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State Land Use Commission Members:

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- [Lisa M. Judge Vice-Chair \(Maui\)](#)
- [Steven Lee Montgomery, Ph.D. Vice-Chair \(At-Large\)](#)

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HISTORY

The State Land Use Law (Chapter 205, Hawaii Revised Statutes) is unique in the history of Hawaii land use planning. Originally adopted by the State Legislature in 1961, the Land Use Law establishes an overall framework of land use management whereby all lands in the State of Hawaii are classified into one of four Districts:

- **URBAN**
- **RURAL**
- **AGRICULTURAL**
- **CONSERVATION**

PURPOSE OF THE LAW

In 1961, the Hawaii State Legislature determined that a lack of adequate controls had caused the development of Hawaii's limited and valuable land for short-term gain for the few while resulting in long-term loss to the income and growth potential of our State's economy. Development of scattered subdivisions, creating problems of expensive yet reduced public services, and the conversion of prime agricultural land to residential use, were key reasons for establishing the state-wide zoning system.

To administer this state-wide zoning law, the Legislature established the Land Use Commission. The Commission is responsible for preserving and protecting Hawaii's lands and encouraging those uses to which lands are best suited.

COMPOSITION OF THE COMMISSION

The Commission is composed of nine members, who are appointed by the

Governor and confirmed by the State Senate. One member is appointed from each of the four counties. Five members are appointed at-large. Commissioners are non-paid volunteers who represent a cross-section of the community.

ROLE OF THE COMMISSION

The Commission's primary role is to ensure that areas of state concern are addressed and considered in the land use decision-making process.

The Commission establishes the district boundaries for the entire State. The Commission acts on petitions for boundary changes submitted by private landowners, developers and State and county agencies. The Commission also acts on requests for special use permits within the Agricultural and Rural Districts.

STATE LAND USE DISTRICTS

URBAN DISTRICT

The Urban District generally includes lands characterized by "city-like" concentrations of people, structures and services. This District also includes vacant areas for future development.

Jurisdiction of this district lies primarily with the respective counties. Generally, lot sizes and uses permitted in the district area are established by the respective county through ordinances or rules.

RURAL DISTRICT

Rural Districts are composed primarily of small farms intermixed with low-density residential lots with a minimum size of one-half acre.

Jurisdiction over Rural Districts is shared by the Commission and county governments. Permitted uses include those relating or compatible to agricultural use and low-density residential lots.

Variances can be obtained through the special use permitting process.

AGRICULTURAL DISTRICT

The Agricultural District includes lands for the cultivation of crops, aquaculture, raising livestock, wind energy facility, timber cultivation, agriculture-support activities (i.e., mills, employee quarters, etc.) and land with significant potential for agriculture uses. Golf courses and golf-related activities may also be included in this district, provided the land is not in the highest productivity categories (A or B) of the Land Study Bureau's

detailed classification system.

Uses permitted in the highest productivity agricultural categories are governed by statute. Uses in the lower-productivity categories - C, D, E or U - are established by the Commission and include those allowed on A or B lands as well as those stated under Section 205-4.5, Hawaii Revised Statutes.

CONSERVATION DISTRICT

Conservation lands are comprised primarily of lands in existing forest and water reserve zones and include areas necessary for protecting watersheds and water sources, scenic and historic areas, parks, wilderness, open space, recreational areas, habitats of endemic plants, fish and wildlife, and all submerged lands seaward of the shoreline. The conservation District also includes lands subject to flooding and soil erosion.

Conservation Districts are administrated by the State Board of Land and Natural Resources and uses are governed by rules promulgated by the State Department of Land and Natural Resources.

DISTRICT BOUNDARY AMENDMENT PROCEDURES

District boundary amendments are obtained by petition to the Commission. Amendment petitions can be initiated by State departments or agencies; County departments or agencies in which the property is situated; and any person with a direct interest in the property sought to be reclassified. A \$500 fee is required from private landowners and developers when filing an application to amend district boundaries. This fee is waived for government agencies.

Contents and format of a petition are described in the Hawaii Land Use Commission Rules. A petition must meet the requirements of content and format before it is considered properly filed and accepted for processing. Upon acceptance of a properly filed petition, the Commission must hold a hearing on the island on which the subject property is situated within not less than 60 days and not more than 180 days. This hearing can be before the entire Commission or an appointed Hearing Officer.

