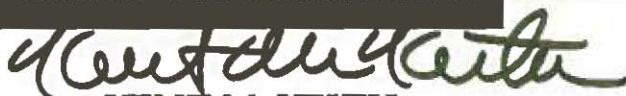


CHAPTER 18

LAND REGULATION



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“Is Hawai‘i being overdeveloped?”

Many battles have been fought over the development of land in Hawai‘i, especially during the past thirty years. Political leaders have responded to public fears of overdeveloped land by enacting numerous planning laws and forming various commissions. Environmental and citizen groups have opposed specific projects, testifying at hearings, filing lawsuits, and launching initiative campaigns. Sometimes these efforts have been based on relatively selfless motives, other times not. The “not in my back yard” mentality has plagued developers as well as government officials who need to find places for public projects.

Battles over development will no doubt continue, but the entire community needs to understand a critical underlying truth: we are not overdeveloped, we are underpreserved. Once everyone understands that, we can shift our focus from regulation to preservation.

Lots of land. Over and over again, I have heard people in Hawai‘i talk about our shortage of land. Actually, we have plenty of land, and most of it is open space.

The whole state consists of 4.1 million acres. Of that, 47.7 percent is in the Conservation District (mostly mountain tops and forests), and another 47.7 percent is in the Agricultural District (farming and grazing). A tiny amount is in the Rural District. That leaves 178,000 acres, or 4.3 percent, in the Urban District, the district that allows residential and commercial development. To put it the other way

around, 95.7 percent of all our land in Hawai'i is in the Agricultural and Conservation districts, and most of the land in those districts is open space.

Then why the many battles over development? One reason is that most of us live and work on O'ahu, where the development is the most dense. The high densities are partly the result of a state planning strategy to build "up" instead of "out"—to build more densely in areas already zoned urban instead of spreading out into agricultural or other open space. A related reason is that complex multilayered government regulation has created an artificial shortage of land available for development. The rezoning and development of land for residential or commercial purposes takes years and years, and not all applications for rezoning are approved by government agencies.

In turning down applications, government agencies have been in tune with the large number of Hawai'i residents who fear unchecked urbanization. This fear is understandable—but misplaced. We can sustain significant growth in residential and commercial development, with only a small increase in the percentage of our land which is urbanized.

Housing. According to a housing study conducted by SMS Research and Locations, there was pent-up demand in early 1993 for an additional 25,608 housing units. Using construction at Mililani and Kapolei as a reference, one can build six to eight single-family homes, or fifteen to twenty multifamily units (in two- or three-story buildings), per acre. If three-quarters of the pent-up demand were met with six single-family homes per acre, and one-quarter were met with fifteen multifamily units per acre, it would take 3,628 acres to meet today's pent-up demand.

If pent-up demand were met, we would still need to continue building homes to meet population growth. The SMS/Locations study estimated that the number of households in Hawai'i will grow by 4,350 per year to the year 2010. Again, if three-quarters of this demand were met with single-family homes and one-quarter with multifamily homes, it would take 616 acres per year, or 10,472 acres to the year 2010. Adding the 3,628 acres to meet pent-up demand with the 10,472 acres for growth to the year 2010 totals 14,100 acres. That's only three-tenths of one percent of all the land in the state.

Let's take an even longer-term view. A century of growth requiring 616 acres per year would total 61,600 acres. That is only 1.5 percent of all the land in the state and would only increase the percentage of urban land in Hawai'i from 4.3 percent to 5.8 percent. That's not a big increase.

Agricultural lands. Urbanization is likely to encroach on lands in the Agricultural District, because they are often the easiest to convert to urban uses. The State Constitution protects important or prime agricultural land, but the Land Evaluation and Site Assessment Commission in the late 1980s concluded that 1,261,000 acres (64 percent of the 1.9 million acres in the Agricultural District) are not prime or important. And only 226,000 acres of the 700,000 acres of prime land are now planted in crops. That means that 1.7 million acres, or 88 percent of the land in the Agricultural District, is either not "important" or "important" but not planted.

We want to preserve agricultural lands, but there is significant acreage which has little agricultural value and can be considered for other uses. A century of housing, even if it were all built on agricultural lands, would use up only 61,600 acres, or 3.1 percent, of the 1,963,000 acres currently in the Agricultural District. That's not very much.

Hard questions. Though there clearly is enough land to meet our future development needs, hard questions remain: what should be done . . . and where? We have to use the right land for the right things, and not use some at all.

The problem is not simply development or urbanization. The problem is the potential misuse of land, private ownership of land needed for public purposes, and loss of environmentally important resources.

