

LINDA LINGLE
GOVERNOR
STATE OF HAWAII



MICAH A. KANE
CHAIRMAN
HAWAIIAN HOMES COMMISSION
KAULANA H. PARK
DEPUTY TO THE CHAIRMAN
ROBERT J. HALL
EXECUTIVE ASSISTANT

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P.O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF MICAH A. KANE, CHAIRMAN
HAWAIIAN HOMES COMMISSION

BEFORE THE HOUSE COMMITTEE ON FINANCE

ON HB 949
RELATING TO THE HAWAIIAN HOMES COMMISSION ACT

March 4, 2009

Chair Oshiro, Vice-Chair Lee and Members of the Committee:

The Hawaiian Homes Commission and the Department of Hawaiian Home Lands strongly support the intent HB 949, which would authorize the DHHL to, at its discretion, extend the maximum lease term from 65 years up to 99 years. This is especially important as such terms would provide better and greater opportunities to the Hawaiian Home Lands trust and its beneficiaries.

DHHL's ability to carry out its mission to provide homeownership opportunities to native Hawaiians is directly tied to the Hawaiian Homes Commission's ability to obtain the necessary resources through federal, state and county funds, private and public grants, and income-generating opportunities. Over the past 5 years, income generated by DHHL through commercial leases has supported DHHL's homesteading program. The current 65-year term has limited DHHL's

ability to attract substantial investment in the proposed commercial lease properties. This bill increases the value of DHHL's property and provides an improved tool which DHHL can use to ultimately better serve its beneficiaries.

While we strongly support this bill, we have also identified language in HB 949 that must be amended to ensure proper implementation of this policy when it is signed into law. Since DHHL is authorized to issue leases for commercial, industrial and other business purposes under Section 220.5 and Section 204 of the Hawaiian Homes Commission Act, we recommend that Section 2 of the bill be removed, and the following language inserted:

SECTION 2. Section 204 of the Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (a) to read as follows:

"(a) Upon the passage of this Act, all available lands shall immediately assume the status of Hawaiian home lands and be under the control of the department to be used and disposed of in accordance with the provisions of this Act, except that:

- (1) In case any available land is under lease by the Territory of Hawaii, by virtue of section 73 of the Hawaiian Organic Act, at the time of the passage of this Act, such land shall not assume the status of Hawaiian home lands until the lease expires or the board of land and natural resources withdraws the lands from the operation of the lease. If the land is covered by a lease containing a*

withdrawal clause, as provided in section 73(d) of the Hawaiian Organic Act, the board of land and natural resources shall withdraw such lands from the operation of the lease whenever the department gives notice to the board that the department is of the opinion that the lands are required by it for the purposes of this Act; and such withdrawal shall be held to be for a public purpose within the meaning of that term as used in section 73(d) of the Hawaiian Organic Act.

- (2) Any available land, including lands selected by the department out of a larger area, as provided by this Act, not leased as authorized by section 207(a) of this Act, may be returned to the board of land and natural resources as provided under section 212 of this Act, or may be retained for management by the department. Any Hawaiian home lands general lease issued by the department after June 30, 1985, shall contain a withdrawal clause allowing the department to withdraw the land leased at any time during the term of the lease for the purposes of this Act.

In the management of any retained available lands not required for leasing under section 207(A), the department may dispose of those lands or any improvements thereon to the public, including native Hawaiians, on the same terms, conditions, restrictions, and uses applicable to the disposition of public lands in chapter 171, Hawaii Revised Statutes; provided that ~~the~~:

(A) The department may not sell or dispose of such lands in fee simple except as authorized under section 205 of this Act; [~~provided further that the~~]

(B) The department is expressly authorized to negotiate, prior to negotiations with the general public, the disposition of Hawaiian home lands or any improvements thereon to a native Hawaiian, or organization or association owned or controlled by native Hawaiians, for commercial, industrial, or other business purposes, in accordance with the procedures set forth in chapter 171, Hawaii Revised Statutes[-]; and

(C) Notwithstanding the provisions of sections 171-36(a)(2) and 171-95(a)(2), Hawaii Revised Statutes, the term of any existing lease or lease hereafter entered into pursuant to this section, including any extensions or renewals thereof, shall not exceed ninety-nine years in the aggregate."

