

SB 3042

LINDA LINGLE
Governor



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Chairperson, Board of Agriculture

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TESTIMONY OF SANDRA LEE KUNIMOTO
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BEFORE THE SENATE COMMITTEE ON AGRICULTURE AND HAWAIIAN AFFAIRS
FEBRUARY 5, 2008
2:45 P.M.

SENATE BILL NO. 3042
RELATING TO ANIMAL QUARANTINE FACILITIES

Chairperson Tokuda and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 3042 which amends chapter 142-3.5, HRS, to remove the provision requiring the Department of Agriculture to receive fair market rent for the lease of unused property at the Animal Quarantine facility. The Department supports this bill.

Currently, chapter 142-3.5, HRS, adopted by the 2005 Legislature, authorizes the Board of Agriculture to contract with third parties for the use and rental of animal quarantine station property or facilities under the following conditions: the property or facilities are not required for quarantine program use; the property be leased or rented at fair market value; and the property be used only by the third party. In addition to requirements of chapter 142-3.5, the methods of lease or rent of public lands are provided in chapter 171, HRS.

Executive Order No. 4096, dated January 10, 2005, sets aside land situated in Halawa Valley, Oahu, to be under the management and control of the Department of Agriculture for the following public purposes: animal quarantine; animal welfare; and agriculture related purposes. The parcel under consideration for rent is approximately 5.5 acres within the animal quarantine station zoned as I-2 with an estimated fair market rent of \$310,050 per year (as of December 2005) for the leasehold interest.

The Department believes removing the fair market value requirement may allow qualified organizations that are compatible with Animal Quarantine to participate in a competitive bid process for the land. An open and competitive bid process is expected to ensure the land is used appropriately and generates reasonable revenue to help offset program expenditures, ultimately resulting in reduced fees to users of the program.

SUBJECT: TESTIMONY IN SUPPORT OF SB 3042
COMMITTEE: Committee on Agriculture and Hawaiian Affairs
DATE: Tuesday, February 5, 2008
TIME: 2:45 p.m.

Senator Jill Tokuda, Chair
Senator J. Kalani English, Vice Chair

Dear Chair and Members of the Committee,

The Hawaiian Humane Society fully supports Senate Bill 3042, allowing the Board of Agriculture (BOA) to negotiate the lease rent for the use of the animal quarantine station located in Halawa Valley.

Senate bill 3042 would eliminate the requirement that the Board of Agriculture (BOA) lease or rent the unused portion of its animal quarantine property at fair market value, thus allowing non-profits, such as the Hawaiian Humane Society, the opportunity to work with the BOA in acquiring a lease for the property.

As a non-profit organization and the animal control contractor for the City and County of Honolulu, the Hawaiian Humane Society has actively evaluated alternatives for a second shelter site to better serve the growing population of Oahu. This bill would afford us the opportunity to work directly with the Board of Agriculture towards negotiating the use for the unused portion of the Halawa facility so that we can better serve the communities of West and Central Oahu. Approximately 67% of Oahu's pet owners reside in West Oahu, with the next largest population of pet owners living in the North Shore/Central Oahu region, according to a 2005 survey conducted for the Hawaiian Humane Society by Ward Research.

For over 110 years, the Hawaiian Humane Society has been working to improve the welfare of animals here in Hawaii, and our staff and volunteers are committed to continually improving the ways in which we serve Oahu's people and animals. We support the passage of senate bill 3042 and ask that this committee do the same.

Sincerely,

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Testimony of Frank De Giacomo, V.P. Animal CARE Foundation,
Concerning Measure Number SB 3042,
“Relating to Animal Quarantine Facilities”,
to the Senate
Agriculture and Hawaiian Affairs Committee,
and Senate Ways and Means Committee
set for Joint Hearing on February 5, 2008 at 2:45 p.m.
in Conference Room 224.

Senators,

I am testifying in opposition to SB 3042.

Animal CARE Foundation is a 501(c)(3), not for profit organization here on O`ahu. Later this year we will be competing with the Hawaiian Humane Society(hereinafter “HHS”) for the Honolulu animal control contract. The City and County is wanting the potential contractors to provide much needed services to West O`ahu. If HHS gets the quarantine facility they will have a decided advantage in the bidding process, and that is problematic on many levels.

Some history is required for properly understanding the current issue at hand. HHS was been given a 25 year lease at \$1 a year on their state owned property which has been deeded to Honolulu on the condition that they use it for pound facilities. HHS used City and County funds commingled with their own to make millions of dollars in renovations to their buildings and facilities, and generated false breakdown records for their animal control trucks to give friends on the Council the political coverage to donate all the vehicles to HHS on the alleged grounds that the repairs will cost the City and County too much money. In short they have a highly subsidized City and County of Honolulu created monopoly on animal control.

