

**TESTIMONY**

**SB 475**

**LATE**



## KAMEHAMEHA SCHOOLS

**LATE TESTIMONY**

Tuesday, February 03, 2009

### WRITTEN TESTIMONY TO THE SENATE COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

BY

Nainoa Thompson, Chair  
Diane J. Plotts, Vice Chair  
Corbett A.K. Kalama Secretary/Treasurer  
J. Douglas Keauhou Ing  
Robert K.U. Kihune  
Dee Jay A. Mailer, Chief Executive Officer

Re: ~~SB 1085 - Relating to Ceded Lands.~~  
SB 475- Relating to Land Controlled by the State.

T: Senator Clayton Hee, Chair  
Senator Jill N. Tokuda, Vice Chair  
Members of the Committee

Mahalo nui for the opportunity to testify regarding an issue of great importance to all of the people of Hawai'i and to our Native Hawaiian people in particular.

Kamehameha Schools supports this measure, which places a moratorium on the sale or transfer of ceded lands until the issues and claims surrounding these lands between Native Hawaiians and the state are resolved. Ceded lands tie directly to Native Hawaiian well being and identity, as former Crown and Government lands that were taken from the Kingdom of Hawaii after the overthrow of Queen Lili'uokalani in 1893 and later placed in trust to be used for five public purposes, including the benefit of Native Hawaiians, the indigenous people of these islands.

The Native Hawaiian people carry claims to those lands which have not yet been reconciled, and this is an obligation that must be resolved here at home. We stand with many others in our community in support of legislation that will keep intact Hawai'i's ceded lands trust until the claims can be resolved. As an Ali'i Trust founded to improve the capability and well-being of Native Hawaiians, we urge the state of Hawai'i to continue its long-standing support for Hawaiian rights and its commitment to the Hawaiian community by working with OHA, the Native Hawaiian people and the state Legislature to resolve the dispute over ceded lands without involvement by the U.S. Supreme Court.

# LATE TESTIMONY

YOU MUST PASS BILL sb475!!

I am a native Hawaiian and this is my home. I have no place else. My ancestors lived here, my family lives here, and I want my children to continue to have the same opportunity to do so. It is the sovereign right of every native Hawaiian to have that opportunity. If the state is allowed to sell ceded lands (that is not and never was, theirs in the first place) that opportunity becomes all the more slim. Who and what are we as a people if we no longer have the legal right to a place to call home?

Me ka mahalo piha, Kanoe D. Enos

Graduate Student

Myron B. Thompson School of Social Work

**From:** Alan Murakami [almurak67@gmail.com]  
**Sent:** Tuesday, February 03, 2009 5:00 PM  
**To:** WTLTestimony  
**Subject:** SB 1085, SB 475, SB 476

## LATE TESTIMONY

REGULAR SESSION OF 2009

SENATE COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

Room 229

February 4, 2009

2:45 PM

RE: Testimony of Alan T. Murakami Related to ~~SB 1085~~, 475, 476

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; Act 354; Act 359; 1993 Haw. H.R. Con. Res. No. 179 (1993 Haw. Sess. Laws). A measure to preserve 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 avert what might be an unfavorable result before the U.S. Supreme Court in the pending appeal of the *OHA v HHFDC* case.

Thank you for this opportunity to testify.

Alan T. Murakami, Litigation Director

Native Hawaiian Legal Corporation  
1164 Bishop Street, Suite 1205  
Ph: (808)-521-2302  
Email: [almurak@nhlchi.org](mailto:almurak@nhlchi.org)

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 03, 2009 7:45 PM  
**To:** WTLTestimony  
**Cc:** freeoceanaxs@yahoo.com  
**Subject:** Testimony for SB475 on 2/4/2009 2:45:00 PM  
**Attachments:** WTL, JGO.rtf

## LATE TESTIMONY

Testimony for WTL 2/4/2009 2:45:00 PM SB475

Conference room: 229  
Testifier position: comments only  
Testifier will be present: Yes  
Submitted by: Noa Napoleon  
Organization: Individual  
Address:  
Phone:  
E-mail: [freeoceanaxs@yahoo.com](mailto:freeoceanaxs@yahoo.com)  
Submitted on: 2/3/2009

**Comments:**

I agree that the state should not be allowed to sell ceded lands, but nor do I believe legislators should attempt to preempt the state with legislation on matter of the ceded land. Unless and until lawmakers are willing to address Hawaiian justice separate from the ceded lands debate, there will always be problems. The root cause of all this confusion is something state officials seem to always want to ignore but its essential that we look at the ceded lands history without bias if we are sincere about solving the justice challenge.

