

LINDA LINGLE
GOVERNOR
STATE OF HAWAII



MICAH A. KANE
CHAIRMAN
HAWAIIAN HOMES COMMISSION

BEN HENDERSON
DEPUTY TO THE CHAIRMAN

KAULANA H. PARK
EXECUTIVE ASSISTANT

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P.O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF MICAH A. KANE, CHAIRMAN
HAWAIIAN HOMES COMMISSION

BEFORE THE HOUSE COMMITTEE ON WATER, LAND, OCEAN RESOURCES AND
HAWAIIAN AFFAIRS

ON H.B. 3421
RELATING TO LAND USE

February 4, 2008

Chair Ito and Members of the Committee:

The Department of Hawaiian Home Lands (DHHL) is in strong opposition to H.B. 3421. The proposed legislation attempts to condition that the development of DHHL's available lands for a revenue-generating project for the Hawaiian Home Lands Trust be subject to compliance with county zoning, subdivision and other land use requirements.

Prince Kuhio worked more than 20 years as a delegate in Congress to pass the Hawaiian Homes Commission Act. It was during this 20-year journey that Prince Kuhio recognized that trust lands necessary for non-homesteading trust purposes needed to maintain the same authority that homesteading lands maintained. This authority provided the Hawaiian Home Lands Trust the ability to weather the ebb and flow of political

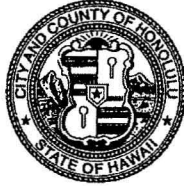
support over time. To diminish the authority of the Act by forcing sovereign trust lands through a State land use process is to take away a right that was affirmed for the native Hawaiian people in the organic documents of the 1921 Hawaiian Homes Commission Act.

Historically, DHHL has used various planning processes that solicit comments and recommendations from beneficiaries and the general public on its developments. Most recently, DHHL has facilitated a "Regional Plan" approach with its beneficiaries to provide a community approach in developing regional homestead areas and adjoining properties. While DHHL views this process as commensurate to land use input, we do recognize that the current acceleration of development activity can be overwhelming, particularly for our beneficiaries. DHHL is working with advocacy groups to improve and incorporate an improved beneficiary consultation process regarding such land use as well as other operational matters.

Thank you for the opportunity to testify on this measure.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
MAYOR

HENRY ENG, FAICP
DIRECTOR

DAVID K. TANOUE
DEPUTY DIRECTOR

February 4, 2008

The Honorable Ken Ito, Chair
and Members of the Committee on Water, Land,
Ocean Resources & Hawaiian Affairs
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Ito and Members:

**Subject: HOUSE BILL 3421
Relating to Land Use**

If you adopt only one land use bill this session, this should be the bill the Department of Planning and Permitting **strongly supports** House Bill 3421.

This bill would require projects of the Department of Hawaiian Home Lands (DHHL) that are not homestead projects to comply with county zoning, subdivision and other land use requirements.

This bill would allow the counties to better plan, zone and regulate their communities in a deliberate, predictable manner. While we believe we have cordial relationships with the DHHL, they regularly exercise their exemption from planning, zoning and other county requirements. A good case is occurring in Ewa. From a long range perspective, we plot our major commercial and employment centers to complement and support our anticipated population growth. From this land use pattern, agencies can plan future roadways, sewer and water lines and other supporting infrastructure. For DHHL to be able to ignore this deliberate process and develop major retail and other business centers without regard to county planning and zoning not only disrupts long range land use planning, but also the delivery of infrastructure improvements. We cannot create sustainable communities if major elements of these communities are not obligated to play by the same rules, requirements, and goals as all other developments.

Please adopt House Bill 3421. Thank you for this opportunity to comment.

Very truly yours,

A handwritten signature in black ink, appearing to read "Henry Eng", is written over a printed name and title. The signature is fluid and cursive, with a large, sweeping flourish at the end.

