

# **BUDGET AND FINANCE COMMITTEE**

**Council of the County of Maui**

## **MINUTES**

**January 30, 2012**

**Samuel E. Kalama Intermediate School Cafeteria, Makawao**

**CONVENE:** 6:03 p.m.

**PRESENT:** Councilmember Joseph Pontanilla, Chair  
Councilmember G. Riki Hokama, Vice-Chair  
Councilmember Gladys C. Baisa, Member  
Councilmember Robert Carroll, Member  
Councilmember Elle Cochran, Member  
Councilmember Donald G. Couch, Jr., Member  
Councilmember Danny A. Mateo, Member  
Councilmember Mike White, Member

**EXCUSED:** Councilmember Michael P. Victorino, Member

**STAFF:** Scott Kaneshina, Legislative Analyst  
Camille Sakamoto, Committee Secretary

Michele Yoshimura, Executive Assistant to Councilmember Joseph Pontanilla  
Troy Hashimoto, Executive Assistant to Councilmember Mike White  
Arthur Suyama, Executive Assistant to Councilmember Danny A. Mateo  
Susan Clements, Executive Assistant to Councilmember Donald G. Couch, Jr.

**ADMIN.:** Jeremiah L. Savage, Deputy Director, Department of Finance  
Scott K. Teruya, Administrator, Real Property Tax Division, Department of Finance  
Marcy Martin, County Real Property Technical Officer, Real Property Tax  
Division, Department of Finance  
Grant Nakama, Real Property Appraiser Supervisor, Real Property Tax Division,  
Department of Finance  
James A. Q. Giroux, Deputy Corporation Counsel, Department of the Corporation  
Counsel (substituting for Adrienne N. Heely, Deputy Corporation Counsel)

*Seated in the gallery:*

Michael J. Molina, Executive Assistant, Office of the Mayor  
Marjorieann Kahookele, Officer, Department of Police  
Stuart Kunioka, Officer, Department of Police

**OTHERS:** Richard S. Ishii  
Manuel A. Lopes  
Edwin Ferreira  
William B. Hess  
Darren Strand, President, Maui County Farm Bureau  
Hedy Sentani

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Blanch Ito  
Paul Sentani  
Donald S. Fujitani  
Carver Wilson, Vice President, Maui County Farm Bureau  
Bobbie Patnode, Vice President, Kula Community Association  
Michelle Del Rosario  
  
Amber Ngo-Savage  
Sherman Baisa  
William Jacintho  
Twenty (20) additional unidentified attendees

**PRESS:** Ilima Loomis, *The Maui News*

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**ITEM BF-70:           DISPARITY OF REAL PROPERTY ASSESSMENTS FOR  
AGRICULTURAL VERSUS NON-AGRICULTURAL LANDS (CC 11-227)**

**CHAIR PONTANILLA:** ...(*gavel*)... The Budget and Finance Committee Meeting for January the 30<sup>th</sup>, 2012 at Kalama Intermediate School Cafeteria is now in session. At this time I'd like to the Committee Members that are present this evening. To my far right, we do have Member Robert Carroll from Hana; we do have Elle Cochran from West Maui; Donald Couch from South Maui; Riki Hokama from the island of Lanai; to my left here the woman that represents Upcountry, Ms. Gladys Baisa; and left of her is Councilmember Mike White, who represents Paia, Makawao, Haiku; and at the end we do have our Council Chairman and the island of Molokai, Mr. Danny Mateo. Also, supporting the Committee this evening we do have our Council Staff Scott Kaneshina, who is the Legislative Analyst; and our Committee Secretary is Camille Sakamoto. From the Administration this evening we do have James Giroux, Deputy Corporation Counsel. In the back we do have Scott Teruya, Real Property Tax Administrator, Marcy Martin, and Grant Nakama. I don't see Gery Madriaga this evening. We also have some Staff Members that support some of the Council members this evening. If you all can stand up, all four of you. Thank you. That was a quick stand up. This evening the Committee is accepting public Testimony on BF-70, Disparity of Real Property Tax, Real Property Assessments for Agricultural versus Non-Agricultural Lands. The Committee is in receipt of a proposed bill, A Bill for an Ordinance Amending Chapter 3.48, Maui County Code, Relating to the Tax Assessment of Homesites on Parcels Receiving Agricultural Use Assessments. Before we get started, I'd like to, I forgot to introduce the Deputy Finance Director, Mr. Jeremiah Savage, to my far right. I'd like to cover a few ground rules. If you do have a cell phone, if you can turn it off or put it on the silent mode at this time. For those of you that are providing testimony, you will be provided a total of three minutes to do your testimony. When your name is called please come forward, please state your name for the record, and if you represent an organization, be sure to speak into the mic. This meeting is being recorded. And upon completion of your testimony the Members may have questions for you, so if you can stay for a few seconds should there be any questions. I'd also like to introduce your representative, your former representative serving on the Council, Mr. Mike Molina, Mike. For those of you that

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are not familiar with Kalama Intermediate, I understand that to my far right that door in the corner, and you, the bathrooms are located straight down the hall. So with that we'll go ahead and take public testimony at this time. The first person to sign up for public testimony is Richard Ishii. Richard, you must have come really early to be number one.

