

LIFE OF THE LAND

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COMMITTEE ON FINANCE

Rep. Dwight Y. Takamine, Chair

Rep. Bertha C. Kawakami, Vice Chair

DATE: Tuesday, March 2, 2004

TIME: 2:00 p.m.

PLACE: Conference Room 308

Copies 30

Bill HB 2759 Purchase of Pupukeya-Paumalu

Pass With Amendment

Aloha Chair Takamine, Vice Chair Kawakami, and Members of the Committee

Life of the Land is Hawai`i's own environmental and community action group advocating for the people and the land since 1970. Our mission is to preserve and protect the life of the land through sustainable land use and energy policies and to promote open government through research, education, advocacy, and when necessary, litigation.

It is undisputed that land in the Lihi Land project was designated as "important" under the ALISH system

Hawaii Supreme Court (Decision 21332; October 2003; www.state.hi.us/jud/21332.htm)

Life of the Land firmly believes that agricultural land should stay in agriculture. There is great pressure from land speculators to urbanize agricultural land on Oahu's North Shore. Supporting sustainable agriculture systems requires us to push for long term agricultural leases, increase the role of small farmers, create farmer markets and cooperatives, promote agricultural education, support right-to-farm legislation, etc. We have concerns about this bill.

SB 3128 requests that the state acquire agricultural land for non-agricultural purposes:

The legislature finds that the area includes important coastal scenic views of the Koolau and Waianae mountain ranges, in addition to a wide variety of cultural, historic, environmental, open space, visual, and recreational resources. Its unique features attract tourists to the north shore of Oahu and thereby provide economic support for the rural community. Additionally, the area creates a buffer between the north shore community and the extensive military activity in the surrounding area.

In 1993 Obayashi proposed the Lihi Lani Project on the bluffs above Sunset Beach. Following a 5-4 vote by the City Council, the Save Sunset Beach Coalition, Life of the Land, et al filed a court challenge. The lower court agreed with Obayashi (1998). An appeal was made to the Hawaii Supreme Court, which decided the case in October 2003. The court ruled in favor of Obayashi on all grounds except one. The court decided that the issue of whether the lots were

truly agricultural lots was not ripe. The court stated:

The need to avoid premature adjudication supports a definition of "dispute" that requires more than a "difference of opinion" as to policy. The rationale underlying the ripeness doctrine and the traditional reluctance of courts to apply injunctive and declaratory remedies to administrative determinations is "to prevent courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements over administrative policies, and also to protect the agencies from judicial interference until an administrative decision has been formalized and its effect felt in a concrete way by the challenging parties.

At a later stage in the development, the parties will have the right to bring up the issue of whether the lots are agricultural or not agricultural, first before the City Council, and then later before the courts.

If this bill advances, an amendment is needed:

“ SECTION 2. The department of land and natural resources shall keep the Pupukea-Paumalu ALISH lands in agriculture; and shall determine the best option to purchase, or to acquire, the Pupukea-Paumalu area parcel, including a public-private partnership, and/or a government-community consortium, and land exchange.

**Prime agricultural land should stay in agriculture.
Any exceptions should go before the Land Use Commission.**

Mahalo,

Henry Curtis
Executive Director