Noa Napoleon  
1750 Kalakaua Ave #103  
Hon, HI 96815

## **LATE TESTIMONY**

SB 475

Re: "Lands Controlled by the State"

Senate Committee on Water, Land, Agriculture, and Hawaiian Affairs

Problems defending ceded lands (trust lands etc.).

It's unfortunate that so many Hawaiians believe that an unfavorable ruling by the United States Supreme Court on the ceded Land case would forever close the door on old issues, that Native Hawaiians have run out of options in terms of addressing historical injustices. Too many of us view the current entitlement structure supporting DHHL and the Akaka bill, as the best and only way to address historical wrongs. The State of Hawaii and OHA are to be blamed for misleading native Hawaiians by suggesting that the State has full constitutional authority to sell or otherwise block the sale of such lands they deem ceded. This approach to native Hawaiian rights is ultimately faulty just as Senator Kyle of Arizona had suggested when he called DHHL (the federalization of native Hawaiian rights), unconstitutional. SB 475 Preventing or prohibiting the sale of ceded lands pending the "appeal of related case," is no more proper for the Legislature to address than it is for the executive branch to attempt to sell and or alienate lands under the guise of protecting the Public Trust. Any challenge on the ceded lands issue would or should at the very least call into question the support structure that created Statehood (DHHL), but neither the Governor nor OHA nor the Legislature at this point seem willing to acknowledge this history. The question of legitimacy in other words demands that we address the larger issues related to Annexation and Statehood in exclusion of or completely separate from the ceded lands issue. Anything short of this would only entrench the States total claim as the Trustee of Hawaiian crown lands, which means avoiding or outright denying any and all national claims or old disputes etc. Who after all would legislate the ending of ones day job? The whole process is anecdotal in my view.

### Rewriting History

While the ceded lands debate rages on proponents of the Akaka bill (which includes the Hawaii State Government at the moment) are demonstrating what could be termed a revisionist and even defeatist approach to the "reconciliation" process in my view. The U.S. Supreme Court is more than likely going to uphold the Hawaii Supreme Courts decision on whether the state can sell ceded lands, baring such sales until outstanding issues are settled. But this language is confusing if not deceptive because while OHA and others confine themselves to a course that obscures, some say negates what might have been a better outcome in terms of how Congress and or the high Courts could have resolved the larger issue's, the State is indicating by this attempt to sell ceded

lands, their resistance to the whole question of Hawaiian independence, which is the logical conclusion of the 1993 Apology Resolution. To OHA (state officials) and those supporting the Akaka bill, it's all come down to a question of bad justice verses no justice. OHA's official response to this question of contingency was to say they are "moving forward with Self-determination and Federal Recognition" "without thought for what might or could otherwise be." They along with state legislators seem to be saying that either we accept the default position (the Akaka bill), or we lose everything! With this approach to Hawaiian rights all we can hope for is to have the State and or Congress short circuit the ceded lands challenge by passing the Akaka bill or some other form of protection before the U.S Supreme Court has a chance to rule on it (before the ruling go's the wrong way as most predict it will). Addressing Hawaiian rights in a political vacuum is not just narrow thinking but defeatist because even if the State Supreme Court ruling is upheld prohibiting the sale of ceded lands (especially given where the Akaka bill is poised at this moment) this still only protects the status quo, further entrenching the problem the debate over ceded lands has created. To me the better scenario would've been to allow the Supreme Court to extinguish the 5 (f) trusts (though not necessarily OHA). This would have forced Congress to re-frame the method for addressing Native Hawaiian rights, allowing for a more constitutionally permissible process or at the very least, a process that would be totally immune from any future threat of lawsuits!