(3) The department, with the approval of the Secretary of the Interior, in order to consolidate its holdings or to better effectuate the purposes of this Act, may exchange the title to available lands for land, privately or publicly owned, of an equal value. All lands so acquired by the department shall assume the status of available lands as though the [~~land~~] lands were originally designated as available lands under section 203 of this Act, and all lands so conveyed by the department shall assume the status of the land for

which it was exchanged. The limitations imposed by section 73(1) of the Hawaiian Organic Act and the land laws of Hawaii as to the area and value of land that may be conveyed by way of exchange shall not apply to exchanges made pursuant hereto. No such exchange of land publicly owned by the State shall be made without the approval of two-thirds of the members of the board of land and natural resources. For the purposes of this paragraph, lands "publicly owned" means land owned by a county or the State or the United States."

SECTION 3. Section 220.5 of the Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (d) to read as follows:

"(d) ~~[Any]~~ The term of any project developer agreement entered into pursuant to this section may ~~[provide for options for renewal of the term of the project developer agreement,]~~ be extended or renewed; provided that:

- (1) The term of any one project developer agreement, including any extensions or renewals thereof, whether such project developer agreement is existing or hereafter entered into pursuant to this section, shall not exceed ~~[sixty-five]~~ ninety-nine years~~[+]~~ in the aggregate;
- (2) Any lands disposed of under a project developer agreement shall be subject to withdrawal at any time during the term of the agreement, with reasonable notice; and

(3) *The rental shall be reduced in proportion to the value of the portion withdrawn and the developer shall be entitled to receive from the department the proportionate value of the developer's permanent improvements so taken in the proportion that they bear to the unexpired term of the agreement, with the value of the permanent improvements determined on the basis of fair market value or depreciated value, whichever is less; or the developer, in the alternative, may remove and relocate the developer's improvements to the remainder of the lands occupied by the developer."*

We respectfully urge these committees to adopt the aforementioned recommended changes and pass HB 949. Thank you for the opportunity to testify on this measure.



SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism
No. 1 Capitol District Bldg., 250 South Hotel St. 4th Fl., Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

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Director, DBEDT

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Oahu

Richard Schnitzler
Hawaii

David S. De Luz, Jr.
Hawaii

To: Chair Oshiro, Vice Chair Lee, and Members of Finance Committee

Re: **HB 949 – “Relating to the Hawaiian Homes Commission Act”**

Date: March 3, 2009 – Conference Room 308 – 11:30 a.m.

As the Chairperson and on behalf of the Small Business Regulatory Review Board (Review Board), I offer testimony in **support** of HB 949, Relating to the Hawaiian Homes Commission Act. The stated purpose of the bill authorizes the Department of Hawaiian Home Lands (DHHL) to issue long-term commercial leases.

HB 949 will make it possible for small businesses to continue to grow their businesses with extended leases thereby creating jobs for Hawaii’s people. Many large and small businesses with DHHL leases are unable to make improvements in their properties when their leases do not have enough remaining years left to justify and finance the needed improvements necessary to grow their businesses. Consequently, banks will not lend to businesses against leasehold properties when there are no assurances of securing or extending an existing lease. If a business owner loses a bid to secure a new lease, many people lose their jobs when that business closes and the ripple effect on jobs lost directly and indirectly is significant. Further, DHHL puts its properties and assets at risk when it does not encourage lessees to maintain and improve their properties because of the existing rules which do not allow DHHL lessees to extend their leases beyond the original terms.

Overall, the Review Board believes that this bill is a very positive step in the right direction for promoting a business friendly environment for small business in the State of Hawaii and its passage should be supported by all.

On behalf of the members of the Small Business Regulatory Review Board, I thank

you for the opportunity to present this testimony and for your attention to the issues of
Hawaii's business community.

Yours truly,

A handwritten signature in cursive script that reads "Lynne Woods".

Lynne Woods, Chairperson
Small Business Regulatory Review Board



March 2, 2009

The Honorable Marcus R. Oshiro, Chair
The Honorable Marilyn B. Lee, Vice Chair
And Committee Members
COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES
THE TWENTY-FIFTH LEGISLATURE
State Capitol
415 S. Beretania St., #308
Honolulu, HI 96813

RE: HB 949 Relating to the Hawaiian Homes Commission Act

Dear Chair Oshiro, Vice Chair Lee, and Committee Members:

On behalf of Diversified Equity Investment Corporation, I would like to take this opportunity to express my support for the bill pending before you referenced as HB 949 Relating to the Hawaiian Homes Commission Act. HB 949 provides the Department of Hawaiian Home Lands (DHHL) with the ability to negotiate lease terms on commercial projects for terms up to 99 years.

