

LATE TESTIMONY

Representative Ken It. Chair
Representative Sharon E. Har, Vice Chair
Committee on Water, Land & Ocean Resources

Lena P Soliven

Sunday 8, 2009

Support of HB 1552, Relating to Public Lands

Aloha,

I am a resident of the Ahupua'a o Kahana. My name is Lena P. Soliven. My Ohana and I were one of the six families the State wrongfully tried to evict on October 27, 2008. It surely was one of the most trying and stressful tribulation of our lives.

I strongly support HB 1552. It has mechanisms in place to tackle the problems at hand and the problems and resolve for the future of Kahana. Kahana has been lacking an implementation of a Master Plan. This Bill will mandate that the last Master Plan submitted to the State be updated, revised and put into action.

We are lineal descendents of the Ahupua'a o Kahana. As we look back we see our great-grandparents, grandparents, parents and ourselves, and as we look forward we our children, grandchildren, great-children and

We are Hawaiians, living on Hawaiian Lands, living in our Beautiful Hawaii Nei. We live our culture, share our culture and most of all love our culture.

I urge the committee to pass HB 1152. Thank you for the opportunity to testify.

Lena P. Soliven

LATE TESTIMONY

Representative Ken It. Chair
Representative Sharon E. Har, Vice Chair
Committee on Water, Land & Ocean Resources

Mahi Kahala
Anagen Kahala
Ipo Malepe
Thoran Evans

Sunday 8, 2009

Support of HB 1552, Relating to Public Lands

Aloha,

As one of the six families who faced evictions from the Ahupua'a O Kahana on October 27, 2008, We are writing in support of HB 1552, which will help us to remain in the Ahupua'a O Kahana, and where we currently reside.

Through our ancestors, we are blessed to be able to reside in Kahana. To breathe the fresh air, to enjoy the beauty of nature, to experience the refreshing waters in which we swam from the luscious mauka rivers to the valley's beautiful makai shores, and to share the many wonderful resources that Kahana has to offer. **WE ARE ALL OHANA** born and raised on the aina.

We all supported and participated in many cultural based activities in Kahana, and will continue to do so in an effort to show our ALOHA for this beautiful aina that we know as "**HOME**".

We the 6 families support HB 1552 to remain in the Ahupua'a O Kahana. To live with those we grew up with and shared our love for one another, as we look towards the future.

Mahalo, from the families of

Mahi Kahala Ipo Malepe
Anagen Kahala Thoran Evans

LATE TESTIMONY

Representative Ken It. Chair
Representative Sharon E. Har, Vice Chair
Committee on Water, Land & Ocean Resources

Dezmond Soliven

Sunday 8, 2009

Support of HB 1552, Relating to Public Lands

Aloha,

My name is Dezmond Soliven and I am one of the children that the state wrongfully tried to evict on October 27, 2008. It really caused us a lot of stress and embarrassment because people didn't know the whole story.

We are one big Ohana in Kahana. Everyone is an Aunty, Uncle, Grandma, Grandpa, and or Cousins. I love Kahana, it is the only place I know as Home.

I support HB 1522 and I pray you will too.

Mahalo,

Dezmond Soliven

LATE TESTIMONY

Representative Ken It. Chair
Representative Sharon E. Har, Vice Chair
Committee on Water, Land & Ocean Resources

Darryl Soliven

Sunday 8, 2009

Support of HB 1522, Relating to Public Lands

I am a resident of the Ahupua'a O Kahana. We were one of the 6 families wrongfully being evicted by the State on October 27, 2008. I strongly support HB 1522, relating to Public Lands, which would authorize the issuance of residential leases in living parks such as Kahana Valley State Park and establish a planning council to develop a master plan for park.

A Master plan would have alleviated the havoc and emotional roller coaster my family has been on for the past 10 years, coming to a head with the posting of eviction and the bulldozers coming in to take down our homes and clearing us away as if we never existed. We had done everything the State had requested of us, and still.....

This legislation lays a solid foundation for the future of Kahana. I urge you to pass HB 1522, so Kahana can reach it full potential as a living park.

Thank you

Darryl Soliven

HPACH
919 4th Street
Pearl City, Hawaii 96782

LATE TESTIMONY

February 9, 2009

Representative Ken Ito, Chair
Representative Sharon E. Har, Vice Chair
And Committee Members On Water, Land & Ocean Resources
House of Representatives, 2009 Legislature Session
State of Hawaii

Subject: HB 1552, Relating To Public Lands, SUPPORT/Amendments

ALOHA Kakou,

My name is Richard Pomaikaiokalani Kinney. On January 16, 1993 after reading Pubic Law 103-150 I renounced my citizenship to the United States. I come here today as a Hawaiian Nationalist of the Hawaiian Kingdom. I strongly support the restoration of the Hawaiian Kingdom government that invaded and occupied thru an Act of War on January 16, 1893 with the involvement of the diplomatic and military forces of the United States.

As Sovereign of the Hawaiian Political Action Council of Hawaii, I SUPPORT the intent of HB 1552 with Amendments.

The 'Ahupua'a O Kahana is the only 'Ahupua'a on Oahu. An 'Ahupua'a with Indigenous Hawaiians that have an Inherent Sovereignty right to remain there.

The 'Ahupua'a O Kahana are Sovereign Hawaiian Lands. The Indigenous Hawaiians lessees of 'Ahupua'a O Kahana are the Sovereign Holders of 'Ahupua'a' o Kahana lands.

The 'Ahupua'a O Kahana lessees should be given Perpetual Leases to their home lots.

The Kahana Planning Council needs to develop Kahana into an 'Ahupua'a, not a Living Park. Living Parks do not help feed the people of Hawaii.

Hawaiian Kingdom laws should guide the future of all developments at Kahana. It is Hawaiian Kingdom laws and values that will perpetuate the future of Kahana.

As an 'Ahupua'a, Kahana will once more play a great role in the economic future of Hawaii as it did in the days of the Hawaiian Kingdom.

HPACH

919 4th Street
Pearl City, Hawaii 96782

Page 2
February 9, 2009
HB 1552

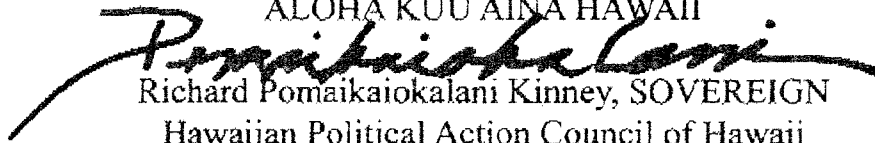
The 'Ahupua'a O Kahana and the Indigenous Hawaiians who have lived there since the days of the Hawaiian Kingdom is a Golden Opportunity to culturally restore and perpetuate the Spirit of ALOHA AINA.

It is the duty of this legislature to look at very carefully what I am offerings as amendments to HB 1552.

Mahalo nui for allowing me to give testimony on this important Bill.

