

LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
LAURA H. THIELEN  
Chairperson**

**Before the House Committee on  
WATER, LAND & OCEAN RESOURCES**

**Friday, April 3, 2009  
10:30 AM  
State Capitol, Conference Room 325**

**In consideration of  
SENATE BILL 638, SENATE DRAFT 2  
RELATING TO PUBLIC LANDS**

Senate Bill Number 638, Senate Draft 2 proposes to establish a two-year moratorium on evictions and establish a master plan advisory committee for Kahana Valley (Valley).

As the Legislature considers a variety of ideas for Kahana, the Department of Land and Natural Resources is asking that the solution be guided by the original purpose for which the Valley was purchased, as a public park. The Valley was acquired for the benefit and enjoyment of all, and it is important that, as a public park, Kahana should provide a welcoming environment for all who visit. The Valley was purchased to protect it from development, and any solution should limit future development.

**LAURA H. THIELEN**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**RUSSELL Y. TSUJI**  
FIRST DEPUTY

**KEN C. KAWAHARA**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS



Legislative Testimony

**SB 638 SD 2 RELATING TO PUBLIC LANDS**

House Committee on Water, Land and Ocean Resources

April 3, 2009

10:30 am

Room: 325

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The Office of Hawaiian Affairs **SUPPORTS** SB 638, SD2, which would establish a two-year moratorium on evictions of residents from Kahana Valley State Park, and would establish a planning council to create a living park master plan for Kahana Valley State Park.

OHA recognizes the unique opportunity presented at Kahana Valley, where an entire ahupua'a is under the sole ownership of the State of Hawai'i. Thus, the resources within this ahupua'a can be comprehensively managed from the mountains to the sea, ensuring that they will be available for generations to come. OHA also supports the residents of Kahana Valley, who have faithfully and respectfully worked to preserve and restore the area's resources, and shared the history and traditions of this special place with the larger community.

The completion of a living park master plan by an advisory committee, consisting of members who represent all of those who have an interest in protecting Kahana Valley, will be especially critical in providing the community with the opportunity to effectively manage this ahupua'a into the future.

Therefore, OHA urges the Committee to PASS SB 638, SD 2. Thank you for the opportunity to testify.



## TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FIFTH LEGISLATURE, 2009

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 638, S.D. 2, RELATING TO PUBLIC LANDS.

**BEFORE THE:**

HOUSE COMMITTEE ON WATER, LAND, AND OCEAN RESOURCES

**DATE:** Friday, April 3, 2009 **TIME:** 10:30 AM

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** WRITTEN TESTIMONY ONLY,  
(For more information, call Russell Suzuki,  
Deputy Attorney General, at 586-0618.)

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**Chair Ito and Members of the Committee:**

The Department of Attorney General has concerns with this bill.

This bill establishes a two-year moratorium on evictions of persons who have resided in Kahana Valley State Park continuously since before 1987 and who have participated in interpretative programs for the park. This bill implicates Article XI, section 5, of the Hawaii Constitution, which provides that:

The legislative power over the lands owned by or under the control of the State and its political subdivisions shall be exercised only by general laws, except in respect to transfers to or for the use of the State, or a political subdivision, or any department or agency thereof.

The bill involves land owned by the State, singles out one parcel of land in a specific locale, and allows only certain identifiable persons who meet qualifications uniquely applicable to them to continue to reside on park lands at least during a two-year moratorium on evictions, thus allowing these persons to use lands under the control of the State. The bill is vulnerable to challenge because the bill only contemplates applicability to a certain group of persons who because of their past circumstances are allowed to use state lands. No other persons are included as possible beneficiaries of the bill. The

classification of persons allowed to benefit from the moratorium is factually limited to those already benefitting from the use of the state lands; the moratorium has no potential applicability to persons other than those who already qualify. For these reasons, we believe that this bill is vulnerable to challenge as being special legislation. See *Sierra Club v. Dept. of Transportation*, S.C. No. 29035 (March 16, 2009).