**...BEGIN PUBLIC TESTIMONY...**

MR. ISHII: Am I on? Okay, first of all thank you very much for helping in this particular matter. I have one concern and only one. It's a deer problem. They're all over my place. I can't farm, period. What are you gonna do about it? I don't know.

CHAIR PONTANILLA: Mr., Mr. Ishii --

MR. ISHII: Yes.

CHAIR PONTANILLA: --tonight posted agenda is about the --

MR. ISHII: I understand.

CHAIR PONTANILLA: --Disparity of Real Property Tax...

MR. ISHII: And that's where, and that's where I'm getting to.

CHAIR PONTANILLA: Okay, fine thank you, go ahead.

MR. ISHII: We have a residency and we have partly for farming. We have the home, but my farm is shot. That's where the problem is. Okay. So you have to understand we have been trying to do the best. So we have a home, we have a lot, we did farming but not anymore. Thank you. Any questions?

CHAIR PONTANILLA: Thank you. Members any questions for Mr. Ishii at this time? Seeing none, thank you again. The next testifier is Manuel Lopes. I don't see, oh I do see Mr. Lopes. We used to call Manuel, Manny at the phone company.

MR. LOPES: Okay. My question is when I bought this lot, it was Agricultural. Now it's gonna be changed, a portion of the lot goin' be changed to Residential. On a basis for one thing if you have a farm like how I have, you stuck because we don't have that kind of water Kahului, Wailuku, Lahaina, Kihei has, so we at a disadvantage. We don't have the road, we don't have sidewalks, we don't have nothing. All we have is what we making do with the property that we have and trying to use that as best we can in ag. So what I like find out from you guys here is why is this thing coming up? Why are you changing the rates of the Ag properties that were being sold as Ag and changing it to where even my house is now considered a residential and not a farm dwelling? That's what I'm asking.

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CHAIR PONTANILLA: Thank you. Members any questions for the testifier? Mr. Lopes, we're gonna be having our meeting in regards to this particular ordinance February the 14<sup>th</sup>, and part of the questions that you are asking us will be debated on the floor in regards to your concern. So this evening we're taking public testimony at this time. Thank you. Next testifier is Edwin Ferreira, another ex-telephone company person.

MR. FERREIRA: The old home town. Good evening, all. My name is Ed Ferreira. I live on an eight-acre, Agriculturally zoned parcel in Kokomo. Before I go any further, am I to assume that you will not be able to explain anything relating to the bill itself so that everybody understands? Is that right? You not gonna be able to do that.

CHAIR PONTANILLA: Yes, we're just receiving public testimony.

MR. FERREIRA: Okay.

CHAIR PONTANILLA: Thank you.

MR. FERREIRA: I will continue. Thank you Joe, Councilman Pontanilla. Anyway I've raised cattle on that property for over 37 years as did my father-in-law Frank Freitas from way back in the '40's. So the land has always been used agriculturally. I've got cattle there, I sell a couple, I buy a couple, I donate a couple to the church. I continue this route and one of the things that I do know is that if this passes where everyone will be taxed the same house wise, there's gonna be a lot of people that's really gonna be hurtin' financially. And I go back and I look at...I know I've got only have three minutes, I'm going try this. There's a lot of subdivisions that has been approved by the Council, not the Council by the County as Agricultural subdivisions, two acre lots, Maui Uplands, Pau Hana Estates, I mean I can go on. But the County approved it. Now these people that are living there bought this because they wanted to live on an extra-large parcel of land. I doubt it if too many of them are into agriculture, making money. Okay. Now, Councilman White, you said that it was unfair, and I agree with you, it is unfair that some people living on Agricultural land with a big beautiful home and not one animal, except maybe a dog, is paying the tax rate of an ag person. Now for those who are legally involved in agriculture, every year at the end of the year and they probably have to pay this monthly, quarterly, or semi-annually, there's a form Hawaii State General Excise Tax Form, which is G-45. We all have to file one of these if you're selling anything, any kind of produce, you gotta file this. And it goes to the tax office with your lovely check. For those people who are in ag land that are supposedly doing agriculture, if they're not sending this in then they're either cheating --

MR. KANESHINA: Three minutes.

MR. FERREIRA: --thank you--or that's it. Just one final situation, if the house is going to be taxed, all of the agricultural people are gonna be taxed only on the house then fine, everybody gets the same bill. But try to use the fair market value and not the...not the replacement value, okay, the fair market value. Thank you.