The new administration in charge of Honolulu wants long overdue service to West O`ahu, and intends to put the animal control contract out for a fair and open bid later this year. HHS knew of this 3 years ago, and set out to get a sweetheart deal (similar to the one they got with Honolulu) for a new West O`ahu facility with the help of Governor Lingle.. The idea (the one we gave to Linda Smith early on in the 1st Lingle term) of using the quarantine facility was set into legislation to direct the land to HHS, but not before other animal groups protested. So the conference committee decided, quite rightly, against the sweetheart deal, and legislated that the state get “fair market value” for the lease rent of the property.

The bid was written and the contract was further steered by the Lingle Administration to HHS by: 1) Requiring that the entire 5.5 acres be leased as a whole and not subdivided into smaller units; 2) excluding commercial for profit bidders; and 3) strangely requiring proof of ability to build up the property that excluded smaller nonprofit groups. Lastly, they had to contend with my organization, which could meet all their qualifications. After a few phone calls to the Lingle administration asking for a ball park figure of when this lease would be out for bid

they simply gave us a date far from when the bid actually was put out. So we missed it. Hawaii Dog Foundation heard about the bid from Senator Hemmings, and the dog training school heard about it from Hawaii Dog Foundation.

I believe that 3 bids were received. HHS bid \$0. Hawaii Dog Foundation bid. Also, despite the bid being written for nonprofits, one commercial dog training company put in a bid and I believe that bid was in excess of HHS's bid. The State then entered negotiations with HHS over the value of the lease in the market. This was a long and protracted negotiation in which multiple ways of valuating the land was discussed, a report appraising the property was written, and claims of a hazardous landfill site on the property was investigated. I believe it came down to the State wanting around \$150,000 a year, and HHS still wanting to get the lease for next to nothing. So the State has put out an RFP for a broker to rebid and negotiate the land lease (at further taxpayer cost), and we are back here in the Legislature today discussing the removal of the offending "fair market value" provision.

This bill is flawed on many levels:

- 1) The State should not be in the business of steering a City and County contact toward a particular company with a sweetheart land deal, and perpetuating an illegal monopoly in the process (monopolies are illegal under state law).
- 2) The state shouldn't be bilking the taxpayers. If the state can get a fair market value, which my organization is willing to pay for quarantine, then why should the state be settling for a small token return. And if the state is required by deed to use it for animals or agricultural uses, why not open it up to commercial businesses. There are dog training schools, dog daycare companies, maybe even fuel crop farmers, among others who would be interested in bidding on the lease.
- 3) The Department of Agriculture, due to the easing of quarantine restrictions (hence the extra space to lease), really *should* have less costs and SHOULD NOT get the money for this lease to administer the quarantine program AND get the same money given to them by the Legislature for the same quarantine program. If the reducing of quarantine stays is not reducing the cost of the program, perhaps there should be a hearing into exactly why (using great financial accounting detail), there has been no cost savings to the taxpayer.
- 4) HHS should get no preferential treatment by the state. Besides Animal CARE Foundation, there are a number of other animal organizations that are paying fair market value here on O'ahu. To name just a few:

Sylvester Foundation, which was recently thrown off it's land which was leased by DLNR because the state decided it wanted to increase it's financial return;

Hawaii Dog Foundation which has leased kennels at fair market value at a variety of locations around O'ahu throughout the group's history;

Wild Bird Rehabbers of O'ahu, who have paid fair market value for their facility (and greatly

need space to expand) in the same area that HHS rents their 3 acre facility for \$1 a year;

HI Cat Foundation which has a crippling mortgage to pay;

Animal Haven which used every penny of the owners inheritance to afford their facility;

Friends for Life, who inherited their land but have increasing property taxes to pay;

Hawaii FI-DO, and K-9 Rescue also pay high property taxes;

Hawaii Pet Adoption Center rents;

and Joey's Feline Friends, I believe, rent from DLNR .

HHS, on the other hand makes \$5 million a year, has \$7 million in it's investment portfolio, has large yearly donations into perpetuity from the Jack Lord estate and Barbara Cox Anthony legacy, as well as hundreds of acres left to them by Pinky Thompson left undeveloped and unutilized for decades, against the wishes of the family who sued to have the land utilized. Lastly, HHS, to put it very, very mildly, is no friend to the animals, despite publicity and claims that would have one believe otherwise.

So, if the legislature has a charitable intent for HHS, it is a misguided one, and if they are singled out for special treatment by the Lingle Administration it would be grossly unfair to the above mentioned groups. Animal CARE Foundation will pay more, and is a more professional organization, and will produce a better facility, and better use the facility, than HHS would.

However, if the Senate insists on passing something, then at least consider opening the bids to for profit companies, or dividing the land up into one acre parcels so that less wealthy and smaller groups may qualify to bid on the property. Or you can hold the bill until after the O'ahu animal control contract is awarded. However, given HHS boardmembers' and HHS friends' donations to the Governor, and others, I believe that whatever language you use may be circumvented by the administration that seems bent on giving this land to HHS for nothing. Governor Lingle has been so supportive that perhaps HHS will name the incinerator they will build on the property after the Governor to memorialize her contribution to their common cause.

Submitted By,

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