

PUBLIC HEARING

JANUARY 27, 2016

A public hearing of the Council of the County of Kaua'i was called to order by Mason K. Chock, Chair, Planning Committee, on Wednesday, January 27, 2016, at 1:45 p.m., at the Council Chambers, 4396 Rice Street, Suite 201, Historic County Building, Līhu'e, and the presence of the following was noted:

Honorable Mason K. Chock
Honorable Gary L. Hooser
Honorable Ross Kagawa
Honorable Arryl Kaneshiro
Honorable JoAnn A. Yukimura
Honorable Mel Rapozo

Excused: Honorable KipuKai Kualii

The Clerk read the notice of the public hearing on the following:

“Bill No. 2601 – A BILL FOR AN ORDINANCE AMENDING SUBSECTION 8-15.1(d), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ADDITIONAL DWELLING UNIT ON OTHER THAN RESIDENTIALLY ZONED LOTS,”

which was passed on first reading and ordered to print by the Council of the County of Kaua'i on December 16, 2015, and published in The Garden Island newspaper on December 21, 2015.

The following communication was received for the record:

1. Tausend, Peter, dated January 27, 2016

SCOTT K. SATO, Deputy County Clerk: We have received one (1) written testimony in support and we have five (5) registered speakers. The first registered speaker is Patricia Lyons, followed by Chris Hayden.

Councilmember Kagawa: Committee Chair Chock, could you make a clarification as to the next step, at some point, since we have a lot of people here.

Committee Chair Chock: Clerk, do we have a date for when this will be heard.

Mr. Sato: This item will appear at the Committee Meetings on February 3, 2016. If it passes the Committee, then it will appear on second and final reading on February 10, 2016.

Committee Chair Chock: Thank you very much. You may proceed.

PATRICIA LYONS: *Aloha*, everybody. Thank you for putting up with us and for your service. I appreciate all of you. I am here to provide testimony for Bill No. 2601, ADU (Additional Dwelling Unit), and my name is Patricia Lyons. I have hope that we can extend the date from 2024 to permanent. My reasoning is that my parents adopted my two (2) nephews and they are a lot younger than I am

and not as well established maybe and they need time to build and save money to build. As we were just talking, back in the day, if you had maybe fifty thousand dollars (\$50,000), you could probably build something nice and now, that is just for the septic tank and maybe grading the property. I also was talking to Crystal Contrades in the back and she has a daughter who is twenty-one and she is a little bit shy so she does not want to testify, so I figured I would say something for her too. Being twenty-one, you are talking another ten (10) years before she can come up with any type of money and basically the same for my nephews. One may be a little bit more established, while the other one just started a permanent job...I appreciate all of your time and thank you for putting up with me. I appreciate it.

Committee Chair Chock: Next speaker, please.

Mr. Sato: Next speaker is Chris Hayden, followed by Peter Tausend.

CHRISTOPHER HAYDEN: I would like to thank you all on behalf of the people who have done this. I get nervous about these things, can I look at my notes? Thank you. The compassion and understanding that you folks have, we appreciate it deeply, in considering the passing of Bill No. 2601. It will bring a lot of relief to people and they appreciate it with love and consideration, and with love and gratitude. Thank you.

Committee Chair Chock: Thank you.

Mr. Sato: The next speaker is Peter Tausend, followed by Lisa Otoman Murayama and Robin Murayama.