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CHAIR PONTANILLA: Thank you, Mr. Ferreira. By the way, ladies and gentleman, we do have people from the Real Property Tax Office over here this evening, and they are able to explain to you how this bill will impact your individual property. So if you want information, there's three personnel from the Real Property Tax Division that can provide you with that information. Members, any questions for Mr. Ferreira? Ed, can you come up? Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Thank you Mr. Ferreira --

MR. FERREIRA: Yes.

COUNCILMEMBER COUCH: --for coming and talking with us tonight.

MR. FERREIRA: You're welcome.

COUNCILMEMBER COUCH: I agree with you with the comment about it being fair or unfair, and I just have a question. How do we talk to the people who have a farm and they farm 50 or 60 acres, I found out, but they don't live on the farm. They actually live in a place where they pay full residential rate on the land. He's still a farmer, he's struggling as well, but he doesn't get the break that say you would on your eight acres. How do I talk to him and say that it's fair?

MR. FERREIRA: That is...

COUNCILMEMBER COUCH: 'Cause I had that question came up to me just over the weekend.

MR. FERREIRA: Okay, I would answer it by saying that was his option to either live on the land unless he's leasing it or renting it.

COUNCILMEMBER COUCH: Leasing, yeah.

MR. FERREIRA: Then he's leasing it, then he's stuck with a residential unit. He'll be taxed in the tax rate for agriculture for the entire parcel that he uses.

COUNCILMEMBER COUCH: Right but his homesite where he lives he pays --

MR. FERREIRA: Right.

COUNCILMEMBER COUCH: --the full market value.

MR. FERREIRA: Okay, versus say for myself living on the parcel.

COUNCILMEMBER COUCH: Right.

MR. FERREIRA: In the middle of the night, I get a call, my neighbors is saying your bull is eating my ti leaves. I gotta get outta bed, go down there, there's no street lights, so I've gotta take my

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flashlight, my four wheeler, wake up my neighbor, eh come give me a hand. These are some of the things that somebody in a residential area is not gonna have to put up with. I've had my water, I live up on a hill, so when Mr. Rodrigues used to flush his toilet or irrigate his little garden, my water would stop. I'd be in, I was ready to go catch a plane first thing in the morning for a meeting on Oahu, covered with soap in the shower, and it goes shoop and there's no water. I had to tell my wife, go in the toilet, lift up the tank, get some water to rinse myself. I mean we are a little bit substandard as far our living goes. But we're there on the property to maintain it and to interact with the animals.

COUNCILMEMBER COUCH: Well good, thank you very much, cause that's, I can tell him that then.

MR. FERREIRA: Yeah.

COUNCILMEMBER COUCH: Thanks.

MR. FERREIRA: Yeah, you welcome.

CHAIR PONTANILLA: Thank you. Members any more questions for Mr. Ferreira? Thanks Ed. Next testifier is William Hess. Maybe...oh, here he comes.

MR. HESS: My name William Hess, at my age of 71, I've owned properties in I think five taxing districts beside Maui, and I've also been elected to public office in some of those districts and so I've seen a lot of tax bills and tax codes and council meetings. I'm concerned that this Council has spent a lot of time devising ways to raise taxes on homeowners in Maui County, and tax on, homeowners in Maui County are under a lot of pressure these days because many of them are unemployed, and even those who are employed aren't making the kind of money that they would be making under other circumstances. We don't know when this will end. Senior citizens such as myself have taken a hit because there has been no increase in Social Security for the past two years and that's a permanent hit. You know our wellbeing has compromised by that. And the cost of energy and clothing and food and all of that as you well know has been rising all that time. My computer read the tax code to me a while ago and so my computer and I agree the tax code is very vague in a lot of areas. There are things that are left to the, the Tax Department to decide which are policy matters that should be decided by the Council and the citizens. And also the Tax Code appears to be very deficient in definitions. Definitions are really important because you have real estate jargon, you have Tax Department jargon. Unless the public understands what these things mean in detail and the Tax Department knows what they're talking about as well, we don't...we're not on the same page, and I find that that's something which should be corrected and I wish the Council would look at that. With regard to this particular legislation, it purports to equate Residential homes with residential homes on Ag land. I think that there are some differences that we should consider, and that is that there are County maintained facilities, amenities in residential neighborhoods such as local roads, sidewalks, hydrants, lights, sewer systems. There are local public facilities and there are also things such as schools and shopping in close proximity. Most ag properties do not have this. Ag properties tend to be out in the woods, so to speak. We frequently have to put our own roads in, our own

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utilities in, we have to put our own septic systems in. We are subject to zoning ordinances that are not...that give us more restrictions in some cases than residential properties. We also either have cows, pigs, chickens, whatever, or our neighbor does or they're farming and we have the smell of manure and insecticides wafting over our property. It doesn't seem to me it's exactly the same situation and yet my understanding is we're paying the same tax rate as Residential homes are. Another matter is that the size of a Residential property is a given, it's known. The size of a residential --

MR. KANESHINA: Three minutes.