Attachment: Renouncement Documents

ALOHA KUU AINA HAWAII



Richard Pomaikaiokalani Kinney, SOVEREIGN
Hawaiian Political Action Council of Hawaii
87-168 Maaloa Street, Waianae, Hawaii, 96792
Email: HIAHAWAII@aol.com

HPACH
919 4th Street
Pearl City, Hawaii 96782

STATE OF HAWAII
City and County of Honolulu } ss.

I, Henry Richard Kinney, Jr., a Native Hawaiian descendant and Sovereign, born on December 26, 1938 at Queen's Hospital in Honolulu, Hawaii, do hereby renounce my citizenship to the United States of America as of 6 P.M. Hawaiian Standard Time on January 17, 1993.

I protest against any and all acts done against my native country, the Hawaiian Kingdom and its constitutional sovereign, Queen Liliuokalani by United States troops on January 17, 1893. *the*

Now, to avoid any collision of arrest from agents of the United States, and perhaps the loss of my life and freedom, I seek the full independence of the Hawaiian Islands as an independant nation of the Free World. *the*

Henry R. Kinney

Henry R. Kinney, Jr.
731 McCully Street
Honolulu, Hawaii
96826

Subscribed and sworn to before me this
15th day of January, 1993

Sam H. Oslen

Notary Public, First Judicial Circuit
State of Hawaii

MY COMMISSION EXPIRES 6-1-96

Ly...

HPACH
919 4th Street
Pearl City, Hawaii 96782

TO WHOM IT MAY CONCERN,

I, RICHARD POMAIKAI KINNEY
(NAME)

919 4th Street, Pearl City, Honolulu, Hawaii 96782
(ADDRESS)

a NATIVE HAWAIIAN descendant, do hereby declare myself
SOVEREIGN unto GOD the CREATOR.

I, further declare my autonomous right, as a NATIVE
HAWAIIAN descendant, to uphold with body and soul, the
autonomous right of all NATIVE HAWAIIAN descendants and
their OHANA.

"HANA LIKE KAKOU"

July 16, 1984
(DATE OF NOTARY)

Richard Pomaiikai Kinney
(NAME)
919 4th St Pearl City HI

STATE OF HAWAII)
) ss
City and County of Honolulu)

On this 16th day of July, 1984, before me personally
appeared Richard Pomaiikai Kinney, to me known to be the person described
in and who executed the foregoing instrument and acknowledged that he
executed the same as his free act and deed.

My Commission expires: July 31, 1986

Richard Kinney
NOTARY PUBLIC, State of Hawaii

LATE TESTIMONY

HB 1552
February 9, 2009
9:00am Room 325

Honorable Chairman and committee members of the Water, Land, and Ocean Resources,

My name is Clinton Kanahele "Nana" Gorai. I was born in 1932 in Kahana. Growing up in Kahana has provided me many opportunities and knowledge from the mountain to the sea. I am a fisherman, a crafter, and a taro farmer.

In 1968, I was called to active duty and served in the United States Army for 20 years. My family continued to live in Kahana. My roots are deep in the Kahana heritage and culture going back to the 1800's.

Since my return from the military, I have always gone back to Kahana, my homeland. The past 12 years, I have worked the lo'i that once belonged to my father. I do not live in Kahana, but I return to my 'aina every day to listen to the land and talk story with the plants. I have lo'i up the mountainside and often host students who visit Kahana valley.

I am providing my testimony to emphasize that I have lineage in Kahana, I continue work and give back to Kahana, and I want to have the opportunity to return to Kahana and live.

Throughout the discussions and details of the bills presented in this years legislation, not once did I hear any reference of taking care of the kupuna or providing the opportunity for kupuna like me to return to our lands to live. I would like the words changed to include people who once lived in Kahana to have the opportunity to come back to our lands. If truly the intent is to perpetuate our culture, then kupuna like myself should be more visible and existent in the community. We should have a level of priority to the new residential leases. The opportunity to reside in Kahana can provide numerous chances to educate and share with the younger generation.

I am lucky if I have another 15 more years to live, but please provide a fair opportunity for me to reside in the community. Unfortunately, malama I ke kupuna was a huge oversight on everyone's part, but I am asking to reconsider and include the language in your bill so that I can come back home to Kahana.

Mahalo for your time,
Clinton Gorai

Representative Ken Ito, Chair
Representative Sharon E Har, Vice Chair
Committee of Water, Land and Ocean Resources

LATE TESTIMONY

Ben Shafer
52.210 Kamehameha Highway
Kahana Bay, Hawaii 96717
808.222.3138

February 9, 2009

RE: Support of HB 1552, Relating to Public Lands

Aloha Kakou,

I am a resident of the Ahupua'a O' Kahana Cultural Living Park and I strongly support HB 1552. In doing so, authorizing BLNR the issuance of residential leases to qualified families and establishing a planning council to develop a Master Plan for the Ahupua'a.

I hope you will join us in taking the necessary steps to making the Hawaiian Cultural Living Park a reality.

If there are any questions, that I could be of assistance, please feel free to contact me.

Mahalo nui loa,

Ben Shafer

TESTIMONY OF Dr. JIM ANTHONY, a resident of Kahana

on **HB 1552**. Omnibus Testimony: applies in part to House Bills 372, 765 and 766 and also to Senate Bill 639.

"Kahana residents are frustrated, angry, and to some degree unmotivated due to a long history of unsuccessful dealing with the State of Hawaii as perceived by the residents.

"We have been planned to death, but nothing ever happens." -LRB Study, 2001.

I **oppose** the Bill in its present form and offer the following comments on it and suggestions as to how and why it should be changed.

The major overarching problem with this Bill, and indeed all of the Bills related to it, either directly or indirectly, is whether this is yet another attempt at special legislation in violation of Article XI, Section 5 of the Hawaii State Constitution. On its face, that part of this Bill (and all of the others) which seeks to authorize new long-term leases on parcels of land within Kahana Valley, appears, in my view, to be unconstitutional. (See Attorney-General's opinion submitted to House Committee on Water and Land, March 17, 2008, attached and marked as Appendix 1.) It is relevant to also keep in mind the Testimony of the Chairperson, DLNR submitted to the House Committee on Water, Land, Ocean Resources and Hawaiian Affairs, March 17, 2008 (attached hereto as Appendix 2).

Other issues:

1. p. 2, lines 6-13: This does **not** accurately set out the position of the "six other families" (the ones now facing the threat of eviction). See my comments at the end of this testimony (on Section 7 of HB 1552) where I set out at length the history of the "six other families" and how I suggest that issue should be addressed.
2. p.5, Section 4 (2), lines 10-12: The Kahana Community Association has long been dysfunctional. It is presently in violation of its own by-laws—all four of its officers are

currently holding office illegally, in breach of its by-laws. No small part of Kahana's problems can be justifiably laid at the door of the Kahana Community Association. ***It would be very unwise to give the power of appointing three of the five members of the Planning Council to an illegal sitting President of a failed, dysfunctional community association. A responsible alternative would be to provide for three members from the community of Kahana lessees to be elected by secret ballot supervised by, say, the League of Women Voters or someone similar.***

3. One cluster of issues that the proposed Planning Council must address is that related to matters embedded in the leases that were signed in 1993. This is a crucial part of any comprehensive review and HB 1552 is deliberately designed to be 'comprehensive' as opposed to being single issue oriented as the Senate Bills are.

