



## **State Land Use Review Task Force**

### **Meeting No. 1 Notes (Draft)**

February 6, 2014, 1:30PM  
State Office Tower, Room 405

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#### **Attendance:**

Jesse Souki, Rodney Funakoshi (OP)	Dan Orodenker, Scott Derrickson (LUC)
George Atta, Kathy Sokugawa (DPP)	Will Spence, John Summers (Maui Planning)
Duane Kanuha (Hawaii Planning)	Mike Dahilig (Kauai Planning)
Dean Nakagawa, Norren Kato (DOT-STP)	Ken Tatsuguchi, (DOT-HWY)
Earl Yamamoto, Noa Ching (DOA)	Russell Tsuji (DLNR)
Mary Alice Evans (DBEDT)	Rick Egged (Waikiki Improvement Association)
Dean Okimoto (Hawaii Farm Bureau)	Dean Minakami, Chester Koga (APA Hawaii)
Daniel Chun, Amy Blagriff (AIA Hawaii)	Jonathan Ching (OHA)
Gladys Quinto Marrone (BIA)	Lucienne De Naie (Sierra Club)
Sherry Menor-McNamara (Chamber of Commerce)	
Alexandra Avery, Marti Townsend (Outdoor Circle)	
Miki Lee (Facilitator); Joan Delos Santos, Lorene Maki, Jenny Lee (OP); Bryan Yee (AG)	

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Meeting materials attached.

#### **I. Welcome and Introductions**

1. Jesse Souki convened the meeting, welcomed attendees, and introduced the project and purpose of the Task Force, and role of participants in representing their constituents while pursuing benefits for the community as a whole. The SLU Task Force Principles and Guidelines handout was reviewed.
2. Representatives introduced themselves, their agency/organization/affiliation, and their interest or past role in the land use process.

## II. Overview of the State Land Use Law and Five-Year Boundary Review

3. Rodney Funakoshi presented an overview of the State Land Use Law and OP's Five Year Boundary Review (slide presentation attached).

Comments:

4. Should review early 1960's planning documents which had sensible views. Should look at constraints, what lands should not be developed to get a truer picture. Should not only look at county plans. The Conservation District does not contain enough of lands which should not be developed. There is not a sensible process for urbanizing and protecting lands.
5. There is a need for a true public advocate as a required representative [party] within the land use process. California has a public advocate for energy. Then there will be someone who can track projects/represent the public and have a community and broader view of the process.
6. OP will be using GIS information to get a better picture of how the counties' plans and urban growth boundaries overlap with the State district boundaries, and also review the quality of agricultural lands. No boundary amendments are planned to be pursued.
7. The process should look at regulatory and spatial elements, where there are spatial gaps and disparities. Reviewing the process cannot be done without an understanding of the spatial elements. In gap analysis, you can layer the different spatial plans (counties, transportation plans, etc) and see where the gaps occur.
8. The challenges are scientific-technical, such as where are the critical areas to preserve, and process-related such as boundary amendments. Need to merge both, understand the scientific-technical while addressing the process.
9. Since much of the lands are Conservation and Agricultural, should we consider moving some Agricultural lands to Rural, which may be more appropriate. Maybe review the Rural definition, have more lands covered by this district, and let the counties regulate Rural district uses.
10. What is the source of the concerns listed in the presentation? These were taken from previous attempts to reform the land use process, with concerns coming from all sides.
11. Environmental issues are not mentioned in the list of concerns.
12. Will there be opportunities to have additional input from other interests not represented on this task force? Yes, this is expected to be a continuing item of discussion.

### III. Task Force Purpose

Comments on the State Land Use Law Purpose: *“preserve, protect, and encourage the development of the lands in the State for those uses to which they are best suited for the public welfare.”*

13. How do you define “best suited for the public welfare.” Who decides?
14. The simplicity of the statement is good.
15. The concept of the State Land Use Law in 1961 was simpler, it’s more complicated now. The law has since been amended nearly every year, with the many additions not reflecting back on the original intent.
16. OP will try to provide a short history of the Land Use Law. Back in 1961 the counties didn’t have planning departments, didn’t have general plans and planning capability, which started the state system. In 1969-70, Maui did their regional plans.
17. Would be valuable to learn the original intent. The current statement is good and broad enough to cover, but it’s the duty of government and every generation to reinterpret what this statement means. In 1961, preservation of plantation agriculture would have been viewed as a goal for the public welfare, but not today.
18. Public welfare is defined in the State Constitution.
19. Concern that validating statement could imply that the LUC is responsible for all lands.
20. The statement is related to the overall objective of the law, not necessarily the LUC, although the LUC is the main implementing body.
21. There are a lot of scholarly articles about the law in the 1960’s. The fear was plantation owners weren’t looking out for plantation lifestyles. The meaning of public welfare needs to be modernized, what best benefits society today, what societal interests are trying to preserve that can be translated to the land use law.
22. In smart land use, you identify needs then go forth. So, instead of having too much lands in agriculture not suited for ag, use map overlays to ensure we have adequate good agriculture lands, adequate conservation lands, and adequate lands for development.
23. There is a subset of lands where there are conflicting concerns that make issues contentious, so it would be good if there was a way to resolve this up front.
24. The law already provides criteria for balancing competing needs such as agriculture and where people live. Many of these tug-of-war cases have been shown on the general plan for many years as urban, but there have been over 20 public meetings by the time you get through zoning on one project. Also with EIS, there’s lots of public comment opportunities.
25. Every county is at a different stage in updating their general plans and area long range plans, so the vision is not clear. Who is providing overall guidance? Is it the 2050

Sustainability Plan? If a county plan has not been updated for 10 years, a development may make sense but could be in conflict with the county plan.