We support this measure as it provides commercial owners who operate on DHHL land with an important tool to attract long term investment and financing to these projects, which ultimately generate revenue which support programs for Native Hawaiians.

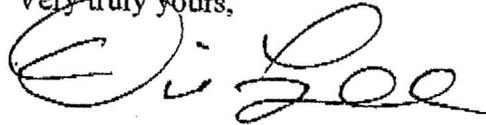
Additionally, by allowing the extension of leaseholds to up to 99 years, you are in fact encouraging commercial owners and operators to invest in larger capital projects, including further development, construction and betterment of the property, since the costs associated with such activities can be spread throughout a longer term.

Not only does this better enhance the communities in which DHHL lands are located, but it will help create desperately needed jobs, particularly in the construction and design industries where jobs are scarce in today's difficult economic environment. Furthermore, granting of the Bill will assist leasehold owners of DHHL land to attract the very best retailers and operators to their projects.

Furthermore, for large commercial projects such as the Waiakea Center which we own and operate in Hilo, lenders look more favorably upon long term leases than short term ones, to cover the cost of the project. If longer term ground leases were to be permitted, we believe that the DHHL would be successful in bringing some of the most sought after tenants to the adjacent lands owned by DHHL, as well as attract more investment dollars for large projects such as the Prince Kuhio Mall located across from our shopping center. We would welcome the improvement to these surrounding areas, which would go a long way to creating a more vibrant and thriving commercial destination. The incremental tax dollars and/or revenues to be captured by underfunded municipalities and governmental agencies, including DHHL, would be significant.

As such, we seek your support in passing HB 949. We are available for further comment or testimony should you desire such. Thank you for your consideration of this Measure.

Very truly yours,

A handwritten signature in black ink, appearing to read "David Lee". The signature is fluid and cursive, with a large initial "D" and "L".

David Lee
Principal



P.O. Box 3590
Honolulu, HI 96811-3590
Telephone (808) 544-0500

March 2, 2009

The Honorable Marcus Oshiro
Chairperson, Committee on Finance
State House of Representatives

Re: In Strong Support of HB 949 Relating to the Hawaiian Homes Commission Act

Dear Chair Oshiro & Committee Members:

I am Roy Amemiya, Senior Vice President of Central Pacific Bank (CPB) testifying in strong support of HB 949 which enables the Department of Hawaiian Homelands to enter into leases of 99 years compared to 65 years today.

CPB is a community bank with assets of over \$5 billion and 39 branches on four islands. We are very active in commercial real estate lending.

This bill would enhance commercial property owners who operate on Department of Hawaiian Homelands (DHHL) property to attract long term financing. This is because it positively impacts a financial institutions ability to underwrite loans given the additional value of the collateral – in this case the land and improvements.

Accordingly, we ask that you favorably consider this bill.

Aloha,

Roy K. Amemiya, Jr.



March 4, 2009

The Honorable Marcus Oshiro, Chair
and Committee Members
Committee on Finance
State House of Representatives
415 S. Beretania St., #308
Honolulu, HI 96813

Dear Chair Oshiro and Committee Members:

RE: HB 949 Relating to the Hawaiian Homes Commission Act

My name is Erin Nellis, Development Officer for DeBartolo Development. DeBartolo Development is in support of HB 949 Relating to the Hawaiian Homes Commission Act. It provides the Department of Hawaiian Home Lands (DHHL) with the ability to negotiate lease terms on commercial projects beyond the current 65 years for terms up to 99 years

This measure will give DHHL a tool in its quest to secure long term rental income streams and become self sufficient; it affords DHHL the flexibility to grant and extend commercial ground leases with terms which make a lease financeable thereby enabling the developer-lessee to obtain financing for construction, renovation and working capital, projects that ultimately provide revenues to DHHL-sponsored Native Hawaiian programs.

In today's financial market and for the foreseeable future, lenders have taken a decidedly conservative approach. For very large commercial projects on leasehold land such as Ka Makana Ali'i that DeBartolo is building in Kapolei, our lenders will be heavily scrutinizing all of the terms and conditions of the ground lease that in 2007, we felt would be financeable. A ground lease with a term of 99 years (instead of our current 65 years) will enhance our ability to obtain financing for the multi-million dollar project in the face of the economic and financial crisis of 2009.