PETER TAUSEND: *Aloha* Councilmembers. My name is Peter Tausend and I am testifying in favor of Bill No. 2601. I have lived in Kalāheo for over thirty (30) years. I, my wife, and children reside on a one acre agriculture zoned property in *mauka* Kalāheo where we grow tropical flowers, citrus, lychee, and avocado. Both my wife and I have full-time jobs outside the home, but she will soon retire and has qualified a spot at the Līhu'e Farmers Market where she will sell our flowers and fruit. I strongly support Bill No. 2601, which I believe will allow about two hundred (200) homeowners to build ADUs, when they are able to. However, I urge you to consider amending this Bill or introducing a related bill to allow other homeowners to build ADUs. We did not apply for an ADU permit when they were originally offered, not appreciating then the future need and challenge for our children to find housing on Kaua'i. Kaua'i has a severe housing shortage. I have learned this firsthand since my recently married daughter and her husband relocated from San Diego to Kaua'i last July. They are living with us, while looking for a house of their own, preferably in Kalāheo. House lots are hard to find and expensive, well-above two hundred thousand dollars (\$200,000). Available homes are beyond their means. When your children have a problem, you have a problem. Our most affordable option is for them to build an ADU on our property, unfortunately the current County Charter does not allow this. An ADU would not stop our ongoing agricultural activities. I am sure there are many other local families in similar situations. Please pass a bill that would allow the opportunity for additional ADUs on Kaua'i to help solve the housing crisis my and many other Kaua'i families are experiencing. Thank you for your time.

Committee Chair Chock: Thank you. We have a clarifying question.

Councilmember Yukimura: If we were to amend the Bill as you are asking, can you state how many people would be involved or how many properties would be involved?

Mr. Tausend: I am speaking just for our one (1) property, our one (1) acre in Kalāheo.

Councilmember Yukimura: But if we amend it as you want it, how many properties would be involved?

Mr. Tausend: I would open it up to other agricultural properties, I do not know how many properties that would be. I know in Kalāheo, we are surrounded by...our area on Kuli Road probably has ten (10) or twenty (20) agricultural parcels nearby.

Councilmember Yukimura: Thank you.

Mr. Sato: The next speaker is Lisa Otoman Murayama and Robin Murayama, followed by Dr. Larry Raithaus.

LISA OTOMAN MURAYAMA: Good afternoon, Councilmembers. I would like to ask for your consideration in allowing an indefinite time limit to build our ADU on our property. By removing the ten (10) year deadline to build an ADU, it would allow a future opportunity for our children to build their own home on our family property. Thank you.

ROBIN MURAYAMA: Good afternoon, Council. We reside in Niumalu. Our property is not in the agricultural area. We fall under Urban/Open and today I come on behalf of my daughter and son. My daughter's name is Kiera; she is nine, and my son Kaison, who is six. I am a fourth generation Niumalu resident and they are fifth generation Niumalu residents. I do not think there are many residents on Kaua'i who can state that they have resided in their own area, like Niumalu or wherever. Our intent is to perpetuate the property to them. It is not about speculation and as far as my wife and I, we have no current or immediate future plans on building for them, but we come here on behalf of them. And it is really to perpetuate our land and to pass it on to them. Thank you. Any questions?

Mr. Sato: The next speaker is Dr. Larry Raithaus, followed by Matthew Bernabe.

DR. LARRY RAITHAUS: Good afternoon, Councilmembers. Thank you again for the opportunity to speak to you to address Bill No. 2601. I live in Kalāheo, but I get my mail in Lāwa'i. I bought my property in 1992, a three (3) acre parcel, and divided it by CPR (condominium property regime) right away. I have been living there ever since. I recently retired from my practice, but I still do some part-time work. I have a son who just graduated from the University of Hawai'i at Mānoa (UH) and with significant loans that he needs to repay. I was hoping that the one acre parcel that is attached to the two acres for the entire project could be developed for him, but it looks like he is not going to have the money to develop it until he gets established in the job market, which he has not yet. I really appreciated the extension that you gave us to build, but if the sunset clause falls into place while my heirs have not taken care of it and I am gone, I can see part of my property that could be developed and it would not be, and I would like to see it to the contrary to establish another building there. I think it makes sense that those of us that own property with young children and now are older, would like to see it stay in the family if they could possibly afford it, to keep the family close, with

all the other reasons that go on with it economically. Thank you for the opportunity to speak to you. Any questions? I would be happy to answer them.

Committee Chair Chock: Thank you very much.

Mr. Sato: Our last registered speaker is Matthew Bernabe.