4. HB 1552 ought to be amended so as to make clear that the Planning Council, in its deliberate judgment discuss and make recommendations on such matters as:

- looking into the claims of the descendants of kuleana landowners who have ancestral ties to Kahana
- into claims of the descendants of former occupants/owners of land in Kahana who have left and now wish to return
- into the recently announced 'Recreational Renaissance' initiatives announced by the Governor and the Director of the Department of Land and Natural Resources

To make HB 1552 work there must be an allocation of staff to assist the Council in getting its work done. This means an allocation of money to provide for staff and other incidental administrative expenses.

5. On the so called "moratorium"--- Section 7 of HB 1552 page 9, lines 16-21 and page 10, lines 1-2:

Background:

This section allows, in fact encourages, the six illegal residents on public land to remain where they are on an extended, perhaps, open ended basis. This is unwise.

Three of the illegal residents, the Kahalas, are long time residents who, as I understand it, through no substantial fault of their own, "fell through the cracks" of the lease allocation system and family politics but were, nonetheless, given a chance to get a lease if they could get financing to build a home (***See Division of State Parks Submittal dated April 1, 2005 approved***

as amended by the Board of Land and Natural Resources on 4/1/05 attached as Appendix 3).

They tried, procrastinated and ultimately fell victim to the AG's opinion of March 24, 2008. In a sense the Kahalas fall into a different category from the other three—one of whom (Thoran Evans) had a lease, gave it to his sister who defaulted and then lost the lease; the other two, Soliven and Sherry Johnson, cousins, are in illegal occupation of houses not up to Code and left vacant by their respective mothers when they (that is, their mothers) moved to other leased lots in Kahana. The staff of Parks made the critical error of not having these houses demolished before new leases were issued. The resulting legacy is what the taxpayers of Hawaii have inherited.

Keep in mind that four of the residents threatened with eviction have been in Kahana for most of their lives (from 20 plus years to over thirty), one has been illegally living in Kahana for at least two years (Sherry Johnson, who moved in to where she now lives, after her brother moved out) and one, Soliven, for upwards of ten years. All of the threatened evictees do not pay property taxes (like regular lessees) or any kind of rent and the State cannot require them to do 25 hours of in kind services because they have no lease, no contract. This is a situation that is bad for the illegal residents and their families in as much as their lives are in a constant state of uncertainty and since they do not pay property taxes or are compelled by contractual obligations to perform the 25 hours of work that all lessees have to do, the illegal residents have a discriminatory advantage. This is one of the sources of friction and frustration in Kahana—between lessees who follow the law and illegal residents who do not. Lessees who follow the law feel for their neighbors who do not have a lease but are nonetheless frustrated. The time has come to remedy this situation without further delay if it can be done legally, consistent with existing law and not in violation of the State's Constitution (Article XI, Section 5).

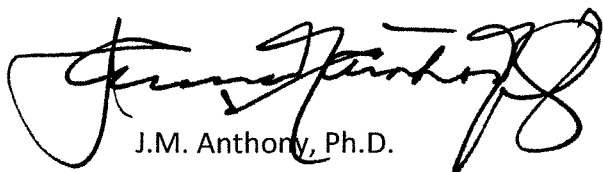
A more equitable approach, considering the background sketched in the preceding paragraph, would be to do the following:

- i. As soon as this Bill becomes an Act, there will be a six month period during which any person now living in Kahana, 18 years or older, may apply for a long term lease of not less than 65 years and shall be granted one provided such applicant can provide proof of having at least \$50,000 with which to build a house within twelve months from the date of approval of a lease. The procedure would be simple: provide proof of funds being available together with plans and specifications to build a house. Applicant enters into agreement to complete building a house in 12 months. If applicant fails to do so, lease gets cancelled and applicant has to vacate leased area. ***This Bill should be amended accordingly.***

- ii. This Bill will have to provide authority to DLNR to issue leases such that leased lots can be encumbered by conventional 30 year mortgages unlike all other leases in Kahana although this will set up a double standard. Lessees must, of course, qualify for a loan as any other applicant for a mortgage must. This was the point that Senator Hee drove home when he spoke to members of the Community Association and others on December 9, 2008. "I will make it possible for you to get a lease, but you must find the money to build a house," is what the Senator stated clearly and emphatically to the residents threatened with eviction. **This also calls for further amendment of the Bill as it now stands.**
- iii. By opening up new leases to all eligible Kahana residents the Bill gets further away from being special legislation and simply reopens what Act 5 provided in the first instance although what is being urged here is a modification of the narrow approach taken in Act 5 (approved 4/13/87, almost 22 years ago). This broader approach is a recognition of, and a concession to, changed times and circumstances. And, most importantly, provides a more immediate remedy rather than one that is possessed of uncertainty and is open ended and that is passed on to the Planning Council for action at some indeterminate time in the future.
- iv. A major caveat is that the total number of leases in Kahana will not, until the Planning Council acts, and the Board of Land and Natural Resources approves the Comprehensive Action Plan (so called "Master Plan"), to exceed 31.
- v. This approach draws on, and is consistent with, the provisions of the Bill on page 3, lines 11-14 and page 4, Section 3 (1), lines 16-19.
- vi. All of this depends on whether this part of the Bill is constitutional as stated at the very beginning of this submission.

Much of what has come to be a part of HB 1552 is the result of lengthy discussions between Representative Wooley, her staff and stakeholders in Kahana, both lessees and other residents. I am deeply appreciative of this process of close and honest consultation.

I am strongly opposed to HB 765 partly because substantial parts of its contents were not the subject of similar consultation as occurred in the case of what is in HB 1552.



J.M. Anthony, Ph.D.

February 1, 2009

52-196 Trout Farm Road

Kahana, Hawaii 96730
drjant@aol.com

Attachments: as listed—

1. Testimony of the State Attorney-General to the House Committee on Water and Land, March 17, 2008 (3 pp.)
2. Testimony of the Chairperson, DLNR, before the House Committee on Water, Land, Ocean Resources and Hawaiian Affairs, March 17, 2008 (2 pp.)
3. Division of State Parks Submittal on New Residential Leases at Ahupua'a o Kahana State Park approved as amended by the Board of Land and Natural Resources on April 1, 2005 (4 pp. with Exhibit A)

kahanaHB1552.012909



**TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FOURTH LEGISLATURE, 2008**

ON THE FOLLOWING MEASURE:

S.B. NO. 3, S.D. 1 RELATING TO KAHANA VALLEY STATE PARK.

BEFORE THE:

HOUSE COMMITTEE ON WATER AND LAND

DATE: Monday, March 17, 2008 **TIME:** 9:00 A.M.

