
HOUSE RESOLUTION

REQUESTING THE PRESIDENT OF THE UNITED STATES TO RETURN TO THE STATE ALL RECREATIONAL FACILITIES ON HAWAII PUBLIC LANDS THAT ARE NO LONGER REQUIRED FOR THE DEFENSE OF THE UNITED STATES, INCLUDING FORT DERUSSY AND THE HALE KOA HOTEL, PURSUANT TO THE HAWAII ADMISSION ACT, AND AS FURTHER REQUIRED BY PUBLIC LAW 88-233.

1 WHEREAS, the Hale Koa Hotel is an eight-hundred-seventeen-
2 room United States Armed Forces recreation center resort
3 occupying nine acres of prime Waikiki beachfront within the
4 seventy-two-acre Fort DeRussy Military Reservation, operating as
5 a commercial hospitality enterprise that competes directly with
6 the State's visitor industry while paying no transient
7 accommodations tax, no general excise tax, no property tax, and
8 no rent to the State of Hawaii or to the public land trust, and
9 sitting on former crown and government lands that the federal
10 government has no legitimate need to retain for military
11 defense; and
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13 WHEREAS, the lands now known as Fort DeRussy, part of the
14 Kalia district of Waikiki, were historically a landscape of
15 rivers, taro patches, fishponds, and freshwater springs and were
16 acquired by the United States War Department through General
17 Order 20 in 1906 for a military reservation, initially
18 designated the Kalia Military Reservation and renamed Fort
19 DeRussy in 1909; and
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21 WHEREAS, Territorial Governor Lucius E. Pinkham issued
22 executive orders in 1911, 1917, and 1918, which set aside these
23 crown and government lands for federal military use, after which
24 the Army destroyed the fishponds and wetlands by continuously
25 pumping dredged ocean fill for nearly one year; and
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27 WHEREAS, Battery Randolph was constructed between 1909 and
28 1911 as part of the coastal defense of Honolulu Harbor and was



1 equipped with two fourteen-inch guns that were the largest in
2 the Pacific; and

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4 WHEREAS, those guns never fired a shot in defense, because
5 their fourteen-mile range had been rendered obsolete by the
6 eighteen-mile accuracy of enemy warships by 1941; and

7
8 WHEREAS, the Army itself acknowledged this obsolescence by
9 redesignating Fort DeRussy as a rest and recuperation center in
10 June 1942, placing the batteries on standby status in 1943,
11 declaring the guns surplus in 1944, decommissioning the guns by
12 1946 razing the fort's Battery Dudley to the ground in 1969, and
13 disbanding the Coastal Artillery Corps in 1950; and

14
15 WHEREAS, notwithstanding this record, Army Secretary Wilber
16 M. Brucker designated Fort DeRussy a "permanent installation" in
17 1956, an administrative label that carries no legal weight under
18 the Admission Act; and

19
20 WHEREAS, in 1975, the Department of Defense constructed the
21 Hale Koa Hotel, a fifteen-story resort, on nine of the
22 beachfront acres; and the fort's entire history since 1942 has
23 consisted exclusively of recreation, lodging, museum operation,
24 and administrative education, none of which constitutes a
25 military defense purpose sufficient to justify the continued
26 retention of these former crown and government lands under
27 section 5(e) of the Admission Act, *P.L. 86-3*; and

28
29 WHEREAS, the Heritage Foundation, in a 1982 report titled
30 "Surplus Federal Property: It's Time to Sell," identified Fort
31 DeRussy by name as surplus federal property, noting that, of its
32 seventy-two acres, seventeen beachfront acres were "currently
33 unused" and were valued at approximately \$13,000,000 per acre at
34 1982 prices; and

35
36 WHEREAS, Fort DeRussy is part of 432,725.91 acres of crown
37 and government lands seized by the federal government between
38 1900 and 1959, as documented by the Legislative Reference
39 Bureau's 1969 report, "Public Land Policy In Hawaii: An
40 Historical Analysis"; and



1 WHEREAS, federal law provides for the return of Hawaii's
2 lands to the public land trust, via section 5(e) of the
3 Admission Act of 1959, P.L. 86-3, which specifies that each
4 federal agency having control over retained crown and government
5 lands shall report to the President of the United States
6 (President) regarding its continued need for such lands, and if
7 the President determines the lands are no longer needed by the
8 United States, they shall be conveyed to the State of Hawaii;
9 and via Public Law 88-233, enacted by Congress in December 1963,
10 which ensured that the return mechanism would continue to
11 operate beyond the original five-year deadline; and
12

