

Agriculture Working Group presentation to the Kula Community Association General Meeting Regarding BF-70, by Sydney Smith

February 24, 2016

On Monday, Feb. 29th, 2016 at 1:30 pm there will be a hearing in Council Chambers before the Budget and Finance Committee, (County Building 8th floor). This entire meeting will be to hear testimony and to debate a bill known as BF-70. If you own or lease Ag zoned land, the changes to property taxes and your personal rights will be drastically altered if this bill passes, as will our island way of life. I cannot stress the importance enough of defeating this bill. We have been working to defeat this since 2012.

MARKET VALUE FOR ALL AG LAND

This bill, among other things, will convert all Ag land to market value. Ag land is currently assessed at Ag Use Value (as all Ag land is in all 50 states) and this will be devastating to small farmers and ranchers in Maui County. Ag Use Value is an assessment based on what the land can reasonably be expected to produce. It is not a subsidy, it is used rather than market value to protect and preserve Ag land from ever-rising market valuation and limit urban sprawl. Preserving Ag land adds to the quality of life in Maui County and it is called for in section 19 of Maui County Code and the Maui Island Plan. I believe this is also the Vision of the Kula Community Association - "preserve open space, support agriculture"

The original thought behind this bill was to catch "cheaters" who take advantage of the informal Ag use valuation provisions in the tax code.

AG USE VALUE IS THE LAW

Current code: 3.48.320 -

"Land classified as agriculture or commercialized residential and used for agriculture.

In determining the value of lands which are classified and used for agriculture, or classified as commercialized residential and used for agriculture, whether such lands are dedicated pursuant to section 3.48.350 or not, consideration shall be given to rent, productivity, nature of actual agricultural use, the advantage or disadvantage of factors such as location, accessibility, transportation facilities, size, shape, topography, quality of soil, water privileges, availability of water and its cost, easements and appurtenances, and to the opinions of person who may be considered to have special knowledge of land values."

EVERYONE IS PAYING MARKET VALUE ON THEIR HOMESITE

All homeowners who live on Ag land pay market value on their homesite and have for decades. Most of the Council is unaware of this having been misled by one Council member who has insisted that we are not. We present evidence (real hard evidence) that we are paying market value at every opportunity we are given to testify and we still have not been able to correct this perception. If you plan to testify please begin your testimony with "I live on Ag land and pay market value on my homesite."

BURNING DOWN THE HOUSE

Market valuation on the entire parcel will destroy our whole Ag Community. It's much like burning your house to the ground to solve your rat problem. You won't have a rat problem anymore and you won't have a house either. We believe the Council considers "Gentleman Farmers" to be the rats, but in truth, homeowners who live on Ag land are required by Council ratified zoning ordinances to practice agriculture. All so-called gentleman farmers are the ones in compliance and those not practicing any agriculture (considered good tax paying citizens by Council) are not in compliance.

THE SO-CALLED SUBSIDY

Mr. Hokama continually claims that Agriculture is costing Maui County a \$30 million "subsidy." But that is absolutely not true. Presumably, he says it to gain support from residential homeowner tax payers who, by the way, enjoy the lowest tax rate of all at \$2.75 per \$1000. The Ag tax rate is \$5.75, Hotel is \$8.85. Just for comparison, in New Jersey the average homeowner tax rate is \$10.00 per \$1000. So hotels here in Maui County pay less property tax per \$1000 than homeowners in New Jersey. And that's another thing - in the last 10 years the tax rate on hotels has gone up 8%, but the rate for Ag land has gone up 28%. Does this seem fair at all?

THE MANDATE

Ag Use Value is mandated by Hawaii Revised Statutes, Section 205 for all Ag land in the State of Hawaii including Maui County. This means passage of BF-70 will just end up in the courts for years to come. Guess who pays for that? Us, the taxpayers.

TO DEDICATE OR NOT TO DEDICATE

There is a provision in the bill to offer discounts on the parcel (not the homesite) if owners dedicate their land. However, the discounts are not enough to come close to the Ag Use rates currently applied and dedication cannot be used by many of the ranches here made up of multiple TMKs some of which have unclear title. Large land owners with the intent to sell or families who intend to leave their land to their children at some point in the future will not dedicate for fear of the punitive penalties and roll-back tax provisions in the recorded dedication agreement.

