

**BILL064(23)**  
**Testimony**

**MISC. COMM. 630**

COUNCIL

## **COUNCIL Meeting**

Meeting Date: Dec 6, 2023 @ 10:00 AM

Support: 1

Oppose: 0

I wish to comment: 2

Name: Frederick Mencher	Email: frederickmencher@gmail.com	Zip: 96817
Representing: East Oahu County Farm Bureau	Position: I wish to comment	Submitted: Dec 5, 2023 @ 10:27 AM
Name: Kim Falinski	Email: kimfalinski@gmail.com	Zip: 96817
Representing: Nalo Meli Honey	Position: I wish to comment	Submitted: Dec 5, 2023 @ 11:18 AM
Name: Stefanie Sakamoto	Email: ssakamoto@imanaka-asato.com	Zip: 96789
Representing: BIA Hawaii	Position: Support	Submitted: Dec 5, 2023 @ 09:27 PM



**EAST OAHU COUNTY FARM BUREAU**  
**910 CALIFORNIA AVE., WAHIAWA, HI 96786**

December 5, 2023

Councilmember Tommy Waters, Chair  
Councilmember Esther Kia'aina, Vice Chair  
Honolulu City Council  
Honolulu, Hawai'i 96813-3077

Dear Chair Waters, Vice Chair Kia'aina, and Members of the City Council,

The East O'ahu County Farm Bureau, which represents approximately 420 farmers and supporters of agriculture from Waimanalo to Kahuku, is sending this testimony to express concerns regarding Bill 64 (2023), which represents a major revision of Honolulu's Land Use Ordinance. Bill 64 is a re-introduction of Bill 10 (2022), while the proposed floor draft of Bill 64 appears to represent Bill 10 (2022) with amendments proposed during Bill 10's various Council and committee hearings. We have attached two items of East O'ahu County's previous testimony which express serious concerns about Bill 10's negative impacts on agriculture and agriculture-related operations. Since Bill 64 (2023) is a successor bill to Bill 10 (2022), these concerns remain.

We understand that, due to Bill 64's large size and potential major impacts on many areas of Honolulu's economy, environment, and lifestyle, discussions will focus on different sections of the bill as it goes through its Council and committee hearings. We note that during 2022, a working group was convened that included Ulupono Initiative, the Hawai'i Farm Bureau, the Waimanalo Agriculture Association, County and State officials, and various agricultural stakeholders. The working group's mission was to examine in detail the sections of Bill 10 (2022) that could impact agriculture, as well as Bill 10's proposed CD1 and CD2 versions, and to suggest revisions that would allow agriculture to thrive while satisfying the needs of the community at large. We strongly encourage the Council to adopt the working group's recommendations when the agricultural sections of Bill 64 come up for hearings.

Thank you for the opportunity to testify on this important matter.

Sincerely,

A handwritten signature in black ink that reads "Frederick M. Mencher". The signature is written in a cursive style.

Frederick M. Mencher  
for Grant Hamachi, President  
East O'ahu County Farm Bureau





**EAST OAHU COUNTY FARM BUREAU**  
**910 CALIFORNIA AVE., WAHIAWA, HI 96786**

October 18, 2022

Councilmember Brandon J.C. Elefante, Chair  
Councilmember Esther Kia'aina, Vice Chair  
Committee on Zoning and Planning  
Honolulu City Council  
Honolulu, Hawai'i 96813-3077

Dear Chair Elefante, Vice Chair Kia'aina, and Members of the Committee,

The East O'ahu County Farm Bureau, which represents approximately 420 farmers and supporters of agriculture from Waimanalo to Kahuku, appreciates the efforts by the Department of Planning and Permitting to update Honolulu's Land Use Ordinance. However, as we have noted in previous testimony, Bill 10 contains many provisions that may negatively impact farmers on O'ahu. Bill 10 CD2 addresses some of these concerns, in particular by prohibiting meeting facilities, group living, child daycare, adult daycare, and K-12 schools in the AG-1 district. However, these facilities would still be permitted in the AG-2 district. On most lots where they are constructed, these institutions will become the primary land use and income producers, with any agricultural production limited to the minimum necessary to retain agricultural designation. Bill 10 CD2 also still contains many of the inaccurate definitions, unnecessary and unproductive restrictions, conflicting standards, and likely conflicts with State statutes that we mentioned in previous testimony. We must therefore continue to oppose Bill 10.