The inability on the part of OHA and the state legislature to hold to any sort of contingency plan for addressing (among other things) the 1893 overthrow, is responsible in part for the current confusion over ceded lands. So while OHA and others are pointing to federal recognition as the only means of settling longstanding question's of justice, they are simultaneously saying to Congress and the Courts that they are unwilling to take a honest look at how we might address the history that created the tenuous situation involving ceded lands in the first place. In other words even if the law suit is upheld by U.S. Supreme Court barring the sale of ceded lands, we will still be faced with a seriously flawed system that in the end will need to be completely revamped anyway.

The question we seem to want to avoid regarding the DHHL and the Admissions Act of 1959 (Statehood) is whether it's fair that we be forced to defend its right to exist, especially knowing that its creation was the result of a series of lawless acts. If Congress could "fix those laws" as Senator Kyle of Arizona had suggested in referring to how DHHL was crafted, why do we continue to ignore what is arguably a better deal in terms of justice? If the Hawaiian entitlement system represents the lesser of two evils in terms of choices, why not at least look at what the better choice might look like? Why close the door on what are valid legal arguments against what some would argue to be a "extra constitutional system" -in support of Hawaiian independence?

State lawmakers are for the moment unwilling to make the basic constitutional argument for independence, especially with regards to the whole "legitimacy" argument that was repeatedly made by prominent American politicians in the late 1800's. These were the anti-expansionists who were adamantly opposed to creating any sort of protectorate in

# LATE TESTIMONY

Hawaii including the whole idea of annexing Hawaii which the treaties between the two Countries clearly prohibited. Those debates made it clear that there was no legal precedence or provision in the U.S. Constitution anywhere that gives Congress and or the U.S. military the right to forcefully take a foreign state (to control a people, or negate a Nations sovereignty -by a Joint Resolution of Congress or any other method) except (with rare exception) in the case of war. This "traditional" argument about the scope of Congress's power clearly "restricted it to the contiguous land settled by Americans of Anglo-Saxon lineage."\*

Those on the other side of the spectrum who seek total independence, and who view the Hawaiian redress scenario strictly in terms of International law, while acting a bit more cautious with their hand, are also succumbing to the same sort of cultural pressure in my view. While on one hand they refuse to concede the dispute over the right of independence, they seem predisposed to challenging U.S complicity in the islands by pointing exclusively to international law (which is no less a process in a political vacuum in my view). By this they concede the sort of redress that Grover Cleveland and others suggested could happen. These sorts seem to be propping up international law as the only way to effectively remedy or address Hawaiian justice, as if the United States Congress was incapable besides being unwilling to internally address the lawless acts already admitted to in the 1993 Apology Resolution. This is the "sue for damages" approach that pits American style justice directly against so-called International civil and human rights norms -which they hold to be the supreme law of Nations (or the law of first peoples in many cases). This approach is likely be rebuffed by the U.S. for the same reasons I just mentioned. Such a method of redress is not so much a second choice as it is a preferred choice perhaps because these types hold that there is no good faith where the United States doctrine of sovereign immunity (Plenary Powers etc.) automatically precludes the first choice from happening. They believe in other words that American politicians are simply racist in their approach to addressing Hawaiian rights. Neither they nor the foreign occupiers (they will tell you) are bound to the U.S. Constitution regarding foreign countries so long as the U.S. military is holding Hawaii by force. But this is not true about the United States being immune from any responsibility for its role in undermining the Hawaiian Monarchy, nor is it completely the case of white elitism (prejudice) when it comes to addressing Hawaiian justice. Congress could have then and still could today easily take Grover Cleveland's directive to "undo" U.S. action's without contradicting or jeopardizing U.S. sovereignty (law). DHHL in other words is not the only way to address Hawaiian rights especially since it was as Senator Kyle said, unconstitutional for Congress to have created DHHL. American politicians are not so much against independence as they are against the sue for damages approach, similar to the situation involving Grover Cleveland and the Queens demand that those involved in treason be imprisoned.