Henry Eng, FAICP/Director
Department of Planning and Permitting

HE: jmf
hb3421-kh.doc

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Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

TO: Honorable Ken Ito, Chair
Committee on Water, Land, Ocean Resources & Hawaiian Affairs

FROM: G. Riki Hokama *G. Riki Hokama*
Council Member

SUBJECT: **HEARING OF FEBRUARY 4, 2008; TESTIMONY IN SUPPORT OF
HB 3421, RELATING TO LAND USE**

Thank you for the opportunity to testify in support of this important measure. The purpose of this measure is to clarify that land use laws apply to available Hawaiian home lands that are disposed of to the public and are not leased to native Hawaiians for homesteading purposes.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I support this measure for the following reasons:

1. This measure is meant to preserve the intent of Chapter 171, Hawaii Revised Statutes (HRS), relating to the management and disposition of public lands, by ensuring adherence to provisions relating to county land use requirements when Hawaiian home lands are disposed of to the public.
2. The measure will clarify that exemptions from county land use requirements intended to benefit homestead projects are not available to commercial developments, which must still comply with county zoning, subdivision and other land use requirements. Through such clarification, the measure will foster the integrity of the Hawaiian Homes Commission Act, by restricting the benefits bestowed by such exemptions to the homestead projects for which they were intended.

For the foregoing reasons, I support this measure.

Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-4224
(808) 961-8288 • FAX (808) 961-8742

February 1, 2008

Honorable Ken Ito, Chair
And Members of the Committee on Water, Land,
Ocean Resources and Hawaiian Affairs
**COMMITTEE ON WATER, LAND, OCEAN RESOURCES
AND HAWAIIAN AFFAIRS**
House of Representatives
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Ito and Members of the Water, Land, Ocean Resources
And Hawaiian Affairs:

SUBJECT: HB 3421 – RELATING TO LAND USE

The Hawai'i County Planning Department supports HB3421, which would make it clear that when the Department of Hawaiian Homes leases land for income-generating commercial and industrial enterprises, these locations should be consistent with county zoning. To make sure that land use on our islands is harmonious and compatible, we must have overall rules and procedures that apply to everyone. Otherwise, we create a hole in the land use system where major development can occur regardless of the overall community land use plan.

We respect and support DHHL's mission to provide homes and farms for Native Hawaiians, and we respect and support DHHL's need to devote a small percentage of its holdings to generate income for it to develop homes, farms, and ranch lots for its beneficiaries. DHHL does have lands which are well-suited to commercial and industrial development, and we will work with DHHL to see that it can use such lands properly. We intend no criticism of how DHHL has developed its commercial and industrial property in the past, nor of the present DHHL administration. But the need to generate income may lead DHHL—like other landowners with a motive to make money from their

Honorable Ken Ito, Chair
And Members of the Committee on Water, Land,
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AND HAWAIIAN AFFAIRS
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property—to decide to use its land in a way that is detrimental to the community as a whole.

The basic legal issue has been debated for many years and needs legislative clarification. In 1972, the Attorney General issued an opinion, Ag. Op. 72-21, that said that when the Hawaiian Homes Commission chose to use land for income-generating commercial and industrial leases, then county zoning did apply. The opinion relied upon fact that the Hawaiian Homes Act, in authorizing such leases, said that they had to follow the same restrictions as leases of general public lands. Those laws, specifically H.R.S. sec. 171-41(a), do require consistency with county zoning. In 1978, the Act was amended to create another type of lease—a direct lease to Native Hawaiians for commercial or industrial purposes—which did not explicitly contain the same limitations.

Hawai'i County currently operates under an Memorandum of Agreement with DHHL. In the MOA, we essentially acceded to DHHL's view that the law now doesn't require it to follow county zoning. We relied partially on language in the Hawai'i Supreme Court case, Kepo'o v. Watson, 87 Haw. 91 (1998). This case, though, is not definitive because it ruled on the EIS law, not zoning. The MOA is based upon our understanding of existing law, but with the recognition that there is doubt about this, and is our effort to work within that law with DHHL. We do think the law should clearly require DHHL conformance to county zoning for its commercial and industrial leases.

