life
22 that are propagated for economic or personal use;



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

10 (5) Public institutions and buildings that are necessary
11 for agricultural practices;

12 (6) Public and private open area types of recreational
13 uses, including day camps, picnic grounds, parks, and
14 riding stables, but not including dragstrips,
15 airports, drive-in theaters, golf courses, golf
16 driving ranges, country clubs, and overnight camps;

17 (7) Public, private, and quasi-public utility lines and
18 roadways, transformer stations, communications
19 equipment buildings, solid waste transfer stations,
20 major water storage tanks, and appurtenant small
21 buildings such as booster pumping stations, but not
22 including offices or yards for equipment, material,



1 vehicle storage, repair or maintenance, treatment
2 plants, corporation yards, or other similar
3 structures;

4 (8) Retention, restoration, rehabilitation, or improvement
5 of buildings or sites of historic or scenic interest;

6 (9) Roadside stands for the sale of agricultural products
7 grown on the premises;

8 (10) Buildings and uses, including but not limited to
9 mills, storage, and processing facilities, maintenance
10 facilities, and vehicle and equipment storage areas
11 that are normally considered directly accessory to the
12 above mentioned uses and are permitted under section
13 205-2(d);

14 (11) Agricultural parks;

15 (12) Plantation community subdivisions, which as used in
16 this paragraph means a subdivision or cluster of
17 employee housing, community buildings, and acreage
18 established on land currently or formerly owned,
19 leased, or operated by a sugar or pineapple plantation
20 and in residential use by employees or former
21 employees of the plantation; provided that the



1 employees or former employees shall have a property
2 interest in the land;

3 [+] (13) [+] Agricultural tourism conducted on a working farm, or
4 a farming operation as defined in section 165-2, for
5 the enjoyment, education, or involvement of visitors;
6 provided that the agricultural tourism activity is
7 accessory and secondary to the principal agricultural
8 use and does not interfere with surrounding farm
9 operations; and provided further that this paragraph
10 shall apply only to a county that has adopted
11 ordinances regulating agricultural tourism under
12 section 205-5; [~~or~~

13 +] (14) [+] Wind energy facilities, including the appurtenances
14 associated with the production and transmission of
15 wind generated energy; provided that [~~such~~] the wind
16 energy facilities and appurtenances are compatible
17 with agriculture uses and cause minimal adverse impact
18 on agricultural land[~~-~~]; or

19 (15) Biofuel processing facilities, including the
20 appurtenances associated with the production and
21 refining of biofuels that is normally considered
22 directly accessory and secondary to the growing of the



1 energy feedstock; provided that biofuels processing
2 facilities and appurtenances do not adversely impact
3 agricultural land and other agricultural uses in the
4 vicinity.

5 For the purposes of this paragraph:

6 "Appurtenances" means operational
7 infrastructure of the appropriate type and scale
8 for economic commercial storage and distribution,
9 and other similar handling of feedstock, fuels,
10 and other products of biofuels processing
11 facilities.

12 "Biofuel processing facility" means a
13 facility that produces liquid or gaseous fuels
14 from organic sources such as biomass crops,
15 agricultural residues, and oil crops, including
16 palm, canola, soybean, and waste cooking oils;
17 grease; food wastes; and animal residues and
18 wastes that can be used to generate energy.

19 PART II. ENERGY FEEDSTOCK PRODUCTION

20 SECTION 4. The legislature finds that there is
21 considerable interest in producing biofuels in Hawaii to meet
22 alternative energy mandates. Current law requires a ten per



1 cent ethanol content for gasoline. The demand for biofuel
2 production in Hawaii is steadily increasing, which has been the
3 catalyst for the creation of private entities to produce
4 biofuels in this State. However, there is a lack of feedstock
5 in Hawaii to produce biofuels, which means that private entities
6 must import feedstock. Because of the state's remoteness, it is
7 imperative for the state to be energy self-sufficient.

8 Feedstock is necessary to produce biofuels in order to attain
9 energy self-sufficiency. There are many crops that can grow in
10 tropical environments that may be ideal feedstock for bioenergy
11 production.

12 The purpose of this part is to develop an energy feedstock
13 program within the department of agriculture to encourage the
14 production of energy feedstock in Hawaii and establish
15 milestones and objectives for energy feedstock to be grown in
16 the state to meet its energy requirements.