LOCATION: State Capitol Room 312

Deliver to: Clerk, Room 427, 3 copies

TESTIFIER(S): Mark J. Bennett, Attorney General
or William J. Wynhoff, Deputy Attorney General

Chair Ito and Members of the Committee:

The Department of Attorney General opposes this bill and believes it would be unconstitutional if enacted.

This bill would authorize issuance of long-term leases on additional parcels of land within Kahana Valley.

Article XI, section 5 of the Hawaii Constitution provides:

The legislative power over the lands owned by or under the control of the State and its political subdivisions shall be exercised only by general laws, except in respect to transfers to or for the use of the State, or a political subdivision, or any department or agency thereof.

No Hawaii case deals with article XI, section 5. One formal opinion from this department addresses it. In our Opinion No. 61-38, at page 2 (fn. omitted), we said:

[I]t is clear that once land was "owned by the State or under its control," the framers of the Constitution intended that it be distributed by means of general laws and to prohibit its dissipation "through private, or special laws". (Vol. 1, Proceedings of the Constitutional Convention of Hawaii, pp. 233, 336.)

The impetus for adoption of article XI, section 5 appears to have been "special land exchange deals or things of that nature which as we know in the past have definitely caused a considerable loss to the Territory." 2 Proceedings of the Constitutional Convention of Hawaii of 1950, at 631 (1961). The committee report refers to "dissipation of assets by land exchanges under private laws or by homestead laws governing a particular tract of land." Stand. Comm. Rep. No. 78, 1 Proceedings of the Constitutional Convention of Hawaii of 1950, at 233 (1960). Although land exchange deals and homestead laws governing particular tracts of land appear to have been foremost in the minds of the delegates to the 1950 Constitutional Convention, the constitutional proposal they agreed to was not limited to those transactions. The committee report instead states "in administering and disposing of the natural resources the legislature must do so by general law." Id. Intergovernmental transfers were the only exceptions provided. Id.

S.B. No. 3 is (plainly) the product of the exercise of legislative power and involves land owned by the State. The bill does not fall within the exception clause of article XI, section 5, because it does not involve an intergovernmental transfer.

S.B. No. 3 is not a general law because the bill singles out one parcel of land in a specific locale. We believe that S.B. No. 3 is an exercise of legislative power over the lands owned by the State by special, not general, law and is, therefore, unconstitutional. We opposed a similar bill, H.B. No. 1664, in 2006 for similar reasons.

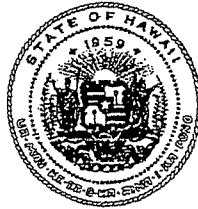
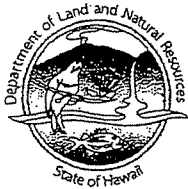
It does not appear that this problem can be solved by amendment, because the title to the bill requires that it relate to Kahana Valley.

Aside from the problems with the constitutionality of the measure, the bill describes qualified lessees as "persons who reside and have continually lived in the state park since before 1987 in a culturally and appropriate manner and have served as caretakers of the state park." We know from past experience that this definition will be difficult to interpret and apply. What evidence could prove or disprove that a person has "continually" lived in the park since 1986? What about, for example, persons who lived elsewhere during time spent in military service or in college?

In addition, the phrases "culturally and appropriate manner" and "served as a caretaker of the state park" are inherently ambiguous. If these phrases are intended to impose additional qualifications beyond living in the park since 1986, they should be defined or clarified. During what part of the time must the person have been a caretaker of the park? How would the phrases apply to a person in his or her twenties who was a child during most of the relevant time?

The Department of Attorney General believes that this bill should be held.

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

LAURA H. THELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

TESTIMONY OF THE CHAIRPERSON
OF THE BOARD OF LAND AND NATURAL RESOURCES

On Senate Bill 3, Senate Draft 1 – RELATING TO KAHANA VALLEY STATE PARK

BEFORE THE HOUSE COMMITTEE

ON

WATER, LAND, OCEAN RESOURCES AND HAWAIIAN AFFAIRS

March 17, 2008

Senate Bill 3, Senate Draft 1 provides for additional families to reside in Kahana Valley State Park by lease agreement, and establishes an advisory committee to, among other things, monitor compliance with the agreements. The Department of Land and Natural Resources (Department) opposes this bill because of the cost implications generated by this proposal and the negative impact on the primary park purpose of Kahana Valley (Kahana), which is to provide public access to parks – not private restricted uses.

The State acquired 5,228 acres encompassing the entirety of the Kahana ahupua'a in 1969 to preserve the natural setting of the ahupua'a and to provide public recreational opportunities. The "Living Cultural Park" concept was proposed in 1972 as a way for the people living in Kahana at the time of the State's acquisition to continue to live in Kahana and provide cultural interpretive programs for park visitors. Act 5, Session Laws of Hawaii (SLH) 1987, authorized the Department to enter into 65-year residential leases with families living in Kahana on permit. To qualify for a lease under this Act, one must have lived continuously in Kahana since before 1970 until 1987. The census conducted in 1987 determined that 31 families qualified for leases. Act 238, SLH 1988, provided state funds for mortgages to construct new houses in the Park. The appropriation was sufficient for 26 lessees to receive \$50,000 mortgages each. In lieu of lease rent, each lessee is required to perform 25 hours of interpretive service each month. The 31 residential leases were executed in 1993.

Many Kahana lessees began construction of their houses by 1995, and most have completed construction or renovated their house. A few houses remain uncompleted or have not been started. Between 2003 and 2005, the Department for non-compliance with the lease conditions forfeited three (3) leases, and one lease was assigned to a new lessee through foreclosure.

The bill does not provide a cap on the number of leases for Kahana, which could be problematic. If the number of leases is not limited, the natural setting of the Park may be jeopardized and there are cost implications with the infrastructure needed for these new residences. The Department understands that families grow with each generation, but it was not envisioned that

the park would provide housing for all the children of the original lessees. Expanded housing will not necessarily benefit the goals of the Park, which are public recreation and preservation of the natural setting.

The Department believes that 31 leases are adequate for the implementation of an interpretive cultural park program. Currently, about half of the lessees are in default on the performance of their interpretive hours. While public interest in interpretive programs has grown, the park program has been limited to one or two school groups a month based on the availability of residents to participate in these programs.

The State has spent over \$1 million in capitol improvement program funds to develop the infrastructure for the two residential areas in the park, including paved roads, graded 10,000 sq. foot lots, leach fields, and utilities. There is one full-time staff position in the Department's Division of State Parks overseeing lease compliance and interpretive programs at Kahana. All this cost comes at the expense of the public parks and public access.

The establishment of a Kahana advisory committee appears to duplicate many of the tasks of the interpretive advisory committee and Kokua Committee, two entities already established in compliance with the lease. It may be more beneficial to expand the function of these two groups, rather than establish another entity with overlapping purposes.

