

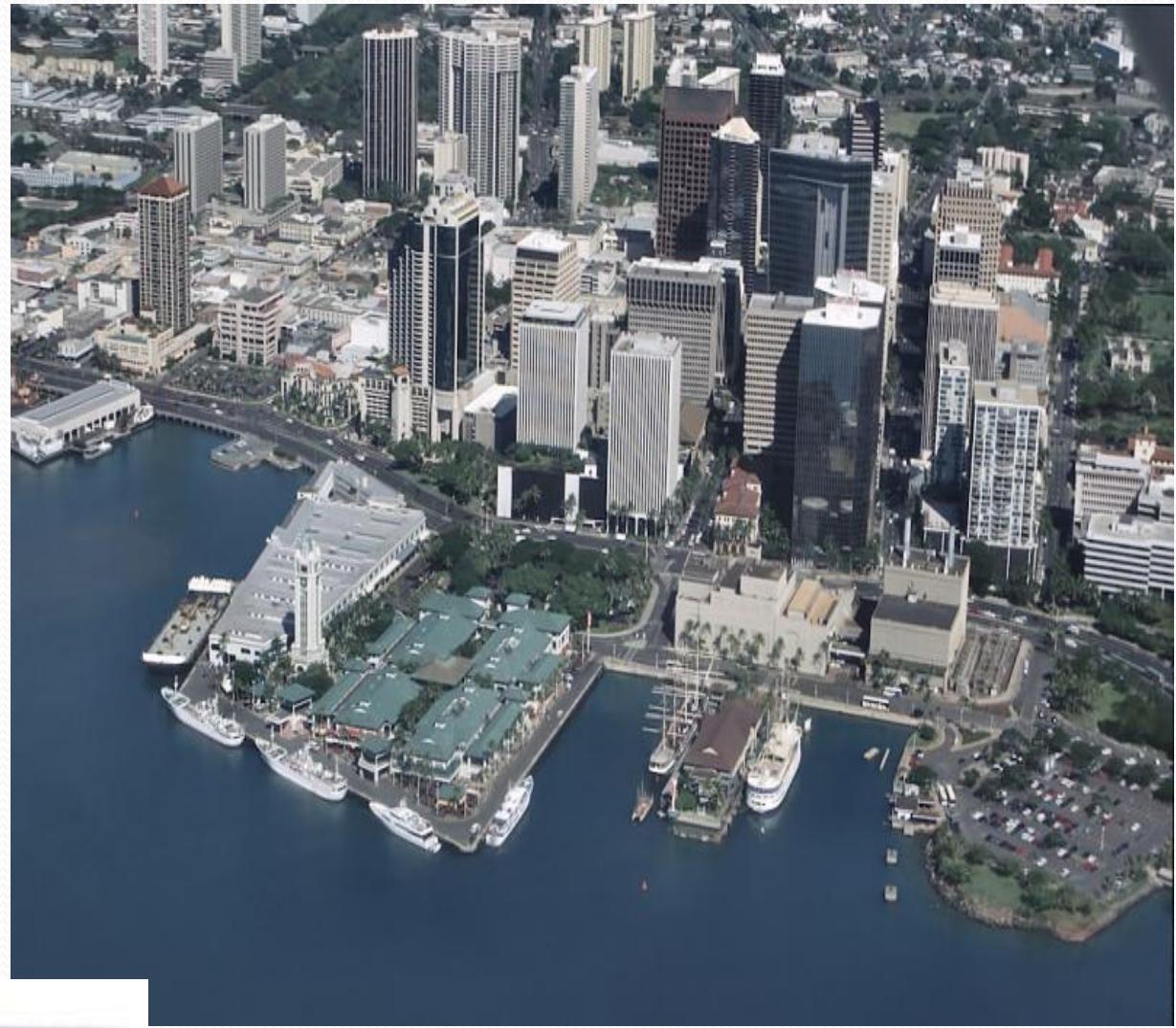
## Regionalization of Planning Decisions: the Hawaii Model

Mark M. Murakami  
[mmm@hawaiilawyer.com](mailto:mmm@hawaiilawyer.com)  
[www.hawaiioceanlaw.com](http://www.hawaiioceanlaw.com)

