

STAND. COM. REP. NO.

100

Honolulu, Hawaii

FEB 18 2009

RE: S.B. No. 638

S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Madam:

Your Committee on Water, Land, Agriculture, and Hawaiian Affairs, to which was referred S.B. No. 638 entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC LANDS,"

begs leave to report as follows:

The purpose of this measure is to establish a two year moratorium on evictions of residents from Kahana Valley State Park, and establish a master plan advisory committee to create a living park master plan for Kahana Valley State Park.

Testimony in support of this measure was submitted by one state agency and four public citizens. One public citizen supported the intent of the measure, and one state agency submitted comments. Twenty-five public citizens submitted testimony in opposition. Copies of written testimony are available for review on the Legislature's website.

In 1965, the State condemned the ahupua'a o Kahana for use as a state park, making it the only landowner in the State of Hawai'i, outside of the Robinson family on Ni'ihau, to own an intact ahupua'a. An ahupua'a, a triangular slice of land running from the mountains to the ocean, was the major land division used by pre-contact Hawaiians, as it included all of the elements necessary for their existence: the uplands, the lowlands, the shore, and the ocean.



While the families living in Kahana at the time of the condemnation were of varied ethnic backgrounds, many of them were Native Hawaiian, and the people of Kahana in general lived a simple, subsistence lifestyle in harmony with Native Hawaiian values and traditions. The people of Kahana lobbied the legislature after the condemnation to allow them to stay in Kahana and preserve this rural Native Hawaiian-influenced lifestyle. In 1970, a Governor's task force proposed the concept of a living park that would allow the families to stay and in some way participate in the park. The Governor recommended the concept to the Department of Land and Natural Resources. The residents were allowed to stay on the land under revocable leases.

The State determined that as a condition of their lease each Kahana family would contribute twenty-five hours of interpretive services per month to the park, to preserve, restore, and share the history and rural lifestyle of the ahupua'a with the public.

Act 5, Session Laws of Hawaii 1987, authorized the Department of Land and Natural Resources to issue long-term residential leases to persons who had lived continuously in Kahana Valley or had permits allowing them to reside on certain parcels of land within Kahana Valley. As a condition of holding a lease, these qualified persons agreed to participate in interpretive programs in Kahana Valley State Park.

Thirty-one original families qualified for the long-term residential leases. However, descendants of six families that did not originally qualify for long-term residential leases remained in Kahana Valley State Park. The Department of Land and Natural Resources recently started eviction actions against these six families.

Your Committee finds that Kahana Valley State Park serves the whole community. Interpretive programs designed and offered by lease holders, residents, and lineal descendants of Kahana Valley provide students of all ages, from the university level to elementary, the opportunity to experience the traditional Hawaiian lifestyle. The interpretive programs are a successful collaboration thanks to the tireless efforts of lease holders, residents, and lineal descendants.

Your Committee has heard from many lineal descendants of Kahana Valley families who want to return. One public citizen, whose family resided in Kahana Valley since the 1800's, served in



the Army for twenty years before returning. Now, that public citizen travels daily to Kahana Valley to maintain his father's taro field and participate in interpretive programs. There is no opportunity for kupuna to return to Kahana Valley, which the public citizen notes is necessary to perpetuate the culture and teach younger generations.

Your Committee understands that many participants in interpretive programs are lineal descendents of Kahana Valley families who do not qualify for long-term leases under Act 5, Session Laws of Hawaii 1987, as amended, and that the criteria used to determine long-term lease eligibility needs to be addressed in a collaborate setting.

Your Committee further finds that the lease holders, residents, and lineal descendents of Kahana Valley should have a meaningful say in planning the future of Kahana Valley State Park. Your Committee urges the Department of Land and Natural Resources to engage in a dialogue with the residents and lineal descendents on the issues raised during testimony. Kahana Valley is a unique residential and cultural site, and it is understandable that those who are connected with Kahana Valley want to return as lessees. Your Committee notes that the six families who have eviction actions against them should have the opportunity to reconcile their issues.

Your Committee has amended this measure by:


- (1) Renaming the master plan advisory committee as the planning council;
- (2) Increasing the membership of the planning council;
- (3) Providing that the planning council consider lineal descendents of Kahana Valley for long-term leases in the development of the living park master plan; and
- (4) Making technical, nonsubstantive changes for clarity and style.

As affirmed by the record of votes of the members of your Committee on Water, Land, Agriculture, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 638, as amended herein, and recommends that it pass Second Reading in the form attached hereto



as S.B. No. 638, S.D. 1, and be referred to the Committee on Ways and Means.


Respectfully submitted on  
behalf of the members of the  
Committee on Water, Land,  
Agriculture, and Hawaiian  
Affairs,

  
\_\_\_\_\_  
CLAYTON HEE, Chair



The Senate  
Twenty-Fifth Legislature  
State of Hawaii

**Record of Votes**  
**Committee on Water, Land, Agriculture and Hawaiian Affairs**  
**WTL**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 638	WTL, WAM	2/6/09		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
TOKUDA, Jill N. (VC)	✓			
BUNDA, Robert				✓
FUKUNAGA, Carol				✓
KOKUBUN, Russell S.	✓			
TAKAMINE, Dwight Y.	✓			
HEMMINGS, Fred	✓			
<b>TOTAL</b>	5	0	0	2
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

\*Only one measure per Record of Votes