**Nehemiahs Reform / A better strategy!**

The Israelites of Nehemiahs day could have taken a similar position with the Babylonian King's who succeeded Nebuchadnezzar and the Chaldean army, who we know spoiled Israel and carried them into Babylon. To the dismay of even the Israelites, Assyrian and

# LATE TESTIMONY

Persian Kings; Cyrus, Darius, and later Artaxerxes, had taken up the Jews cause in the face of overwhelming resistance by those who feared their motives. What threatened to thwart Nehemiahs reform movement was not the Kings themselves, but the sort of internal confusion native Hawaiian's suffer from today, when at least some of the Israelites had become borrowers and lenders, and where at least some forms of usury may have been involved (Nehemiah 5:4). This sort of moral entanglement seems to be what threatened to prevent the entire nation from returning to their homeland more than anything else. Roman rule over Israel centuries later was also seen by the Jews as de facto rule and yet the Jews paid taxes to the Roman emperor's while internally protecting their belief that God would one day set them free. I believe the same sort of dynamic is in play here in Hawaii, just as it was with the Jews facing the the mighty Babylonian Kings, who in the end, and to the great surprise of the Jews, ended up ordering their Treasury officers to supply Israelite reformer's with all they would need to rebuild the Temple and eventually the wall in Jerusalem! Nehemiah was first a reformer and second a dedicated nationalist who prayed for and who eventually earned favor with the Kings of Babylon. In some cases Israelite captivity had been understood as being providential (of Gods doing). Israel's city of Jerusalem had been overthrown and destroyed to the ground dozen's of times only to be recovered again and again in the face of great opposition. The idea that native Hawaiians are destined to always be under the State of Hawaii is repugnant, and this is what the debate over ceded lands is not and will not address. State legislators would do better to call for formal redress that focuses exclusively on the right of independence as a starting point.

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 03, 2009 10:37 PM  
**To:** WTLTestimony  
**Cc:** ailaw001@hawaii.rr.com  
**Subject:** Testimony for SB475 on 2/4/2009 2:45:00 PM

Testimony for WTL 2/4/2009 2:45:00 PM SB475

## LATE TESTIMONY

Conference room: 229  
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](mailto:ailaw001@hawaii.rr.com)  
Submitted on: 2/3/2009

**Comments:**

We support the passage of SB 475 because it would place a moratorium on the sale of ceded lands until the State of Hawaii reconciles Native Hawaiian claims to ceded lands. This would send a strong message to the U.S. Supreme Court that Hawaii can Manage its own issues. Please pass SB 475.



# KO'OLAUPOKO HAWAIIAN CIVIC CLUB

February 4, 2009

**LATE TESTIMONY**

TO: SEN. CLAYTON HEE, Chair  
& Members  
Committees on Water, Land, Agriculture & Hawaiian Affairs

FROM: MAHEALANI CYPHER, President  
Ko'olaupoko Hawaiian Civic Club

SUBJECT: TESTIMONY IN SUPPORT OF S.B. 475

Aloha mai kakou. The Ko'olaupoko Hawaiian Civic Club works with the people of nine ahupua'a surrounding Kane'ohē bay. Our membership is open to native Hawaiians and others who are "Hawaiian at heart". By this, we mean those who came to the islands because they have aloha for our people, our island culture, and our 'āina.

We support this bill because it sends a clear signal to the United States Supreme Court and all others who covet the Hawaiian islands that our state is "not for sale". Through this bill, we make it clear that it is the kuleana of all of us – all of you, all of the residents of Hawai'i, Hawaiian and non-Hawaiian, and yes, even Governor Lingle – it is the kuleana of all of us to safeguard these lands in trust until there has been just reconciliation of the failure to restore the Hawaiian kingdom, taken illegally over a century ago.

Those who advocate for the sale and transfer of Hawaiian ceded lands have lost their way in the halls of justice. It might help them to take a refresher course in civics 101 to revisit the vigorous efforts taken by the founding fathers of the United States government who, in establishing the U.S. Constitution and Bill of Rights, wanted to ensure that honor and justice were accorded to all people.

In the complicity of U.S. military forces during the illegal overthrow of the Hawaiian kingdom a century ago, America was dishonored by the actions of those who represented her here in the islands. Her Congress further dishonored the U.S. Constitution by agreeing to annex the islands over the protest of native Hawaiians.

**LATE TESTIMONY**

If the proponents of these land sales and transfers truly believe in the American dream of justice and human rights, they would recognize the mistaken course they have pursued and support the continued trust management of these lands.

The Ko`olaupoko Hawaiian Civic Club urges you to pass this bill.

