



LATE TESTIMONY

**House Bill No. 902
RELATING TO LANDS CONTROLLED BY THE STATE**

House Committee on Hawaiian Affairs

February 4, 2009
Room 329

9:00 a.m.

Aloha Chair Carroll, Vice Chair Shimabukuro, and Members.
OHA strongly supports House Bill No. 902 Relating to Lands
Controlled by the State.

This bill would enact public policy for a moratorium on the sale and exchange of ceded lands. The decision by OHA's Trustees to seek such legislation emerged following the state administration's appeal to the U.S. Supreme Court of a unanimous ruling by the Hawai'i Supreme Court that the State possesses a fiduciary duty to preserve the corpus of the public land trust, specifically the ceded lands, until such time as the "unrelinquished claims" of Native Hawaiians to these lands are resolved.

The bill is a means of maintaining the status quo and ensuring that the public land trust is preserved in order to ensure a fair and just settlement leading to reconciliation with the Native Hawaiian people. While the bill would prevent the sale of the lands, the bill would allow for transfer of lands between state agencies and allow for the State to lease the lands, for a true public purpose. The bill serves as a legislative vehicle to implement the policy of the State's highest court

We urge your Committee to respond favorably to this bill.

Mahalo for the opportunity to testify.

Rep. Maile Shimabukuro

From: Alan Murakami [almurak67@gmail.com]
Sent: Tuesday, February 03, 2009 6:00 PM
To: HAWtestimony
Cc: Mahealani Wendt
Subject: HB 902

LATE TESTIMONY

REGULAR SESSION OF 2009

HOSUE COMMITTEE ON HAWAIIAN AFFAIRS

Room 329

February 4, 2009

9:00 AM

RE: Testimony of Alan T. Murakami Related to HB 902

I testify in support of some form of interim moratorium on the dispositions of ceded lands pending the outcome of any resolution of Hawaiian land claims related to the illegal overthrow of the Hawaiian Kingdom in 1893.

If not an unqualified ban on the sale or exchange of ceded lands, the Legislature should impose: (1) strict limits on any disposition of this public trust resource to preserve the corpus of what was the most valuable asset base of the Kingdom, (2) a reasonable period of consultation with the Office of Hawaiian Affairs (3) an opportunity for Hawaiian beneficiary input before any disposition, and (4) a requirement for approval of any such disposition by a 2/3 majority of both chambers of the Legislature.

The State government has yet to demonstrate why any such restriction would hobble the sovereign functioning of state government. As for providing affordable housing, I note that the state has for 50 years provided such housing to beneficiaries of the Hawaiian home lands trust program. I would be astonished if the State can urge the need for fee simple sales of affordable housing to members of the general public, when it never pleaded that case for Hawai'i's first citizens under the Hawaiian Homes Commission Act.

As a first step toward reconciling the land claims acknowledged by the Hawai'i Supreme Court in *OHA v HHFDC*, this branch of government should preserve the integrity of the ceded lands trust corpus. It is the prudent and pono thing to do, especially in light of the cultural value attached to land by Hawaiian culture. No prudent trustee, operating under like circumstances would do otherwise. Indeed, the Legislature has repeatedly been on record supporting the sovereignty of its indigenous people on several occasions during that 1993 Legislative Session. Act 340 (reserving title to Kaho'olawe for the sovereign native Hawaiian entity recognized by the U.S.); Act 354 (providing general funding for Hawaiian sovereignty education through Hui Na'auao); Act 359 (providing mechanism and funding for a Hawaiian sovereignty advisory commission); 1993 Haw. H.R. Con. Res. No. 179 (1993 Haw. Sess. Laws). As this measure does by building on these and other past legislative acts, to preserving the corpus of the land claims would be a natural extension of this record of support.

I urge you to pass some form of moratorium on ceded lands disposition IMMEDIATELY, ahead of any schedule for passing legislation this session. Such timing can supercede any possible action by the U.S. Supreme Court in the pending appeal of the *OHA v HHFDC* case, a decision better left to local control by state policy makers like legislators.

Thank you for this opportunity to testify.

Rep. Maile Shimabukuro

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 03, 2009 6:31 PM
To: HAWtestimony
Cc: ailaw001@hawaii.rr.com
Subject: Testimony for HB902 on 2/4/2009 9:00:00 AM

Testimony for HAW 2/4/2009 9:00:00 AM HB902

Conference room: 329
Testifier position: support
Testifier will be present: No
Submitted by: William J. Aila Jr. & Melva Aila
Organization: Individual
Address:
Phone:
E-mail: ailaw001@hawaii.rr.com
Submitted on: 2/3/2009

LATE TESTIMONY

Comments:

We support the passage of this bill because it confirms the decision of the Hawaii State Supreme Court. We support prohibiting the sale of ceded lands until the State of Hawaii completes a reconciliation process with Native Hawaiians.