

SB 3151

LINDA LINGLE
GOVERNOR
STATE OF HAWAII



LATE

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
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TESTIMONY OF MICAH A. KANE, CHAIRMAN
HAWAIIAN HOMES COMMISSION

BEFORE THE SENATE COMMITTEE ON AGRICULTURE AND HAWAIIAN AFFAIRS

ON S.B. 3151
RELATING TO THE HAWAIIAN HOMES COMMISSION ACT

February 7, 2008

Chair Tokuda, Vice Chair English and Members of the Committee:

Thank you for the opportunity to testify on S.B. 3151 relating to the Hawaiian Homes Commission Act. The purpose of this bill is to require consultation with the beneficiaries when a project includes commercial development. This measure was previously considered in 2007 under S.B. 938.

The Department of Hawaiian Home Lands (DHHL) recognizes the value and importance of beneficiary input and consultation on issues and plans affecting our homestead communities and supports the purpose and intent of S.B. 3151.

The Hawaiian Homes Commission has approved the Department's recommendation that we revise and enhance our existing planning and consultation processes and concurrently draft administrative rules or Commission policies to guide current and future administrations in developing and promoting the best practices

in beneficiary consultation. The Department intends to engage in beneficiary consultation in developing the processes, rules and policies.

While the Department currently implements a comprehensive planning process involving the development of island, regional and area plans that form the basis for its land use decisions, including potential sites for commercial development, and that process affords numerous opportunities for community input, we recognize and appreciate the beneficiary communities' desires to be more involved.

The Department recommends that we continue the work that we have begun in working directly with our beneficiaries to develop specific guidelines regarding the manner in which beneficiary consultation will take place relating to commercial developments on Hawaiian home lands.

Thank you for the opportunity to testify on this measure.



COUNCIL FOR NATIVE HAWAIIAN ADVANCEMENT

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LATE

Senator Jill N. Tokuda, Chair
Senator Kalani English, Vice Chair
Committee on Agriculture and Hawaiian Affairs

Testimony of Robin Puanani Danner, President & CEO
Council for Native Hawaiian Advancement

Hearing on Thursday, February 9, 2007, at 2:30 pm, Room 224

Support for SB 3151, Relating to Beneficiary Consultation on Commercial Development projects on Trust Lands.

Honorable Senator Tokuda and Honorable Senator English, Members of the Committee:

The Council for Native Hawaiian Advancement (CNHA) is a community development nonprofit with a mission of enhancing the well being of Hawaii through the cultural, economic and community development of Native Hawaiians. We achieve our mission through capacity building of community based organizations, training and technical assistance, leadership development and convening our community around topical and important policy issues.

The Council is on record with strong support with regard to HB 1353 first introduced in 2007 and similar in the purposes of SB 1351. Over the last 12 months, we have worked closely with the current administration, the Hawaiian Homes Commission and Chairman Kane to raise the level of conversation around the policy issue articulated under SB 1351. While we respect any position ultimately taken by Chairman Kane, we would like to register our full support of SB 1351, amending the Hawaiian Homes Commission Act (HHCA), to establish beneficiary consultation on projects where commercial development will be conducted on trust lands. We support this bill for the following reasons:

1) On Par with National Native Self Determination Policies: The implementation of formal consultation is not new policy ground and is completely in step with long-held policies by other government agencies when administering trust assets or programs of Native peoples, including American Indians, Alaska Natives and Native Hawaiians. For example, the federal Department of Interior, the Department of Energy, the Department of Housing and Urban Development and other agencies have formal consultation policies, wherein a process of consultation is published, well known and executed throughout the year. United States Presidents (most recently, President Clinton and President Bush) have issued Executive Orders on the issue of Consultation, recognizing the obligations of a public trust to Native peoples and their resources. The policy of consultation, hand in hand with the policy on self determination is well established by analogous government agencies and public trusts.

SB 1351 further strengthens the tenets of self determination, here in Hawaii, and in the all-important dialogue at the national level regarding federal recognition of Native Hawaiians by bringing the Hawaiian Homes Commission Act on par with other public trust and self determination policies that have evolved over the last four decades.

2) Strengthens Transparency and Accountability. This amendment embraces the fundamentals of a public trust by strengthening transparency and accountability by the State of Hawaii to its beneficiaries on any plans it may have to issue leases to private commercial developers. Commercial development can be an important tool in the administration of the trust, and with Beneficiary Consultation, potential projects will have the full benefit of the very community the trust was created to serve. As a public trust, the obligation to ascertain beneficiary input is squarely on the trustee, in this case, the State of Hawaii. SB 1351 not only acknowledges this obligation, but sets a standard to be proud of in furthering transparency and accountability by state government. Beneficiary consultation is a modern necessity beyond the standard commission meetings of DHHL or periodic informal meetings, as a direct result of the special trust status unlike any other Department of state government.

We believe SB 1351 to be an excellent amendment that honors the trust land status of Hawaiian Home Lands that are not private lands; are not merely State of Hawaii lands; but rather, the collective land assets of the Hawaiian people held in trust by its trustee.

3) Hawaiians First to Know – The Next Era in Trusteeship. One of the most important actions and public policy positions we can take, as we set the stage to tackle the critical issues of sustainability, quality of life and what we all want Hawaii to be, is to open the flood gates of ideas, of dialogue, and create a pathway of beneficiary discourse on the present challenges and the future opportunities of the Hawaiian Home Land trust. Codifying Beneficiary Consultation will for the first time in the 87 year history of the trust bring full value and a priority for the knowledge of its beneficiaries, and in doing so, begins an era of trusteeship and trust asset management that embraces inclusion over paternalism. In these critical times of sustainability challenges and cultural survival, it is the right time to evolve from the first 49 years to the next 49 years that truly need the input and voices of the very community the trust was created to serve.