E mahalo nui loa for this opportunity to share our mana`o.

# KO'OLAUI FOUNDATION

February 4, 2009

**LATE TESTIMONY**

To: Sen. Clayton Hee, Chair  
And Members  
Senate Committee on Water, Land, Agriculture & Hawaiian Affairs

From: Leialoha "Rocky" Kaluhiwa

Subject: **Support for S.B. 475 Relating to Lands Controlled by the State**

Aloha kakahiaka kakou!

My name is Leialoha "Rocky" Kaluhiwa, and I am a life-long resident and kupa`aina of the ahupua`a of He`eia, moku Ko`olaupoko, O`ahu. I wish to offer this testimony on behalf of myself, my family, and the Ko`olau Foundation.

We strongly support passage of this bill, and urge all members of the Legislature to pass it into law. We call upon Governor Lingle to sign it into law.

Our island people really believe in the concept of malama`aina and aloha `aina. We are connected to the land, we are `ohana to the land. When our Queen ceded the lands of the Hawaiian kingdom, entrusting them to the United States government so long ago, she did so in the belief that her people would be reunited with these lands when the truth was known about the illegal overthrow.

This bill offers some way to address the wrongs that were done over a century ago.

Mahalo for this opportunity to testify.

P. O. Box 4749  
Kane`ohe, HI 96744  
Ph. 286-7955  
Email: rockyfromheeia@aol.com

# **Kako`o O`iwi**

**P. O. Box 4870**

**Kane`ohe, HI 96744**

**Ph. 754-4862**

**Email: [unclejerry77@aol.com](mailto:unclejerry77@aol.com)**

## **LATE TESTIMONY**

### Testimony on S.B. 475

To Chair Clayton Hee and the members of the Senate Water, Land, Agriculture and Hawaiian Affairs Committee, aloha from Kako`o O`iwi and the kupa`aina of Ko`olaupoko.

Kako`o O`iwi supports the passage of Senate Bill 475, which would stop the state from selling off ceded lands under their control.

This is an important bill, and should be signed into law by Governor Lingle.

Mahalo for this bill, and for allowing me to offer my testimony.

The Senate

Committee on Land, Agriculture and Hawaiian Affairs  
Senator Clayton Hee, Chair  
Senator Jill N. Tokuda, Vice Chair

---

Date: February 3, 2008  
Time: 2:45 p.m.  
Place: Conference Rm, 229  
State Capitol  
415 S.Beretania Street

**LATE TESTIMONY**

Aloha Mr. Chairman and distinguished committee members.

I am Keoni Kealoha Agard of the Royal Order of Kamehameha I, which has participating chapters on the islands of Kauai, Maui, Oahu and Hawaii. We speak in support of SB 475.

The former Crown and Government lands of the Kingdom of Hawaii were unlawfully transferred without proper authority from the Republic of Hawaii government (traitors to the then legitimate government of the Hawaiian Kingdom) and "ceded" to the United States government in 1898 by way of a joint resolution. That joint resolution was utilized, after proponents had tried not once but two times in a failed attempt to annex the Kingdom of Hawaii and acquire its lands by way of a treaty of annexation. There is no authority under U.S. Constitution that allows annexation without securing a treaty between the parties. It is an uncontroverted historical fact and also part of the Congressional record that the U.S. never passed a treaty of annexation. The lands that were stolen ("ceded lands") by the U.S. in 1898 were taken by way of a joint resolution. The same lands were later transferred to the State of Hawaii in 1959.

Not be taken lightly, the Apology resolution passed by U.S. Congress in 1993, Public Law 103-150 says in relevant part that "Native Hawaiians never relinquished control of their sovereignty or claims over their national lands".

Let us take an example: If you get your car stolen, and the thief decides to return the same car (61) years later to you, Daniel and Sam, we must ask: What is wrong with that picture? Logic and common sense dictates that the car should be returned to the original owner, you. It should NOT be returned to Daniel and Sam, but to you. However, the State of Hawaii, through its Attorney General, is arguing that when the Statehood Act was passed in 1959 making Hawaii the 50<sup>th</sup> State in the Union, the "ceded" lands were given by the U.S. to the State of Hawaii, and that it was the intent to give such lands to ALL of the people of Hawaii. In response, this argument has absolutely no merit. First, the U.S. did not have authority to transfer the "ceded lands" because it had not properly

acquired these lands by use of a treaty, nor had it paid just compensation for the unlawful taking. Further, it was a unilateral act without the consent of the Hawaiian Kingdom and/or Native Hawaiians.

