

# REPORT OF THE COMMITTEE ON ZONING AND PLANNING

## Voting Members:

Ikaika Anderson, Chair; Breene Harimoto, Vice-Chair;  
Ann H. Kobayashi, Ron Menor, Kymberly Marcos Pine

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Committee Meeting Held  
April 24, 2014

Honorable Ernest Y. Martin  
Chair, City Council  
City and County of Honolulu

Mr. Chair:

Your Committee on Zoning and Planning, to which was referred Bill 34 (2014) entitled:

"A BILL FOR AN ORDINANCE RELATING TO GRADING IN CONSERVATION DISTRICTS,"

which passed First Reading at the April 16, 2014 Council meeting, reports as follows:

The purpose of Bill 34 (2014) is to remove the exemption from grading regulations for lands being managed in accordance with soil conservation practices acceptable to applicable soil and water conservation district directors, if the volume of grading exceeds 50 cubic yards.

Your Committee Chair, the introducer of the Bill, explained that the Bill is intended to address illegal dumping on agricultural land. Upon request by Your Committee Chair, Mr. Tom Grande, a Kaneohe resident, testified about his experience with grading activity on a property abutting his that may endanger his property. Mr. Grande, testified that the Department of Planning and Permitting (DPP) has indicated it does not have jurisdiction over the grading because the lands are part of a soil and water conservation district and therefore are under the jurisdiction of the State Department of Land and Natural Resources (DLNR). According to Mr. Grande, the DLNR has stated it does not have regulatory authority. Mr. Grande disclosed that he has filed a lawsuit against the city relating to enforcement of the grading regulations.

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**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ADOPTED ON     MAY 7 2014    

COMMITTEE REPORT NO.     123

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Your Committee received testimony in support of the Bill from the Land Use Research Foundation of Hawaii and four individuals. Testimony in opposition to the Bill was received from the Windward Oahu Soil and Water Conservation District, West Oahu Soil and Water Conservation District, East Oahu County Farm Bureau, Ohana Best LLC, Hawaii Farm Bureau, Hawaii Agriculture Research Center, Hawaii Aquaculture and Aquaponics, and two members of the public. Comments were received from the South Oahu Soil and Water Conservation District, Hawaii Cattlemen's Council, and one member of the public.

The Director and Deputy Director of the Department of Planning and Permitting (DPP) testified that they are concerned that the title of the Bill may cause confusion about the Bill's applicability to land in the state land use conservation district, rather than land in a soil and water conservation district. The Director and Deputy Director also testified that the Bill may have unintended consequences for farming operations because it is common for farmers to grade more than 50 cubic yards of soil.

During discussion of the Bill, Councilmember Menor asked the Director of Planning and Permitting whether the Department has authority to enforce the grading regulations on lands in a soil and water conservation district if the grading does not conform to a conservation program. The Director indicated that clarification of the Department's regulatory authority for lands in a soil and water conservation district is needed.

Your Committee Chair encouraged the Director of Planning and Permitting to work with representatives of the soil and water conservation districts and other stakeholders to address this issue.

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Your Committee believes that additional public testimony at the public hearing recommended herein to be scheduled on this Bill will provide further assistance to your Committee and to the Council in their deliberations on this Bill.

Your Committee on Zoning and Planning recommends that Bill 34 (2014) pass Second Reading, be scheduled for public hearing, and be referred back to Committee. (Ayes: Anderson, Kobayashi, Menor, Pine – 4; Noes: None; Excused: Harimoto - 1.)

Respectfully submitted,



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Committee Chair

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