MR. HESS: --property place on Ag property is not known and it's subject to debate with the Tax Department. In 2009 we gave extensive paperwork to the Tax Department showing three-quarters of an acre of gulch, three-quarters of an acre of ag land, and half acre of residential property on our two acre property. They came back with the assessment of an acre and a half of residential, no gulch whatsoever. When I asked the assessor why he had residential at that rate because the tax, the zoning ordinance doesn't allow that, he had no answer except to reduce it to the five-sixths of an acre which is double what we expect on our next tax bill. The gulch, he said that he looked at an aerial photograph and that's nothing near the boots on the ground measurement that we took, and he had no definition of what gulch could be \_\_\_\_\_ wise or couldn't tell me where to find it. So how do you come up with an assessment that way? I find this particular piece of legislation as it was read to me to be very vague as to what exactly is supposed to happen. As a result of this legislation, I think we'll be in the same boat as we were before.

CHAIR PONTANILLA: Mr. Hess, please, could you conclude your testimony at this time?

MR. HESS: Well my conclusion is the, the, the Council isn't very available either before Council meetings. There's no public session, and there's no way to reach Council people by telephone without running into a lot of assistants that, you know, don't always...aren't always very helpful. So I'd like to see the Council be more accessible on this issue and have more opportunity to discuss the many other things that I think should be improved in this Tax Code. Thank you.

CHAIR PONTANILLA: Thank you. Members, any questions for the testifier at this time? Seeing none, thank you again, Mr. Hess. Next testifier is Darren Strand.

MR. STRAND: Thank you. My name is Darren Strand, I'm the President of Haliimaile Pineapple Company, I'm also the President of Maui County Farm Bureau. The first thing I'd like to do is, is thank the Council members who have been available and reached out to, to our farmer and rancher members to, to try to help us understand what, what's going on. So I, I appreciate that. And, and through that process we've gained a substantial degree of, of clarity, but there's, there's still a lot of concerns and there's still a lot of gray areas. And, and some of my concerns are, are basically anything that impacts the, the bottom line for our farmers and rancher members is going to hurt these, these farm businesses, and so any increase whether it's just a few hundred dollars is, is going to hurt those businesses. The...we're also concerned about the equity in, in

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taxation. A lot of people have been talking about this being a fairness issue or an equity in taxation, but I, I don't think that correlates to an equity and services as, as some of the other folks have said today. In the, in the slide show that was used in, in previous meetings, the, the two examples, you know, I live on East Kuiaha and I can't wait for my sidewalks and I can't wait for the streetlights and I, I'd love to be able to walk to the community center. You know I don't know that there's necessarily a correlation there, and I think the rural residents generally cost the County less, less money. . . .*(clears throat)*. . . Excuse me. We're also concerned about the valuation. How these home sites are, are valued outside of the entire ag parcel will be a concern to, to our members. And, and also the final thing I'd like to say is that we, we would like to assist and, and offer our availability to...through this process to help minimize the impact that this will have on our farmers and ranchers. Thanks.

CHAIR PONTANILLA: Thank you. Members, any questions for Mr. Strand? Seeing none, thank you again for being here. Next testifier is Hedy Sentani.

MS. SENTANI: Before I begin, I should say I should have stayed in Honolulu instead of gone to farming. Okay. Are you planning to have a meeting in the Kula area as that is the largest farming area to be affected? Yet you went to Kihei and Lahaina and they're not that much into farming, so it doesn't make very much sense that you're avoiding Kula. Two, how would this bill or ordinance or whatever you call it impact on the retirees who are no longer farming? They're living on a fixed income and all of a sudden everything is going to go up for them. And at my age and at my husband's age and I kept telling him I don't want to plant anymore, I don't want to increase the area to be cultivated, so that is not...if...would this area then be...that's not under cultivation be taxed differently? And is there anything regarding proof of sale that if you at least have \$1,000 on your General Excise Tax License you're considered to be farming? I think that's rather low because I think you can have about so many trees of bananas or so many trees of mangos that you may get \$1,000, but, you know, that may only be about 10 trees. How about going up to 5,000 or \$10,000? Then these people who are saying they're farming and they're not really farming, you know, maybe that would not...it would impact on them. Now in regarding this area there's some people do not live on their land and they would like to be taxed differently. Okay. Theft is a big problem in the agricultural industry, so we live on the property, we catch those guys. And the next question I have, what time is the two February 14<sup>th</sup> Council meeting? No time? I'm finished.

CHAIR PONTANILLA: You're done?

MS. SENTANI: Yeah.

CHAIR PONTANILLA: Questions for the testifier? The meeting will start at 1:30.

MS. SENTANI: He said nine o'clock a.m.

CHAIR PONTANILLA: I'm sorry. The Council meeting normally starts at nine o'clock, and, and the Committee meeting is at 1:30.