Second, the U.S. Congress has already acknowledged the historical wrong by passing the Apology Resolution, and has also confirmed that Native Hawaiians never relinquished control of their sovereignty or claims over their national lands. Accordingly, the way to reconcile this particular situation is to allow negotiations to occur to permit both sides to reach a reasoned settlement on the ceded lands issue.

SB 475 prohibits the sale, exchange or disposition in fee simple of certain lands considered as "ceded" lands by the State of Hawaii. As such, this legislation is consistent with our position. This legislation is a common sense approach to allow a fair resolution to be reached on the claims of Native Hawaiians to the "ceded" lands between the appropriate parties, and avoids interfering or usurping the negotiation process.

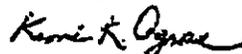
On the other hand, if this particular legislation is not passed, the State of Hawaii can sell, exchange or alienate ceded lands, thus leaving little or no chance of that portion of ceded lands inventory to ever be returned. We are in the process of negotiations and to take portions of the ceded lands inventory off the table and to transfer to third parties, even before we reach any resolution is not only premature, but simply unjust.

Such an action dismisses and makes meaningless the American principles of justice and fair play. Such an action ignores the facts discussed above.

Again, we, as members of the Royal Order of Kamehameha I, strongly support SB 475.

We thank you for this opportunity to testify.

Sincerely,



Keoni K. Agard  
Mamo Ali'i Nui



Association of Hawaiian Civic Clubs

P. O. Box 1135

Honolulu, Hawai'i 96807

**LATE TESTIMONY**

TESTIMONY OF LEIMOMI KHAN, PRESIDENT  
IN SUPPORT, WITH AMENDMENTS, OF

**SB 475 - Relating to Lands Controlled by the State**

**Committee on Water, land, Agriculture, and Hawaiian Affairs**

**Hearing date and time: February 04, 2009, 2:45 p.m., room 229**

Aloha Chairperson Hee, Vice-Chair Tokuda, and Members of the Senate Committee on Water, Land, Agriculture, and Hawaiian Affairs.

Thank you for this opportunity to testify in support, with amendments, of Senate Bill 475. We recommend that Section 4, appearing at page 13, which provides, in part, that the moratorium will end when, "...the legislature finds that the state no longer supports reconciliation between the State and the native Hawaiian people", be deleted.

The overriding purpose of Senate Bill 475 is to build upon the momentum created by 1978 amendments to the State's Constitution and subsequent legislation which acknowledge historic injustices and seek reconciliation between the state and indigenous Hawaiians through further legislative and executive action in conjunction with the people of Hawai'i toward a comprehensive, just and lasting resolution.

Senate Bill 475 amends HRS section 171-A to prohibit the fee simple sale or exchange, of lands ceded to the United States by the Republic of Hawai'i or acquired in exchange for lands so ceded and granted to the State of Hawai'i by virtue of the Admissions Act or retained by the United States and later conveyed to the State.

Since 1992, the Association of Hawaiian Civic Clubs (AHCC) has adopted 13 resolutions opposing actions which would erode the Public Land Trust, the most recent adopted on October 14, 2008, at its annual convention, titled, "Urging the AHCC to Support Legislation for a Moratorium on the Sale of Ceded Lands."

Other expressions of support for a moratorium on the sale, exchange, transfer, or other alienation of the public lands trust by the community include:

- (1) The 1988 five-point action plan drawn up by attendees at a three-day Native Hawaiian Rights Conference which called for the state and federal

governments to protect and preserve the ceded lands as the future land base for the sovereign Hawaiian government;

(2) The 1989 Office of Hawaiian Affairs' Blueprint for Native Hawaiian entitlements, which states, "The United States must recognize the claims of Native Hawaiians to ceded lands that have been transferred to the State of Hawai'i. Because of the illegal action of its agents . . . and because of the enormous benefits it has obtained from the uncompensated use of illegally obtained lands, the United States is obligated to restore to Native Hawaiians a substantial portion of the lands it received in 1898. Further, the United States must recognize the claims of Native Hawaiians to ceded lands that have been transferred to the State of Hawai'i. Legislation must be adopted by the Congress and the state transferring control of a substantial portion of the ceded lands now controlled by the state to a Native Hawaiian entity developed pursuant to a process for Self-Determination and Self-Governance.