17 SECTION 5. Chapter 141, Hawaii Revised Statutes, is
18 amended by adding a new section to be appropriately designated
19 and to read as follows:

20 "§141- Energy feedstock program. (a) There is
21 established within the department of agriculture an energy
22 feedstock program that shall:



- 1 (1) Maintain cognizance of actions taken by industry and
2 by federal, state, county, and private agencies in
3 activities relating to the production of energy
4 feedstock, and promote and support worthwhile energy
5 feedstock production activities in the state;
- 6 (2) Serve as an information clearinghouse for energy
7 feedstock production activities;
- 8 (3) Coordinate development projects to investigate and
9 solve biological and technical problems involved in
10 raising selected species with commercial energy
11 generating potential;
- 12 (4) Actively seek federal funding for energy feedstock
13 production activities;
- 14 (5) Undertake activities required to develop and expand
15 the energy feedstock production industry; and
- 16 (6) Perform other functions and activities as may be
17 assigned by law, including monitoring the compliance
18 provisions under section 205-4.5(a)(15).
- 19 (b) The chairperson of the board of agriculture shall
20 consult and coordinate with the energy resources coordinator
21 under chapter 196 to establish milestones and objectives for the
22 production of energy feedstock that is grown in the State. The



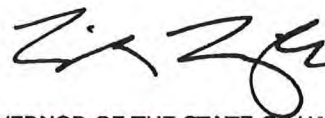
1 chairperson and the coordinator shall report the state's
2 progress toward meeting such milestones and objectives annually
3 to the legislature.

4 (c) The chairperson of the board of agriculture shall also
5 consult and coordinate with research programs and activities at
6 the University of Hawaii that will assist in the further growth
7 and promotion of the energy feedstock production industry in
8 Hawaii.

9 (d) The chairperson of the board of agriculture may employ
10 temporary staff exempt from chapters 76 and 89. The board may
11 adopt rules pursuant to chapter 91 to effectuate the purposes of
12 this section."

13 SECTION 6. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 7. This Act shall take effect upon its approval.



GOVERNOR OF THE STATE OF HAWAII

Approved this day: JUN 8 2007





GOV. MSG. NO. 1321

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

July 11, 2011

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

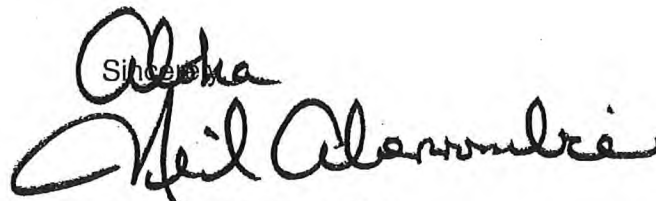
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on July 11, 2011, the following bill was signed into law:

SB631 SD1 HD2 CD1

RELATING TO RENEWABLE ENERGY.
Act 217 (11)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor

on JUL 11 2011

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

ACT 217
S.B. NO. 631
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the development of
2 renewable energy in Hawaii is crucial to the energy security and
3 energy independence of the State. Increased energy efficiency
4 and use of renewable energy resources will achieve broad
5 societal benefits, including resistance to increases in oil
6 prices, environmental sustainability, economic development, and
7 job creation.

8 The legislature also finds that Hawaii's dependence on
9 petroleum makes the State extremely vulnerable to supply
10 disruption, international market dysfunction, and many other
11 factors beyond the control of the State. Continued consumption
12 of conventional petroleum fuel and price volatility can
13 negatively impact the viability of agricultural operations.

14 The legislature further finds that allowing renewable
15 energy facilities within the agricultural district furthers and
16 is consistent with the purposes, standards, and criteria for
17 uses within agricultural lands. Renewable energy facilities



1 increase the State's energy self sufficiency and agricultural
2 sustainability.

3 The purpose of this Act is to increase, with certain
4 limitations, the areas within agricultural lands in which solar
5 energy facilities may be constructed.

6 SECTION 2. Section 205-2, Hawaii Revised Statutes, is
7 amended by amending subsection (d) to read as follows:

8 "(d) Agricultural districts shall include:

9 (1) Activities or uses as characterized by the cultivation
10 of crops, crops for bioenergy, orchards, forage, and
11 forestry;

12 (2) Farming activities or uses related to animal husbandry
13 and game and fish propagation;

14 (3) Aquaculture, which means the production of aquatic
15 plant and animal life within ponds and other bodies of
16 water;

17 (4) Wind generated energy production for public, private,
18 and commercial use;

19 (5) Biofuel production, as described in section
20 205-4.5(a)(15), for public, private, and commercial
21 use;

