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**Subject:** FW: Forced Farming For Hawaii?  
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-----Original Message-----

**From:** Charlee Abrams [mailto:kksp@juno.com]  
**Sent:** Thursday, December 08, 2005 7:37 AM  
**To:** labrams@kauairentals.com  
**Subject:** Forced Farming For Hawaii?

## Hawaii Reporter

Freedom to Report Real News

### **Forced Farming For Hawaii?**

By Andrew Walden, 12/5/2005 9:53:57 AM

The dispute over a 5000-acre large-lot agricultural subdivision on former Pioneer Mill cane fields at Puuanoa, Maui, is further exposing the degree to which the state's land use law is being interpreted to take property away from homeowners who do not conduct agricultural activity to the satisfaction of eco-activists and the state officials who appease them.

The fact that the Puuanoa case is before the State Land Use Commission (LUC) exposes the fate that awaits Hokulia lot owners if they were to bow to the demands of activists to retroactively recertify their right to build on their own property before that body.

In spite of the construction of a sod farm, a nursery, horse stables

and pasture land on some of the lots, members of the Kuleana Kuikahi hui claim the Puuanoa subdivision as a whole is not an agricultural use of agricultural lands.

The hui is arguing that the subdivision should be retroactively disallowed, effectively stealing the property of dozens of lot owners, some of whom have already constructed homes and begun to organize farming activities on their property. The claims being heard before the LUC would allow the retraction or denial of "certificate of occupancy" based on findings by the state or county of insufficient agricultural activity.

A key tool being used in the effort to force agricultural activity with the threat of loss of private property is a provision in state law that structures on agricultural land, such as a house, are considered an accessory to the farming activity – allowed only because farming is taking place. What is now happening is an extension of this law in an attempt to take back the final permit from properties deemed insufficiently agricultural. This would destroy hundreds of thousands if not millions of dollars in the homeowner's property value.

The Pioneer Mill case is in line with the findings of Third Circuit Court Chief Judge Ronald Ibarra in his ruling against the Hokulia development. In that case, now on appeal, lot owners property has been dispossessed without compensation on the basis that Hokulia did not constitute an agricultural use of agricultural land. Lot owners were not even party to the lawsuit. While Hokulia is a luxury subdivision featuring a golf course and an owners lodge with 200 acres specially irrigated at great expense for coffee and Milo production, the Pioneer Mill large-lot subdivision is very similar to the Big Island agricultural subdivisions of former C Brewer cane lands on the Hamakua Coast, in Puna, and in Kau.

If any Big Island landowners believe they are safe from the eco-thieves and their agents in government who have stolen the property

of Hokulia lot owners, now is the time for a rethink. Findings submitted to the LUC on December 1 by M. Casey Jarman, hearing officer on the petition filed by the hui, Maui County lacks enforceable rules to assure that landowners building homes on agricultural land will use the land for farming.

The December 2, 2005, *Maui News* reports, "According to the documents submitted to the commission, Maui County now requires a property owner to submit a 'farm plan' to be allowed to build a 'farm dwelling,' but there is no requirement to show actual farming activity on the property when the house is built.

"Should an owner seek a permit for additional structures, the owner then must demonstrate implementation of the farm plan, with the county requiring that 51 percent of the land be in use as a county-approved agricultural activity....

Jarman found that Maui County does not now have enforceable laws requiring agricultural activity on agricultural lands. Jarman ruled that no proof was offered by the hui that the current or planned uses of the Puunoa ag lots violate state land use laws. In spite of this she ruled that activity on the parcels should be reexamined after single-family dwellings have been built to determine if they conform with farming requirements.

Maui County Deputy Corporation Counsel Jane Lovell disagreed with having references to enforcement in Jarman's report. Lovell also urged deletion of references to future review of uses on the lots. State Deputy Attorney General John Chang is supporting the hui. Quoted in the *Maui News*, Chang says, "This does not give absolute right to build on the land and not farm in the future. (There is not a) perpetual right to maintain a home on ag land simply because the original intent was to farm the land . . . If they (owners) don't comply with that law in the future, there are sanctions that should be imposed on them for not complying. "We expect the county to fulfill its obligation."

One member of the LUC quoted in the Maui News had questions which point in the direction of a permanent oversight of agricultural lands to determine if their use is sufficiently agricultural with the threat of uncompensated loss of property if the land is found not to be farmed enough.

LUC commissioner Kyong-Su Im said, "The issue doesn't go away. The actual use (of the ag land) will determine if it meets the state statutes. . . . At what point (is it determined) that the use or the intended use is in compliance or not?"

"We can't just keep saying you can't make this determination because the statute is vague and if they don't comply, that's an enforcement issue. At what point can you say it violates the law?"

If the activists were truly interested in agriculture, they would be promoting the high-value agriculture which justifies the expense of property in Hawaii.

Instead they are opposing high-value agricultural ventures such as genetically modified plant field tests and the development of further processing facilities for Kona coffee and macadamia nuts at the Kona Airport.

Their opposition to these agricultural ventures while focusing on efforts to steal private property belies their claim to be interested in promoting agriculture.

The only way farming can be promoted in Hawaii is to make it profitable on Hawaii's high-value real estate. Tax cuts, changes in labor law and other incentives might make farming more attractive as a business venture in Hawaii. Ninety-five per cent of Hawaii's land is in the hands of government and large trusts. The sale or lease of more of these lands could lower the cost of real estate and make farming more affordable.

Forced farming doesn't work. The theft of private property is un-American. But that is exactly where the Hokulia decision is taking Hawaii.

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