13 WHEREAS, United States Senator Daniel K. Inouye, testifying
14 in the 1963 Senate Subcommittee on Public Lands hearings leading
15 to the passage of Public Law 88-233, said that "[t]hese lands
16 were held in trust by the federal government for the people of
17 Hawaii, with the eventual hope that they would be returned, when
18 federal need was not present[,]" Senator Inouye also argued that
19 even lands declared surplus after the five-year deadline should
20 be returned at no cost because "[w]e feel this is not equitable,
21 and I do not think this was within the intent of the Members of
22 Congress"; and
23

24 WHEREAS, Senator Hiram L. Fong, testifying at the same 1963
25 hearing, spoke directly to the injustice of the federal
26 government's retention of Hawaii's lands, stating "Justice is on
27 our side. We are asking for the return of lands not needed by
28 the federal government--lands that represent a tiny fraction
29 compared with the 1,275,000 acres the Territory of Hawaii gave
30 to the federal government without cost at annexation," and
31 further noting "As against 1,600 acres Hawaii gave free of
32 charge to the federal government 410,000 [at Statehood]. Surely
33 Congress did intend to compensate Hawaii for these acres"; and
34

35 WHEREAS, Kermit Gordon, then Director of the United States
36 Bureau of the Budget, confirmed the validity of Hawaii's claim
37 in 1963 correspondence to Vice-President Lyndon Johnson, stating
38 "We believe that Hawaii has a unique claim on the lands and
39 property involved since they were originally given to the United
40 States by the Republic or Territory of Hawaii. That claim and



1 the special status of those lands and property have been
2 recognized by the United States for many years"; and

3
4 WHEREAS, the federal portfolio includes substantial lands
5 not used for national defense purposes, but rather for hotels,
6 short-term vacation rentals, golf courses, marinas, and beach
7 resorts operated exclusively for the recreation of military-
8 affiliated patrons, and that should rightfully be available for
9 the wellness and recreation of all the people of Hawaii,
10 including lands comprising the Hale Koa Hotel; the Bellows Air
11 Force Station recreational area in Waimanalo, which occupies a
12 pristine stretch of windward Oahu coastline with one hundred
13 seventeen lodging units, including beachfront cabins,
14 condominiums, and campsites; the Pihlilau Army Recreation Center
15 in Waianae, which includes cottages at Pokai; the Barbers Point
16 beach cottages at Kalaeloa; the recreational beach cottages,
17 cabanas, Klipper Villas, and golf course on a Native Hawaiian
18 burial site at Mokapu; the Kilauea Military Camp, a ninety-
19 two-unit lodge and cottage complex within Hawaii Volcanoes
20 National Park on the island of Hawaii; the Barbers Point Golf
21 Course at Kalaeloa; the Leilehua Golf Course in Wahiawa; the
22 Mamala Bay Golf Course at Keehi; the marina at Ke Awalau o
23 Puuloa; and all associated Morale, Welfare and Recreation
24 facilities across every major island, all of which operate on
25 former crown and government lands for the exclusive benefit of a
26 restricted class of patrons rather than for the people of Hawaii
27 as a whole, and none of which are essential for the defense of
28 the United States; and

29
30 WHEREAS, the federal government has used, occupied, and
31 controlled crown and government lands of the Hawaiian Kingdom
32 for military and non-military purposes since 1900 without paying
33 fair market rent to the Territory or State of Hawaii; without
34 contributing any revenue to the public land trust established
35 under section 5(f) of the Admission Act, P.L. 86-3; and without
36 making any payment to the Office of Hawaiian Affairs for the
37 benefit of Native Hawaiians; and

38
39 WHEREAS, established principles of federal and state law
40 support the conclusion that the uncompensated federal retention



1 and use of crown and government lands constitutes a compensable
2 taking and breach of trust; and

3
4 WHEREAS, the United States Supreme Court held in *United*
5 *States v. Sioux Nation of Indians*, 448 U.S. 371 (1980), that the
6 federal government's seizure of indigenous lands without
7 adequate consideration constitutes a Fifth Amendment taking
8 requiring just compensation, and awarded compensation with
9 interest compounded from the date of the original dispossession;
10 and