It is troubling, for example, when a beautiful beach needed for a public park is acquired by a developer and made into a private resort with limited public access. It is equally troubling to see an apartment building constructed on prime agricultural land when other land could have been made available. And it is not right to allow an ecologically important resource to deteriorate because of overuse. These preservation issues should concern us greatly.

Land Use Commission. It is in response to issues such as these that governments get involved in land use. The state government has

regulated land use since the Land Use Commission (LUC) was established by statute in 1963. The LUC allocates all the land of the state into one of the four land use districts—Urban, Rural, Agricultural, or Conservation.

The basic concept of land use districts is that each parcel of land is better for some purposes than for others. Our community has many needs, and not all of them are fulfilled in the free market economy. For example, the concept of the “highest and best use” of land refers to its economic value. With no regulations prohibiting certain uses in certain districts, the economic “highest and best use” of a parcel of land would almost always turn out to be commercial or residential. Land use districts protect community values such as the preservation of agriculture, or aesthetic values such as the preservation of environmental resources, which would not be valued appropriately in the marketplace.

It made sense to establish the LUC in the early 1960s when the counties did not have fully staffed planning agencies and their general plans or development plans. They do now, however, and this has led to duplication in state and county zoning efforts. This duplication costs everybody time and money.

In 1984, the Department of Planning and Economic Development (DPED) did some informal research on LUC cases. Staff members found that in the LUC’s first twenty years, from 1963 to 1983, 48 percent of all the cases that came before the LUC were for 15 acres or less. The DPED held workshops that included diverse members of the community and concluded that, except for Conservation lands, the state had little need to be involved in decisions regarding parcels of 15 acres or less. The DPED proposed, and the 1985 legislature adopted, a revision to the LUC statute so that parcels of 15 acres or less in Urban, Rural, and Agricultural districts would be handled by the counties.

The 1984 DPED research found something else. It revealed that in only 7 percent of the cases did the LUC’s position on a land use issue really make a difference. In other words, the LUC’s role during that period was not decisive in 93 percent of all the cases it heard. But its involvement slowed the process and increased project costs significantly.

The state government should remain very interested in land use, but it no longer needs the Land Use Commission. The regulatory work

can be handed over to the counties, which are now fully qualified to do the planning and regulation.

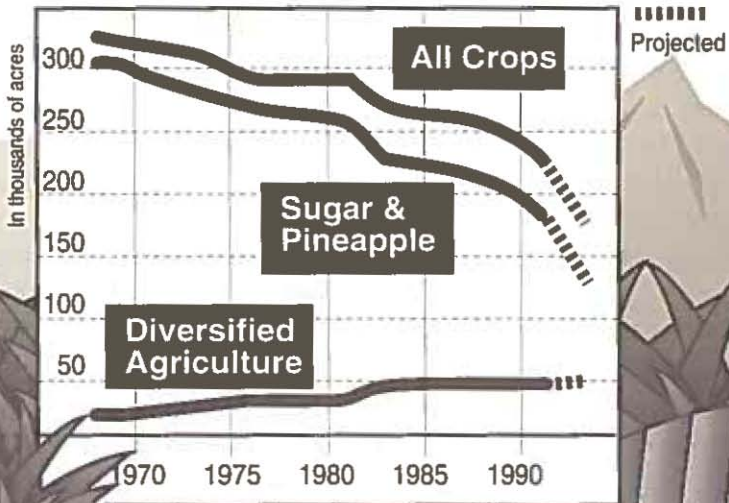
State strategy. What the state needs now is a strategy for acquiring, developing, managing, and preserving public lands which will fulfill the values of the community. That is the essential contribution our government can offer future generations: the assurance that there will be enough land for public parks, recreation centers, community meeting centers, and public school and university sites. And it can make sure that ecologically important lands will be preserved. The focus should be on preservation, not regulation.

The state government, through its Department of Land and Natural Resources, should retain its management of the Conservation District and should continue to work with private organizations such as the Nature Conservancy in building the state's nature preserves. It should go further, however, to envision Hawai'i in fifty or a hundred years and set about acquiring the land our people will need to fulfill public purposes and community values in the long-term future. Rather than attempting questionable down-zoning and fighting bitter lawsuits, the state should just acquire the land the public will need for future generations. This can be done by purchase at a fair market price, or by land exchange, or by donation.

There is enough land in Hawai'i for development. We need to take action now so that, regardless of the rate of urbanization, land is set aside to guarantee that Hawai'i will still be Hawai'i in the centuries to come.

Land in crop production, 1968 to 1994

Although a great deal of land continues to be used for agricultural purposes, the trend is downward. Diversified agriculture is growing but not nearly fast enough to take up the slack.



Source: University of Hawai'i School of Agricultural and Resource Economics.