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Statement of
RODNEY FUNAKOSHI
Planning Program Administrator, Office of Planning
before the
HOUSE COMMITTEE ON FINANCE
Thursday, March 28, 2019
3:00 PM
State Capitol, Conference Room 308

in consideration of
SB 381, SD2, HD1
RELATING TO AGRICULTURAL LANDS.

Chair Luke, Vice Chair Cullen, and Members of the House Committee on Finance.

The Office of Planning (OP) appreciates the intent and offers **comments** on SB 381, SD2, HD1. SB 381, SD2, HD1 would task OP with convening the Land Use Commission, Real Estate Commission, and the City and County of Honolulu's Department of Planning and Permitting to study condominium property regime (CPR), subdivision, and zoning laws and ordinances related to agricultural land on Oahu to determine whether there are ambiguities or other deficiencies that might be remedied to improve conformance of condominium property regimes with State and county land use laws and ordinances.

While OP believes there is merit to the proposal, the condominium property regime and State land use laws are general laws of statewide applicability. Any study would need to examine regulatory issues in the context of each county's framework of land use and development ordinances to ensure that variability in how CPR issues manifest in each county are accounted for in any final recommendations to the Legislature. This is essential to ensure consistency and predictability in the application and enforcement of State policy—whether for how CPRs are created, registered, and managed, or ensuring compliance with State and county land use and development laws and ordinances.

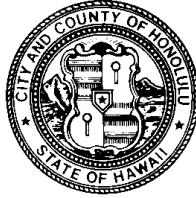
Importantly, however, we are concerned that OP lacks the resources at this time to lead and complete such a study of statewide reach and to submit a quality report in the timeframe allotted.

Thank you for the opportunity to testify on this measure.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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March 28, 2019

The Honorable Sylvia Luke, Chair
and Members of the Committee on Finance
Hawaii House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813



Dear Chair Luke and Committee Members:

**Subject: Senate Bill No. 381, SD 2, HD 1
Relating to Agricultural Lands**

The Department of Planning and Permitting (DPP) **has no objections** to Senate Bill No. 381, SD 2, HD 1. However, we wish to state strong support for the SD 2 version as passed by the Senate committees before crossing to the House. The State Department of Agriculture, the Office of Planning, and the DPP, all testified in support of the measure.

We understand the only major concerns about this Bill were from the Hawaii Cattlemen's Council. To address these concerns, we offer our suggestion to limit the applicability of the measure to Oahu by amending Section 514B-6, Hawaii Revised Statutes, to read as follows:

~~"Whenever any county deems it proper, the county may]~~ Each county shall adopt supplemental ordinances and rules governing condominium property regimes, including agricultural lands that are held in condominium property regimes in a county with a population of 750,000 or more, established under this chapter ~~[in order to implement this program;]~~ that the county determines are necessary to ensure conformance of the use and development of land held in a condominium property regime with the underlying county zoning and subdivision requirements, and state land use district and the applicable development permit approvals required for the proposed use of the land; provided that any of the supplemental ordinances and rules adopted shall not conflict with this chapter or with any of the rules adopted by the commission to implement this chapter."

The Bill's intent is to allow more meaningful county participation in the condominium property regime process, including agricultural lands held in condominium property regimes, in order that condominium developers be aware of the need to conform to the underlying county zoning, state land use district, and the applicable development permits for the proposed use of the land. With the county's input, developers of condominium units can then design the appropriate layout for the condominium project, ensure availability of necessary supportive infrastructure, and identify any potential negative impacts to environmentally important or culturally significant resources, prior to the finalizing the condominium registration.

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The current condominium statute appears to be inadequate as it lacks a requirement for the condominium developer to verify with the county whether proposed condominium units consisting of vacant land would be developable. Many condominium purchasers assume that a condominium unit is the equivalent of a subdivided lot without realizing that the condominium registration process does not secure the purchaser any development entitlements. It appears lawsuits have been filed about condominium units that are unable to obtain building permits due to the absence of sufficient disclosure that the number of condominium units on a property had exceeded the allowable density under county zoning codes.

Accordingly, we request your favorable consideration of the proposed amendments and request the SD 2 version be passed by your committee.

Thank you for the opportunity to testify.

Very truly yours,



Kathy K. Sokugawa
Acting Director



LATE

March 28, 2019

Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair
House Committee on Finance

Comments in Support of the Intent of, and Amendments to SB 381, SD2, HD1, Relating to Agricultural Lands. (Directs the Office of Planning, Land Use Commission, Real Estate Commission, and Honolulu Department of Planning and Permitting to study land subdivision and condominium property regime laws related to agricultural land and report findings and recommendations to the Legislature.)

FIN Hrg: Thursday, March 28, 2019, 3:00 p.m., in Conference Room 308

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers, resort operators and major utility companies. LURF’s mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii’s significant natural and cultural resources, and public health and safety.

LURF appreciates the opportunity to express its support of the intent of SB 381, SD2, HD1, with proposed amendments to require consultation with the organizations representing the stakeholders who would be most affected.

SB 381, SD2, HD1. This bill requires the Office of Planning (OP), in consultation with the Land Use Commission (LUC), Real Estate Commission (REC), and the Department of Planning and Permitting (DPP), to study and report on deficiencies in the land subdivision and condominium property regime laws that may result in land being developed contrary to the legislative intent of those laws; requires the Office of Planning to conduct a public hearing to gather information from the general public; and propose legislation to remedy any deficiencies found. The Office of Planning is also required to and submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the regular session of 2020. The major flaw in this bill is that there is no requirement for the Office of Planning to consult with the stakeholders who would be most affected by the study, report or proposed legislation – the bonafide farmers, ranchers and agricultural operators and experts in land use planning and land use laws.

LURF's Position. While LURF supports the general intent of SB 381, SD2, HD1, this bill should be **amended** to also require the Office of Planning to consult with the stakeholders who would be most affected by the study, report or proposed legislation – the bonafide farmers, ranchers and agricultural operators and experts in land use planning and land use laws.

LURF would respectfully request that SB 381, SD2, HD1, **be amended** to also require the Office of Planning to consult with representatives of the most affected stakeholders - the Hawaii Farm Bureau Federation, the Hawaii Cattlemen's Council, the American Planning Association-Hawaii Chapter and the Land Use Research Foundation of Hawaii. The proposed amendments would be as follows:

SECTION 1. The office of planning, in consultation with [~~the land use commission,~~] the real estate commission, and the department of planning and permitting of the city and county of Honolulu, **the Hawaii Farm Bureau Federation, the Hawaii Cattlemen's Council, the American Planning Association-Hawaii Chapter and the Land Use Research Foundation of Hawaii** shall study the land subdivision and condominium property regime laws as they relate to agricultural land on Oahu and how these laws interact with city and county of Honolulu zoning ordinances, to:

LURF supports the intent of SB 381, SD2, HD1, **with the above-referenced amendments** and respectfully urges your favorable consideration of the above proposed amendments.

Thank you for the opportunity to provide comments in support of the **amendment** of this measure.