22 (6) Solar energy facilities; provided that ~~[this]~~:



- 1 (A) This paragraph shall apply only to land with soil
- 2 classified by the land study bureau's detailed
- 3 land classification as overall (master)
- 4 productivity rating class B, C, D or E; and
- 5 (B) Solar energy facilities placed within land with
- 6 soil classified as overall productivity rating
- 7 class B or C shall not occupy more than ten per
- 8 cent of the acreage of the parcel, or twenty
- 9 acres of land, whichever is lesser;
- 10 (7) Bona fide agricultural services and uses that support
- 11 the agricultural activities of the fee or leasehold
- 12 owner of the property and accessory to any of the
- 13 above activities, regardless of whether conducted on
- 14 the same premises as the agricultural activities to
- 15 which they are accessory, including farm dwellings as
- 16 defined in section 205-4.5(a)(4), employee housing,
- 17 farm buildings, mills, storage facilities, processing
- 18 facilities, agricultural-energy facilities as defined
- 19 in section 205-4.5(a)(16), vehicle and equipment
- 20 storage areas, roadside stands for the sale of
- 21 products grown on the premises, and plantation



- 1 community subdivisions as defined in section
2 205-4.5(a)(12);
3 (8) Wind machines and wind farms;
4 (9) Small-scale meteorological, air quality, noise, and
5 other scientific and environmental data collection and
6 monitoring facilities occupying less than one-half
7 acre of land; provided that these facilities shall not
8 be used as or equipped for use as living quarters or
9 dwellings;
10 (10) Agricultural parks;
11 (11) Agricultural tourism conducted on a working farm, or a
12 farming operation as defined in section 165-2, for the
13 enjoyment, education, or involvement of visitors;
14 provided that the agricultural tourism activity is
15 accessory and secondary to the principal agricultural
16 use and does not interfere with surrounding farm
17 operations; and provided further that this paragraph
18 shall apply only to a county that has adopted
19 ordinances regulating agricultural tourism under
20 section 205-5; and
21 (12) Open area recreational facilities.



1 Agricultural districts shall not include golf courses and golf
2 driving ranges, except as provided in section 205-4.5(d).
3 Agricultural districts include areas that are not used for, or
4 that are not suited to, agricultural and ancillary activities by
5 reason of topography, soils, and other related characteristics."

6 SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) Within the agricultural district, all lands with soil
9 classified by the land study bureau's detailed land
10 classification as overall (master) productivity rating class A
11 or B shall be restricted to the following permitted uses:

12 (1) Cultivation of crops, including crops for bioenergy,
13 flowers, vegetables, foliage, fruits, forage, and
14 timber;

15 (2) Game and fish propagation;

16 (3) Raising of livestock, including poultry, bees, fish,
17 or other animal or aquatic life that are propagated
18 for economic or personal use;

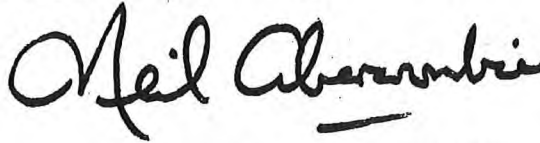
19 (4) Farm dwellings, employee housing, farm buildings, or
20 activities or uses related to farming and animal
21 husbandry. "Farm dwelling", as used in this
22 paragraph, means a single-family dwelling located on



S.B. NO. 631
S.D. 1
H.D. 2
C.D. 1

- 1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.
3 SECTION 5. This Act shall take effect upon its approval.

APPROVED this 11 day of JUL, 2011

A handwritten signature in black ink, reading "Neil Abernethy". The signature is written in a cursive style with a horizontal line under the last name.

GOVERNOR OF THE STATE OF HAWAII

- 1 structure that is not deemed a permitted use under
2 this subsection; [ex]
- 3 (18) Agricultural education programs conducted on a farming
4 operation as defined in section 165-2, for the
5 education and participation of the general public;
6 provided that the agricultural education programs are
7 accessory and secondary to the principal agricultural
8 use of the parcels or lots on which the agricultural
9 education programs are to occur and do not interfere
10 with surrounding farm operations. For the purposes of
11 this section, "agricultural education programs" means
12 activities or events designed to promote knowledge and
13 understanding of agricultural activities and practices
14 conducted on a farming operation as defined in section
15 165-2 [-]; or
- 16 (19) Solar energy facilities that do not occupy more than
17 ten per cent of the acreage of the parcel, or twenty
18 acres of land, whichever is lesser; provided that this
19 use shall not be permitted on lands with soil
20 classified by the land study bureau's detailed land
21 classification as overall (master) productivity rating
22 class A."