Additionally, by allowing the extension of existing commercial leases for up to 99 years, the measure will encourage lessee investment in the property which in turn will lead to improvements in the area that the commercial property is located. Longer lease terms provide incentives for owners and investors to ensure that the property that they lease remains viable and attractive to the public and their tenants because the ground lessee will have the time necessary to realize a return on its additional investment in the commercial property.

For example, DHHL leases the Prince Kuhio Mall in Hilo to a third party ground lessee. The Mall has a few years remaining on its present DHHL ground lease. We understand that Prince Kuhio Mall would like to make improvements which would involve a major capital investment. Especially given the difficulty in today's market to access capital improvement loans, if the Prince Kuhio Mall had the ability to obtain an extension of their 65 year lease with DHHL, this would enhance their ability to get financing. The inability for Prince Kuhio Mall to make such an investment could lead to the Mall being put in a competitively disadvantaged position with respect to other retail venues as the ground lease terms wind down.

In conclusion, we look at this measure as a financial tool that can be used by DHHL and their lessees to ultimately provide income for the future of DHHL and sponsorship of DHHL programs. We ask for your support of this measure and ask that you pass HB 949. Thank you for this opportunity to testify.



March 3, 2009

The Honorable Mele Carroll, Chair
And Committee Members
Committee on Hawaiian Affairs
The Honorable Ken Ito, Chair
And Committee Members
Committee on Water, Land & Ocean Resources
State Capitol
415 S. Beretania St., #329
Honolulu, Hawaii 96813

Re: HB 949 Relating to the Hawaiian Homes Commission Act

Dear Chair Carroll, Chair Ito and Members to the Committee:

On behalf of D. Otani Produce, Inc., I would like to take this opportunity to express my support for the pending bill HB 949 Relating to the Hawaiian Homes Commission Act. Under the terms of DHHL's general lease of 65 years we were given the opportunity to secure financial support and stability to grow our business. As a result we were able to give back to the Native Hawaiian Community.

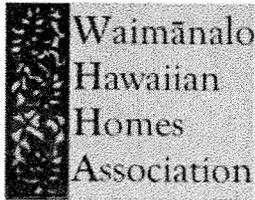
This bill, for many of us who are currently leasing properties under the Department of Hawaiian Home Lands, will allow us to negotiate long term investments and financing for our projects. This bill will significantly support DHHL's goals of generating revenues for the development of more communities for DHHL's beneficiaries.

We urge your support for HB 949 and thank you for your consideration of this measure.

Sincerely,

A handwritten signature in cursive script that reads "Dwight Otani".

Dwight Otani
President



P.O. Box 353, Waimanalo, Hawaii 96795-0353

TESTIMONY OF PAUL RICHARDS, PRESIDENT
WAIMANALO HAWAIIAN HOMES ASSOCIATION (WHHA)

ON **HB 949**

BEFORE THE HOUSE COMMITTEE ON FINANCE

March 4, 2009

Honorable Chair Oshiro, Vice-Chair Lee, and Members of the House Committee on Finance,
Aloha!

Mahalo for this opportunity to testify in support of this bill that enables the Department of Hawaiian Home Lands (DHHL) to extend the terms of its non-homestead land use agreements from 65 years to 99 years.

As the President of the Waimanalo Hawaiian Homes Association (WHHA), I respectfully ask for your support for to pass this bill. Through its various non-homestead land dispositions, the department generates revenue supporting programs reaching all the beneficiaries of the Hawaiian Home Lands trust, including all the lessee families in Waimanalo.

By being able to extend the terms of the lease to 99 years, the department can attract the best lessees, commercial and others, to maximize the revenue generated on these lands. This change in policy means more revenue for the trust to continue to build more homes and means DHHL applicants are a step closer to opportunities for homeownership. These revenues can also be used by DHHL to help fund homestead community centers and facilities which build stronger and healthier Hawaiian communities.

We respectfully ask for your support and vote to approve this bill. Mahalo for allowing me to submit my testimony.