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MS. SENTANI: And this is the one that's going to be . . . *(inaudible)* . . .

CHAIR PONTANILLA: Yes.

MS. SENTANI: Thank you.

CHAIR PONTANILLA: And, and let me provide you with some information, just brief information. You still have your exemption on the Real Property Tax of \$200,000, and for those retirees or those that are on fixed income, we still have the Circuit Breaker that you can apply for. And it's 2 percent of your AIG [*sic*], that is the formula for the Circuit Breaker. So the two programs still continue on. Thank you.

MS. SENTANI: Well what's AIG?

CHAIR PONTANILLA: Oh, Adjusted Gross Income. A...AGI, sorry. AIG is insurance. And you should have sent Paul over here, then we really compliment the telephone company. Thank you. Thank you, Hedy. Blanch Ito.

MS. ITO: I don't have anything really prepared. My husband used to work for the phone company so he knew Bob Carroll, Pontanilla, and Ferreira. But I just wanted to voice my concern because I inherited property from David's parents and they grew persimmons. They purchased the property when David was like a child in, in 1940s or '39 and we had persimmons, and they grew persimmons and they grew other crops. But after their passing, it came to David and me, and David passed on so quickly. I'm the one who's doing it with the help of my brother-in-law, and I'm retired and I'm worried about how am I going to afford, you know, I'm, I'm trying to paddle my canoe and trying to pay all the taxes and try to be proper. And all of a sudden now we're faced with this new bill that might increase my taxes and that concerns me. That's all I wanted to say. Thank you.

CHAIR PONTANILLA: Thank you, Blanch. Members, any questions for the testifier? Seeing none, thank you again. The next testifier is Paul Sentani.

MR. SENTANI: I know, I know what Mike White was trying to do when he said that, you know, the tax rates are very inequitable, but my concern is, you know, my grandparents, my parents, and now I working on this farm. And I'm getting older, you know, my body's telling me you're getting older, so, you know, maybe in another ten years or so, you know, I'm not going to be able to farm anymore. So what is going to happen to the property tax and how am I going to afford that? You know I was kind of thinking about, you know, bringing up this example about Mitt Romney, you know, Mitt Romney is a, I don't know, millionaire maybe a billionaire and he pays very little taxes and he's not breaking any laws. My other concern is, you know, I live on the property, my house is on the property, we farm on our property, and, you know, you're talking about taxing the portion that I farm as Ag rate, the property that the home sits on another rate or the regular Residential rate, and now I have some fallow land. Because of my age I don't

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want to go out there and start cultivating that, because, you know, I start cultivating it and I'm not going to be able to take care of it. I think one of the things that the, the Council really should look at, at this point in time is stop selling any property as Ag property. You know people want to buy property in Kula, you buy the property, if you want to farm, submit some kind of application to the County and prove that okay I bought this, I bought this land in Kula, it's a good place for farming. Have them justify to the County that they're going to be using this new purchased land as, as ag, and at that point, you know, the County can either agree with the, the homeowner or...because I know that what you're doing, you're trying to get after all these millionaires and they have all kinds of money and I don't have that kind of money. I can't compete against them. So I can understand a lot of these millionaires and you...I...you drive around Kula you can see the, the difference. You know these, these residential, these millionaires on Ag property their yard is a lot --

MR. KANESHINA: Three minutes.

MR. SENTANI: --greener than, than my farm.

CHAIR PONTANILLA: Thank you, Paul.

MR. SENTANI: You're welcome.

CHAIR PONTANILLA: Members, any questions for Mr. Sentani? Thanks again. The next testifier is Donald Fujitani.

MR. FUJITANI: Well I didn't work for the telephone company but I know Joe. I just have some broad statements, nothing in particular but some, some things that I consider important. First of all, I think the taxes raise production costs that are often passed on to the consumers. They do not support local agriculture. Shipping costs and distances make particularly Maui agriculture noncompetitive. A *Star Bulletin*. . . well it's the *Star-Advertiser* now 12/6/11 survey indicated that only 68 percent of Hawaii residents would support agriculture. They won't go out of their way to buy local products, you know, it's just as easy to go to Costco. You've heard statements from retirees. I think you should really give consideration to retirees. I know about the, the tax thing that Joe talked about. I recognize that the Federal retirement age is 68, and is...I don't see any reason why Maui should be any different. And I think you should also consider granting...grandfathering rather existing dwellings. I think it's really unfair to tax farm dwellings after they have been sited. They have been there for some time now and for the County to go in there now and say we're going to tax you is just the same as me buying a, say a Ford Focus--because that seems to be a popular car--and then somebody telling me we're going to tax you because you didn't get a hybrid. I don't see any difference. And why don't you recognize subsistence farming? I'm no longer in active farming 'cause, you know, I've reached the age where I can't farm effectively anymore, and the land that I have is...it's petered out. I give whatever products I now have to my neighbors, to my friends, and, and then there's an organization called Want Not...let's see, Want Not...Waste Not Want Not. They're always in the market looking for stuff, and, you know, that's a good source of getting rid of your

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subsistence if you've got too much. And I think you should also recognize subsistence farm...not subsistence farming, classes of agricultural land. There's A, B, C, D and so on down the line. Some are not as productive as say a Class A land, so you can't really expect people to produce a real income from farming on a Class D land...Class A maybe, providing that it's big enough.