11
12 WHEREAS, the Supreme Court held in *Loretto v. Teleprompter*
13 *Manhattan CATV Corp.*, 458 U.S. 419 (1982), and reaffirmed in
14 *Cedar Point Nursery v. Hassid*, 594 U.S. 139 (2021), that a
15 permanent physical occupation of property by or at the direction
16 of the government constitutes a per se taking regardless of the
17 public benefit conferred; and

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19 WHEREAS, the Hawaii Supreme Court held in *Ahuna v.*
20 *Department of Hawaiian Home Lands*, 64 Haw. 327 (1982), that the
21 State's obligations to Native Hawaiian trust beneficiaries
22 constitutes a fiduciary duty of the highest order; and

23
24 WHEREAS, the Hawaii Supreme Court held in *Office of*
25 *Hawaiian Affairs v. Housing and Community Development*
26 *Corporation of Hawaii*, 117 Haw. 174 (2008), that Native
27 Hawaiians possess unrelinquished claims to the ceded lands and
28 that the State has a fiduciary duty not to alienate those lands
29 until such claims are resolved, an analysis that the United
30 States Supreme Court in *Hawaii v. Office of Hawaiian Affairs*,
31 556 U.S. 163 (2009), reversed only on the narrow question of the
32 1993 Apology Resolution's operative legal effect while leaving
33 the underlying state-law trust obligations undisturbed; and

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35 WHEREAS, this body finds that these authorities, taken
36 together, establish that the federal government's permanent
37 physical occupation of former crown and government lands for
38 purposes unrelated to military defense--lands impressed with a
39 trust for the benefit of the inhabitants of Hawaii since at
40 least the Joint Resolution of Annexation of 1898 and formalized
41 under section 5(f) of the Admission Act, P.L. 86-3--without



1 payment of fair market rent to the public land trust or to the
2 Office of Hawaiian Affairs constitutes both a per se taking
3 under the Fifth Amendment and a continuing breach of the
4 fiduciary obligations recognized by Congress, the Hawaii State
5 Constitution, and the courts of this State; and
6

7 WHEREAS, the State of Hawaii has a fiduciary obligation to
8 its citizens, and particularly to Native Hawaiians as named
9 beneficiaries of the public land trust, to pursue all lawful
10 means to recover former crown and government lands that are no
11 longer being used for the purposes for which they were retained
12 and to seek fair compensation for the uncompensated use of those
13 lands; and this body seeks the return of all lands no longer
14 needed for legitimate military purposes, beginning with the Hale
15 Koa Hotel; now, therefore,
16

17 BE IT RESOLVED by the House of Representatives of the
18 Thirty-third Legislature of the State of Hawaii, Regular Session
19 of 2026, that the President of the United States is requested to
20 determine that federal recreational facilities on Hawaii public
21 lands, including Fort DeRussy and the Hale Koa Hotel, are no
22 longer required for the defense of the United States, pursuant
23 to the Admission Act, P.L. 86-3, and as further required by
24 Public Law 88-233; and
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26 BE IT FURTHER RESOLVED that the President is requested to
27 order the immediate conveyance of these public lands to the
28 State of Hawaii; and
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30 BE IT FURTHER RESOLVED that this body believes and declares
31 that the continued federal retention of the Hale Koa Hotel, Fort
32 DeRussy lands, and other non-defense recreational and leisure
33 facilities does not constitute a legitimate federal need
34 sufficient to justify withholding these former crown and
35 government lands from the public land trust; and
36

37 BE IT FURTHER RESOLVED that this body requests the
38 President to direct a comprehensive review of all federally
39 retained lands in the State of Hawaii, including but not limited
40 to the set aside lands and all lands under sixty-five-year
41 leases executed in 1964 at the nominal charge of one dollar per



