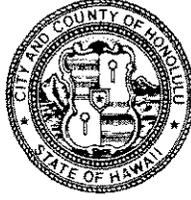


DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-8041
DEPT. WEB SITE: www.honolulu.gov • CITY WEB SITE: www.honolulu.gov

MUFI HANNEMANN
MAYOR



DAVID K. TANOUÉ
ACTING DIRECTOR

January 7, 2009

The Honorable Todd Apo, Chair
and Members
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813

RECEIVED

JAN 12 9 24 AM '09

CITY CLERK
HONOLULU, HAWAII

Dear Chair Apo and Councilmembers:

Subject: Study to Eliminate Agricultural Subdivisions

This is in response to a letter dated October 6, 2008, requesting, on behalf of the City Council's Agricultural Development Task Force, a study of the benefits and drawbacks of prohibiting agricultural subdivisions.

We have met briefly with Corporation Counsel. We understand that the Task Force suggested this strategy primarily to prevent the potential proliferation of gentlemen estates on agriculturally zoned land. While this strategy may block some gentlemen estates, the unanticipated or unintended effects may outweigh this benefit.

We will need additional time to fully determine the "positives and negatives" of the proposal. For example, the effects on all agricultural stakeholders: landowners, tenants, existing developments, subsistence farmers, energy crops, etc., must be assessed. We also need to examine alternate tools, including additional zoning controls. Other measures may require State legislative action.

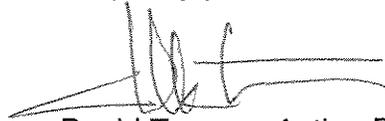
Some of the issues we have considered, but not necessarily resolved, are noted in the attachment.

As you may know, we are not staffed to take on major studies without assistance. We will need to discuss the relative priority of this project given our other mandates.

The Honorable Todd Apo, Chair
and Members
January 7, 2008
Page 2

I would be happy to further discuss this with you.

Very truly yours,



David Tanoue, Acting Director
Department of Planning and Permitting

DT:js

Attachment

APPROVED:



Kirk W. Caldwell
Acting Managing Director

cc: The Honorable Mufi Hannemann, Mayor
Corporation Counsel

ISSUES RELATED TO ELIMINATING AGRICULTURAL SUBDIVISIONS

- Confirmation of Exact Purpose

We assume the purpose is to discourage or eliminate future gentlemen's estates. This should be confirmed. Other possibilities:

- Discourage or eliminate existing gentlemen's estates
- Affect only land within the State Agricultural District
- Affect only land zoned agriculture
- Affect land currently in active agricultural use
- Reduce land speculation

- Immediate Effects

It is assumed that the City would want to avoid a "rush of diligence", and any proposed legislation would not allow for an immediate spike in agricultural subdivision requests to avoid falling under the proposed ban.

A ban on agricultural subdivisions would mean that all affected lots would only be allowed a maximum of two (2) farm dwellings. Under the Land Use Ordinance (LUO), lots at least 10 acres (zoned AG-1) or 4 acres (zoned AG-2) in size are allowed two (2) farm dwellings without undergoing subdivision or cluster approval.

- Longer Term Effects

Without subdivision, developers could seek agricultural cluster approval, which would allow farm dwellings at densities close to that allowed under agricultural subdivision, and subsequently "CPR" the farm dwellings.

- Appropriate Legal Vehicle and Resulting Appeals Process

The prohibition of further subdivision of land could occur as either a subdivision ordinance amendment or an LUO amendment. The subdivision amendment would ban ag subdivisions outright. For example, a possible LUO amendment could increase the minimum lot size standard for the ag districts to such a huge number, that effectively, no property would be big enough to subdivide. A variance from the LUO regulation would be decided by the Director of the DPP. However, an appeal of the subdivision ordinance would be heard by the courts, whereas an appeal of the LUO would be to the Zoning Board of Appeals.

- Potential Undesirable or Unintended Consequences

There are situations where farm housing "on-site" is a security measure to protect crops from vandalism and theft. It also provides workforce housing close to agricultural jobs, reducing commute time and cost. The prohibition would also affect legitimate agricultural subdivision per conveyance to farmers, subdivisions to adjust

property boundaries, for government purposes (i.e. reservoir sites, road widening, etc.) and designation of easements that are defined as subdivision options. To prevent negative impacts, a large number of exemptions would also need to be considered.

The ban may conflict with State incentives for Important Agricultural Land (IAL).

- Other tools, singly or in combination, that could more effectively discourage or eliminate “gentlemen’s estates” with fewer unintended impacts:
 - Introduction of a size (floor area) limitation on farm dwellings
 - Reduction in the land area allowed for farm dwellings and their accessory uses (e.g., kennels and garages)
 - Require demonstrated minimum investment and/or income in agriculture before a permit for farm dwelling can be obtained
 - Introduction of a “wait period” that prohibits immediate issuance of a building permit for a farm dwelling after subdivision approval
 - Restrict the farm dwelling as the principal residence of the landowner
 - Require stronger ag business plans be submitted either as part of the subdivision process and/or prior to farm dwelling permit approvals
 - Punitive measures where dwellings cannot meet the definition of “farm dwellings” as defined under State law and LUO

* * * * *