Mahalo nui,

Paul P. Richards

Paul P. Richards
President
Waimanalo Hawaiian Homes Association

Paul P. Richards, President • Roxanne Hanawahine, 1st Vice President • N. Kilauea Wilson, 2nd Vice President • Maile Villarin, Recording and Corresponding Secretary • John K. Sang, Treasurer • Mary Ann Crowell, Historian • Roy Sang, Director • Squeaky Peahi, Director • Heidi "Ilima" Ho-Ramseyer • Anthony H. Sang, Sr., Director

The Pacific Resource
PARTNERSHIP



Testimony of C. Mike Kido
External Affairs
The Pacific Resource Partnership

House Committee on Finance
Representative Marcus Oshiro, Chair
Representative Marilyn Lee, Vice Chair

HB 949 – HAWAIIAN HOMES COMMISSION ACT
Wednesday, March 4, 2009
11:30 am
Conference Room 308

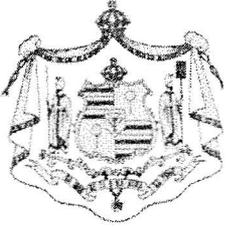
Chair Oshiro, Vice Chair Lee and Members of the House Committee on Finance:

My name is C. Mike Kido, External Affairs of the Pacific Resource Partnership (PRP), a labor-management consortium representing over 240 signatory contractors and the Hawaii Carpenters Union.

PRP is in strong support of the purpose and intent of HB 949, to stimulate and support commercial development on Hawaiian home lands that benefit neighboring residents and the economy, by authorizing the Department of Hawaiian Home Lands to lease Hawaiian home lands for terms of up to 99 years for commercial land developments.

The commercial and residential development on Hawaiian home lands would help stimulate our economy by bringing much needed jobs. Long-term leases could provide a steady flow of revenue thus creating financial self-sufficiency and long-term economic growth.

Thank you for the opportunity to share our views with you and we respectfully ask for your consideration on HB 949.



ASSOCIATION OF HAWAIIAN CIVIC CLUBS

P.O. Box 1135 Honolulu, Hawaii 96807

TESTIMONY OF LEIMOMI KHAN, PRESIDENT
ASSOCIATION OF HAWAIIAN CIVIC CLUBS
IN SUPPORT OF

HB 949 – RELATING TO THE HAWAIIAN HOMES COMMISSION ACT

HOUSE COMMITTEE ON FINANCE

March 4, 2009

Chair Oshiro, Vice-Chair Lee and Members of the Committee:

The Association of Hawaiian Civic Clubs (AHCC) supports HB 949. We are a proponent of this legislation that, by allowing the Department of Hawaiian Home Lands to extend its maximum lease terms, would support its efforts to achieve financial self-sufficiency for its trust and homestead communities.

The Association is a national confederation of 55 Hawaiian Civic Clubs located throughout the continental United States and Hawaii. Founded by Prince Kūhiō in 1918, we are the oldest community-based grassroots Hawaiian organization in the state, and we support initiatives that improve the health and social welfare of the native Hawaiian community. Our organization was also instrumental in assisting Prince Kūhiō in passing the Hawaiian Homes Commission Act of 1920.

In 2008, we unanimously adopted a resolution to support the Department's efforts to achieve self-sufficiency for the Hawaiian Home Lands trust. This bill is critical for the Department to attract top commercial and business lessees and investments that will sustain the trust and the Hawaiian homestead communities. HB 949 is key for financial self-sufficiency and long-term economic growth.

We respectfully urge you to pass this bill and we thank you for this opportunity to testify in support of HR 949. For further information, please contact me at 372-0630.

K. Taniguchi
LTD.

50 E. Puainako Street
Hilo, HI 96720-5294

March 2, 2009

Representative Marcus Oshiro
Chair, House Finance Committee
House of Representatives
Hawaii State Capitol, Rm. 306
Honolulu, HI 96813

Dear Representative Oshiro and members of the Finance Committee:

We support HB949 authorizing the Department of Hawaiian Home Lands (DHHL) to issue long term commercial leases.

Our family business began 93 years ago in 1916. We have survived the Great Depression, several tsunamis, World War II and other major events. We started as a mom and pop operation in Hilo and currently have our fourth generation of Taniguchi family members managing the enterprise.

K. Taniguchi, Ltd. is the current lessee under a commercial lease with DHHL. We were not the original lessee who signed the 55 year lease in 1970. We acquired the lessee position in 1999 and recently made a difficult decision to expend over \$1million to construct more improvements on this property. It was difficult because of the relative short time remaining on the lease (about 17 years) and the current economic conditions.

We believe businesses would be more willing to make improvements to develop and re-develop projects given a longer lease term, thereby stimulating the construction industry and making a small but positive impact on our economy.

