
HOUSE CONCURRENT RESOLUTION

REQUESTING WITHDRAWAL OF THE STATE'S APPEAL PENDING BEFORE THE
UNITED STATES SUPREME COURT IN HAWAII V. OFFICE OF HAWAIIAN
AFFAIRS, NO. 07-1372.

1 WHEREAS, ceded lands are the former crown and government
2 lands of the Kingdom of Hawaii that were transferred to the
3 United States as part of Hawaii's annexation in 1898 and granted
4 to the State of Hawaii upon statehood in 1959; and
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6 WHEREAS, the Admission Act mandates that the State hold the
7 ceded lands and proceeds and income from ceded lands in a public
8 trust for several purposes, including the betterment of
9 conditions of native Hawaiians; and
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11 WHEREAS, the 1993 Congressional Apology Resolution
12 recognized that the overthrow of the Kingdom of Hawaii was
13 illegal, the taking of the Kingdom's crown, government, and
14 public lands was without consent or compensation, and the
15 indigenous Hawaiian people never directly relinquished their
16 claims over their national lands to the United States; and
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18 WHEREAS, in 1994, the Office of Hawaiian Affairs and
19 several native Hawaiian individuals sued the State and the
20 Housing and Community Development Corporation of Hawaii to
21 enjoin them from alienating ceded lands; and
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23 WHEREAS, the Circuit Court decided in favor of the State
24 and concluded that the plaintiffs' claims were barred by the
25 doctrines of sovereign immunity, waiver, estoppel, and
26 justiciability and that the State had the express authority to
27 alienate ceded lands from the public lands trust; and
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29 WHEREAS, in January 2008, the Hawaii Supreme Court vacated
30 the Circuit Court's decision and instructed the Circuit Court to
31 issue an order granting the injunction prohibiting the State



1 from selling or transferring any ceded lands from the public
2 lands trust until the native Hawaiians' unrelinquished claims to
3 the ceded lands are resolved; and
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5 WHEREAS, the State asked the United States Supreme Court to
6 review the Hawaii Supreme Court's decision; and
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8 WHEREAS, the United States Supreme Court granted the
9 State's petition for a writ of certiorari, and oral arguments
10 are scheduled for February 25, 2009; and
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12 WHEREAS, it is in the best interest of the people of this
13 State, including native Hawaiians, for the State to withdraw its
14 appeal to the United States Supreme Court; now, therefore,
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16 BE IT RESOLVED by the House of Representatives of the
17 Twenty-fifth Legislature of the State of Hawaii, Regular Session
18 of 2009, the Senate concurring, that the Governor of the State
19 of Hawaii is requested to withdraw the State's request, now
20 pending before the United States Supreme Court in Hawaii v.
21 Office of Hawaiian Affairs, No. 07-1372, to overturn the
22 decision of the Hawaii Supreme Court enjoining the sale,
23 transfer, or exchange of ceded lands; and
24

25 BE IT FURTHER RESOLVED that certified copies of this
26 Concurrent Resolution be transmitted to the Governor, the
27 Attorney General of the State of Hawaii, and the Chairperson of
28 the Board of Trustees of the Office of Hawaiian Affairs.
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Scott K. Brown

OFFERED BY: Melo Carroll

[Signature]

Ray P. Hanalei
Michael J. Meyrowitz

Tom Brown

Cindy Evans

Della A. Balatti

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John M. [Signature]

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FEB 19 2009



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