1 lease, to determine which lands are no longer needed for
2 legitimate military defense purposes and should be immediately
3 returned to the State, as contemplated by the framers of the
4 Admission Act and as advocated by Senator Daniel K. Inouye,
5 Senator Hiram L. Fong, and Governor John A. Burns; and
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7 BE IT FURTHER RESOLVED that this body declares, consistent
8 with the testimony of Senator Daniel K. Inouye, that the lands
9 retained by the federal government were held in trust for the
10 people of Hawaii with the expectation that they would be
11 returned when no longer needed, and that federal agencies have a
12 continuing obligation to report on their need for such lands and
13 to release those lands that are no longer necessary for the
14 defense of the United States; and
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16 BE IT FURTHER RESOLVED that this body declares, consistent
17 with the testimony of Senator Hiram L. Fong, that at annexation
18 the federal government took approximately 1,800,000 acres of
19 crown and government lands, that the Territory further gave to
20 the federal government an additional 410,000 acres at statehood,
21 and that the law requires the return of all lands no longer
22 serving a legitimate military purpose; and
23

24 BE IT FURTHER RESOLVED that upon conveyance, all lands
25 comprising Fort DeRussy Military Reservation and any other
26 returned federal lands shall be incorporated into the public
27 land trust established under section 5(f) of the Admission Act
28 and Article XII, section 4 of the Hawaii State Constitution, and
29 shall be managed and administered in accordance with the five
30 trust purposes enumerated therein; and
31

32 BE IT FURTHER RESOLVED that the State of Hawaii, in
33 partnership with the Office of Hawaiian Affairs, shall develop a
34 comprehensive land use plan for the returned Fort DeRussy lands
35 that prioritizes cultural restoration of the Kalia district and
36 the healing site of Kawehewehe, public access to the shoreline,
37 revenue generation for public land trust beneficiaries, and the
38 betterment of the conditions of Native Hawaiians; and
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40 BE IT FURTHER RESOLVED that the Governor is requested to
41 engage the Hawaii Congressional delegation, the United States



1 Department of Defense, the United States Department of the
2 Interior, and the Office of Management and Budget to facilitate
3 the expeditious return of the Fort DeRussy lands and all other
4 unneeded federal lands to the State; and

5
6 BE IT FURTHER RESOLVED that the Attorney General of the
7 State of Hawaii is requested to evaluate all available legal
8 avenues, including but not limited to litigation under the
9 Admission Act, Public Law 88-233, federal land transfer
10 statutes, and applicable trust law, to compel the return of the
11 Fort DeRussy lands and other unneeded federal lands if the
12 federal government fails to act voluntarily; and

13
14 BE IT FURTHER RESOLVED that the Public Land Trust Working
15 Group is requested to agendize and request legislative funding
16 for a comprehensive independent appraisal of all federally-
17 occupied crown and government lands to determine the precise
18 fair market rental value, both current and cumulative, owed to
19 the State and to the public land trust, and to transmit the
20 results of the resulting appraisal to the Legislature, the
21 Office of Hawaiian Affairs, and the Hawaii congressional
22 delegation no later than twenty days prior to the convening of
23 the Regular Session of 2027; and

24
25 BE IT FURTHER RESOLVED that this body recognizes and honors
26 the service of the men and women of the United States Armed
27 Forces, and that nothing in this measure is intended to diminish
28 the contributions of military service members, but rather to
29 assert the rightful claims of the people of Hawaii to lands that
30 are no longer serving a military defense purpose, consistent
31 with the clear intent of the Admission Act and the bipartisan
32 consensus expressed by Hawaii's leaders across party lines since
33 statehood; and

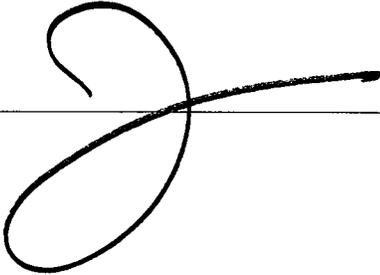
34
35 BE IT FURTHER RESOLVED that certified copies of this
36 Resolution be transmitted to the President of the United States,
37 Attorney General of the United States, Secretary of Defense,
38 Secretary of the Interior, Secretary of the Army, Director of
39 the Office of Management and Budget, members of Hawaii's
40 congressional delegation, Governor, Attorney General,
41 Chairperson of the Board of Trustees of the Office of Hawaiian



1 Affairs, Chairperson of the Board of Land and Natural Resources,
2 and Director of the Daniel K. Inouye Asia-Pacific Center for
3 Security Studies.

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OFFERED BY:

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MAR 16 2026