This is an issue that is taking on greater importance throughout the islands and calls out for legislative resolution, and so we request favorable action on HB3421.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

CJY:mad
Wpwin60/Chris08/HB 3421 – Land Use

Honorable Ken Ito, Chair
And Members of the Committee on Water, Land,
Ocean Resources and Hawaiian Affairs
COMMITTEE ON WATER, LAND, OCEAN RESOURCES
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cc: Mayor Harry Kim
Corporation Counsel
Mr. Andy Levin



United Food & Commercial
Workers Union, Local 480

2305 S. Beretania Street
Honolulu, Hawaii 96826
Phone: (808) 942-7778

Patrick K. Loo
President

Gwen K. Rulona
Secretary-Treasurer

Rusti Gephart, Executive Assistant to the Secretary Treasurer UFCW Local 480
Committee on Water, Land, Ocean Resources & Hawaiian Affairs
February 4, 2008 at 8:30 a.m.
HB 3421

A Union Preparing Today for the Needs of Tomorrow





United Food & Commercial
Workers Union, Local 480

2305 S. Beretania Street
Honolulu, Hawaii 96826
Phone: (808) 942-7778

Patrick K. Loo
President

Gwen K. Rulona
Secretary-Treasurer

TESTIMONY OF HB 3421

Chair Ito:

Thank you for the opportunity to testify in strong support of HB 3421 Relating to Hawaiian Home Lands.

My name is Rusti Gephart, representing Pat Loo, President/CEO of the United Food & Commercial Workers (UFCW) Union Local 480. We represent approximately 1.3 Million members throughout the United States & Canada and roughly 2400 employees locally. Our members are meat cutters, deli workers and grocery clerks at stores such as Foodland, Sack N Save, Safeway and Star Market. We also represent employees in the healthcare, trucking/delivery industry, as well as insurance agents.

HB 3421 would require the Department of Hawaiian Homelands to comply with County zoning and land use ordinances on their non homestead lands. This is a fairness issue. Our grocers must comply with county land use ordinances when constructing new stores. In doing so, they contribute toward the development of adequate infrastructure that serves their businesses; they contribute toward the community as well. This bill seeks to level the playing field such that our grocers can adequately compete against others that use DHHL's "supposed" exemption. This exemption allows for non-compliance with county land use ordinances as a means to circumvent and displace responsibilities to the outward communities. There should not be two standards of infrastructure; county standards and DHHL standards.

The current negotiating process denies community input, lacks transparency, and is blatantly unjust.

I urge you to pass this out for further consideration.

A Union Preparing Today for the Needs of Tomorrow



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A LIMITED LIABILITY LAW PARTNERSHIP

February 1, 2008

TO: The Honorable Ken Ito, Chairperson, and
Members of the House Committee on Water, Land,
Ocean Resources & Hawaiian Affairs
State House
State Capitol
Honolulu, Hawaii 96813

SUBJECT: Testimony of Barry A. Sullivan, Esq.
in Support of H.B. No. 3421, Relating to Land Use

HEARING: February 4, 2008, at 8:30 A.M.

Dear Chair Ito and Members of the House Committee on Water, Land, Ocean Resources and Hawaiian Affairs:

Thank you for the opportunity to testify on House Bill No. 3421, relating to land use (the "Bill"). I am a registered voter and an attorney practicing law in this state engaged principally in real estate and commercial matters. I am also special counsel to the United Food & Commercial Workers Union, Local 480.

I strongly support this Bill because it is consistent with the original purpose and intent of the Hawaiian Homes Commission Act and clarifies that the Department of Hawaiian Homes Lands may dispose of Hawaiian home lands to non-native Hawaiians for commercial and industrial uses only upon the same terms and conditions as the disposition of other state lands. To better understand why I support the Bill, my testimony provides (1) pertinent history of the Hawaiian Homes Commission Act and its purposes, (2) a discussion on the use of "non-mandatory lands" for commercial and industrial purposes, (3) a discussion of the current administration's practices that create the necessity for the Bill, and (4) a discussion of why action is needed now. I will look forward to appearing before your committee on Monday, February 4, 2008.

1. The Hawaiian Homes Commission Act

The Hawaiian Homes Commission Act (the "Act") is federal legislation that was adopted by the state upon its admission to the United States. The Act set aside certain lands in Hawaii to be leased to native Hawaiians for agricultural, pastoral and residential purpose. The Act's declared policy has been, "to enable native Hawaiians to return to their lands in order to fully support self-sufficiency for native Hawaiians and the self-determination of

native Hawaiians in the administration of [the Act], and the preservation of the values, traditions, and culture of native Hawaiians.” Act § 101(a).