MR. KANESHINA: Three minutes.

MR. FUJITANI: And that...the next one then is recognize that property size and market limit what can be produced, and consider your dollar thresholds. In other words, rhetoric and reality just don't match. This has been brought up frequently. Recognize that there are significant structure and amenity differences between residential communities and rural communities. Location dictates market value, meaning proximity to hospitals, churches, schools, stores, markets, parks, and the whole shooting match. Agriculture property owners pay taxes but get very little in return. And then this matter about family subdivisions, some people inherit land through a family subdivision. If you're the youngest kid in the family, you might get that two acres that's unsuitable for agriculture, period. It's a yard or lot, so consider things like that. You know I farmed for roughly 17 years, and the other day I pulled out all of my tax records and I finally realized how dumb I was. Really. You know I ended up with an average of \$807 a year after waking up early in the morning and busting my tail practically all day in the rain--you know, because it's Haiku, it rains--and coming out with that kind of results, and I'm one of those legitimate ones that did file my Schedule E and my Federal income taxes and to the State. Well take it for what it's worth, please.

CHAIR PONTANILLA: Thank you. Members, any questions for Mr. Fujitani? Mr. Couch.

COUNCILMEMBER COUCH: Thank you. Thank you, Mr. Fujitani, and thank you for actually being a legitimate farmer and being out there and busting your butt for very little. That's unfortunate. How do we...this is a question I guess we have to everybody is the real issue here is trying to go after the, the two acre gentlemen farms that everybody's complaining about. We're trying to find a way that it would be a legitimate way to go after them and help or not hurt you guys. So far this is what we've come up with and I'm trying to think of if there's a way we can even tweak it a little further to, to protect you guys more.

MR. FUJITANI: Well I think you already sent out those letters asking people to declare whether or not they're farmers, and then, you know, show me a plot plan, show me which...what kind of crops you're growing, photographs and all of those things. I think that's sufficient. If someone is not farming then, you know, take it for what it's worth, they're not farming. Now to be perfectly honest, I'm no longer farming commercially. I do farm but strictly subsistence, and that's why I'm asking you guys...not you guys, I'm sorry, you Council members to recognize subsistent...sorry, subsistence farmers.

CHAIR PONTANILLA: Thank you. Members, any more, any more questions for Mr. Fujitani? Mr. White.

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COUNCILMEMBER WHITE: Thank you for coming. Thank you for coming. The...you mentioned family subdivisions and --

MR. FUJITANI: Yes.

COUNCILMEMBER WHITE: --you realize that this particular bill that we're hearing tonight is focused just on the home site, not on the actual...not on the agricultural activity on the overall site?

MR. FUJITANI: Yes.

COUNCILMEMBER WHITE: Okay. I just want to be sure.

MR. FUJITANI: Yeah, but now that you've brought it up, concentrating on the, the home site, if I may. I think I brought this up with you before that consider a house that is built say ten years ago and not knowing that this kind of bill is going to come up and the individual might be taxed at a higher rate. That person could very well build a house, say a 3,000 square foot house straight up instead of spreading it all out and occupying a large area, 'cause I think that's what you're trying to do, right? Tax the footprint.

COUNCILMEMBER WHITE: Not, not the footprint. The bill as it's...as it reads now is just taxing the yard space, the non-agricultural use and...

MR. FUJITANI: Just the yard?

COUNCILMEMBER WHITE: Right.

MR. FUJITANI: Okay. Well, you know, the same thing could apply. I've got a...not me personally but people that had real large parcels could have a large yard but that wasn't the intention. They wouldn't have done that if they knew that the County's going to come along at some point and say well you've got a large yard that's not in agriculture so we're going to tax you. I don't see anything fair in that.

COUNCILMEMBER WHITE: Okay. Thank you.

MR. FUJITANI: All right.

CHAIR PONTANILLA: Thank you. Members, any more questions for Mr. Fujitani? Seeing none, thank you again, Don. Next testifier is Carver Wilson.