The bill calls for leases not to exceed 65 years to conform with previously issued leases at Kahana under Act 5, SLH 1987. However, in considering any issuance of new leases, the Department would recommend that the bill be amended to have all residential leases terminate in 2058, which is 65 years from 1993 when the 31 original leases were signed.

The Department does not support additional leases at Ahupua'a 'O Kahana State Park because it will require an appropriation of state funds for infrastructure and mortgages. Additional residents do not necessarily mean a better interpretive program, and the management of more leases will be a burden on the existing park staff assigned to Kahana. Continuing efforts to develop a viable interpretive program with the existing lessees is the preferred course of action, not more leases.

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawai'i 96813

April 1, 2005

Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

SUBJECT: New Residential Leases at Ahupua'a 'O Kahana State Park, O'ahu

The Land Board approved the forfeiture of three (3) residential leases at Ahupua'a 'O Kahana State Park between 2003 and 2005. The Department of Land and Natural Resources has the authority to enter into new leases for the lots formerly covered by the forfeited leases with individuals who qualify for a lease in Kahana.

Background

A list of 31 families living in Kahana in 1970 was formulated as a basis for determining the families that would be allowed to continue to live in the park. The Land Board approved revocable permits (R.P.) for those 31 families at its November 8, 1985 meeting. In 1987, the Hawai'i Legislature enacted Act 5 which established the State's authority to negotiate and enter into long-term leases at Kahana with these 31 families. Act 238, SLH 1988 appropriated \$1.36 million for the issuance of mortgage loans up to \$50,000 each for the construction of new houses. The mortgage loans are administered by the Housing and Community Development Corporation of Hawaii (HCDCH).

On July 24, 1992, the Land Board approved the issuance of 31 long-term residential leases at Ahupua'a 'O Kahana State Park, formerly known as Kahana Valley State Park, in accordance with Act 5, SLH 1987. The leases were signed in June 1993 to implement the "cultural living park" concept with residents providing 25 hours of interpretive programs each month as a lease rent. Lessees were also required to construct new houses to be completed by February 15, 1996. At present, five (5) houses remain uncompleted.

On March 24, 2000, the Land Board terminated one residential lease for defaults that included a lack of progress on the construction of a new house and non-performance of interpretive hours since January 1999. Another two (2) leases were forfeited on October 26, 2001 for similar defaults.

In November 2000, the Land Board approved a new lease for the one forfeited in March 2000. This lease was never executed because on November 6, 2001, a lawsuit was filed against DLNR. The complaint in the lawsuit stated that proper procedures for dispute resolution as outlined in the lease were not followed prior to the forfeiture. At its meeting on March 8, 2002, the Land Board rescinded all three of the lease forfeitures. The Board also rescinded approval of a new lease.

The Division of State Parks began the dispute resolution process with the three (3) lessees in April 2002. The Kahana Kokua Committee participated in the dispute resolution by trying to assist these lessees with the resolution of their defaults. The lack of performance resulted in the Land Board's forfeiture of these same three on October 24, 2003, May 14, 2004, and January 28, 2005.

as amended
Approved by the Board of
Land and Natural Resources
at its meeting held on

4/1/05

ITEM E-1

-2-

Qualifications for New Leases

An opinion from the Department of the Attorney General dated May 28, 2002, stated that the qualifications in Act 5 apply when the State enters into a new lease of property covered by a forfeited lease. Act 5 states that a lessee shall have lived continuously in Kahana since before 1970 until 1987, the date when Act 5 was enacted.

State Parks announced that applications for a new lease at Kahana would be accepted until June 1, 2004. The qualifications of the 27 applications received in 2000 and 2004 were evaluated and nine (9) applicants were found to qualify according to Act 5. Three (3) of these applicants are currently living in Kahana on a revocable permit, one is living in Kahana without a permit, one is living in the household of a Kahana lessee, and four (4) grew up in Kahana, but do not currently reside in Kahana. Since June 1, 2004, three other persons applied and they qualify according to Act 5. This makes a total of twelve (12) qualified applicants.

Expectations of New Lessees

For two (2) of the leases currently available at Kahana, the new lessee is expected to construct a new house on the assigned lot. In the case of the third lease, the lessee may construct a new house or bring the existing house up to code. Because the State funds appropriated for mortgages in 1988 have been expended, new leases will not be executed until a qualified applicant is able to show proof of funding and resources to construct a new house. A new lessee will be expected to complete the construction of a new house within one year from the signing of the lease. Infrastructure to the three lots has already been constructed, but the lessee must provide septic tank and utility hook-ups.

The other expectation is that the new lessee will begin performing interpretive program hours within one year from the signing of the lease. Existing lessees did not have to perform their 25 interpretive hours for one year while constructing their houses. Each applicant was asked to complete a questionnaire about their interpretive skills and knowledge as a way of evaluating their participation in the park interpretive program.

Preferences for New Leases

In 2000, State Parks worked with the Kahana residents on developing preference criteria for the selection of new lessees. It was agreed that preference would be given to those currently living in Kahana without a lease.

Preference #1. R.P. were issued in 2000 to the three (3) individuals living in Kahana who were most qualified for a new lease. They all meet the qualifications of Act 5, and on February 4, 2005, these three (3) qualified applicants were asked to show proof that they could obtain a mortgage or other financial resources to construct a new house. Because the three leases will involve house construction, this funding is being required before requesting the Land Board's consent to a new lease. Applicants were given 60 days to identify funding resources (April 1).

Preference #2. There is one (1) qualified applicant living in Kahana with a lessee who submitted her application before the deadline.

Preference #3. There are four (4) qualified applicants not living in Kahana, but who meet the qualifications of Act 5.

Preference #4. There are two (2) qualified applicants living in the household of a lessee and one (1) qualified applicants living outside Kahana who submitted their applications over 6 months after the June 2004 deadline.

Preference #5. There is one (1) applicant residing in Kahana without a R.P. He held a lease, but assigned it to his sister in 1997. This lease was forfeited by the Board on May 14, 2004.

-3-

Consideration was also given to a lottery of all the qualified applicants. Because the goal is to phase out all the revocable permits for residential purposes, State Parks prefers to give preference to those living in Kahana on a permit. However, a lottery may be used when applicants are equally qualified or for the selection of lots.

RECOMMENDATION:

That the Board approve the preference criteria outlined above and the following procedures for new residential leases at Ahupua'a 'O Kahana State Park:

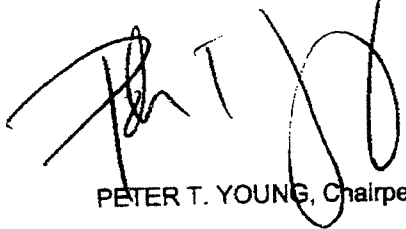
1. First preference for new leases will be given to those individuals who meet the residency requirement of Act 5, SLH 1987 and currently reside in Kahana on a R.P. for residential purposes, subject to their ability to secure funding for the construction of a new house. If it is determined that they cannot construct a new house and will not receive a lease, their R.P. will be terminated.
2. If any of the qualified applicants on R.P. are unable to secure the required funding and resources to construct a new house, those qualified applicants in the Preference #2 and #3 categories will be given the opportunity to show proof of funding for the construction of a new house. From those able to show proof of funding, selection will be based on preference category. If there should be more than one applicant in Preference #3 meeting all the requirements, the Chair of the Board or his designee shall conduct a lottery to select a new lessee.
3. If any of the three lots remain available for lease, those qualified applicants in Preference #4 will be given the opportunity to show proof of funding for the construction of a new house. If there should be more than one applicant in Preference #4 meeting all the requirements, the Chair of the Board or his designee shall conduct a lottery to select a new lessee.
4. Qualified applicants living in Kahana without a lease or a R.P. will be given notice to vacate the park within 60 days. This excludes qualified applicants living in the household of a lessee.