The Act authorizes the Department of Hawaiian Home Lands (“DHHL”) to lease Hawaiian home lands to native Hawaiians for agricultural, aquaculture, pastoral or residential purposes (collectively, “**Homesteading Purposes**”):

The department is authorized to lease to native Hawaiians the right to the use and occupancy of a tract or tracts of Hawaiian home lands within the following acreage limits per each lessee: (1) not more than forty acres of agriculture lands or lands used for aquaculture purposes; or (2) not more than one hundred acres of irrigated pastoral lands and not more than one thousand acres of other pastoral lands; or (3) not more than one acre of any class of land to be used as a residence lot[.]

Act § 207(a).

The clear intent of the Act was that the use of Hawaiian home lands for Homesteading Purposes by native Hawaiians is a mandatory use to which neither state land use nor county zoning laws apply. This legal conclusion has never been seriously questioned. *See, e.g.*, AG Opinion 72-21. An issue that was seriously questioned in the past was whether the police powers of the state and counties applied to Hawaiian home lands. In other words, did the police and other agents have authority to enter onto and maintain the peace on Hawaiian home lands. This question was ultimately answered in the affirmative by the Hawaii Supreme Court. *State v. Jim*, 80 Hawai‘i 168, 907 P.2d 754 (1995).

It is important to note that this Bill does not seek to impose any land use or zoning restrictions on the use of Hawaiian home lands for Homesteading Purposes, or to alter in any way settled decisions relating thereto. As discussed below, the Bill solely relates to the conditions upon which DHHL can lease or develop lands that it does not use for native Hawaiian Homesteading Purposes. The Bill confirms that, contrary to the policies of the current administration, the practice of leasing Hawaiian home lands to non-native Hawaiians for commercial and industrial uses must be done upon the same conditions as the leasing or private development of any other state lands.

2. The Act Permits the Disposition of Certain “Non-Mandatory” Home Lands

The principle purpose of the Act has been to lease Hawaiian home lands to native Hawaiians for Homesteading Purposes. However, the Act contemplated that certain home lands may not be required for leasing to native Hawaiians for Homesteading Purposes. These lands, which I will refer to as “non-mandatory lands,” may either be returned to the Board of Land and Natural Resources (the “BLNR”) or disposed of to the public by DHHL. Act § 204(a)(2).

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It is not disputed that lands returned to the BLNR cannot be disposed of to the public (by lease or development agreement) except in compliance with Hawaii Revised Statutes Chapter 171. Chapter 171 provides, among other things, that any lease of public lands for commercial, industrial and other business uses must be consistent with county zoning requirements. Specifically, “[l]eases for commercial, industrial, and other commercial uses *shall be made only pursuant to a development plan which provides for careful placement of complementary enterprises consistent with county zoning requirements*[.]” HRS § 171-41 (emphasis added).

To the extent there was ambiguity as to what the phrase “consistent with zoning requirements” meant, a 1986 Attorney General Opinion confirmed that Section 171-41 requires compliance with county zoning requirements. *See* AG Opinion 86-03. This Attorney General opinion provided, among other things, that “[S]ections 171-41 (Commercial, industrial and other business uses), 171-42 (Hotel and resort uses), 171-46 (residential sales or leases; planning), and 171-60 (Development through private developer), **all reflect the legislative intent that they conform to county zoning requirements by so specifying in the statute.**” (emphasis added).

For non-mandatory lands that DHHL does not return to BLNR, the result would appear to be no different. Specifically, the Act provides:

In the management of any retained available lands not required for leasing under section 207(a), [DHHL] may dispose of those lands or any improvements thereon to the public, including native Hawaiians, **on the same terms, conditions, restrictions, and uses applicable to the disposition of public lands in chapter 171**, Hawaii Revised Statutes.

Act § 204(a)(2) (emphasis added).