1 "Agricultural-energy facility" means a facility
2 that generates, stores, or distributes renewable
3 energy as defined in section 269-91 or renewable fuel
4 including electrical or thermal energy or liquid or
5 gaseous fuels from products of agricultural activities
6 from agricultural lands located in the State.

7 "Appurtenances" means operational infrastructure
8 of the appropriate type and scale for the economic
9 commercial generation, storage, distribution, and
10 other similar handling of energy, including equipment,
11 feedstock, fuels, and other products of agricultural-
12 energy facilities;

13 (17) Construction and operation of wireless communication
14 antennas; provided that, for the purposes of this
15 paragraph, "wireless communication antenna" means
16 communications equipment that is either freestanding
17 or placed upon or attached to an already existing
18 structure and that transmits and receives
19 electromagnetic radio signals used in the provision of
20 all types of wireless communications services;
21 provided further that nothing in this paragraph shall
22 be construed to permit the construction of any new



1 residues and wastes that can be used to generate
2 energy;

3 (16) Agricultural-energy facilities, including
4 appurtenances necessary for an agricultural-energy
5 enterprise; provided that the primary activity of the
6 agricultural-energy enterprise is agricultural
7 activity. To be considered the primary activity of an
8 agricultural-energy enterprise, the total acreage
9 devoted to agricultural activity shall be not less
10 than ninety per cent of the total acreage of the
11 agricultural-energy enterprise. The agricultural-
12 energy facility shall be limited to lands owned,
13 leased, licensed, or operated by the entity conducting
14 the agricultural activity.

15 As used in this paragraph:

16 "Agricultural activity" means any activity
17 described in paragraphs (1) to (3) of this subsection.

18 "Agricultural-energy enterprise" means an
19 enterprise that integrally incorporates an
20 agricultural activity with an agricultural-energy
21 facility.



1 facilities and appurtenances are compatible with
2 agriculture uses and cause minimal adverse impact on
3 agricultural land;

4 (15) Biofuel processing facilities, including the
5 appurtenances associated with the production and
6 refining of biofuels that is normally considered
7 directly accessory and secondary to the growing of the
8 energy feedstock; provided that biofuels processing
9 facilities and appurtenances do not adversely impact
10 agricultural land and other agricultural uses in the
11 vicinity.

12 For the purposes of this paragraph:

13 "Appurtenances" means operational infrastructure
14 of the appropriate type and scale for economic
15 commercial storage and distribution, and other similar
16 handling of feedstock, fuels, and other products of
17 biofuels processing facilities.

18 "Biofuel processing facility" means a facility
19 that produces liquid or gaseous fuels from organic
20 sources such as biomass crops, agricultural residues,
21 and oil crops, including palm, canola, soybean, and
22 waste cooking oils; grease; food wastes; and animal



- 1 (A) The employee housing is occupied by employees or
2 former employees of the plantation who have a
3 property interest in the land;
- 4 (B) The employee housing units not owned by their
5 occupants shall be rented or leased at affordable
6 rates for agricultural workers; or
- 7 (C) The agricultural support buildings shall be
8 rented or leased to agricultural business
9 operators or agricultural support services;
- 10 (13) Agricultural tourism conducted on a working farm, or a
11 farming operation as defined in section 165-2, for the
12 enjoyment, education, or involvement of visitors;
13 provided that the agricultural tourism activity is
14 accessory and secondary to the principal agricultural
15 use and does not interfere with surrounding farm
16 operations; and provided further that this paragraph
17 shall apply only to a county that has adopted
18 ordinances regulating agricultural tourism under
19 section 205-5;
- 20 (14) Wind energy facilities, including the appurtenances
21 associated with the production and transmission of
22 wind generated energy; provided that the wind energy



- 1 (8) Retention, restoration, rehabilitation, or improvement
2 of buildings or sites of historic or scenic interest;
3 (9) Roadside stands for the sale of agricultural products
4 grown on the premises;
5 (10) Buildings and uses, including mills, storage, and
6 processing facilities, maintenance facilities, and
7 vehicle and equipment storage areas that are normally
8 considered directly accessory to the above-mentioned
9 uses and are permitted under section 205-2(d);
10 (11) Agricultural parks;
11 (12) Plantation community subdivisions, which as used in
12 this chapter means an established subdivision or
13 cluster of employee housing, community buildings, and
14 agricultural support buildings on land currently or
15 formerly owned, leased, or operated by a sugar or
16 pineapple plantation; provided that the existing
17 structures may be used or rehabilitated for use, and
18 new employee housing and agricultural support
19 buildings may be allowed on land within the
20 subdivision as follows:



- 1 and used in connection with a farm, including clusters
2 of single-family farm dwellings permitted within
3 agricultural parks developed by the State, or where
4 agricultural activity provides income to the family
5 occupying the dwelling;
- 6 (5) Public institutions and buildings that are necessary
7 for agricultural practices;
- 8 (6) Public and private open area types of recreational
9 uses, including day camps, picnic grounds, parks, and
10 riding stables, but not including dragstrips,
11 airports, drive-in theaters, golf courses, golf
12 driving ranges, country clubs, and overnight camps;
- 13 (7) Public, private, and quasi-public utility lines and
14 roadways, transformer stations, communications
15 equipment buildings, solid waste transfer stations,
16 major water storage tanks, and appurtenant small
17 buildings such as booster pumping stations, but not
18 including offices or yards for equipment, material,
19 vehicle storage, repair or maintenance, treatment
20 plants, corporation yards, or other similar
21 structures;



Hakoda, Riley K

From: Kaluna Miranda <dabigkaluna@gmail.com>
Sent: Monday, May 24, 2021 10:49 PM
To: DBEDT LUC
Subject: [EXTERNAL] Testimony for Conformance of C&C IAL Recommendation
Attachments: Testimony IAL Letter 5-24.pdf

Aloha please accept the following as additional testimony for IAL conformance. I have copied the letter both here below and in PDF format as well. Mahalo for your time.

May 24, 2021

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

TMK#85019070

To Whom It May Concern,

Aloha, we have been alerted that our parcel of land is slated to be designated as "Important Agricultural Lands" or IAL. From our previous testimony dated 4/24/2021, to reiterate after reading through the LUC's provided material on IAL on the provided web page City and County IAL, in its current state, we cannot support the designation of IAL for our land parcel nor has the City and County of Honolulu done their due diligence to alert current land owners in developing their recommendations. This is due to the lack of transparency of knowing how it will directly affect our property, current land use, and classification as well as not providing and accepting useful, clear, transparent community input for these designations in the communities that they are affecting.

Touched upon, in our previous testimony, but important to note, in City and County Communication 390 Part 1 page one Introduction, IAL is explained but is not clearly defined how designation will directly affect us as a land owner and does not clearly define the affect of current status of classification or current land use elsewhere in the document, and never has been. Also as previously stated in part 6 page 76, the concern of additional land use restrictions, as well as cost of ownership and land values are concerning and have not been clearly addressed or provided to make a clear decision on the value of IAL, or its possible consequences to those who produce for self-consumption and/or do not commercially farm. The City and County of Honolulu has not demonstrated any actual procedural recommendations or inspected parcels that questionably meet a broad all-encompassing catch all designation qualification.

Again, our current land parcel TMK# 85019070 is listed at .96 acres. On page 76 of the Department of Agriculture Apparent Anomalies in Mapping potential IAL the comments state *"38 percent (232) of 621 tax parcels proposed for IAL designation along the leeward coast from Waianae valley through Lualualei are less than two acres"* further, *"These small mapped areas appear inconsistent with the IAL policy of promoting "...the retention of important agricultural lands in blocks of contiguous, intact, and functional land units large enough to allow flexibility in agricultural production and management" (Section 205-43(1))."* We concur with the DoA. While our property is filled with 3 large producing 'ulu trees, 5 large producing mango trees, 2 large noni trees, fig, guava, mulberry, starfruit, amongst other fruit trees, a variety of flowering trees, herbs and shrubs, these are all for the personal consumption and enjoyment of neighbors, friends, and family. Our parcel

is too small for production farming on any large scale. Less than ¼ acre is open field that could be used for production farming.

As far as adequate and procedural requirements that is for the LUC commission to decide. However The City and County did not provide adequate community input and did not hold community meetings in affected communities for affected landowners (especially small land owners) to voice their concerns, recommendations and opinions. To capitalize this point, no meetings were held in the Waianae or Windward affected communities, where small land owners are affected. While understandable that a “Centralized” meeting area was chosen to hold meetings, and “mail was sent out”, something of this magnitude may require more than the bare minimum.