# Honolulu



# Honolulu

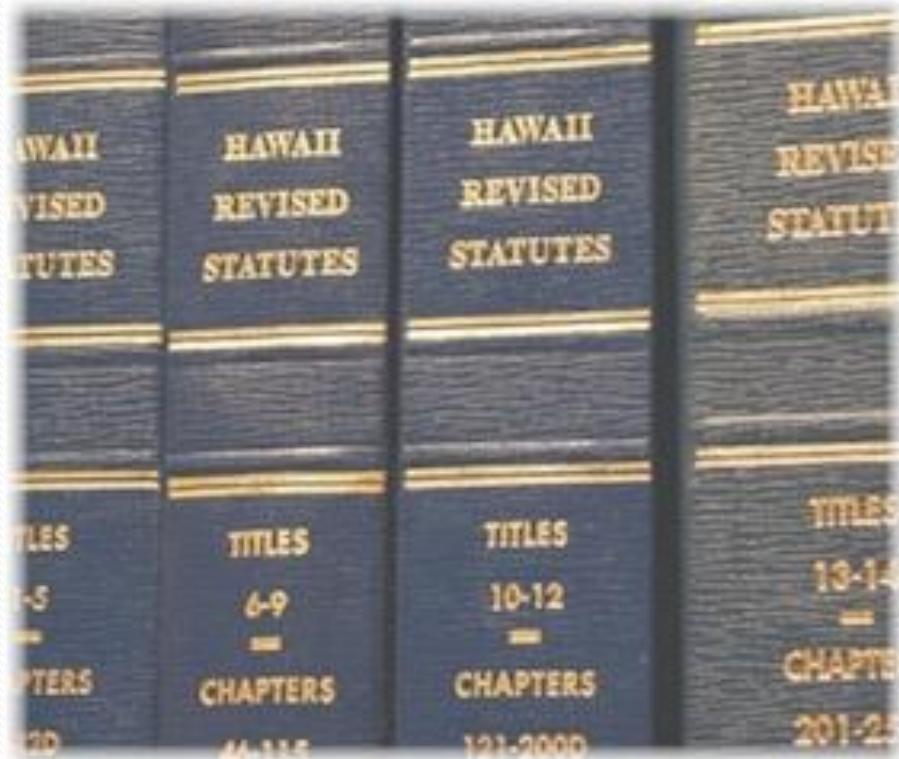


[hawaiilawyer.com](http://hawaiilawyer.com)

**DAMON KEY LEONG KUPCHAK HASTERT**  
A LAW CORPORATION

# State-Wide Zoning

- Haw. Rev. Stat. chapter 205
- Enacted in 1961
- Classified *all* land



# Key Attributes of HRS Ch. 205

- Four classifications
- Land Use Comm'n
- Enforcement power to Counties, but...
- Change classification through boundary amendment
- <15 acres – County
- >15 acres - LUC
- Intervention
- Special Permit process
- LUC statutory criteria for decisionmaking
- Ag emphasis
- Permit required if unenumerated use in Ag lands

# Urban

- Existing or planned urban development
- County controlled
- 4% of lands in State



# Agricultural

- Prime Agricultural (A & B soil rating)
- Non-Prime Agricultural (C, D, E, U)
- All uses not permitted are prohibited

A landscape view of a volcanic field. The foreground is covered in dry, yellowish-brown grass. In the middle ground, there is a layer of low-lying green vegetation, possibly dryland crops. The background shows a vast, dark, and rugged volcanic landscape stretching to a distant town or city. The sky is clear and blue.

AG Land?