We also have concern with section 3(b) of the bill, which establishes a planning council. The council appears to be an executive branch board inasmuch as it is placed within the Department of Land and Natural Resources for administrative purposes. However, with the exception of the chairperson of the Board of Land and Natural Resources, none of the other members is an appointee of the Governor.

[REDACTED]

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**From:** Joel Fischer [REDACTED]  
**Sent:** Wednesday, April 01, 2009 1:27 PM  
**To:** WLOtestimony  
**Subject:** SB638;WLO;4/3/09;10:30AM;Rm325

**Importance:** High

SB638, SD2, Relating to Public Lands  
WLO; Cahir, Rep Ito

**IN VERY STRONG SUPPORT OF THIS BILL!**

Thank you very much for hearing this bill. The situation in Kahana Valley is a perfect case of the people versus an uncaring, impossible-to-access institution. The DLNR is notorious for trampling on the rights of the people, increasingly so under the new Director, L. Theilen.

With our economy in tatters, how dare the state throw out these people whose claim to the land goes back generations. Where are the people to go, onto the beach? This 2-year hold in the state's plans should give ample time for a fair negotiation and end to the impasse.

Thank you very much for your support!

Aloha, joel

Dr. Joel Fischer, ACSW  
Professor  
University of Hawai'i, School of Social Work  
Henke Hall  
Honolulu, HI 96822

"It is reasonable that everyone who asks justice should DO justice."  
Thomas Jefferson

"There comes a time when one must take a position that is neither safe, nor politic, nor popular, but one must take it because one's conscience tells one that it is right."

Dr. Martin Luther King, Jr.

"Never, never, never quit."  
Winston Churchill

April 2, 2009

TO: Representative Ito, Chairman, Vice Chair Representative Har,  
And members of the House Water, Land & Ocean Resources Committee

FROM: Brandee Aukai

RE: SB 638

Aloha mai e Chairman Ken Ito And members of the House Water, Land, & Ocean Resources Committee. My name is Brandee Aukai, a Native Hawaiian and a graduate student at the Myron B. Thompson School of Social Work at the University of Hawaii. **I AM TESTIFYING IN SUPPORT OF SB 638.**

The people who are residing at the Kahana Valley Park have lived in this valley for a number of generations. They have ancestral ties to this land that should be respected and they should be able to remain on the lands of their ancestors.

The families there are living up to their end of the lease agreement by keeping the Kahana Valley Park a "living park" which offers Hawaiian Cultural education in exchange for living there. I have personally experienced the living park for myself. I was able to participate in a number of hands on activities which were invaluable to me as a student and Native Hawaiian.

The Kahana Valley residents provide a unique cultural experience that in my opinion cannot be duplicated. In exchange for their services to our community they reside on the land that they have ancestral ties to. They should be able to continue to raise their families there for the next generations to come.

I humbly urge you to support SB 638! Mahalo nui for the opportunity to testify on this measure.

Me ka ha'a'ha'a,  
Brandee Aukai



# Fax Cover Sheet

Date: ~~12/23/2008~~ 07/02/09

Sent To:

Company: \_\_\_\_\_

Fax Number: 386-8504

Attention: The Committee on Water, Land, and Ocean Resources

Sent From:

Company: (7) Testimonies in SUPPORT of SB 638 SD2

Fax Number: 237-1144

Phone Number: 237-1144

Name: Erwin<sup>(1)</sup> Kahala, Theron<sup>(2)</sup> Evans, Ipo<sup>(3)</sup> Malope / Mahi Kahala, Sherrilyn<sup>(4)</sup> Johnson, Danny<sup>(5)</sup> Soliven, Ozz<sup>(6)</sup> Soliven, Lena<sup>(7)</sup> Soliven

Number of Pages (including this page): 8

Message: -Thankyou for your time.  
The Committee on Water, Land, and Ocean Resources

Representative Ken Ifo, Chair  
Representative Sharon Hax, Vice Chair

SB 638 SD2 HEARING

Apr 13, 2009 @ 10:30 am Rm 325

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

April 3, 2009 @ 10:30 a.m.