We strongly support HB 949 to allow the DHHL to negotiate and extend commercial leases for up to 99 years and urge your favorable consideration of this bill.

Thank you for the opportunity to share our view on this issue. If you have any questions regarding our testimony, please contact me at (808) 987-9583 (cellular).

Sincerely,



Barry K. Taniguchi
President

TESTIMONY OF SHIRLEY SWINNEY, PRESIDENT
MALUOHAI RESIDENTS' ASSOCIATION
ON **HB 949**
BEFORE THE HOUSE COMMITTEE ON FINANCE

March 4, 2009

Chair Oshiro, Vice-Chair Lee, and Members of the Committee:

Mahalo for this opportunity to testify **in support** of this bill that enables the Department of Hawaiian Home Lands to extend the terms of its non-homestead land use agreements from 65 years to 99 years.

As a leader of a Hawaiian homestead community association, I respectfully urge that you pass this bill. Through its various non-homestead land dispositions, the department generates revenue that supports programs that reach all the beneficiaries of the Hawaiian Home Lands trust, including all the lessee families in Malu'ohai in Kapolei.

We support this bill for two primary reasons. First, by being able to extend the terms of the lease to 99 years, the department can attract the best lessees, commercial and others, to maximize the revenue generated on these lands. This change in policy means more revenue for the trust to continue to build more homes and means DHHL applicants are a step closer to opportunities for homeownership. These revenues can also be used by DHHL to help fund homestead community centers and facilities which build stronger and healthier Hawaiian communities.

Second, these extended lease terms can attract larger commercial projects that bring jobs to nearby communities, like Malu'ohai and other neighborhoods in East Kapolei. Jobs close to home can mean a higher quality of life and less traffic within our community.

We respectfully ask that you approve this bill and thank you for this opportunity to testify.

TESTIMONY OF GERRI ANN CHAI AND KIMO CHAI, LESSEE
LA'I 'OPIUA UNDIVIDED INTEREST AWARD PROGRAM

ON **HB 949**
BEFORE THE HOUSE COMMITTEE ON FINANCE

March 4, 2009

Chair Oshiro, Vice-Chair Lee, and Members of the Committee:

Mahalo for this opportunity to testify in support of this bill that enables the Department of Hawaiian Home Lands to extend the terms of its non-homestead land use agreements from 65 years to 99 years.

I am a lessee of one of the department's undivided interest award programs and I understand that the department generates revenue from its general leases that supports programs that reach all the beneficiaries of the Hawaiian Home Lands trust, including all the lessee families in the Villages of La'i 'Opua in Kealakehe.

I support this bill because it will help the department can attract the best commercial/industrial lessees, and this change in policy means more revenue for the trust to continue to build more homes. This means DHHL undivided interest lessees like me and applicants are a step closer to opportunities for homeownership. These revenues can also be used by DHHL to help fund homestead community centers and facilities which build stronger and healthier Hawaiian communities.

These extended lease terms can attract larger commercial projects that bring jobs to nearby communities, like Kaniohale and other neighborhoods in Kealakehe. Jobs close to home can mean a higher quality of life and less traffic within our community.

I respectfully ask that you pass this bill and thank you for this opportunity to testify.

Date March 03, 2009

Testimony in support of
HB 949, Relating to the Hawaiian Homes Commission Act

House Finance Committee

Chair Oshiro, Vice Chair Lee and Members of the Committee:

Thank you for the opportunity to testify in support of this bill that will enable the Department of Hawaiian Home Lands to extend the terms of its non-homestead land use leases (Commercial/General) from 65 to 99 years. My name is Shawn Kadooka I am a 4th generation farmer in Waimanalo. For years my family (Wong's) was on a month to month permit and with the help of our legislators we obtained an Agricultural Lease from the DLNR. However, this lease is now in the process of transferring to DHHL and under the current terms we would only have 26 years left. It is very hard to obtain any type of loan or assistance with such a short term. There are so few farmers left in the state that we would greatly benefit from this bill to continue supplying 51% of all corn grown to the people of Hawaii. We strongly support HB 949.

I support this bill for the following reasons. First, by extending the terms of its general leases from a maximum of 65 years to a maximum of 99 years, the department would provide greater opportunities for the last remaining farmers in Hawaii. Second, DHHL can attract greater investment and re-investment to its commercial and non-homestead lease properties. Third, this legislation supports DHHL's long-term economic growth goals by generating sustained revenues for the Hawaiian Home Lands trust that will be used to develop more communities for DHHL's beneficiaries.