(3) Native Hawaiians who attended 50 community gatherings throughout the state convened by the Hawaiian Sovereignty Elections Council also called for a moratorium on ceded lands sales, exchanges, or any other disposition which would amount to permanent alienation from the public lands trust. HSEC member attorney William Meheula filed a lawsuit challenging the state's attempt to sell ceded lands.

(4) Amicus Curiae briefs filed by those listed on the attachment this past week with the U.S. Supreme Court in support of the Office of Hawaiian Affairs and four others, upholding the Hawai'i State Supreme Court's decision to prohibit the State of Hawai'i from selling or otherwise transferring the ceded lands from the public lands trust. Note that these briefs included both Hawaiian and non-Hawaiian organizations.

(5) Over 1200 signatures gathered on an AHCC petition calling on the Governor to withdraw the state's appeal of the Hawai'i Supreme Court's decision.

There are numerous other examples wherein the Native Hawaiian people and others have reaffirmed their support for a moratorium on the sale, exchange, transfer, or other permanent alienation of ceded lands, which they seek as a land base for a restored Native Hawaiian government.

Thank you for this opportunity to testify on Senate Bill 475.

**LATE TESTIMONY**

**AMICUS CURIAE BRIEFS  
in Support of Respondents (OHA and others)**

Princess Abigail Kawananakoa

William Richardson, (Retired) Chief Justice of the Hawaii State Court; former Governor John Waihee, and Coleen Hanabusa, Senate President

Equal Justice Society and Japanese American Citizens League

Hawaii's Congressional Delegation

National Congress of American Indians

Yale Law School for SCHHA, Na 'A'ahuhiwa, Native Hawaiian Bar Association, Hui Kako'o 'Aina Ho'o Pūlapūla; 'Ahahui o Hawai'i

Asian American Justice Center, the National Coalition for Asian Pacific American Community Development, Inc., Organization of Chinese Americans, Inc., Asian Law Caucus, Asian American Institute, Asian and Pacific Islander American Health Forum, and the Asian Pacific American Legal Center

Native Hawaiians Samuel L. Kealoha, Jr, Virgil Emmitt Day Jr, Patrick Kahawaiolaa, Josiah L. Hoohuli, and Mel Hoomanawanui

Native Hawaiian Legal Corporation, Association of Hawaiian Civic Clubs, Hawaii Maoli, Native Hawaiian Chamber of Commerce, Council for Native Hawaiian Advancement, 'Ilioulaokalani Coalition, I Mua Group

---

**From:** Laulani@aol.com  
**Sent:** Wednesday, February 04, 2009 5:53 AM  
**To:** HAWtestimony; WTLTestimony  
**Subject:** Moratorium on the Sale of Ceded Lands

**LATE TESTIMONY**

Aloha mai kakou,

I am writing on behalf of the members of the 'Ewa - Pu'uloa Hawaiian Civic Club to request your support in placing a moratorium on the sale of the ceded lands until the unrelinquished claims of Native Hawaiians have been resolved.

A ruling on the State of Hawaii's pending appeal before the U.S. Supreme Court could extend well beyond the issue of the State's right to sell or transfer ceded lands. The conservative bent of this court and the prevailing legal view of Native Hawaiians as a racial category as opposed to a political entity could result in a ruling detrimental to existing Native Hawaiian programs.

Governor Lingle's concern that the current Hawaii Supreme Court ruling clouds the State's title to these lands pales in comparison to the potential harm that could be done to the many programs currently supporting Native Hawaiians. We need to do what's right, and your support is much needed and requested.

Sincerely,

Lawrence A. Woode, Jr.  
President, 'Ewa - Pu'uloa Hawaiian Civic Club

---

Who's never won? [Biggest Grammy Award surprises of all time on AOL Music.](#)

**TESTIMONY**

**SB 475**

**LATE**

**(END)**