Support of SB 638 SD2, Relating to Public Lands  
 Testimony from: Sheri Lynn Johnson

Aloha,

**I/WE SUPPORT H. B. NO. 1552, RELATING TO PUBLIC LANDS**

What I/WE think: A master plan must be developed and implemented, utilizing mana'o from kupuna to keiki, in addition to other entities who have an interest in the \*AOK, to reflect growth and changes to date. For \*AOK sustainability, the continuation of cultural programs, expansion of the lo'i, restoration (not just maintenance) to the Huihua Fishpond), and planting of fruits/vegetables native to the area, arts/crafts, would provide continued resources for the \*AOK, as well as to provide "cultural hours" for \*AOK residents/lessces, thus enabling na 'ohana to meet requirements.

This area has been "designated" \*the AOK. Therefore, I/WE encourage DLNR to review, and implement an "ahupua'a" design, where residents are "scattered" and not limited to "residential" areas as they exist today. If this is indeed" a "living, cultural park", the public cannot see the "LIVING" if those facing evictions are forced to relocate to the two areas designated "residential." The \*AOK has 5,000+ acres. Visit the \*AOK during the week, on weekends. See how "underutilized" designated "public" areas are, and yet DLNR wants to remove the six (06) families for more "PUBLIC" area. AUWE! HOW CAN? NO CAN!

At minimum, six generations of my 'ohana have resided on this land I call "home." My 'ohana participates in ALL scheduled cultural activities, and have much ALOHA for the AINA. I believe my 'ohana to be an "asset" to the \*AOK community, as well as the many \*AOK residents who live, who love this aina, too. KEEP HAWAIIAN HANDS IN HAWAIIAN LANDS.

Mahalo nui loa,

\*AOK: Ahupua'a o Kahana

DA JOHNSONS

ERIK, SHERRI LYNN, KA'IMINA'AUAO A ME KAMALANI

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

April 3, 2009 @ 10:30 a.m.

Support of SB 638 SD2, Relating to Public Lands Testimony from:  
Dutchess (Ipo) Malepe and Moses (Mahi) Kahala

Aloha,

We are two of the six families facing evictions from the Ahupua'a O Kahana. We are writing in support of SB 638 SD2, which will help us to remain in the Ahupua'a O Kahana, and where we currently reside.

Through our ancestors, we are blessed to be able to reside in Kahana. To breathe the fresh air, to enjoy the beauty of nature, to experience the refreshing waters in which we swim from the luscious mauka rivers to the valley's beautiful makai shores, and to share the many wonderful resources that Kahana has to offer. **WE ARE ALL OHANA** born and raised on the aina.

We have supported and participated in many cultural based activities in Kahana, and will continue to do so in an effort to show our ALOHA for this beautiful aina that we know as "HOME".

We, the six (06) families, support SB 638 SD2 to remain in the Ahupua'a O Kahana. To live with those we grew up with and shared our love for one another, as we look towards the future.

Mahalo, from the families of

Moses (Mahi) Kahala      Dutchess "Ipo" Kahala Malepe

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

April 3, 2009 @ 10:30 a.m.

Support of SB 638 SD2, Relating to Public Lands  
Testimony from: Darryl Soliven

I am a resident of the Ahupua'a O Kahana. We were one of the 6 families wrongfully being evicted by the State on October 27, 2008. I strongly support SB 638 SD2, relating to Public Lands, which would give us time to authorize the issuance of residential leases in living parks such as Kahana Valley State Park and establish a planning council to develop a master plan for park.

A Master plan would have alleviated the havoc and emotional roller coaster my family has been on for the past 10 years, coming to a head with the posting of eviction and the bulldozers coming in to take down our homes and clearing us away as if we never existed. We had done everything the State had requested of us, and still.....