Respectfully submitted,



DANIEL S. QUINN
State Parks Administrator

APPROVED FOR SUBMITTAL:



PETER T. YOUNG, Chairperson

AMENDMENT:

The Board amended the Recommendation Section as follows:

1. Page 2, "Preferences for New Leases", Preference 1, last sentence "Applicants were given [60] 120 days to identify funding resources ([April] June 1)."

ACT 5

H.B. NO. 1494

A Bill for an Act Relating to Public Lands.

16

ACT 5

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and purpose. The legislature finds that Kahana Valley State Park possesses unique historical and natural resources and persons long associated with Kahana Valley who are knowledgeable and qualified to interpret for the general public the significance of these resources for the public's benefit and enjoyment. Accordingly, the purpose of this Act is to authorize the department of land and natural resources to directly issue long-term residential leases to those qualified persons now residing in Kahana Valley on the condition that these qualified persons participate in Kahana Valley State Park's interpretive programs for the public.

SECTION 2. The department of land and natural resources is hereby authorized to negotiate and enter into long-term residential leases not to exceed sixty-five years in duration with persons who meet the following criteria:

- (1) Persons who at the time of enactment of this Act reside in Kahana Valley on land acquired for Kahana Valley State Park and have lived continuously on this land since before 1970; or
- (2) Persons who on the effective date of this Act have permits issued by the department of land and natural resources allowing them to reside on designated parcels of land acquired for Kahana Valley State Park.

SECTION 3. In exchange for the State's long-term leases, all qualified persons shall agree to be an essential part of the interpretive programs in Kahana Valley State Park as directed by the department of land and natural resources. The department of land and natural resources is required to establish a monitoring system and enforcement mechanism to insure compliance with these agreements.

SECTION 4. The lands eligible for long-term residential lease negotiations under the provisions of this Act are limited to those located in tax map key parcels 5-2-01:1, 5-2-02:all, and 5-2-05:1 and 21, situate at Kahana Valley and as further determined by the board of land and natural resources.

SECTION 5. The department of land and natural resources is authorized to subdivide and provide for the creation of a residential subdivision in Kahana Valley for persons who receive long-term leases under the provisions of this Act, which shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to zoning and construction standards for subdivisions, the development and improvement of land, and the construction of units thereon; provided that the department of land and natural resources finds the project is consistent with the findings and purpose of this Act and the project meets minimum requirements of health and safety; and provided further that no state funds shall be expended in the relocation or construction of these residences authorized under the provisions of this Act.

SECTION 6. Notwithstanding any other law to the contrary, including chapter 171, Hawaii Revised Statutes, the department of land and natural resources is authorized to negotiate and enter into lease agreements in accordance with the provisions and limitations of this Act; provided that the authority granted by this Act shall expire (1) when leases have been negotiated and recorded in the bureau of conveyances for all parcels meeting the criteria in this Act, or (2) on January 1, 1992, whichever occurs first.

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SECTION 7. This Act shall take effect upon its approval.

(Approved April 13, 1987.)

EXHIBIT A

LATE TESTIMONY

HB 1552
February 9, 2009
9:00am Room 325

Honorable Chairman and committee members of the Water, Land, and Ocean Resources,

My name is Clinton Kanahale "Nana" Gorai. I was born in 1932 in Kahana. Growing up in Kahana has provided me many opportunities and knowledge from the mountain to the sea. I am a fisherman, a crafter, and a taro farmer.

In 1968, I was called to active duty and served in the United States Army for 20 years. My family continued to live in Kahana. My roots are deep in the Kahana heritage and culture going back to the 1800's.

Since my return from the military, I have always gone back to Kahana, my homeland. The past 12 years, I have worked the lo'i that once belonged to my father. I do not live in Kahana, but I return to my 'aina every day to listen to the land and talk story with the plants. I have lo'i up the mountainside and often host students who visit Kahana valley.

I am providing my testimony to emphasize that I have lineage in Kahana, I continue work and give back to Kahana, and I want to have the opportunity to return to Kahana and live.

Throughout the discussions and details of the bills presented in this years legislation, not once did I hear any reference of taking care of the kupuna or providing the opportunity for kupuna like me to return to our lands to live. I would like the words changed to include people who once lived in Kahana to have the opportunity to come back to our lands. If truly the intent is to perpetuate our culture, then kupuna like myself should be more visible and existent in the community. We should have a level of priority to the new residential leases. The opportunity to reside in Kahana can provide numerous chances to educate and share with the younger generation.

I am lucky if I have another 15 more years to live, but please provide a fair opportunity for me to reside in the community. Unfortunately, malama I ke kupuna was a huge oversight on everyone's part, but I am asking to reconsider and include the language in your bill so that I can come back home to Kahana.

Mahalo for your time,
Clinton Gorai



808 237-1144
HALEKUA HI 96717

LATE TESTIMONY

February 9, 2009

Representative Ken Ito, Chair
Representative Sharon E. Har, Vice Chair and Members
Committee on Water, Land, & Ocean Resources

RE: Support of H.B. 1552 Relating to Public Lands

Aloha Kakou,

The Ko'olauloa Hawaiian Civic Club is the second oldest Club of the O'ahu Council of the Association of Hawaiian Civic Clubs and was formed on June 14th, 1924. We have a membership of nearly 125 members and the objectives of our club include taking an active interest in the civic, economic, social and moral welfare of the community, particularly the people of Hawaiian ancestry therein, and to support programs which benefit them and the community at-large. We also promote the theory and practice of the principles of good government and good citizenship.

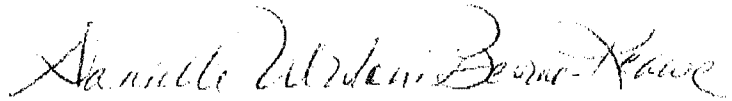
The Ko'olauloa Hawaiian Civic Club has many members which are residents of the Kahana Valley State living park and are concerned about the issues presently affecting the people in our community.

We would like to support the authorizing of the Department of Land and Natural Resources to issue leases to those living on the land for the last ten to fifteen years on revocable permits and allow them to participate in the interpretive park programs other lessees commit to benefit the public. We also support the Planning Council for the development of a Master Plan that would provide clarity, visions and goals for the living park. This would include a "land manager" and other measures of managing the living park.