Further, as Section 1 of the bill states: "it is in the best interest of the State to attract and secure private sector commercial development projects...these developments would support the [DHHL's] homesteading programs, benefit the increasing population base in the area of the commercial development by creating additional jobs, and create residential communities surrounding the commercial development."

We urge this committee to pass HB 949. Thank you for this opportunity to testify.



Shawn C. Kadooka
Sweet Corn Farmer
Waimanalo

**HOUSE OF REPRESENTATIVES
COMMITTEE ON FINANCE**

RE: HB 949

March 4, 2009, 11:30 AM

State Capitol Room 308

I OPPOSE this bill, which proposes to extend the terms of general leases issued by the DHHL to 99 years.

Contrary to Constitutional Mandate. This bill's premises are flawed and the priority it reflects is twisted. First, Art. XII, § 1 of the Hawai'i Constitution was amended in 1978 specifically to eliminate the need for the DHHL to lease its trust lands to generate revenues. The provision requires the Legislature to provide the DHHL "sufficient sums" to operate and fund all of its programs. Hence, extending the term of the very general lease vehicle that this provision rendered unnecessary is both a refusal to acknowledge the funding priority that the DHHL enjoys and flips the essence of this provision on its head.

By accepting this change, the Legislature is ignoring its own constitutional duty to refrain from encouraging the DHHL under its current director to break the law. He should be insisting on finding ways to fund his department with general funding, not relying on the special funds generated from general lease income to pay for the DHHL's operating expenses. All legislators, including the DHHL chair, swore to uphold the Hawai'i Constitution in their oath of office. I ask you to live up to that oath today by killing this bill and insisting that Micah Kane give you the full fiscal requirements of the DHHL that you ought to fund.

Turning to the general leasing of trust lands turns a blind eye to political history, the Constitution, and his oath of office, and his explicit trust duty to native Hawaiian beneficiaries. Please do not get duped into thinking that there is no cost to participating in the privatization of homestead trust land in the name of generating unspecified revenues for unspecified fiscal requirements for placing homestead applicants on leaseholds in a timely manner. No amount of general leasing trust lands will pay for the fiscal needs of the DHHL, if its current chair and commissioners are truly performing their trust duties.

Fiscal Fallacy of General Leasing. General leasing of homestead trust lands will never be enough to meet the fiscal needs of the DHHL. Mr. Kane has been quoted as saying he needs \$100 million per year to meet current homestead demands. Even if that conservative figure were true, the general leasing of homestead trust lands to non-Hawaiians in order to generate revenues for the DHHL will meet a small fraction of that revenue requirement. Even if he somehow achieves his goal of replacing the \$30 million per year now paid to the DHHL as part of the Act 14 settlement for past breach of trust, which terminates in 2014, it would take 76 years

to pay for all of the homesteads currently demanded by homestead applicants. And that's assuming no further applicants apply in the meantime.

Since 1978, when the constitutional amendment was adopted and ratified, the homestead waiting list has quadrupled from 5,200 to over 23,500. Current homestead production does not keep up with the growth in the waiting list each year. Yet, Mr. Kane asks for greater authority to general lease more trust lands in order to deny homestead applicants some of the best lands in the DHHL inventory for the next century.

The fiscal alternative. Secondly, it presumes no other source of funding for the DHHL exists to pay for budget shortfalls caused by our sagging economy. The most obvious place to turn is the massive amounts of funding appropriated to the Hawai'i Tourism Authority, whose spending in the millions of dollars is not only wasteful because it will not make any significant difference in tourism arrivals, but whose accountability is also seriously in question, as evidenced by the latest audit of its operations. The Legislature has given a blank check to the HTA for failing to even demonstrate that such spending on promotion results in the desired boost in tourism spending it purports to bring to Hawai'i. The Legislature needs to demand an objective econometric analysis to determine whether there is any significant statistical correlation between such promotion spending and desired economic outcomes as a result.

For the tens of millions spent each year on the blind belief that such promotion is effective, the people of Hawai'i deserve this statistical analysis to justify such massive spending, especially during times like these, when other higher priority programs need to be supported. The state has constitutionally guaranteed programs that are being cut while the HTA enjoys a free pass. When is any legislator going to publicly question this massive waste of spending in such times of need as now? At the very minimum, analysis should trump presumption. Please put the unconscionable spending on tourism promotion with public funding in the bright light of economic analysis and bare it publicly. In the spirit of the new Obama administration, please let facts matter.