MATTHEW BERNABE: I would also support extending, maybe indefinitely, I do not know, that is up to you folks, the extension for the ADUs on these...I am assuming they are all agricultural lots. As it is worded, it does not say that on the agenda. However, what I would like to point out and take this moment, I would like to point out two (2) things. I do not think the discussion should start with creating more of these farm lots that can be able to be subdivided. That is for another debate or another time and as for the ones that are already on this list, I understand that you cannot lien against your land because of the zoning. You cannot get that much money, if you wanted to take a mortgage out on your land, because it is deemed in agriculture. However, if you have a feasible plan and you want to farm your land and yet put the ADU on that same land, I recommend going to the USDA (United States Department of Agriculture) Farm Bureau because they recognize and have a department within there for loans for agriculture lands. If you talk to the guy in there, he will tell you that they do recognize that startup capital for agriculture land is not the same as if you had the land deemed as Residential, Commercial, Open Space, Multi-Use, et cetera. If you really want to farm your land and extend the infrastructure, go and talk to the USDA. They have loans over there for these types of people. With that said, I do support extending it for the ones, obviously the process that got them in there in the first place has been extensive. Let us accommodate them. If you folks want to go and start talking about more ADUs, that is a whole other beast and put that up to public debate. Thank you.

Committee Chair Chock: Would anyone else like to speak for the first time?

ROB ABREW: *Aloha* Members of the Council. I am a homeowner on the island. I remember sitting at this table probably five (5) or six (6) years ago when this first debate became to extend for about six (6) years, the previous extension of ten (10) years for the ADUs. Originally, it was about three hundred and seventy-five (375) people on that list. Over half of that list, the owners owned multiple parcels on that list. When I testified at that time and I believe it is on record, I did not bring any of those minutes...the Chairman of that Committee adamantly stated there will be no more extensions to this bill. I believe now...I am sorry I did not research it, I just saw it in the paper, that there are probably a hundred and sixty (160) to a hundred and seventy (170) people. My only worry is – what you have done is you created an elite group of homeowners with this hundred and sixty (160) people. My solution would be to either put a clause in this Bill that if you sell your land, you lose the exemption – quite honestly. When the next extension was put into place, the top reason was for, “We were just coming out of a bad economy and we cannot afford it now.” That was the excuse and reason for why the bill came. We have had six (6) years of unbelievable interest rates, building rates, building loans, and if these people really intended to build in those six (6) years, they would have. What I see here is we have an elite class of people coming to this Council to extend their status of having an additional dwelling unit on their property. The other thing is that you can take these hundred and sixty (160) people, have the assessment done on the additional dwelling on these people and tax them. If they have this clause, tax them – these hundred and sixty (160) people. Either that or eliminate this extension altogether and come up with a new ADU bill. That

is what I am hearing some people that come here say they want the ADU to come back, but quit the extensions and quit this elite class. I think it has been long enough that these people had sixteen (16) or seventeen (17) years now to build their ADUs when the ADU extension was put in. That list got cut to three hundred and seventy-five (375) and they came back and wanted more time. They had six (6) years, the Chair of this body six (6) years ago stated, "Absolutely, there will be no more extensions to this bill." I think this body should either consider that or put very severe limitations on what they can do with this property. If they want to sell it, they lose their exemption.

Committee Chair Chock: Thank you.

Mr. Abrew: Do I have three (3) more minutes?

Committee Chair Chock: You may have three (3) more minutes after everyone else has had their chance for their first time. Would anyone else like to testify?

JESSIE FUKUSHIMA: Good afternoon. First, I would like to say thank you very, very much for this permanent ADU for Agriculture and Agriculture/Open lands. I think all of you are very familiar with the history, we started this way back in 1987 and throughout the decades, we have had extensions to the extensions. But I think throughout the decades it just showed that every time we came up for an extension, it showed a positive of the concept that was there and no one can say it was bad otherwise we would not be here today. I just wanted to say thank you, Council, for this opportunity and see you in a couple weeks when you are back in Committee. Any questions? Councilmember Yukimura, your question I believe when we first started researching on agriculture parcels, I believe Avery Youn was then the Planning Director. Some of the figures – eleven hundred (1,100) to seventeen hundred (1,700) agriculture parcels that were thirty (30) acres and below are numbers that I am kind of remembering right now, it has been a long time, but those are the two numbers that comes to mind today. Thank you.