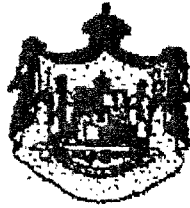
We are also supportive of the Planning Council reviewing all plans already submitted, however never adopted or approved by DLNR, which includes the People's Plan of 1979 and the Development Plan of 1985.

Again, we support H.B. 1552 and recommend its passage.

Mahalo

A handwritten signature in cursive script that reads "Danielle Ululani Beirne-Keawe".

Danielle Ululani Beirne-Keawe, President



LATE TESTIMONY

OAHU COUNCIL

Association of Hawaiian Civic Clubs

February 9, 2009

Representative Ken Ito, Chair
Representative Sharon E. Har, Vice Chair and Members
Committee on Water, Land, & Ocean Resources

RE: Support of H.B. 1552 Relating to Public Lands

Aloha Kakou,

The O'ahu Council of the Association of Hawaiian Civic Clubs is comprised of 24 Hawaiian Civic Clubs on O'ahu, Hawai'i. The O'ahu Council was formed in 1959 after the first Convention of the Association of Hawaiian Civic Clubs held at the Princess Kaiulani Hotel in the same year. The Association of Hawaiian Civic Clubs is the oldest community-based grassroots native Hawaiian organization in Hawai'i, having been formed in 1918 by the then Delegate to the United States Congress, Prince Jonah Kuhio Kalaniana'ole.

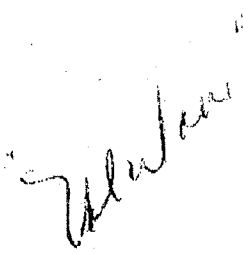
The purpose of this organization is to provide guidance and to assist in the activities of all Hawaiian Civic Clubs on the Island of O'ahu. Another purpose is to advocate positions adopted by the Association of Hawaiian Civic clubs at their Annual Convention or as approved by the Council. Lastly, we promote the self-determination and self-governance of the native Hawaiian people.

On behalf of the O'ahu Council of the Association of Hawaiian Civic Clubs, I am submitting testimony to support H.B. 1552 to authorize the Department of Land and Natural Resources to issue leases to residents living in the Kahana Valley State Living Park, previously on revocable permits. DLNR's authority with Act 5 expired in 1993; therefore, legislation is needed at this time. This legislation also provides for the development of a Master Plan with a Planning council that will take into

consideration the People's Plan of 1979 and the Development Plan of 1985 and other plans pertinent to the process.

Mahalo for all consideration to pass H.B. 1552.

Danielle Ululani Beirne-Keawe, Government Relations Chair

A handwritten signature in black ink, appearing to read "Ululani", is written diagonally across the center of the page.

February 9, 2009

LATE TESTIMONY

Danielle Ululani Beirne-Keawe
P.O. 653
Kane'ohe, Hawai'i 96744

Representative Ken Ito, Chair
Representative Sharon E. Har, Vice Chair and Members
Committee on Water, Land, & Ocean Resources

RE: Support of H.B. 1552 Relating to Public Lands

Aloha Chair Ito and Members,

I would like to take this time to thank our new Representative Wooley for the introduction of this legislation relating to the issues in Kahana Valley State Park. It is long overdue as four years straight legislation has passed the Senate and not scheduled in the House, so therefore I would like to thank you Chair Ken Ito for scheduling H.B. 1552 for this hearing this morning and pray your Committee will support this bill with its passage as soon as possible.

This H.B. 1552 is sorely needed to correct issues having to do with leases in Kahana Valley State Park for those allowed to remain living on the land on revocable permits for the last ten to fifteen years and were not qualified for leases for one Department of Land and Natural Resources administrative rules or another. This legislation authorizes the DLNR to issue new leases in Kahana Valley State Park as Act 5 has sunset to do this in 1993. This legislation also establishes a Kahana planning council to develop a Master Plan for the Kahana Valley State Park that has never been realized even though many have been written but none have been adopted nor approved by DLNR.

I also support a "Land Manager" working with a park program coordinator who has the knowledge of land management and planning and the ability to work cooperatively with the State, residents, the public and is a "traditional practitioner" of native Hawaiian values and culture.

As you are aware, I am a lessee and resident in Kahana Valley State

Park, and I do my interpretive park program hours as required by Act 5, which gives me the opportunity to work on numerous programs and projects over the last nearly forty years with my Dad, Daniel Beirne, now deceased and my sisters and brother, my children, grandchildren and now raising my great-children.

My daughter Nohealani teaches in Waianae and speaks Hawaiian and my grandchildren all speak Hawaiian too, with Kahiau teaching the keiki at Punana Leo O Ko'olauloa and Kawehi teaching at Kula Kaiapuni O Hau'ula and this semester at Puohala Elementary School on her Practicum for a teaching degree. They have been taught to work in the taro loi, work at Huilua Fishpond for many years, while my own siblings and children all worked on building of our canoes and racing in the canoe races.

I also have many workshops with another lessee Pualoke Dela Cerna who teaches our residents how to make Hawaiian implements, lauhala weaving, ukulele lessons and other residents who share many other talents. I share these with this Committee as an example of the kinds of cultural activities we as lessees contribute to the Kahana Valley State living park for the benefit of the public.

There is no doubt that Kahana Valley State Living Park lacks a viable Master Plan, however I would like your Committee to know that there are over 49 reports on Kahana with a number of them offered as Master Plans, however the more simplified ones are those representing the People's Plan which was offered in 1979 and the Development Plan offered in 1985. I feel that all plans need to be reviewed and a Planning Council with those having the knowledge in this area be considered to be on the Council. I also support a Planning Council versus an Advisory Council because Kahana has been over-advised by many outside influences and we need to start getting busy on planning our own future, after all, we are the ones to carry out any Master Plan approved by DLNR.

I feel that this legislation has been written to address the immediate issues of the leases, and also the issues of the Master Plan forgotten after nearly thirty years, due to lack of funding or perhaps those at the time serving with DLNR that did not have the foresight that one was needed.

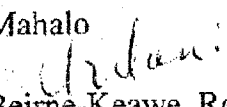
Again, I support H.B. 1552 with a few suggestions rather than

amendments because my concerns are dealing with the following in Section 3. 1) Persons who at the time of enactment of this Act reside in a state living park and are contributing their time to benefit a state living park. (The six residents were not required to contribute to twenty-five "in-kind" service hours as revocable permit holders, and contributed when their services were needed.) I support those receiving their lease as soon as possible so as they may contribute their time to benefit the public. Each one should be able to share what they contributed when called upon as ten to fifteen years is a long time to live in Kahana without a lease. 2) This section refers to persons who qualify as lessees under Act 5, SLH, 1987. (This section tells me that anyone living in Kahana at the time of Act 5 in 1987 also qualifies for a lease and can also apply for a lease, which means that in 1970 when the residents were allowed to live in a State Living Park up until 1987, others on the waiting list may also qualify.) 3) OTHER QUALIFIED PERSONS WHO MAY BE IDENTIFIED IN THE LIVING PARK MASTER PLAN APPROVED BY BLNR.

