

**Testimony for HB921 on 2/23/2009 9:30:00 AM**

mailinglist@capitol.hawaii.gov [REDACTED]

**LATE TESTIMONY**

**Sent:** Sunday, February 22, 2009 8:50 PM

**To:** WLOtestimony

**Cc:** [REDACTED]

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Testimony for WLO 2/23/2009 9:30:00 AM HB921

Conference room: 325

Testifier position: oppose

Testifier will be present: No

Submitted by: Ann Marie Kirk

Organization: Individual

Address: [REDACTED]

Phone: [REDACTED]

E-mail: [REDACTED]

Submitted on: 2/22/2009

Comments:

COMMITTEE ON WATER, LAND & OCEAN RESOURCES

Rep. Ken Ito, Chair

Rep. Sharon E. Har, Vice-Chair

HB 921 Relating to Public Lands

Hearing: Monday, Feb, 23, 2009 Conference Room 325

Aloha Chair Ito and Vice Chair Har,

I am writing in strong opposition to HB 921.

I cannot believe a bill like this even exists. Why would Hawaiian lands be leased to non-Hawaiians? And for 999 years? This is outrageous. Hawaiians on Homestead land have a 99 year lease and it's being proposed non-Hawaiians, on Hawaiian lands, will get a 999 lease? Unbelievable.

Rep. Ito and Rep. Har, I ask you and your committee to do what is right for the Hawaiian people and their lands, their Hawaiian homelands. Please do not support HB 921.

Mahalo,

Ann Marie KIr  
[REDACTED]

# LATE TESTIMONY

Representative Ken Ito, Chair  
Representative Sharon Har, Vice-Chair  
Committee on Water, Land, and Ocean Resources

Testimony in Support of HB 921

Dear Members,

I am testifying in support of HB 921. HB 921 allows 999-year homestead leases to be assigned to a land trust. This means that one or more persons acting as the trustee will hold legal title to the lease, for the benefit of others and owes a fiduciary duty to those beneficiaries. The benefits of trust law must be extended to 999-year leasehold estates for the following reasons:

1. It will reduce disputes and litigation among family members over who is the rightful lessee of a homestead. Many of the 999-year homestead leases were issued in the early 1900s and the original law prevented the lease from being transferred except by a strict order of descent upon the death of the lessee. As the lease descended through each generation, the descent provision was not enforced, and it became unclear exactly who were the rightful lessees under the law. In 2000, the legislature amended the homestead law to allow lessees to freely assign the lease to members of their family, thereby eliminating the restrictive descent provisions associated with the original law. However, this still did not help to resolve disputes among families over who is the rightful lessee to a homestead. If the homestead is held in a land trust, all persons claiming to have an interest in the lease can join the trust as beneficiaries.

2. It will allow families to better manage their homestead and plan for the future. 999-year homestead leases were designed to remain in the lessee's family. This is why the homestead leases can only be transferred to "family members." Since the homestead will remain in the family until the end of 999 years or until the family purchases the title to the land, it makes sense for a family to form a land trust. The formation of a family trust forces family members to come together and resolve disputes in the interest of a common goal.

Thank you for the opportunity to testify in support of HB 921.

Chris Rothfus

**JEANNINE JOHNSON**

February 22, 2009

COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

Rep. Ken Ito, Chair

Rep. Sharon E. Har, Vice Chair

HB 921 RELATING TO PUBLIC LANDS.

Hearing: Monday, February 23, 2009 at 9:30 am in Conference Room 325

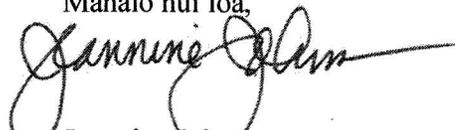
Aloha Chair Ito, Vice Chair Har and Honorable Committee Members,

I strongly oppose HB921 which allows 999-year homestead leases to be assigned to land trusts that are created for purposes of managing and holding the homestead leasehold estate for the benefit of the lessee and lessee's family members.

The Department of Hawaiian Home Lands provides direct benefits to native Hawaiians in the form of 99-year homestead leases at an annual rental of \$1. Why is the State of Hawai'i offering 999-year homestead leases to non-native Hawaiians? What is the purpose of offering low lease rents to millionaires living on Tantalus under the condition that they grow a few trees? I believe the reason was to take these lands away from Kānaka maoli and the Department of Hawaiian Home Lands.

I am appalled that this travesty was allowed to happen. Please do not perpetuate this injustice to native Hawaiians. I respectfully ask that you do what is pono and oppose HB921.

Mahalo nui loa,



Jeannine Johnson

cc: Sen. Sam Slom  
Rep. Lyla Berg  
Rep. Barbara Marumoto  
Office of Hawaiian Affairs

# LATE TESTIMONY

HOUSE COMMITTEE ON WATER, LAND, & OCEAN RESOURCES  
ATTN: CHAIR KEN ITO &  
VICE-CHAIR SHARON E. HAR

Testimony Supporting House Bill 921: Relating to Public Lands

February 23, 2009, 9:30 a.m.  
Conference Room 325

Aloha Chair Ito and Members of the Committee:

My name is Moses Haia. I am a staff attorney with the Native Hawaiian Legal Corporation. The Native Hawaiian Legal Corporation is a non-profit, public interest law firm committed to the protection and preservation of Native Hawaiian rights and culture. The Native Hawaiian Legal Corporation strongly supports House Bill 921, which provides families residing on or otherwise connected to 999-year leasehold properties an effective legal means to collectively and cooperatively share in the responsibilities and benefits associated with these lands.

Title research confirms that many of these leasehold lands were awarded to families whose presence on these leased lands far predates the lease award. Hawaiian families who still occupy ancestral lands are few in number, and the area-specific knowledge represented by their continued presence is, in itself, tremendously important. As such, these leases represent a unique historical resource the protection of which holds great value for all of the people of Hawai'i.

That legacy should be preserved. To do so requires that future generations be allowed to protect and care for these lands. This demands flexible legal solutions that foster cooperative land-sharing. Family land trusts, inclusive of all interested parties and focused on the continuation of family legacies, are one such solution.

As you may know, the 999-year lease program is rife with legal problems that are not, for the most part, attributable to the lessees or their families. This has created the potential for extended litigation. Not surprisingly, the Attorney General's office seems concerned with the State's potential liability owing to an apparent discrepancy between its administrative practices over the past century and the strict letter of the law. The resulting set of circumstances has created significant obstacles for the families that now struggle to untangle the legal and financial complexity of the situation. Proactive solutions are needed.

House Bill 921 provides these families and the State with, in our view, an effective and necessary legal solution to this very troubling problem. We therefore respectfully request your passage of this measure.

Mahalo for this opportunity to testify. Should you desire additional information or assistance, please contact us.