MR. WILSON: My name's Carver Wilson, I'm a farmer up in Kula, and I'm a Vice President of the Farm Bureau. And like many of the people that have spoken before us, I share common things. Their stories are very strong. I think everybody needs to realize that they all speak from the

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heart, and it is important and especially when I see several things that are important. One of them is that we stand against any tax increases that affect our bottom line as farmers, and I think you guys can see from the experience of ourselves and others that this bill does that. It feels to us or to me at least like it's a nickel and diming, just chipping away at us, just like the gas prices and everything else that we're up against. The key thing for me is that when I...everybody here...most of the people here are, are farmers and I feel like we're being the ones that are sort of being targeted. I know that you guys are thinking this through in terms of being...trying to be fair, but I think you really need to be thinking that through. Because the legitimate farmers are struggling and, and trying very hard to, to supply local needs and so on. I think it's really important what Mr. Hess said about the definitions, I think that's really critical. I think the valuation of the property is really important, and I think our members are worried about fixed income and retired farmers. Also we'd like to see an appeals process to where this can be identified. What I don't hear is that you guys or the Council, this County government is going out and identifying the difference between real farms and for lack of a better phrase, gentlemen estates, and I think that, that definition to me is, is missing. Thank you.

CHAIR PONTANILLA: Thank you. Members, any questions for Mr. Wilson? Seeing none, thank you again. Next testifier is Bobbie Patnode.

MS. PATNODE: My name's Bobbie Patnode and I am Vice President of the Kula Community Association. And we have a lot of questions about this bill. We feel like it covers one specific area but it leaves a lot of questions. There's a lot of questions about things like why are we using the old...really old Ag valuation still? What about retired farmers? What about worker dwellings? There's a lot of things that are not covered. We do have a draft position and I'm going to read that to you. Kula is a blend of rural and agricultural areas. As a vision of, the KCA states, at our core we believe in preserving open space and supporting agriculture both of which improve the quality of life and community. The Kula Community Association Board of Directors appreciates the Council's efforts to correct inequities in our Tax Code and make the Code as fair as possible. With respect to the specific imbalance that this bill is designed to correct, the KCA Board supports the taxing of Ag zoned land which is not being used for agricultural purposes in the same manner as non-Ag land, as is specified by the current rules and regulations. The KCA Board encourages the Council to enforce the Tax Code as it exists today. Go further to reaffirm Maui County's long standing support of agriculture and finally arrive at one definition of agriculture that can be used by all departments in the County. The KCA supports the Maui Countywide Policy Plan 2030 which states agricultural lands have the potential to move the islands of Maui County toward self sufficiency. Moreover, the vast open spaces and beautiful countryside, that are the result of agricultural land use, improve the quality of life for residents. These values are supported by the Maui County rules and regulations pertaining to Chapter 3.48.325 which state, the purpose of this Code is to encourage the owners of lands which are situated within the Agricultural District suitable for agricultural to put that land to agricultural uses on a sustained basis, and to discourage by tax recapture the conversion of such lands or the reduction or subdivision of Agricultural land parcels to less than reasonable economic size. The rules specifically state that lands being used as a home site shall be assessed at the highest and best use, only giving Agricultural assessment status to the parts of the parcel

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which are actually used for agriculture. The County needs to follow the rules in place today. By following the rules already in place in the County, the current concerns relating to parcels getting Agricultural assessment for the entire parcel will be eliminated. In summary, Maui County believes in the value of Agricultural lands and therefore has created tax incentives to preserve those lands. Rules are currently --

MR. KANESHINA: Three minutes.

MS. PATNODE: --in place to regulate the assessment of Agricultural lands. Comprehensive enforcement of the rules in effect today would eliminate actual and perceived imbalances. And that's it.

CHAIR PONTANILLA: Thank you. Members, any questions for the testifier?

COUNCILMEMBER BAISA: Thank you very much, Ms. Patnode, for being here --

MS. PATNODE: Thanks.

COUNCILMEMBER BAISA: --this evening. And you started your testimony with the statement about you had a lot of questions.

MS. PATNODE: Yes.

COUNCILMEMBER BAISA: I don't know if you heard earlier in the meeting that on February 14<sup>th</sup> at 1:30 in the Council Chambers, the Budget and Finance Committee will meet, and at that meeting there will be a presentation on what this bill is all about and we'll have a lot of information that should answer a lot of questions. So I hope that you and others who, you know, would like to know more will be there.

MS. PATNODE: I, I appreciate that, Ms. Baisa; however, I think the bill is not going far enough. I think that this bill if we're trying to just hit at, at people who are fake farmers and aren't paying what they should be for their house, this bill isn't really addressing the whole need here. Because there's so much, there's so much more that should be done to update this, and really if you put, you know, as Mike has said...Mr. White has said, if you have a quarter acre fenced with goats, this, this is still not addressing that issue. And it's not addressing the big, big owners who are, you know, selling their lands for millions and millions of dollars but are paying less than you and I do.

COUNCILMEMBER BAISA: We, we...

MS. PATNODE: It's not addressing that.

COUNCILMEMBER BAISA: We agree with you, and we know that this is a very complicated issue. And we're trying to bite away at it in small bites, and this was the first bill that was proposed.