This plain reading of the Act – that non-mandatory lands disposed of by DHHL to the public for commercial, industrial or other business uses are subject to HRS Chapter 171 just like any other state lands (and therefore subject to county zoning and land use) – has never been the subject of an appellate judicial decision in Hawaii. I would submit that this is because the law as written is clear and, because it is not subject to more than one reasonable interpretation, there has been no reason for the law to be challenged in court.

This position, that there is only one reasonable interpretation of the law, has been strongly supported by the attorney general who, in his 1972 opinion (Opinion 72-21), took it upon himself to contrast home lands used for Homesteading Purposes and non-mandatory home lands that are disposed of to the public. The attorney general concluded that, while county zoning and land use laws do not apply to Hawaiian home lands that are leased to native Hawaiians for Homesteading Purposes under section 207(a) of the Act, “there appears to be no reason why county zoning regulations should not apply to

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[Hawaiian home lands that are disposed of to the public under section 204(a)(2)].”
Specifically,

[I]n the management of retained available lands not required for leasing under Section 207(a), [DHHL] could dispose of such lands by lease or license as provided by Chapter 171, H.R.S., for the disposition of public lands, and Chapter 171 requires in certain cases that county zoning regulations be complied with. Accordingly, where the Hawaiian Homes Commission has determined that certain Hawaiian home lands are not needed or required for purposes of the Act, **there appears to be no reason why county zoning regulations should not apply to such lands.**

AG Opinion 72-21 (emphasis added).

**3. The Current Administration’s Policy Mandates Judicial or Legislative Action;
Legislative Action is the Most Appropriate and Effective Response**

Despite the apparent clarity of the law and its settled interpretation since at least 1972, the current administration has adopted an aggressive policy of leasing off non-mandatory lands to non-Hawaiians for commercial and industrial uses **upon the promise and assurance that such lands are exempt from county zoning and land use laws.** The statements made most recently relating to DHHL’s proposed time share development in Wailua, Kauai are typical of the current administration’s position: “The County cannot use its land use and zoning powers to prevent the Hawaiian Homes Commission from controlling the use of Hawaiian home lands.” See Draft Environmental Assessment for DHHL Wailua Development Project dated as of January 2008 § 4.2.1. This broad statement seeks to eliminate the distinction the Act makes between lands used for native Hawaiian Homesteading Purposes, and the use of non-mandatory lands for commercial development by non-native Hawaiians.

The obvious conflict between the law, the 1972 opinion of the attorney general, and the policy of the current administration is troubling, but at least it is obvious. What may be less obvious, however, is how the administration’s policy changes the legal landscape and makes a judicial resolution impractical. Here, rather than protecting the public by enforcing the law as it has been written and interpreted, this administration has openly disavowed the law and has taken up legal arms on behalf of its commercial lessees and/or development partners and against the public. An aggrieved native Hawaiian beneficiary, an aggrieved community member, an aggrieved county government – all must now prepare to litigate against the state government, with all of its resources, as well as the lessees and development partners who, as discussed below, are amongst the richest corporations in the world. This is an untenable situation, particularly given the current legal environment where large corporations have threatened or initiated actual suit against communities, citizens, and county governments who have challenged their

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compliance with applicable law. The administration's policy gives legal and political cover to these corporations to make their arguments that, somehow, the law as written does not mean what it says.

This Bill, if passed, will preclude the current administration from asserting that the existing laws can be interpreted as they want them to be. This Bill, if passed, will stop the current administration from promising developers that they can avoid county zoning and land use compliance and build developments in areas that are neither zoned nor ready for such developments and without paying their fair share of impact fees as every other developer must do. Most importantly, this Bill will prevent the administration from making this into a judicial battle where David must battle the resources of several Goliaths. It is the legislature, rather than the courts, that will have the proper say on whether what the current administration is doing should be tolerated.