New amendments to Bill 10 CD2 have been suggested, particularly the 66-page proposal by Councilmember Elefante that contains 124 separate amendments. These amendments address some of our concerns -- for example: inclusion of aquaponics, a better definition of urban agriculture, and removal of some unproductive or conflicting standards. However, concerns still remain -- for example: the apparent prohibition of on-farm solar energy use in State agricultural and conservation districts, and conflicts with State building permit exemptions for certain structures on agricultural lots greater than two acres. In addition, some new and problematic amendments are proposed, including the requirement that "parking for farm stands must be provided in marked stalls on an all-weather surface." This requirement will impact many existing farm stands such as the ones in Kahuku: it will be costly, will detract from the appearance of farm stands in rural areas, and will render the "all-weather surface" permanently unsuitable for agriculture. The proposed agritourism standards need further consideration; they would allow up to 200 individuals per event, but would permit only ten parking spaces and prohibit full-size tour buses. How can 200 people travel to an event in only ten cars?

Finally, the sheer number of proposed amendments strongly indicates that Bill 10 is not a finished document, and is not ready to be passed by this committee or by the full City Council. We stand by our previous testimony requesting that Bill 10 be held to allow further public input, and encouraging the Council to break this overly large bill into more manageable sections that can be considered separately.



Thank you for the opportunity to testify on this important matter.

Sincerely,

A handwritten signature in cursive script that reads "Frederick M. Mencher". The signature is written in dark ink and is positioned above the printed name and title.

Frederick M. Mencher  
for Grant Hamachi, President  
East O'ahu County Farm Bureau





**EAST OAHU COUNTY FARM BUREAU**  
**910 CALIFORNIA AVE., WAHIAWA, HI 96786**

August 22, 2022

Councilmember Brandon J.C. Elefante, Chair  
Councilmember Esther Kia'aina, Vice Chair  
Committee on Zoning and Planning  
Honolulu City Council  
Honolulu, Hawai'i 96813-3077

Dear Chair Elefante, Vice Chair Kia'aina, and Members of the Committee,

The East O'ahu County Farm Bureau, which represents approximately 420 farmers and supporters of agriculture from Waimanalo to Kahuku, appreciates the efforts by the Department of Planning and Permitting to update Honolulu's Land Use Ordinance. We respectfully submit our comments and concerns regarding the agriculture-related provisions of Bill 10 and the proposed CD1 as follows:

Section 21-5.40(a): The proposed definitions of crop production includes hydroponics under "crop raising" in Sec. 21-5.40(a)(4)(A), but does not mention aquaponics. There are several aquaponic farms currently operating on O'ahu, so aquaponics should be included in the definition of crop production. Aquaponics is defined as an accessory use to aquaculture in Hawai'i State statute, so for consistency it should be included in the definition of aquaculture: Sec. 21-5.40(a)(1)(A).

Section 21-5.40(a)(7)(A): The proposed definition of urban agriculture as "cultivating, maintaining, and harvesting crops, often using intensive agriculture and large-scale farm equipment, primarily for profit, by an organization or business" does not clearly distinguish between urban agriculture and many other forms of agriculture. A better definition might be "cultivating, maintaining, and harvesting agricultural and/or aquacultural crops on a site zoned for urban or industrial use, often conducted in an enclosed building or facility." Item (iii) under this section states that "Building area for structures such as tool sheds, planting preparation houses, and restrooms must not exceed 15% of lot area." It is not clear whether growing facilities count as "structures" under this provision. Much urban agriculture is likely to be conducted indoors, in which case the growing facility may reasonably occupy most or all of the site.

Section 21-5.40(c)(1)(B)(ii): "Building area of all agricultural support facilities must not exceed 25% of lot area." It is not clear why this restriction should apply in I-1, I-2, and IMX-1 zones where agricultural equipment service is permitted. Also, such a restriction may conflict with State law, which exempts certain structures on agricultural lots larger than two acres from building permit requirements.