26. There are places that should be preserved and places that should be made easier to be developed. When projects have been in place for 20 years, you wonder why there is a housing shortage or economic problems, somehow the process needs to be made easier. The public welfare is not just preservation, but also providing for jobs and housing for residents. There are redundant processes at each permit and they are challengable at each level.
27. The LUC process long ago was simpler, now we're getting very specific conditions. It was noted to the county council considering zoning conditions that the LUC already made detailed conditions. Is this the function of the State LUC, do the conditions all have state significance, such as where commercial and industrial should be sited on a project?
28. Public welfare is measured in a number of ways. Different social indicators in pop housing units, these can be addressed spatially. Bad land use from a pressure valve standpoint has created chaos – what is the breadth and depth of development on agricultural lands? Is there being an imprint that has not been quantified? To what extent have lands been developed even though they're open space? Kauai will try to provide such information if they can.
29. Need to also look at values and needs. "Preserve, protect and encourage" depends on your perception, your values and needs. We might agree with the words, but my interpretation of what this means may be very different from yours. We need to look at what are scientific or physical characteristics that need to be preserved, so that the words have clearer meaning.
30. While there are more detailed guidelines in the law for re-districting, they are still broad and subject to interpretation, based on reports paid for by developers. On Maui, so much has been approved but not been built, and not because the process took so long.
31. The pressure-valve effect of capping development doesn't stop it, it just drives it underground – visitor units are driven to ag and residential areas – illegal TVRs. Hawaii has higher than the national average of population growth and household formations, lowest number of permitted residential units since WWII. Huge gap between what's needed and what's being built resulting in doubling up and illegal structures. The 1975 Towne decision provided everyone with input, but the resulting quasi-judicial process costs so much and takes so long. If you look at what's on the ground, you will see that it's very different from our intentions.
32. The GIS effort will try to see what the reality is from our current process, although we are not sure exactly how or to what extent this can be achieved.
33. Part of this is the designation of important ag lands, what should be left in ag forever and other lands that could be rural or provide the pressure valve release. What would Oahu

be without Mililani, Waipahu, Pearl City, Ewa, Kaneohe, where will people live? Need to balance the need for population and homes, but preserve certain areas.

34. When you look at total visitor days and the number of hotel units, it does not equal hotel occupancy. We've created a demand that is finding illegal outlets. HTA estimates there are 10,000 illegal visitor units around the State.
35. If you don't approve in Urban, it will go elsewhere. Maui has some data on this. In Haiku there are thousands of two-acre lots. In Launiupoko, listings are \$6 million. The easiest place to develop is the agricultural district where we want to preserve the most.
36. If you develop in Urban district, you have people grumbling about views being blocked. People don't understand that if you don't go up, you end up taking more ag land – like in Kakaako. There should be rules that everybody can follow and if you follow them, you can proceed.
37. If you go to court on every issue you will take years to build and you'll be chasing the amount of housing you need for our kids.

#### **IV. Proposed Task Force Process and Schedule, and Future Actions**

38. The future meeting schedule was provided with a general outline of how we want to proceed, which is very much subject to change. Bi-monthly meetings are planned on the first Thursday of the month. For the April meeting we are looking to review and discuss the Land Use process, what are some of the past efforts to revise the land use system, and any lessons learned.
39. Where does Phase I end and Phase II begin? Both efforts are proceeding concurrently. The current Task Force effort is Phase II focusing on the State Land Use District Boundary Amendment process.
40. Was suggested we should be more daring, think outside the box – what if the land use law were thrown out, how would you do it now?
41. In the coming months we may wish to form sub-groups, also we need to discuss public process, how to engage the broader public. Within about a year or so we hope to arrive at some conceptual recommendations, and not necessarily legislation.
42. For public meetings, need to ensure issues put before them are defined and not open-ended.
43. OP is considering focus groups in addition to public meetings. For targeted meetings, when is the right time, and who should do it?
44. Future meeting locations are undetermined; any and all ideas would be appreciated.

**Follow-up:**

- OP and LUC to see what articles may be relevant to provide to Task Force.
- OP will be looking to provide a short history of the State Land Use Law and some relevant background information. If you know of any references, send to Rodney at OP.
- County planning departments to see if they have GIS, TMK or other information on the extent of unintended developments in Agricultural district.
- With meetings every other month, members are encouraged to share this Land Use Review effort with their broader constituent base to receive additional input. OP is available to assist as needed.