KLAYTON KUBO: In actuality I do not even want to say anything...

Committee Chair Chock: There is no need to.

Mr. Kubo: Klayton Kubo, Waimea, Kaua'i. As I heard that person over there say that, I guess, locally we should be kind of looking at the families that were here for a very, very, very long time. It is so hard now these days to even get land and build something. I see one good point to this extension, if you folks are going to grant it, but you have to start thinking about the local people that have been here for many generations and years. There are too many, I guess, people coming here, buying up the lands, raising up everything, taxes going up insanely, therefore, I totally understand where you folks are coming from and how it is going? By the way, Happy New Year to you folks. Thank you folks very much.

Committee Chair Chock: We are in our second round now, Mr. Bernabe, you are up.

Mr. Bernabe: Two (2) speakers before me right now brought up a good point and I agree with him on this point, but I am going to disagree with him on the second point. The first point is that there should be a clause. If this is sold not to your child, but sold to a non-family member, then it should be void, I agree one hundred percent (100%). But the part that I will

disagree with is after the recession, it would have been harder for these people to build than it would have been in 2007 at the height of the bubble. If you follow economics well, before the bubble burst would have been the best time for them to get a loan. That is when they were giving out any type of loans, for any types of rationale or criteria. Once the bubble popped, all the banks went stringent. If you did not have capital to insure, you were not going to get it. What does that equate to? If your land is zoned agriculture and the bank could not turn it around if you failed, you are not going to get that loan. I am sorry. It is a lot harder today to go and build that house than it was eight (8) years ago. Once again, I will say it, I agree with the premise. If it is sold to a non-family member or somebody that is so distant in the family that it is a sale for the deal and not a sale to perpetuate, then yes, that should be null and void, but once again I am going to say these are agriculture lots and they are not worth much. My residential house that is a lot smaller can certainly get a better loan than a two (2) acre parcel that is zoned agriculture. That is just fact. If you go to the banks right now and ask them that, they will tell you that. I went to the USDA Farm Bureau and they told me that. Once again, if you want to add to your infrastructure, if you want to create revenue from your...or you are already creating revenue from your farm, go and seek these resources. They have a finance division specifically for low interest rate loans to farmers on agriculture zoned land. If you walk in there and hear it out of his mouth then it is not hearsay.

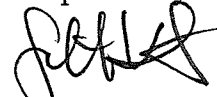
Committee Chair Chock: Mr. Abrew, would you like a second three minutes?

Mr. Abrew: Believe it or not I do have compassion and I understand. All I am going off is the premise when this extension was done it was because we were coming out of a financial issue and to give them more time to build. Now as that has dwindled down, you went from three hundred seventy-five (375) plus parcels to a hundred...I do not know the exact number, I am sorry. How many of those are owned by multiple people or developers? All I am saying is that we are at a point with this Bill that has created a very small elite class of people. Either quit the exemption and come up with a new bill or like I said earlier put a clause in there or tax them at a rate to where the value of that land is being recognized in our tax records. The only reason this keeps coming up here is there is value there, it is all about money. I understand the compassion for the younger generation, but if this keeps getting extended year after year after year, we are always going to have a younger generation. The elder people are going to pass on their land and there is a younger generation. I think it is time to wipe it clean, stop it, and start something new to help all the local people and not just this very small elite class. Thank you.

Committee Chair Chock: Would anyone else like to speak for a second time? Seeing none, this concludes the public hearing on Bill No. 2601.

There being no further testimony on this matter, the public hearing adjourned at 2:10 p.m.

Respectfully submitted,



SCOTT K. SATO
Deputy County Clerk