Sections 21-5.40 (c)(2)(B)(i) and (ii), and (c)(5)(B)(i) and (ii): Standards for "collection and storage" and "processing." Again, some of these standards may conflict with State law where the facilities are on agricultural lots larger than two acres.



Section 21-5.40 (d)(1)(A): An “agricultural-energy facility” is defined as “an accessory facility that generates, stores, or distributes renewable energy fuels from products of crop production or livestock keeping.” Solar facilities are specifically excluded, presumably to prevent utility-scale solar facilities from taking land out of agricultural production. However, this provision could also prevent farms from installing small-scale alternative energy facilities to reduce electricity costs or to provide electricity at off-grid sites. Farms should be encouraged to install alternative energy sources such as wind and solar for exclusively on-farm use, and these sources should be specifically permitted in the definition of “agricultural-energy facility.”

Section 21-5.40(d)(2)(B): Standard (i), which requires that “at least 75% of the activity on the zoning lot must be crop production or livestock keeping” appears to conflict with standard (vi), which requires “dedication of 50% or more of the project site to active agricultural use.” Similarly, standard (iii), which prohibits “construction of permanent nonagricultural structures” conflicts with standards (iv) and (v), which set conditions for “structures primarily dedicated to agritourism” and “buildings and structures associated with agritourism that are not required as part of the crop production or livestock keeping.”

Before committing these standards to law (including the proposed CD1 version’s prohibition on motorized transport), businesses such as Kualoa Ranch and Kahuku Farms should be consulted regarding impacts on their existing operations.

Please also see our comments below regarding Bill 10’s and the proposed CD1 version’s various requirements for 50% or 75% dedication of a site to active agricultural use.

Section 21-5.40(d)(5)(B)(vi): “Leasing land, managing labor, or **managing a business** is not considered performance of an agricultural activity.” A farm is a business, so managing a farm (as long as the farm is on the same site as the dwelling) is certainly performance of an agricultural activity.

Section 21-5.40(d)(6)(B)(iii): “No electricity, sewer, water, or other utility services are allowed in conjunction with a farm stand.” These services are essential to provide proper sanitation, refrigeration, and hand-washing facilities to satisfy Federal food safety requirements. A farm stand that does not have these utilities may not qualify for food safety certification.

Section 21-5.40(d)(8)(B)(iv): “All walls [of a farmer’s market] must be at least 50% open.” Does this requirement really mean that each of the four walls must be 50% open, or does it just mean that 50% of the total wall area of the market must be open?

CD1 items:

Prohibits bus, jeep, or off-road vehicle tours as a permitted agritourism use. As above, this restriction may impact some existing operations.

Permits certain uses (meeting facilities, group living, child daycare, adult daycare, and K-12 schools in the AG-1 and AG-2 districts. We feel that these facilities are not appropriate uses on agricultural lands, as they would require that some (up to 25%, according to the CD1 proposal) of the land be taken out of production for purposes unrelated to agriculture. In addition, agricultural practice may involve noise, dust, spraying of pesticides, and operation of heavy equipment – activities that may inconvenience or even endanger children or adults



meeting, living, or trying to learn on the site.

General comment: In several sections, Bill 10 would require the dedication of at least 50% of a farm parcel to active agricultural use. The proposed CD1 would increase this requirement to at least 75%. We support the intent of these provisions to maintain agricultural production, but we must also mention some concerns:

- These provisions would still allow a significant proportion of a farm lot to be taken out of production. This is acceptable if the land is taken for purposes that support the overall farm operation, but the proposed CD1 would also allow unrelated facilities like schools, daycare, and meeting facilities.

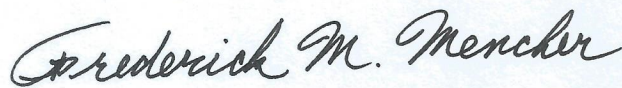
- Many agricultural lots include sections of land that are unsuitable for agriculture because of steep or rocky terrain, or that contain wetlands, streams, or other features that cannot be cultivated. How are these areas accounted for in the 50% or 75% requirement?