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There should be others to follow. But again we encourage you to attend and listen so that...I'm sorry that we couldn't give you more information before the public hearing but this is the way it works.

MS. PATNODE: Okay.

COUNCILMEMBER BAISA: But thank you so much.

MS. PATNODE: Thank you.

CHAIR PONTANILLA: Thank you. Members, any more questions for the testifier? Seeing none, thank you again. The last person to sign up for public testimony this evening is Michelle Del Rosario. And if there's anyone in the audience that want to provide public testimony, if you could see our Secretary who's stationed to my far left. Go ahead.

MS. DEL ROSARIO: Good evening, Council members. I'm Michelle Del Rosario, Principle Broker for Maui and Company Real Estate. I come here before you this evening to request that as you look at this proposal that you look at enforcing the current rules and laws that are on the books. As a realtor hearing all this discussion and counseling my clients when they're purchasing and selling property, it's going to be very difficult as a realtor to communicate this. I mean right now I can refer them to the County and give them a piece of paper that has a list and this is your zoning and this is how much it is. But particularly for Upcountry parcels in ag use to be able to say well this is how the current owner is using it and when you come in it may change, you know, next year or five years from now, because now the Council has a history of coming back and making these types of changes, that is a concern. I'd like to see in review of this that there's some provision for tax incentives. As you can see, our farming population on Maui is aging and it would be great if we could provide a tax incentive through our property taxes in ag use to encourage more local people and young people to farm and produce local food supplies for our island. And last, the definitions I think are really important. I have a client situation who applied, had someone come out and verify after they filled out the forms and sent photos, and they were told that because their trees were not planted in rows that they did not qualify as ag although these trees had been on their property for 25 years. So I think again not only what you choose to define but then how it's administered through the Tax Department, how the tax assessors who are making these site visits are educated as to what is an ag practice. We have so many new technologies from hydroponics and, and fish farming and other techniques that not everything is cookie cutter like it may have been in the past. So I think that's important to consider. And last, simplify. If I could ask anything from the Council, make it easy, make it easy for realtors, make it easy for property owners. Thank you.

CHAIR PONTANILLA: Thank you. Members, any questions for the testifier this evening? Seeing none, thank you, again. Ladies and gentlemen, Members, Michelle Del Rosario was the last person to sign up for public testimony. Chair is gonna give one more chance to all of you. If you wanna provide public testimony, now is your chance. Seeing none...

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COUNCILMEMBER \_\_\_\_: Joe?

MS. SENTANI, FROM THE AUDIENCE: . . .*(inaudible)* --

CHAIR PONTANILLA: Whoa, whoa...

MS. SENTANI, FROM THE AUDIENCE: --*(inaudible)* --

CHAIR PONTANILLA: Excuse me?

MS. SENTANI, FROM THE AUDIENCE: --comment to . . .

CHAIR PONTANILLA: Excuse me...

MS. SENTANI, FROM THE AUDIENCE: No?

CHAIR PONTANILLA: No, please. Thank you.

MR. HESS, FROM THE AUDIENCE: . . .*(inaudible)*. . .

CHAIR PONTANILLA: Some of the Members are gonna remain here for awhile. Maybe you --

MR. HESS, FROM THE AUDIENCE: Could I make a few more comments?

CHAIR PONTANILLA: --and, and, you know, you can ask questions of the Members that's gonna be here. And, again, we do have the Real Property Tax people over here that can provide you with what your bill may be ending up if this thing goes through. So if you have any questions for the Real Property Tax Division, they're here this evening to help you also. Members, there's no one that, that wanted to provide public testimony. So if there's no objections, the Chair would like to close public testimony.

COUNCIL MEMBERS: No objections.

CHAIR PONTANILLA: Thank you.

**...END OF PUBLIC TESTIMONY...**

CHAIR PONTANILLA: To the people of Upcountry, I know some of...most of you are from Upcountry as well as Central Maui--I wanna thank you for coming out this evening to Kalama Intermediate School to give us your testimony in regards to the proposed bill that is being considered. Again, February 14<sup>th</sup>, we'll be taking up this issue at the Council Chambers. And there's gonna be lot of debate in regards to what we've heard throughout the community meetings that we've gone to. This is the biggest crowd that, that came out to provide public

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testimony. You know, and we're real happy to, to receive your testimony this evening. So with that, the Budget and Finance Committee meeting for January 30<sup>th</sup> is now adjourned.. . .(*gavel*) . . .

**ADJOURN:** 6:56 p.m.

APPROVED:

  
JOSEPH PONTANILLA, Chair  
Budget and Finance Committee

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Transcribed by: Daniel Schoenbeck

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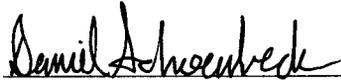
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CERTIFICATE

I, Daniel Schoenbeck, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 21<sup>st</sup> day of February, 2012, in Haiku, Hawaii

  
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Daniel Schoenbeck