Codifying Beneficiary Consultation ensures that regardless of administration, regardless of the content of any individual commercial development project, beneficiaries are assured their voice. Beneficiary Consultation is not only good public policy; it is outstanding public trust policy for these modern times – giving land stewardship the maximum input of Hawaiians. As beneficiaries in the 21st Century, we are scientists, bankers, lawyers, businessman, farmers, ranchers, hoteliers, government administrators, cultural practitioners, contractors, collectively with expertise that will undoubtedly add value to any commercial development under contemplation. Consultation should not be limited to those few who can follow the Hawaiian Homes Commission monthly meetings, or participate in periodic and informal meetings. It should be the best tool of the trustee to tap into a resourceful and talented community.

SB 1351 is simple legislation, yet focuses on a new legacy for the trust, one that is grounded in the wisdom that the Hawaiian community must be the first to know. All of Hawaii will benefit, and the trust will be stronger for it.

4) Recommended Revision. We recommend that the current language be revised to clarify that commercial projects where the developer is a community based organization or beneficiary organization are excluded from this requirement, and that this amendment is focused entirely on commercial development that is transacted by private interests, including individuals and corporations.

We support SB 1351, not to highlight or advance any critique of the current or past administrations of DHHL in its approach to engaging beneficiaries of the trust in its management plans or intentions with regard to trust lands. In fact, we assert that as a young State, with administrative responsibilities for

only a short 49 years, the relationship between trustee and beneficiary has and will continue to evolve and improve. SB 1351 is not about the past, nor is it about whether DHHL currently engages in some forms of Beneficiary Consultation, it does. SB 1351 signifies a mile-marker in the journey that highlights the continual growth and value of consultation with the Hawaiian people, in particular, the beneficiaries of this extraordinary trust.

The legacy of SB 1351 strengthens the foundation of the trust by articulating a protocol and a direction that actively seeks review, contemplation and conversations on how the collective land assets of beneficiaries will be used under a commercial development scenario. It in no way usurps the authority of the state or the Hawaiian Homes Commission, but rather adds context to their ultimate deliberations and decision making responsibility.

We suggest to the Committee, that the beneficiaries of the trust are the single most important stakeholder of any commercial development on trust lands, worthy of consultation that will share the same values and land stewardship that has been central to Hawaiian culture for thousands of years and have served Hawaii well.

In closing, Chairman Kane and every Chairman that follows will be tasked with making critical and at times, difficult decisions; weighing the realities of financial sustainability, the original and still relevant purposes of the trust, the well-being of beneficiaries and beneficiary communities, and balancing the priorities of larger state government considerations. We believe that setting the mile-marker of Beneficiary Consultation now, ensures that Chairman Kane and each future Chairman will have exactly the right tool to fulfill the fiduciary responsibilities charged under the Hawaiian Homes Commission Act.

Please take positive action on SB 1351. Mahalo.

**Sovereign Councils
of the**



**Hawaiian Homelands
Assembly**

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Appointed

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Executive Director

**Senate Hearing
February 7, 2008
2:45 pm – Room 224**

**To: Senate Committee on Agriculture and Hawaiian
Affairs: Chair, Senator Jill Tokuda,
V. Chair. Kalani English**

**From: Mike Kahikina, Executive Assistant to the Chair
for Government Affairs
Sovereign Councils of the Hawaiian Homelands
Assembly (SCHHA)**

The SCHHA is in Support of SB 3151

**We request your support of this Bill as the first and
abiding step that we beneficiaries are truly partners
with the State of Hawaii and the Department of
Hawaiian Home Lands.**

**Also, that through the passage of this bill, the first
major historic step shall be taken in forever
terminating the status of “warship” for the
beneficiaries and that the responsibilities of this trust
and its administration shall be a partnership to benefit
us all.**

testimony

From: Joseph Carrillo [jcarrillo77@yahoo.com]
Sent: Tuesday, February 05, 2008 3:40 PM
To: testimony
Subject: SB 3151 / Attn: Senate Committee on Ag & Hwn Affairs

ATTN: Senate Committee on Agriculture and Hawaiian Affairs

Dear Senator Tokuda and Senator English,

Please pass SB 3151 to create a new relationship between the state of Hawaii, DHHL and the beneficiaries of the Hawaiian Home Land Trust. This bill sets a new direction, one that ensures that the beneficiaries of the trust will be the first to know when trust lands are intended to be leased to private interest for commercial development purposes. The time for a new relationship has come, please support this measure.

As a partner of a trust beneficiary who is totally frustrated with the years of broken promises and failed half efforts, this bill is long, long overdue. Beneficiaries deserve the basic consideration that this bill would create through beneficiary consultation. Notices and reports is not enough. It's their trust and they deserve more. Please, please do whatever you can to pass this bill. Engaging our Native Hawaiian beneficiaries in the management of their trust lands is critical to moving Hawai'i to future successes and away from current and past failures.

Mahalo,

Joseph P. Carrillo
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ATTN: Senate Committee on Agriculture and Hawaiian Affairs

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As a trust beneficiary who is totally frustrated with the years of broken promises and failed half efforts, this bill is long, long overdue. We, as beneficiaries deserve the basic consideration that this bill would create through beneficiary consultation. Notices and reports is not enough. It's our trust and we deserve more. Please, please do whatever you can to pass this bill. Engaging our people in the management of our trust lands is critical to moving us to future successes and away from current and past failures.

--

Me ka ha`aha`a,
KipuKai

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