This legislation lays a solid foundation for the future of Kahana. I urge you to pass SB 638 SD2, so Kahana can reach it full potential as a living park.

Thank you.

Darryl Soliven

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

April 3, 2009 @ 10:30 a.m.

Support of SB 638 SD2, Relating to Public Lands

Testimony from: Ervin Kahala

I am one of the families facing wrongful eviction from the land I was born and raised on all of my life. My name is Ervin Kahala, and I am one of 12 children reared in the Ahupua'a o Kahana. I continue to teach and share the traditions that my parents instilled in me to my children, family, friends and all that are welcomed into Kahana.

I am in strong support of SB 638 SD2, which would give us time to authorize the issuance of residential leases and establish a planning council to develop a master plan.

I am against the evictions of any persons currently residing in Kahana Valley. DLNR claims it does not have the authority to issue any residential leases. In order for living Park to work, DLNR needs to be able to issue and renew residential leases.

I have been dealing with DLNR in good faith for the last 12 years. I was given a lease and then it was taken away, due to their negligence and lack of due diligence.

I urge the committee to pass SB 638 SD2. Thank you for the opportunity to testify.

Ervin Kahala

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

April 3, 2009 @ 10:30 a.m.

Support of SB 638 SD2, Relating to Public Lands

Testimony from: Thoran Evans

I am one of the six families the state is wrongfully trying to evict from my home in the Ahupua'a o Kahana. My name is Thoran Evans. I would like to state my strong support of SB 638 SD2, which would give us time to authorize the issuance of residential leases in living parks such as Kahana valley state park and establish a planning council to develop a master plan for the park.

It has been over three decades and no master plan has ever been adopted for the park. A master plan will help to make clear the important issues that have been left unresolved for years. Some of these issues include the issuance of leases, funding for the construction or renovation of housing, clarification of the interpretive service requirements, funding for a park manager, etc. A master plan cannot be created without the input of living park residents. A planning council with representatives from Kahana valley will allow the residents of Kahana to work with DLNR to put forward a viable master plan.

This legislation lays a solid foundation for the future of Kahana Valley and will allow Kahana to reach its full potential as a living park. I encourage the committee to pass SB 638 SD2. Thank you for your time and the opportunity to testify.

Thoran Evans

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

April 3, 2009 @ 10:30 a.m.

Support of SB 638 SD2, Relating to Public Lands  
Testimony from: Dezmond Soliven

Aloha,

My name is Dezmond Soliven and I am one of the children that the state wrongfully tried to evict on October 27, 2008. It really caused us a lot of stress and embarrassment because people didn't know the whole story.

We are one big Ohana in Kahana. Everyone is an Aunt, Uncle, Grandma, Grandpa, and or Cousins. I love Kahana, it is the only place I know as Home.

I support SB 638 and I pray you will too.

Mahalo,

Dezmond Soliven

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

April 3, 2009 @ 10:30 a.m.

Support of SB 638 SD2, Relating to Public Lands  
Testimony from: Lena P. Soliven

Aloha,

I am a resident of the Ahupua'a o Kahana. My name is Lena P. Soliven. My Ohana and I were one of the six families the State wrongfully tried to evict on October 27, 2008. It surely was one of the most trying and stressful tribulation of our lives.

I strongly support SB638 SD2. It has mechanisms in place to tackle the problems at hand and the problems and resolve for the future of Kahana. Kahana has been lacking an implementation of a Master Plan. This Bill could help mandate that the last Master Plan submitted to the State be updated, revised and put into action.

We are lineal descendants of the Ahupua'a o Kahana. As we look back we see our great-grandparents, grandparents, parents and ourselves, and as we look forward we our children, grandchildren, great-children and ....

We are Hawaiians, living on Hawaiian Lands, living in our Beautiful Hawaii Nei. We live our culture, share our culture and most of all love our culture.

I urge the committee to pass SB 638 SD2. Thank you for the opportunity to testify.

Lena P. Soliven