4. Action is Required Now

This administration has engaged in a concerted effort to promote massive commercial developments on Hawaiian home lands that are not compliant with county zoning or land use laws. This includes, for example:

- (a) A 800-unit resort time share project in Wailua, Kauai on approximately 52 acres of Hawaiian home lands. Approximately 41 acres of these lands are zoned Open by the county, are within the State Land Use Agricultural District, and are rated as Prime Agricultural Lands by the state. DHHL has stated that it is entitled to ignore all state and county land use and zoning laws, without exception, claiming among other things in its draft Environmental Assessment that, "[t]he County cannot use its land use and zoning powers to prevent the Hawaiian Homes Commission from controlling the use of Hawaiian home lands."
- (b) A massive regional shopping center on over 67 acres of Hawaiian home lands in East Kapolei. A Wal-Mart Supercenter is proposed as an anchor tenant. These lands are zoned Ag-1 Restricted Agriculture by the county, and a large portion is rated as Prime Agricultural Lands by the state. DHHL's information packet for the proposed disposition of this land specifies that DHHL "is not subject to county and state land use zoning and plans to designate this site for development under BMX-3 [Business Mixed Use] guidelines for planning and permitting processes." This project, per DHHL, has been committed to mainland developer DeBartolo Development.
- (c) In 2007, DHHL entered into a preliminary agreement with Wal-Mart to lease and develop a Wal-Mart Supercenter on over 15 acres of Hawaiian home lands in Waiakea, South Hilo. These lands are zoned MG-1a General Industrial by the county, a zoning district that does not permit a retail establishment even

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with a use permit issued by the county. In fact, retail sales are permitted in the MG district only “as incidental and subordinate to any permitted use.” Hawaii County Code § 25-5-152(d). Nevertheless, DHHL’s information packet for the proposed disposition of this land specifies that DHHL “is not subject to county and state land use zoning and plans to designate this site for development under MCX [Industrial-Commercial Mixed Use] guidelines for planning and permitting purposes.”

These are only the developments that I know about. Each of these proposed developments are unique in their size and potential impact on the community. They will present unusually high burdens upon existing infrastructure and public utilities, yet county governments who must provide such infrastructure and utilities are denied any control of where, when and how large these developments can be.

These concerns should be enough to merit action even if the impacts were related solely to existing Hawaiian home lands. This is not the case, however, as this administration has been transferring title of other state lands that it holds – and which it concedes it could not develop except in accordance with HRS Chapter 171 – to DHHL so that these lands (under the current administration’s view) can be developed without complying with county zoning and land use laws. The DeBartolo project discussed above in Kapolei is on lands that, until 2006, were held by the Department of Land & Natural Resources, not DHHL. Title to these lands was transferred to DHHL with the outcome, if not intent, that a planned development that would violate both land use and zoning laws could go forward without modification.

Under the Act, there is no limit as to how far this type of practice may reach. This is because the Act permits non-mandatory home lands to be exchanged with other public and private lands. Therefore, the current administration, as well as future administrations, may simply swap lands into and out of DHHL, including from private landowners, as it sees fit so it can avoid zoning and land use laws for future development projects. The Act provides:

[DHHL], with the approval of the Secretary of the Interior, in order to consolidate its holdings or to better effectuate the purposes of this Act, may exchange the title to available lands for land, privately or publicly owned, of an equal value. All lands so acquired by [DHHL] shall assume the status of available lands as though the land were originally designated as available lands under section 203 of this Act, and all lands so conveyed by [DHHL] shall assume the status of the land for which it was exchanged. . . . No such exchange of land publicly owned by the State shall be made without the approval of two-thirds of the members of the board of land and natural resources.

Act § 204(a)(3).

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Additionally,

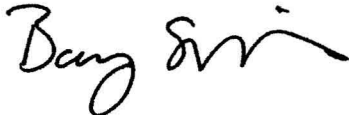
Unless expressly provided elsewhere in this Act, lands or an interest therein acquired by [DHHL] pursuant to section 213(e), 221(c), or 225(b), or any other section of this Act authorizing [DHHL] to acquire lands or an interest therein, may be managed and disposed of in the same manner and for the same purposes as Hawaiian home lands.

Act § 204(b).

As discussed, this is not merely a theoretical threat but is happening right now. The proposed DeBartolo development would have been, without question, illegal for DLNR or any other landowner to do under existing land use and zoning laws. I think it is an important question to ask why this administration is engaging in such an aggressive manner to commit Hawaiian home lands to certain mainland developers and corporations, and doing so in a manner to deliberately try to avoid compliance with reasonable zoning requirements.