I ask you to kill this bill and focus your attention on the fiscal needs of the DHHL that this Legislature is bound to address under Art. XII, sec. 1.

Please remember your oath of office.

Alan T. Murakami
Native Hawaiian Legal Corporation
1164 Bishop St. #1205
Honolulu, HI 96813

FINTestimony

From: mailinglist@capitol.hawaii.gov
ent: Monday, March 02, 2009 2:03 PM
To: FINTestimony
Cc: KIMBERLY.SHIMABUKU@GGP.COM
Subject: Testimony for HB949 on 3/4/2009 11:30:00 AM

Testimony for FIN 3/4/2009 11:30:00 AM HB949

Conference room: 308
Testifier position: support
Testifier will be present: No
Submitted by: KIMBERLY SHIMABUKU
Organization:
Address: 111 E. PUAINAKO ST. HILO, HAWAII
Phone: 808-959-4121
E-mail: KIMBERLY.SHIMABUKU@GGP.COM
Submitted on: 3/2/2009

Comments:

As the General Manager for the Prince Kuhio Plaza on the Big Island and as a commercial ground lessee, I would like to express my support of this bill. The passing of this bill will not only allow us to make future improvements to the Center with confidence but also provide a steady revenue source to the Department of Hawaiian Homelands and its beneficiaries.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 02, 2009 3:12 PM
To: FINTestimony
Cc: sskswinney@yahoo.com
Subject: Testimony for HB949 on 3/4/2009 11:30:00 AM

Testimony for FIN 3/4/2009 11:30:00 AM HB949

Conference room: 308
Testifier position: support
Testifier will be present: No
Submitted by: Shirley Swinney
Organization: Malu'ohai Residents Association
Address: 91-216 Koanimakani Place Kapolei, Hawaii
Phone: (808) 520-2338
E-mail: sskswinney@yahoo.com
Submitted on: 3/2/2009

Comments:
Respectfully request your support of HB949.

I urge you to support HB 949 authorizing the Dept. of Hawaiian Home Lands to extend General Leases (Commercial) to 99 years which would be similar to the Homestead Leases. I presently have a General Lease in a light-industrial park in Kawaihae, Hawaii. I acquired this lease at an auction held by the Department. At that time one needed to be of sufficient Hawaiian blood to have the first chance to bid. My lease began on June 1, 1984. The area was not ready for industrial development at that time, so I continued paying lease rents year after year with no revenue coming from the land. It was not until late 1990 that I began to think that a industrial warehouse might be ready for development. I found some investors and was able to raise about \$1.5 million dollars as equity capital which enabled me to apply for a commercial loan from a local bank to start construction. The bank loan was for \$3 million and construction began on the 2.85 acre parcel.

The building complex (3 buildings) was completed in July, 1992, 8 years after the start of my lease. It contains 47,000 sq. ft. of net leaseable area. I was able to get a few tenants that enabled me to at least pay the monthly mortgage payments but not adequate enough to pay my the real property taxes, ground lease rent, electrical and water bills on a timely basis. I had to make arrangements with all those parties to pay a fixed amount each month. I really struggled with this project for 4 more years. When I began getting more tenants, I was able to pay more on my arrearage accounts and finally in about 1998, I was able to come current with all my monthly obligations, but only a meager cash flow. Not until about 2002 was I able to receive a decent return. However, I am still paying off my investors and the mortgage in still over \$1 million. After all the time, agony, and hard work that went into doing this project, I believe I'm entitled to reap what I sowed. It's only now beginning to produce positive results. Hopefully the present economy doesn't make me go backwards again.

I urge you to pass this bill. Since the lease calls for lease rent re-openings, I am paying prevailing market value ground lease rents continually. This is an important source, and I believe, the only source of revenue for the DHHL. A lease extension will give me the incentive to me make major building maintenance, including repaving the entire parking area, and take care of other deferred maintenance. It will also give me more time to payoff all my investors, the bank, and finally enjoy some decent profits. I'm sure I'm not the only owner in this industrial park who has gone through this agony. We all serve a community need for warehouse spaces in Kawaihae, and we all should be able to pass on our leases to our heirs.

Walter P. Yim
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