

Honolulu, Hawaii

APR 20 2010

RE: GOV. MSG. NO. 338

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Madam:

Your Committee on Water, Land, Agriculture, and Hawaiian Affairs, to which was referred Governor's Message No. 338, submitting for study and consideration the nomination of:

LAND USE COMMISSION

G.M. No. 338 DUANE KANUHA,
for a term to expire 6-30-2013;

begs leave to report as follows:

Your Committee has reviewed the personal history, resume, and statements of the nominee, and finds Duane Kanuha to have qualifications for the Land Use Commission.

Testimony in support of the nomination was submitted by one state agency, one state commission, one organization, and four individuals. Testimony in opposition was submitted by one organization and two individuals. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Mr. Kanuha is presently a member of the Land Use Commission, and **is the designated member with substantial experience or expertise in traditional Hawaiian land usage and knowledge of cultural land practices.** He has been a land use and planning professional in both the public and private sectors in Hawaii for over thirty years. Mr. Kanuha received his Bachelor's degree in Geography, with an emphasis on Urban Geography and Planning, from the University of Hawaii at Hilo, and is presently employed as the Executive Vice President of the Surety Kohala Corporation and Kohala Investment Works, LLC. He is an active member of the



Hawaii Leeward Planning Conference, the Urban Land Institute, and the National Association for Interpretation. He has served on the Board of Directors for Na Kalai Waa, was a long standing appointment to the Hawaii County Na Ala Hele Advisory Council, and was a founding member of the Hawaii County Native Hawaiian Chamber of Commerce.

Mr. Kanuha believes that the public interest is adequately represented in the Land Use Commission proceedings through the taking of public testimony on all petitions before the Commission and the intervener process. Public interest intervention has provided a refreshing additional viewpoint that the Commission has taken very seriously. However, Mr. Kanuha also believes that role of the Land Use Commission, and its quasi-judicial procedures, would be better suited for dispute resolution and final decision making. He believes it is time to review the role of the Land Use Commission with regard to land use classifications that are not challenged or disputed.

Mr. Kanuha has limited experience with traditional Hawaiian land usage and knowledge. He has worked with a voyaging group that manages and maintains a navigation heiau on property owned by the Surety Kohala Corporation. With the assistance of this group, they have developed protocols for the use of this site and other cultural features of the property and how other navigators may use the heiau.

Your Committee was referred a total of four nominees to the Land Use Commission this Regular Session for advise and consent. Three nominees are current Land Use Commissioners and have worked in construction and housing developments. The fourth nominee is a civil litigation attorney with no experience in land issues who will be replacing a current Commissioner who is an attorney in construction litigation. Of the remaining four Commissioners, two are attorneys in construction litigation - one in insurance defense and one in real estate, one Commissioner works in a related construction field, and one is a retired union business agent. While the nominees have come from varied backgrounds, not one nominee is a farmer, conservationist, or ecologist.

Although the State is mandated by Article XI, Section 3 of the Hawaii State Constitution to conserve and protect agricultural lands, the Land Use Commission has reclassified 2,022 acres of conservation (29 acres) and prime agricultural lands (1,993 acres)



for urban uses within the last five years. These acres are forever lost for future agriculture use.

In 2005, the Legislature passed Act 183 to implement the intent and purpose of Article XI, Section 3 of the Hawaii State Constitution and establish standards, criteria, and mechanisms to identify important agricultural lands (IAL). In 2008, the Legislature passed Act 233 that provided incentives to private land owners to designate their lands IAL, required the Department of Agriculture and Department of Land and Natural Resources to jointly identify the state-owned lands that should be designated as "important agricultural lands", and transferred management authority over those lands to the Department of Agriculture.

The Land Use Commission has two pending petitions to reclassify over 2,098 acres of prime agricultural lands on Oahu to urban use (Koa Ridge at 545 acres and Hoopili at 1,554 acres), or twenty per cent of the estimated 10,900 acres of remaining prime agricultural lands on Oahu.

Your Committee is concerned with the lack of identification of prime agricultural lands by both private and public landowners on Oahu. The current laws are inadequate to protect Hawaii's prime agricultural lands if the State does not compile an inventory of remaining prime agricultural lands on all islands. Furthermore, the non-compliance by the Department of Land and Natural Resources and the Department of Agriculture to jointly identify State-owned prime agricultural lands further exacerbates the lack of protection for prime agricultural lands. Perhaps the Legislature should place a moratorium on the reclassification of agricultural lands until identification has been completed.

The Legislature cannot relinquish its authority to reclassify lands to state departments, commissions, or counties. This authority transcends the nominations for key commissions and boards as well. To do otherwise is to fail in our constitutional mandate to protect and preserve agricultural lands.

As affirmed by the record of votes of the members of your Committee on Water, Land, Agriculture, and Hawaiian Affairs that is attached to this report, your Committee, after full consideration of the background, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.



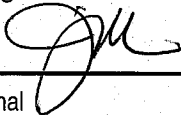
Respectfully submitted on
behalf of the members of the
Committee on Water, Land,
Agriculture, and Hawaiian
Affairs,



CLAYTON LEE, Chair



Record of Votes
Committee on Water, Land, Agriculture and Hawaiian Affairs
WTL
Advise and Consent

Governor's Message No.:* GM 338	Committee Referral: WTL	Date: 3/24/10		
<input type="checkbox"/> The Committee is reconsidering its decision				
The Recommendation is:				
<input checked="" type="checkbox"/> Advise and Consent 2340	<input type="checkbox"/> Not Advise and Consent 2345			
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	/			
TOKUDA, Jill N. (VC)	/			
BUNDA, Robert	/			
FUKUNAGA, Carol	/			
KOKUBUN, Russell S.	/			
TAKAMINE, Dwight Y.	/			
HEMMINGS, Fred				/
TOTAL	6	0	0	1
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one Governor's Message per Record of Votes