In conclusion, I wish to affirm what I think is an obvious point: DHHL should be permitted to develop its non-mandatory lands for purposes that serve its beneficiaries. How that is done ultimately is up to the governor and its appointees at DHHL, provided however that they must do so in compliance with the law. This Bill will make clear that all of Hawaii's laws must be followed, even by the most powerful.

Very truly yours,



Barry A. Sullivan, Esq.

From: kenneth Taylor [mailto:taylork021@Hawaii.rr.com]
Sent: Friday, February 01, 2008 5:33 PM
To: WLHtestimony
Subject: HB 3421 testimony

Ken Taylor, Owner, Greenwood Design

**COMMITTEE ON WATER, LAND, OCEAN RESOURCES &
HAWAIIAN AFFAIRS**

Monday, February 4, 2008
8:30 a.m.

HB 3421

Please support HB3421

AS one of 30 plus community members
working for the last 1-1/2 years on a
new
community plan, HB3421 would be of great
help. We need to empower all citizens
to plan the type of community in which
they will live and how the
infrastructure
can best be utilized.

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>
>

Our elected county officials may not
always get it right, but they try to
plan

community growth in a responsible manner. Until the past few years, the Department

of Hawaiian Homelands had always worked with the counties to be part of the community.

Recently, the department has reconsidered their position and become beholden to developers and private interests, neglecting their responsibility to the community and their beneficiaries. We need to empower all citizens to plan the type of community in which they will live and how the infrastructure can best be utilized.

Sincerely,
Ken Taylor
1720-A Makaleha Pl.
Kapaa, Hawaii, 96746

Wayne Yagi

From: Glenn Mickens [glennruth@hawaiiantel.net]
Sent: Friday, February 01, 2008 12:46 PM
To: WLHtestimony
Subject: Testimony on HB 3421

Dear Sirs:

The Office of Hawaiian Home Lands is making a farce of the law and this injustice for thousands of people must be rectified.

Please pass HB 3421.

Glenn MICKENS
5920 Kini Place
Kapaa, HI 96746
E Mail glennruth @ hawaiiantel.net

From: Margery H. Freeman [mailto:freeman@aloha.net]
Sent: Friday, February 01, 2008 11:18 AM
To: WLHtestimony
Subject: COMMITTEE ON WATER, LAND, OCEAN RESOURCES & HAWAIIAN AFFAIRS

From: Margery Freeman

To: COMMITTEE ON WATER, LAND, OCEAN RESOURCES & HAWAIIAN AFFAIRS
Hearing: HB 3421
Monday, February 4, 2008 8:30 a.m.

Dear Committee members,
Please support HB 3421.

While it is good that Hawaiian Homes is finally getting some housing built it is important that they abide by the same laws as everyone else. If they are exempt from the regulations that apply to everyone else there is too much room for abuses to happen. Please clarify the law and make the Department follow the law, like everyone else. This will help refocus the department to what it was intended, the beneficiaries.

Therefore I ask you to support HB 3421.

Sincerely,

Margery Freeman
6448 Kaahele St.
Kapaa, HI 96746

From: Richard Fairclo [mailto:rfair7@earthlink.net]
Sent: Wednesday, January 30, 2008 6:16 PM
To: WLHtestimony
Subject: Testimony

January 30, 2008

**To: Representative Hermina Morita, Chair
Representative Mele Carroll, Vice Chair & Members of the
Committee on Energy & Environmental Committee**

From: Richard Fairclo
33 Lokelau PL
Haiku, Maui, HI 96708

Re: Hearing on HB 3421-Relating to Land Use
February 4, 2008 at 8:30am
Conference Room 312, State Capitol

TESTIMONY IN SUPPORT

Dear Chair Morita, Vice Chair Carroll and Members:

Thank you for the opportunity to provide testimony in support of HB 3421—Relating to Land Use.

It is important to clarify that land use laws apply to Hawaiian home lands which are disposed of to the public and are not leased to native Hawaiians for homesteading purposes. Land use laws should apply to lands, unless there are very good reason to exempt them, and these lands which are transfered should be subject to the same laws as other lands in Hawaii

Please pass this measure, HB 3421.

