

testimony

From: Mike Givens [MGivens@timeshareresaleshawaii.com]
Sent: Wednesday, March 26, 2008 3:28 PM
To: testimony
Cc: joanngivens@yahoo.com; Donn Carswell
Subject: HB 2872 SD1 - 5 year extendtion of leases.

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Mr. Chairman, Mr. Vice Chairman, and Members of the Committee

I am a leasee of lot # 10 Hale Manu Valley Kokee State Park with the state, and for almost forty years now have not only maintained, repaired and improved my Historic home in the valley, but have also joined our kokee community groups the repair and maintain numerous public facilities up in Kokee park. I strongly support the bill you are reviewing on extending our leases for at lease five years, so we can work things out with DNR and the state, please help us by supporting this bill for approval.

I have a bill of sale for my home built in 1932, and at the last auction was really forced to accept the new state lease or loose my family home. As it was I had to bid against the Kaihuna Plantation management/owners to retain my ownership, and needless to say they had a lot more money than me. Now the state is saying we do not own our homes, I would like to give the heigh court time to rule on this matter. Some of my valley neighbors on fixed retirement incomes lost their homes, it was truly very sad. Now the state attorney wants to totally disrupt our community again, even though they have twenty one lots and seventeen cabins they could auction off tomorrow. This simply does not make sense to us old time residence raised here in the islands.

If it is the money they want, how about just telling us how much they want and we can work it out. My children and their local friends as well as my wife and our friends from all our islands have been able to enjoy the true beauty of our garden island. How about letting our grand children and their children do the same. We malama the land and have been good care takers of the park, is that not worth considering? Please support us and this bill, along with the many locals we share our cabin with.

Thank you for your consideration.

Michael Givens, lease

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BY E-MAIL

March 27, 2008

The Honorable Senator Rosalyn H. Baker, Chair and Members
 Senate Committee on Ways and Means
 Hawaii State Capitol, Room 211
 Honolulu, HI 96813

**Re: Testimony in Support of HB 2972, HD1 SD1 Relating to Education
 (Creates a Facilities Alignment Commission)**

Dear Chair Baker and Members:

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable and rational land use planning, legislation and regulations affecting common problems in Hawaii.

We appreciate the opportunity to provide our testimony **in strong support of HB 2972 HD1, SD1**, and to also provide some background and proposals relating to this bill.

Background. This bill recognizes the fact that over the past 25 years, the demographics of the State of Hawaii have evolved, as the statewide population has increasingly shifted from the urban core to the suburbs, especially on Oahu, where the State and County governments have planned the shift in the population to the Central Oahu area and the "Second City" of Kapolei in the west. The bill also acknowledges that some of the fastest-growing populations in the state are on the neighbor islands, particularly in Kihei, Maui and West Hawaii. It is also a fact that these demographic shifts have overburdened public school facilities in growing areas and have also resulted in unused and underutilized school facilities in other areas.

Purpose. The purpose of this bill is to revitalize the Department of Education ("DOE") school facilities statewide and to more effectively and efficiently use our taxpayers' investment in public education. Specifically, this bill provides for the timely construction, expansion, consolidation, or closure of underused public schools in Hawaii through an objective and transparent process.

HB 2972, HD1, SD1. This proposed bill would create a Facilities Alignment Commission, which would establish criteria for the selection of public schools to be

constructed, expanded, consolidated, or closed; and recommend areas for new school construction, schools for expansion, consolidation, or closure. It would also require the Board of Education to comply with these recommendations if the Legislature does not disapprove of them in their entirety. Generally, this bill and SD1 creates a process that:

- Establishes the Facilities Alignment Commission which shall:
 - Establish Criteria for the selection of public schools to be constructed, expanded, consolidated, or closed; and
 - Recommend, based upon those criteria, a list of areas for new school construction, and of schools for expansion, consolidation, or closure, which is subject to the review of the legislature;
 - Explore funding mechanism alternatives to ensure that funds derived from the consolidation or closure of schools are redirected back to benefit the affected school or schools, or the DOE, as appropriate (SD1 amendment);
 - Develop procedures or guidelines for executing memoranda or agreement or memoranda of understanding with the counties, other departments, or entities regarding property on which affected schools are located with regard to the disposition of those properties (SD1 amendment); and
 - Develop procedures or guidelines, with the assistance of the Department of the Attorney General, regarding boilerplate language, terms, and conditions associated with the sale or lease of property un which affected schools are located (SD1 amendment).
- Changes the deadline for submission of the school facilities plan by the DOE to December 31, 2008, and requiring only public schools in critical areas, including those in high growth or steadily declining population areas, to be included in the school facilities plan (SD1 amendment); and
- Directs the Board of Education (“Board”) to proceed with the process of constructing, expanding, consolidating, or closing underused schools according to the recommendations of the Facilities Alignment Commission, if the legislature does not disapprove of the recommendations in their entirety.