ALL CURRENT DEDICATIONS WILL BE CANCELLED

BF-70 calls for the cancellation of all current dedications, with new applications for all Ag parcels who may qualify. These applications must be reviewed and approved or denied by a newly formed voluntary Agriculture Advisory Committee made up entirely of volunteers from the Maui County Farm Bureau.

PLEASE SIR, LET ME GROW BROCCOLI

BF-70 calls for the Director of Finance, a man who freely admits that he has absolutely no Agriculture experience, to approve what the farmer or rancher chooses to grow or raise. And if you want to change what you grow, you need permission. I believe this could be challenged on Constitutional grounds and we are beginning to involve lawyers in our discussions in case this bill passes. The courts will be our recourse.

OUT THE WINDOW

BF-70 eliminates informal year-to-year Ag use valuations.

LET'S CODIFY WHAT WE'VE BEEN DOING FOR DECADES ANYWAY

BF-70 calls for market value to be applied to the homesite, something the Finance Department has been assessing and applying to all homesites on Ag zoned property for decades without an ordinance to support it.

THE DUST BOWL, MAUI STYLE

Farmers and ranchers who utilize leased land and pay the property tax as the compensation to the land owners will no longer be able to farm or graze those lands. Lease rents (usually just the property tax) will be too high and since many of these parcels are owned by speculators and investors waiting to develop they will not dedicate. Thousands of acres will either become fallow or development plans will be accelerated. This will lead to less agriculture, fire hazard, loss of top soil and more development.

LIMBO

The passage of BF-70 will lead to many farms and ranches being sold. At a time when we have the 36,000 acres of HC&S land in limbo, this is a terrible time to turn agriculture upside down.

NOTHING GOOD IS IN THIS BILL

There are dozens of other things in this bill detrimental to agriculture. They are too numerous to name. The people who wrote this bill have zero knowledge of agriculture and chose not to consult anyone who knew about agriculture.

WHO WORKS FOR WHOM HERE?

Budget Chair Riki Hokama has told the public, Counsel and the Ag Working Group that he is passing this bill (and cutting the "subsidy" in half) no matter what we say. However, we do still live in a democracy, not a dictatorship and our Counsel members are our elected representatives, there to serve us, not the other way around.

BUSY WORK

Last February we successfully got BF-70 deferred and Council member Hokama formally requested the Ag Working Group to review the bill and make recommendations. We did and a couple of months ago we submitted the results of our expert's research (including 14 pages of proof from Maui Coffee Association member and economist, Dr. Maggie Stumpp, PhD that their numbers supporting BF-70 were

all wrong) and our own work which resulted from hundreds of hours of our time. A couple of weeks ago Chairman Hokama called a meeting with our moderator, Bobbie Patnode and Ag Working Group member Brendan Balthazar. At that meeting there were also representatives from Corporate Counsel and the Finance Department. A new copy of BF-70 was presented to Ms. Patnode and Mr. Balthazar. Upon closer examination, not one word of the bill had been changed, it was exactly the same as the one we were asked to review a year ago. On Feb. 17th we got a revised version with a few changes. One included a provision for advance notice of an inspection, but no time frame was set forth so how much notice is still in question. Is a week's notice too much to ask? A farm can't be installed in that amount of time. Advance notice could be fifteen minutes.

THE TIPPING POINT

BF-70 is opposed by Haleakala Chapter of Farmer's Union United, Hawaii State Level Farmers Union United, Maui Coffee Association, Maui Cattlemen's Association, Hawaii Cattlemen's Council, Hawaii State Farm Bureau, Maui County Farm Bureau and the Kula Community Association.

It is imperative that you attend Council on Monday, Feb. 29th. You can submit testimony to bf.committee@mauicounty.us by Friday, Feb. 26th by 1:30 pm, but having spent 30 years testifying before Council I know that with all the printed material the Council has to deal with, spoken testimony is what leaves an impression. Large numbers of people in the Chamber gallery will also leave an impression and is just as important. I am bringing my employees too, who will also be affected by this. We need to fill the Council Chambers with vocal citizens. The Ag Working Group will be offering testimony for what it's worth. It is an election year and the other Council members need to see bodies in the house. We want this to be called to vote and not deferred so that we can kill this dead and be done with it. We have successfully gotten this deferred for four years, but it keeps coming back, unchanged, year after year.

DEMOCRACY IS TWO WOLVES AND A LAMB VOTING ON WHAT TO HAVE FOR LUNCH.

LIBERTY IS A WELL-ARMED LAMB CONTESTING THE VOTE.

~Benjamin Franklin