Your support is greatly appreciated.

Richard Fairclo
rfair7@earthlink.net

From: Tracey Schavone [mailto:tracey@kauaioutcallmassage.com]

Sent: Thursday, January 31, 2008 7:58 PM

To: WLHtestimony

Subject: Support HB3421

Tracey Schavone

POBox 676

Anahola, HI 96703

808-822-4465

COMMITTEE ON WATER, LAND, OCEAN RESOURCES & HAWAIIAN AFFAIRS

Monday, February 4, 2008

8:30 a.m.

HB 3421

Please support HB3421.

I sincerely hope you will support this bill. Knowing that there are so many Hawaiian people waiting for leases on land so they can build homes for their families how does the Department of Hawaiian Homelands justify and actually get away with giving leases to corporations and non-beneficiaries.

Where is the justice in that? How can this be legal? I would think that this would be "criminal" yet it continues to happen. Isn't it all quite clear in the name...."Hawaiian Homelands".....meaning land for homes for Hawaiians.... Please clarify the law and make the Department of Hawaiian Homelands follow the law.

Please make sure that the Hawaiian people are the ones who will be living on their land....instead of allowing thier land to be leased to non-beneficiaries and corporations.

Sincerely,

Tracey Schavone

POBox 676

Anahola, HI 96703 808-822-4465

TESTIMONY FOR HB 3421

I am Manuel Sardinha Jr. and I am a beneficiary. I whole-heartedly support HB 3421 in making sure that non homestead lands be required to comply with the same standards of ordinances as every other developer should. If indeed these lands, which should be and were intended to be homes for us Hawaiians, are being zoned out and sold as commercial/industrial; they need to be fair.

Personally, I am interested in knowing why Hawaiian homelands are even being used by Non-Hawaiians. I understand the whole premise behind these lands is to help us Hawaiians – give us homes. Instead, I see land that could be for me and my family, being handed over to big developers. I question the integrity & motives behind the use of what I consider my land.

If you can not do right by us Hawaiians in securing these lands for the purposes of homes, you need to do right by us in making sure that the use and treatment of these lands are not an embarrassment to their original purpose. This bill ensures that this does not happen. Homestead lands were given a break on compliances as a benefit to homestead, they were not meant to be given to the big developers and they should not be entitled to them. I urge you to pass HB 3421.

TESTIMONY OF HB 3421

Chair Ito:

My name is Jose Castellanos and I'm a Safeway employee but currently working for the UFCW. I speak in support of HB 3421. I feel that it is only right and fair that Hawaiian homelands used for other purposes than homestead should be subjected to the same compliances as other land developments.

I know that Safeway's new Kapahulu store was subject to specific zoning ordinances, traffic impact studies and whatnot. They had to agree to developing adequate infrastructures that would benefit the surrounding community as well. For example, there is a stop light/intersection just before the store going Makai; something which Safeway had to agree to put up as a means of addressing the community's traffic and pedestrian safety concerns.

Bottom line is that every community should have a say in what goes in and affects their community. Just as a Safeway must comply, so should other commercial/industrial developments regardless of whose land they are developing.

-----Original Message-----

From: phil barnes [mailto:greenhi@interpac.net]

Sent: Friday, February 01, 2008 5:51 PM

To: WLHtestimony

Cc: Mary Marvin Porter

Subject: Testimony HB 3421

Aloha legislators:

I would urge everyone to get on board supporting this important piece of legislation. There is no reason for holdings of DHHL that are not leased to native hawaiians to be exempt from the zoning laws in all of the counties. The whole ahupua'a system, as employed by native Hawaiians for millennia, was based on organizing resources so that they can be managed most efficiently. This is the same purpose that present zoning laws are created to address. Commercial zoning effects the daily lives of all Hawai'i residents. When large scale developments are created without the necessary infrastructure all of us pay both financially and through a degradation of our lifestyles. Please bring DHHL lands into the management system that all other landowners must honor.

Dr. Phil Barnes

Kehena Beach, HI