Prior related efforts. HB 2972 HD1, SD1 is related to the previous work done by the DOE, LURF and other stakeholders over the past few years:

- **SB 292 (2005) proposal to grant DOE Asset Management authority.** In 2005, pursuant to SB 972, the legislature considered the establishing the authority of the Board and DOE to own and administer all of the lands and facilities being used for the public schools of Hawaii.
- **SB 611 (2007) proposal to transfer lands and facilities to DOE.** In 2007, a similar version was presented as SB 611, which proposed to transfer all public lands and facilities in use for public schools to the DOE. That bill also empowered the Board and DOE to acquire, sell, lease, transfer, hypothecate, develop, and enter into agreements for the improvement of lands and facilities under its control for the support of the public schools.
- **DOE Advisory Council: SB 611 (2007).** SB 611 was the result of one of the working groups from the DOE Advisory Council, which was created to evaluate the merits of DOE’s various proposals being implemented, and to make recommendations on establishing measurable goals and objectives.
- **SB 690 (2007) proposal for DOE cost-benefit analysis and additional school funding based on savings from school closures or**

consolidation. This proposal would have required the DOE to do a cost-benefit analysis to determine the cost savings of school closures or consolidations, and would have required that 50% of the savings be retained by the affected schools for a period of not less than five years.

Repositioning DOE and its land assets for the future. As noted in LURF's 2007 testimony, it is our understanding that the DOE has approximately the same number of students today (+/-180,000) as they did 30 years ago. The difference being the concentration of the student population has moved. This creates situations where existing assets are underutilized and provides opportunities to reposition these real estate assets for future needs. This could involve redevelopment of the site for a new school, allowing for mixed use with a redeveloped school and possibly teacher housing, or provide for new revenue sources based on long term leasing of the property. The following are various initiatives that the DOE, Facilities Alignment Commission, other stakeholders and the Legislature might wish to pursue in the future:

- **Capital Improvement Projects (“CIP”) Public Private Partnership Group.** One of the working groups from the DOE Advisory Council was the CIP Public Private Partnership group, which explored “non-traditional” alternatives for building new schools, or redeveloping existing schools. The term “non-traditional” was meant to describe the processes or methods not presently being used by the DOE.
- **Common School Fund Program.** The idea of giving the DOE the power and authority to own the land under the school facilities is based on the “Common School Fund” programs or “Land Grant Schools” on the mainland. Many of the school lands in the western United States were provided by Congress to each of the states via “land grants” at the time each state joined the United States. The land grants were originally made for a single explicitly stated purpose - - to support common schools and similar public institutions. These granted lands are generally known as “Common School Fund Lands,” and are held by the states, together with any permanent funds and revenues generated from the lands, and all of those assets are generally viewed as a “trust.” Most of the western states manage the Common School Fund Lands, either for use as school sites, or to generate revenues for the schools. The corpus of the trust is determined by the value of the land, any permanent funds and any revenues generated by the lands. Hence, the trust land managers in those states approach their management responsibilities under the same array of rules and enforcement mechanisms that surround any legal trustee with fiduciary duties.
- **Management of DOE lands as “trust” lands for the benefit of DOE schools and programs.** The prior Hawaii legislation listed above, was based on an idea similar to the “Common School Fund Lands program - - that the existing DOE school lands could be used to create a trust for the DOE public schools. Somewhat like Kamehameha Schools Bishop Estate (“KSBE”), the DOE lands could then be managed as a “trust,” and the DOE will have the ability to leverage underutilized land assets for redevelopment, joint venture, revenue production, and other opportunities similar to KSBE or any other real estate corporation. Considering the need to attract and retain teachers, and the prospects of a fixed-guide-way system for Oahu, the bill would allow for the repositioning some of the “underutilized school sites” in the City’s Primary Urban Center could be redeveloped to provide teacher housing and/or generate income for the DOE as a center for a mixed-use transit oriented development (“TOD”).

Conclusion. The Facilities Alignment Commission proposed in HB 2972 HD1, SD1, is an important step in having the DOE and Board review, evaluate and make the best use of its assets and resources. If in the future the DOE, Board and Legislature decide that the DOE should hold and manage its land assets and resources as a “trust” - - this bill could be the first step in helping the DOE toward earning some much-needed revenue and become self-sustaining. We understand that the proposals discussed in this testimony are very different from how DOE operates today; however, the intent of these proposals is to reposition DOE to allow them to become more self-sufficient, more accountable and to be poised to take advantage of future opportunities to improve the quality of education for our children.

We strongly support the proposed HB 2972, HD1, SD1 and hope that this Committee moves it forward.

Thank you for this opportunity to express our views.