The Commission must decide upon the request within 365 days after the petition is deemed a proper filing unless otherwise ordered by a court, or unless a time extension, which shall not exceed 90 days, is established by a two-thirds vote of the members of the commission. The Commission may approve, approve with conditions or deny the petition. If a district boundary is amended with conditions, the conditions must be recorded with the Bureau of Conveyances, as these conditions will run with the land and shall be binding upon the petitioner and subsequent persons with any interest in the land.

On petitions to redistrict Conservation lands, the requirements of the EIS law (Chapter

343, HRS) must be met before the petition to reclassify Conservation land can be officially accepted as a proper filing and acted upon by the Commission.

Amendment of a district boundary requires approval by at least six of the nine Commissioners.

QUASI-JUDICIAL PROCEEDINGS

By law, the decision-making process of the Commission is quasi-judicial. This means that the process is more judicial than legislative in nature. In this way, the rights of those who are most directly involved or most affected by the decision are accorded due process before an action is taken by the Commission. These individuals are allowed to take part in the proceedings as "parties."

Parties that appear before the Commission may do so on the party's own behalf or through an authorized representative. Parties may also be represented through an attorney. Persons with direct interests that are clearly distinguishable from those of the general public may petition the Commission to intervene in the proceeding. As an intervenor, a \$50 fee is required and they have the right to present witnesses, cross-examine witnesses of other parties, and have standing to appeal the Commission's decision to the Circuit Court.

All others may apply for leave to intervene as long as their position is not substantially similar to the position of party already admitted to the proceedings.

In addition to the petitioner, the Office of Planning and the respective County Planning Departments are mandatory parties to the proceedings.

The Land Use Law sets general procedures for processing district boundary amendment and special use permit requests. The Commission has adopted specific rules for implementing the law and reviewing these land use requests.

DECISION-MAKING CRITERIA

The Land Use Law requires the Commission to specifically consider the following criteria in review of any petition for a boundary amendment:

- A. Conformity to the goals, objectives and policies of the Hawaii State Plan (Chapter 226, Hawaii Revised Statutes) and the Functional Plans adopted pursuant to the State Plan.
- B. Extent to which the proposed reclassification conforms to the applicable district standards
- C. Impacts on the following State concerns:

1. preservation or maintenance of important natural systems or habitats;
2. maintenance of valued cultural, historical or natural resources;
3. maintenance of other natural resources relevant to Hawaii's economy, including but not limited to agricultural resources;
4. commitment of state funds and resources;
5. provision for employment opportunities and economic development; and
6. provision for housing opportunities for all income groups, particularly the low, low-moderate, and gap groups.

D. The representations and commitments made by the petitioner in securing a boundary change.

Furthermore, the Commission must take into account the General Plan of the respective County; and, where applicable, the objectives, policies and guidelines of the State Coastal Zone Management Law (Chapter 205A, Hawaii Revised Statutes).

FIFTEEN ACRE RULE

In an effort to streamline the decision-making process, the law was amended in 1985 to allow applicants for land use changes of 15 acres or less to apply directly to the counties. The Commission, therefore, no longer handles such requests except when the lands are situated within the Conservation District.

All amendments approved by the counties are submitted to the State Land Use Commission Office in Honolulu for revision of the Official State Land Use District Boundaries Maps.

AFFORDABLE HOUSING PROJECTS

Projects which qualify under Section 201G-118, Hawaii Revised Statutes, as affordable housing projects benefit from a "fast track" procedure whereby petitions for district boundary amendment are required to be heard and decided upon within 45 days after the filing of a petition.

SPECIAL USE PERMIT PROCEDURES

This permitting process allows for "unusual and reasonable" uses within the Agricultural and Rural Districts; provided such uses comply with the objectives of the Land Use Law and meet the guidelines established by the Commission.

Applications for special use permits are made initially to the appropriate planning commission of the county where the property is located. When the proposed permit area is greater than 15 acres, the approval of both the county and the Commission is required.

On an application that involves an area greater than 15 acres, the Commission must decide on the request within 45 days after receipt of the complete record of the proceeding held by the County. Five affirmative votes are required to approve such a request.

Denial or modification of a Special Use Permit is appealable to the circuit court of the circuit in which the land is situated.

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