# Conservation

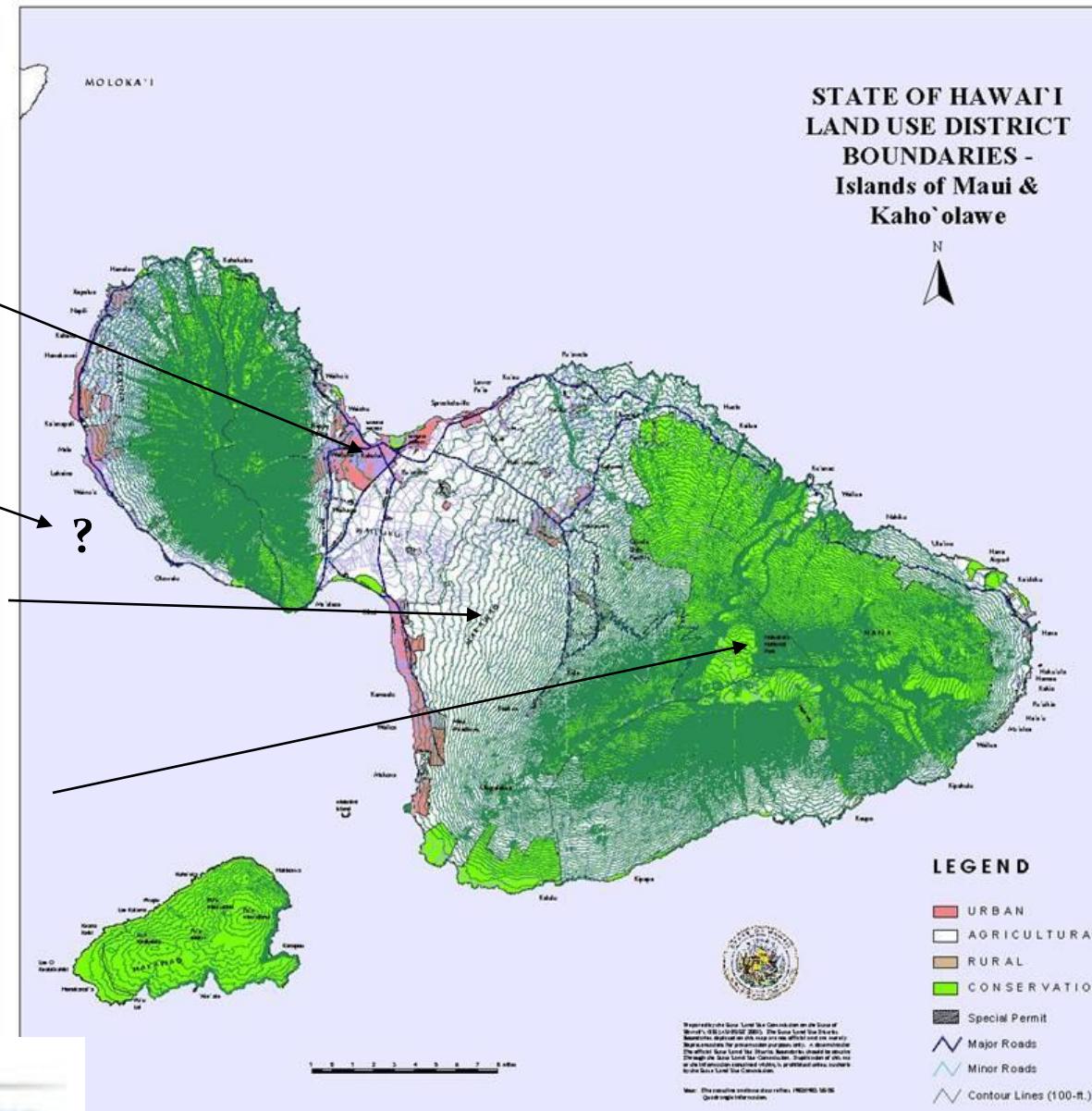


# Rural

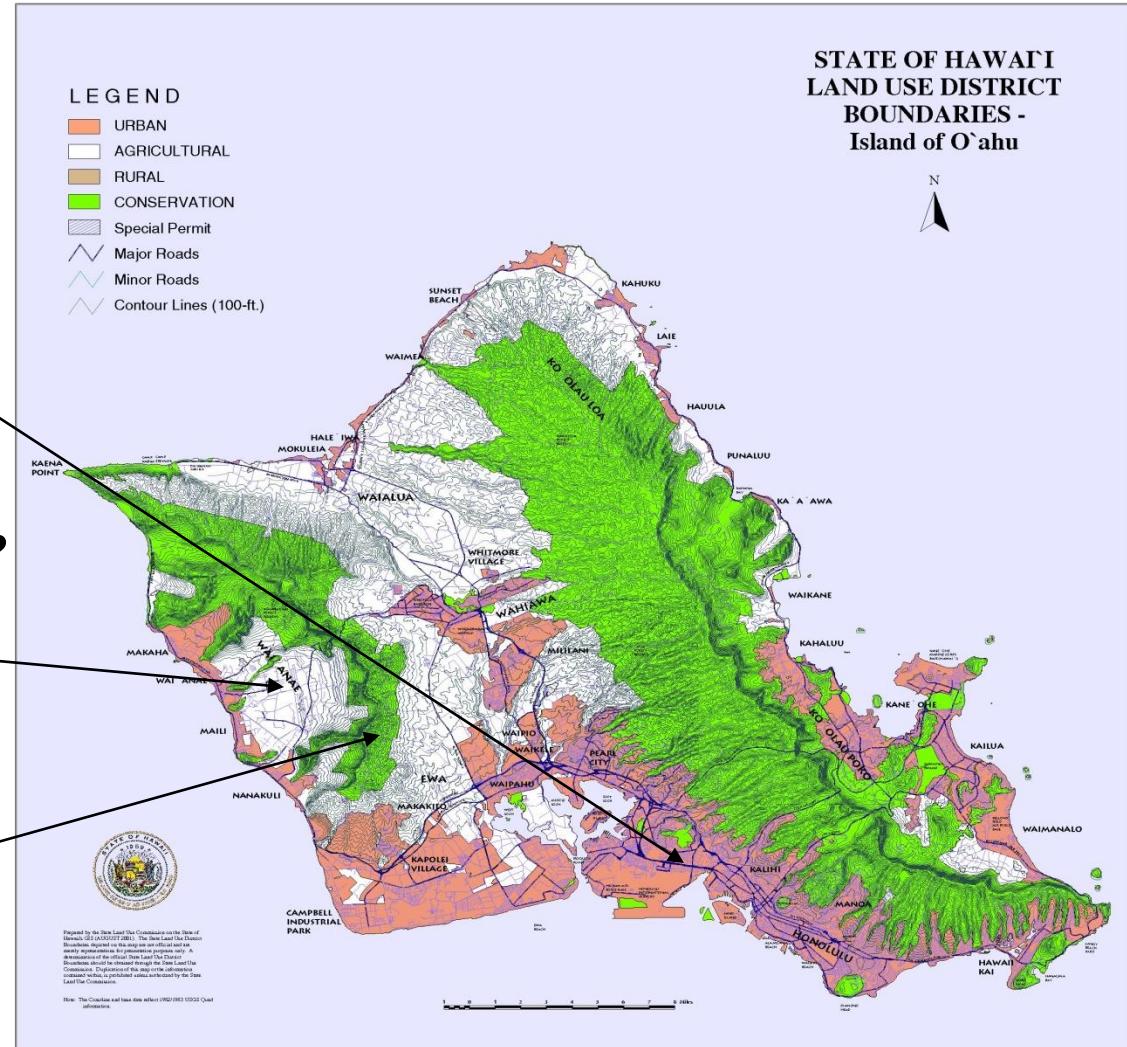
- Small farm and large lot residential
- Underutilized District - .2%

# State Land

- Urban
- Rural
- Agricultural
- Conservation



- Urban
- Rural
- Agricultural
- Conservation



# HRS Ch. 205 - Case Law

- Neighborhood Board No. 24 v. State Land Use Comm'n, 64 Haw. 265 (1982)
- Facts: Developer wants to develop theme park on agricultural lands, “E” soil. LUC granted special permit.
- Haw SCT: Special permits in Ag lands are for unusual and reasonable uses. Theme park is intense urban uses and special permit inappropriate to bypass boundary amendment.

## HRS Ch. 205 Case Law

- Malama Maha'ulepu v. Land Use Comm'n, 71 Haw. 332 (1990)
- Facts: Developer sought to create golf course on prime Ag lands by way of Special Permit.
- Law: Golf course are enumerated use in Ag lands, “provided they are not within lands with “A” or “B” soil classification.
- So, the project was unenumerated golf course use.
- Haw SCT: No implied prohibition, Special Permit - ok

# Lessons Learned from Hawaii

- Hawaii's system developed when counties were small, ill equipped to handle urban development
- Times have changed counties have urban planners, environmental specialists
- Regional zoning can be duplicative
- Default Ag classification is difficult to unwind
- Land Use Comm'n can be potent tool for challenge to anti-development groups