- Many items of testimony on Bill 10 have come from owners of small agricultural plots who are concerned that the land will be taken away from them if they become too old or otherwise unable to farm, or if some parts of their sites are not suitable for farming. The basic problem is that so much of O'ahu's agricultural land has been subdivided into small plots that are more suited as residential sites than as farms. Bill 10 does not include a "grandfather provision" to clarify what happens if a small parcel is still zoned for agriculture, but cannot be farmed by its current owner.

- Finally, we note that dedication of 50% or 75% of a parcel to agriculture by submitting a form to DPP is not the same thing as actually farming 50% or 75% of the parcel. Does DPP have the necessary personnel, funding, and agricultural expertise to determine whether or not farms are actually meeting this requirement?

Thank you for the opportunity to testify on this important matter.

Sincerely,

A handwritten signature in cursive script that reads "Frederick M. Mencher".

Frederick M. Mencher  
for Grant Hamachi, President  
East O'ahu County Farm Bureau



To our esteemed Councilmembers,

I am writing in my capacity as a 17-year beekeeper in the City and County of Honolulu, and owner of a local honey company. I was trained under the tutelage of Ian Damon and Howard McGinnis and am part of the Hawaii Honeybee Coop, which keeps hives in agriculture, urban and rural zoned properties on O'ahu. I am opposed to the current language about beekeeping incorporated in the Bill 64 LUO bill for reading today.

Beekeeping is and has the potential to be an important agricultural industry for Oahu. It requires little infrastructure and employs trained staff for management. The amount of hives in Hawaii has doubled in the last 10 years because of new interest, but are mostly focused on Hawai'i island. Yet, O'ahu has the potential to be a honey producer as well.

The new rule has two important concerns:

1. Beekeeping is considered "Agricultural support", yet according to Federal designations it is usually placed next to "Livestock". Lots that are dedicated to only apiaries should be allowed, and would be considered a primary agricultural operation. To have a vision where beekeeping could be an industry of its own, and not just "accessory" is important for our future.
2. In the "Accessory" division there is a maximum of 6 hives for the maximum size lot specified (20,000ft<sup>2</sup>). Typically zoning allows for 2 acres. 6 hives per 2 acres is an extraordinarily small density, and would limit current operations.

I would recommend that beekeeping be included under limitations for livestock. For "accessory" beekeeping it might be appropriate to have another category for lot size. From experience having 25 hives per 2 acre (80,000 sq ft) lot is appropriate.

3. Many times beekeeping activities are appropriate on marginal lands with high slopes. The rules in place about setbacks do not consider that neighbors may be uphill.

It is important to codify that beekeeping is an important agricultural practice, both as a full industry and as an accessory. I hope it is possible to amend the language in order to reflect interest in preserving apiculture as a key part of farming on O'ahu.

With respect,

Dr. Kim Falinski

665 Walea Pl

Honolulu, HI 96817





**HONOLULU CITY COUNCIL**  
**Honolulu Hale**  
**10:00 AM**

December 6, 2023

RE: BILL 64 - RELATING TO USE REGULATION

Chair Waters, Vice Chair Kiaaina, and members of the Council:

My name is Max Lindsey, Government Relations Committee Chair of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii. Our members build the communities we all call home.

**BIA Hawaii is in support of the intent of Bill 64, Relating to Use Regulation.** BIA Hawaii supports the general intent of this bill to address the regulation of uses throughout Chapter 21, the Land Use Ordinance (LUO). This bill will bring clarity, consistency, and a much-needed refresh of the LUO. As we move towards the Committee hearing on this bill, BIA Hawaii will submit more comprehensive comments on the language of the bill.

The state of Hawaii is in a dire housing crisis. As the Council is aware, the cost of housing in Hawaii is extremely high, with Oahu's median price of homes being currently over \$1 million. Approximately 140,436 U.S. households are priced out of buying a home for every \$1000 increase in price, according to the National Association of Home Builders (NAHB). We are in support of legislation that would allow for the building of much-needed housing at every price point in Hawaii.

Thank you for the opportunity to testify.