IAL identification is a step in the right direction, however, for those landowners that want and agree to the stipulations that IAL requires and incentives it provides. **IAL Designation** should only be handled on a case by case basis. To conclude, we oppose the current designation of our land parcel as IAL and believe that the City and County has not provided the communities and landowners affected adequate information or the chance to provide valuable input for the recommendations to be met.

Mahalo for your time and attention again,

Lucy Miranda Trust

Hakoda, Riley K

From: kalamapaddler <kalamapaddler@gmail.com>
Sent: Tuesday, May 25, 2021 12:32 AM
To: DBEDT LUC
Subject: [EXTERNAL] FW: IAL Testimony In Opposition

Sent from my T-Mobile 4G LTE Device

----- Original message -----

From: Kimberly Kalama <fourhoofing@gmail.com>
Date: 5/25/21 12:22 AM (GMT-10:00)
To: David Kalama <kalamapaddler@gmail.com>
Subject: FW: IAL Testimony In Opposition

Sent from [Mail](#) for Windows 10

From: [Kimberly Kalama](#)
Sent: Tuesday, May 25, 2021 12:12 AM
To: dbedt.luc.web@hawaii
Subject: IAL Testimony In Opposition

Sent from [Mail](#) for Windows 10

City and County of Honolulu

May 24,2021

Land Use Commission

Aloha, I am writing this letter in opposition of the rezoning of the fee simple Residential/Agricultural property belonging to the Kalama Ohana that is generations old. The actions being brought on is in my opinion another form of trying to fix or undo other bright ideas that were poorly planned. Like Rail as an example. Just to help recover/ balance budgets that went awry or basically erase another local family from existing. I'm just speaking for Kalama Ohana. Direct lineage to

Queen Kalama longest reigning Queen and her heirs. The land that our family reside on was and still remain to support family and even close friends and even strangers alike. Initially the ability to farm ulu, kalo, ti leaf, fruits and vegetables and tropicals were in some way going to suffice a need. The ti leaves were grown to support the Hukilau fishing to feed many families in the Kailua beach area which my Grandfather did unselfishly for years back in the 50's and 60's only to see that form of cultural tradition be extinguished like many other practices. Ti leaves were important for cooking and many hula skirts as well. The intentions of this property was and still is to maintain our culture and heritage and not to produce for sale. That's our choice. My mothers ability to keep and maintain this land before me was not an easy task. She grew flowers for leis and tropicals and such, to also place arrangements on family grave sites to remember and respect our ancestors. This land also allowed us to farm pigs, ducks, chickens, rabbits, goats, cows and even catch frogs and some o'opu Grandmas favorite. This farming life style for the most part is dark to dark rain or shine you need to be disciplined. Keeping this piece of land was no easy task blood and tears were shed many times. Dealing with heavy rains, flooding, drought, diseases or out of control taxes even attempted foreclosures twice. As is customary, bright ideas that fail always cause taxes to escalate unfairly to some and not all, equally. Decisions were often, paying bills, putting food on the table or getting a decent education had to be weighed. It's one thing to create your own hardships, it's another for complete strangers to create one's for you. Correct me if I'm wrong. Fee simple land means you own it, lease lands means someone else owns it. Trying to understand that the land I own means I pay money to someone else to reside here makes no sense at all. And to have some one else's rules apply seems communist. This seems like a form of extortion and possible land stealing. Koa Ridge, Hoopili, Kapolei some if not all the prime uninhabited lands made more sense to regulate. Instead we have to find ways to affect inhabited sites and disrupt life styles and create negative changes. Farming for me is a pleasure . You have to love what you do. Is why I'm still here. Don't intend to leave. This property will forever as it was intended to stay in Kalama possession to continue to be managed the same as in previous years to support cultural, religious needs and desires not for profit. To think that this bright idea is with good intention is very doubtful. I've been here long enough to see many deceitful things done in the past. It's amazing how you can legally own and possess land only to have someone with personal interests change the rules make things difficult enough that you could potentially succumb and lose something many worked hard for. Very shameful. Note Hawaiians are a unique breed taught to malama the aina show respect and be caring. I am a Hawaiian first on Hawaiian Land will not be told to change who I am. We live on Royal lands attached to ancient laws that very much so need to be respected. One needs to pay attention to farming practices today with raised beds, covered hot houses and contaminated with recycled road materials and more chemicals and trash to name a few.

Aloha, David Kalama Resident 63 years and counting.

41-1016 Waikupanaha St. Waimanalo, Oahu 96795