

STAND. COM. REP. NO. 1761-06

Honolulu, Hawaii

April 13, 2006

RE: H.C.R. No. 246
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Water, Land, & Ocean Resources, to which
was referred H.C.R. No. 246 entitled:

"HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF
LAND AND NATURAL RESOURCES TO NEGOTIATE RECREATION-RESIDENCE
USE LEASES IN KOKEE WITH CERTAIN EXISTING LESSEES,"

begs leave to report as follows:

The purpose of this measure is to request the Board of Land
and Natural Resources to allow the Department of Land and Natural
Resources to negotiate a new lease with any existing lessee who
has made improvements to the lessee's recreation-residence use lot
and wishes to continue to lease a recreation-residence use lot at
the Kokee and Waimea Canyon State Park.

The Kokee Leaseholders Association, and many concerned
individuals testified in support of this measure. In addition,
numerous written testimonies were received in support of this
measure. The Department of Land and Natural Resources and a
concerned individual submitted testimony in opposition to this
measure.

Your Committee finds that the Board of Land and Natural
Resources' decision to subject the disposition of the recreation-
residence use lots at Kokee to a public auction process will not
achieve the fairness intended or allow a realistic opportunity for
public bidding but will instead severely limit successful awards
to a select wealthy few.

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In addition, with the present inflated real estate prices, market-driven real estate companies may set off another auction bidding frenzy, as occurred in the 1985 public sale with over one thousand bidders, that will favor not the public as a whole, but instead benefit profit-inspired real estate companies, time share rentals, second home owners, and wealthy speculators.

This anticipated profit-driven auction will have compelling consequences not only on the public, the people of Kauai, and existing Kokee cabin lessees, but it could also critically affect the vital environment of the Kokee forest, and the cultural integrity and historical significance of these areas and communities.

Your Committee believes that additional time may be needed for further discussion towards reaching a meaningful resolution to this matter, to avoid unfair competition with market-driven speculators, and to address numerous important public policy issues raised at the public hearing.

Another concern of your Committee is the substandard conditions of all cesspools in the area, at both residential and state facilities, including comfort stations throughout the park. Any consideration by the Board of Land and Natural Resources to terminate these leases could cost several million dollars to meet Environmental Protection Agency requirements; however, the residential cesspools would be "grandfathered" if retained by current lessees.

Your Committee has amended this Concurrent Resolution by:

- (1) Requesting that the Board of Land and Natural Resources:
 - (A) Employ a "right of first refusal" option to existing lessees who wish to renew their leases, at fair market value, for the enjoyment of their families, friends, and members of the community;
 - (B) Dispose at public auction recreation-residence use lots expired leases at Kokee after reasonable negotiations with an existing lessee fail to result in agreement; provided that the new lessee shall be required to compensate the prior lessee for improvements on the lot at the tax assessed value of the improvements, unless the prior lessee



chooses to exercise the option of an appraisal of the improvements at the prior lessee's own expense, and that the new lessee may also secure an appraisal at the new lessee's own expense, and if no agreement on value of the improvements is reached, a third independent appraiser selected by the two appraisers may be utilized, with the costs jointly shared; or

- (C) In the alternative, defer any plans to terminate or auction the Kokee recreation-residence use lots for two years to allow for consideration and implementation of these policies;
- (2) Further requesting that the Board of Land Natural Resources:
- (A) Establish Kokee, along with certain designated qualifying cabins, as a historic preservation district;
 - (B) Address issues of Environmental Protection Agency requirements on wastewater disposal that may have a financial impact on the State and its taxpayers, if the Board of Land and Natural Resource's current plan for a public auction goes forward;
 - (C) Return to the state park inventory any recreation-residence use lot that becomes unoccupied and adopting as a primary goal, the reduction of residential-recreational use lots at Kokee through attrition or other appropriate means;
 - (D) Pursue the concept of lodges, under privatized construction and management contracts, to enable the general public, without the benefit of access to one of the few Kokee cabins, the enjoyment of the Kokee experience; and
 - (E) Provide chairs of the respective House and Senate committees overseeing water and land use matters with updated status reports of actions taken or not taken by the Board of Land and Natural Resources following its regular monthly meetings, and to submit a report to the Legislature, not later than



twenty days prior to the convening of the Regular Session of 2007; and

- (3) Making technical nonsubstantive changes for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 246, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 246, H.D. 1.

Respectfully submitted on
behalf of the members of the
Committee on Water, Land, &
Ocean Resources,



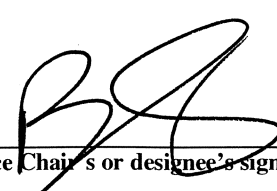
EZRA R. KANOHO, Chair



State of Hawaii
House of Representatives
The Twenty-third Legislature

HSCR 1761-06

Record of Votes of the Committee on Water, Land, & Ocean Resources

Bill/Resolution No.: HCR 246		Date: 4/10/06		
Committee Referral: WLO		<input checked="" type="checkbox"/> The committee is reconsidering its previous decision on the measure.		
The recommendation is to: <input type="checkbox"/> Pass, unamended <input checked="" type="checkbox"/> Pass, with amendments <input type="checkbox"/> Hold <input type="checkbox"/> Pass, with amendments, for recommittal for further consideration				
WLO Members	Ayes	Ayes (WR)	Nays	Excused
1. KANOHO, Ezra R. (C)	✓			
2. SCHATZ, Brian (VC)	✓			
3. BERG, Lyla B., Ph.D.	✓			✓
4. CARROLL, Mele	✓			
5. EVANS, Cindy	✓			
6. HARBIN, Bev	✓			
7. MORITA, Hermina M.	✓			
8. WATERS, Tommy	✓			
9. MEYER, Colleen Rose				✓
10. THIELEN, Cynthia				✓
TOTAL	7			3
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Clerk's Office				