Well, I want to know how many leases besides the 31 original leases and now the numbers are 35 by DLNR, how many more can we look forward too. For me personally, every resident is important for our community to be able to do our programs more effectively. They need to feel included and committed to benefit the public, however the home base needs to be solid.

I believe that Section 3 should prioritize those that are living on the land and are the lineal descendants from the traditional families of the Ahupua'a O Kahana first, and then the following with those that qualify that were living in Kahana but displaced for reason, military, marriage, or either a brother or sister was considered before them, and the qualifications should take into consideration all matters pertinent to functioning of the families in order to be of benefit to the public. I believe that one needs to show their lineal ties to the Kahana Valley State Living Park. Again, even with my concerns, I think this is the most favorable legislation introduced to "fix the pilikia" in Kahana. I thank you for your time and support the passing out of H.B. 1522 from your committee as soon as possible.

Mahalo


Danielle Ululani Beirne-Keawe, Resident

February 9, 2009

David Haili Keawe
P.O. 653
Kane'ohe, Hawai'i 96744

LATE TESTIMONY

Representative Ken Ito, Chair
Representative Sharon E. Har, Vice Chair and Members
Committee on Water, Land, & Ocean Resources

RE: Support of H.B. 1552 Relating to Public Lands

Aloha Chair Ito and Members,

I am a resident of Kahana Valley and I have been involved with many different cultural programs and projects with the Beirne 'Ohana. I support H.B. 1552, which would authorize the issuance of residential leases in living parks such as Kahana valley state living park and also the establishing of a planning council to develop a master plan by reviewing all plans available from 1970 up to the present time with no cost to the state.

I support authorizing the Department of Land and Natural Resources to issue leases in any state living park as long as the residents share their talents and contribute 'ohana time" to benefit the public which includes the schools and universities and various organizations, even our keiki. I feel the residents of Kahana do a wonderful service in the sharing of their values and cultural heritage.

Every family in the Kahana Valley State Living park can trace their genealogies from time immemorial to show their lineal ties to this Kahana we call home. I know each 'ohana in Kahana and have much aloha for each of them and respect each of them. No one said life was going to be easy, all we need is to do our part.

I am here today, to try to make a difference, in how we all need to malama each other, that is the way of the Hawaiian. There is no other state that share the aloha like us, as Hawaiians. Lets all be mindful of each others needs and try our best to kokua.

Give those that are affected the tools they need to live a better and

more productive life even in the giving back to the public, the more you give the more you receive.

I had the opportunity to craft our own canoe, coach the canoe club in Kahana, plant many kalo loi with my 'ohana, work many hours restoring Huilua fishpond as well as malama 'aina, raise our own pua'a. And more recently, kokua our project with hula implements, i.e crafting ipu, uliuli, pu'ohe, pu'ihu and lauhala crafts with my family. I even tried my hand at planting ipu/gourds and my tropical flowers, banana and papayas are all good. As a kupuna, it was all work experiences I will always cherish and which I am able to share.

I believe that this is the best legislation to address the concerns of all in Kahana. Please pass this H.B. 1552 out of Committee as soon as possible. Its time for the House to take the lead for the residents are depending on you.

Mahalo



David Haili Keawe

LATE TESTIMONY

February 9, 2009

Clyde Troy M. Thompson
52-236 Lot # B10 Kamehameha Hwy.
Kahana Valley, Hawai'i 96717

Representative Ken Ito, Chair
Representative Sharon E. Har, Vice Chair and Members
Committee on Water, Land, & Ocean Resources

RE: Support of H.B. 1552 Relating to Public Lands

Aloha Chair Ito and Members,

My name is Troy and I am a resident of Kahana Valley State living park. I am here to support H.B. 1552 relating to Public Lands. This bill gives the Department of Land and Natural Resources the authorization to issue leases to residents that are living on the land. This bill also sets up the process for a Master Plan to be developed for Kahana.

I have been living in Kahana with my family since 1985 and have been one of those with a revocable permit for many years. The relocation of my parents in 1998 to the mauka area off Trout Farm Road gave me the responsibility to "malama" the areas that really belonged to my grandfather, Daniel Beirne, known as the "banana patch" who is now deceased since 1986. Mom felt I had it all together and gave me a job to take care of the area designated now as the canoe halau or hale wa'a. I was also involved in canoe racing as my other siblings and cousins. I also spent my youth in taro patches with Grandpa, and in the banana and ulu patches, cleaning, raking, rubbish, and more rubbish, for the benefit of the public.

I share this with this Committee because that is what Kahana is about, it's about the work of the people. Sometimes its okay and sometimes it is not something we can deal with, but the bottom line is, it is home to all of us in Kahana. Why is this important? Well, I was one of the applicants that did not qualify because I was not born in Kahana. No one was either, most were born in hospitals. Well, today my eldest sister has come home, Sherri Lynn Johnson and her husband Eric and their two sons Kaimi and Kamalani and of course my niece Kahiau. Under Papa Kawika and Grams teachings, they have contributed to Kahana from the time credit hours were due and

today will be able to extend their work in the loi, at the Huilua fishpond, in canoe races and even la'au lapaau, the program shared by Grams, my mother.

I have had Mom's shack cleared out so many times because of eviction notices, that I now camp out at the mauka lot. I have been so blessed to call Kahana my home. Why? Because it's a generation thing, now from, great grandmother Nancy Lokalia Kaaukai Nuhi, to grandfather Daniel Beirne, to mother Ululani Beirne, to me, to my neices and nephews and now my grand neice and nephew.

I know our families are all connected in Kahana by how they treat each other, some time good, some time not, but the end run is we all need each other. As much as we want to fly on our own, just know that we all need to kokua each other. Anyways, that's what my Mom always stresses and sometimes it can stress me out.

Why do I share these things? I do because they are the 'ohana values and cultural identities we all have, its in the genes!!! I know that if we all help each other, the Lord will bless us too.

Again, I support H.B. 1552, and ask that you pass this legislation out as soon as possible.

Mahalo



Clyde Troy M. Thompson

LATE TESTIMONY

Ron Johnson

Monday, February 9th 2009

Support of HB 1552, Relating to Public Lands

Aloha my name is Ron Johnson, I am a fifth generation resident of Kahana Valley and a current lease holder. I support the intent of HB 1552, Relating to Public Lands, which would authorize the issuance of residential leases in living parks such as Kahana valley state park and establish a planning council to develop a master plan for the park.

I believe that the planning council outlined in this legislation should be made up of LEASEHOLDERS, as it is this group who has contracted individually with the state. It is the leaseholder who holds the responsibility to ensure that each member of his/her household fulfills that family's obligation to the lease. While I believe the greater community should have input, ultimate decisions should rest with those who hold leases.

Many years have passed and there is still no official master plan for the park. With the collaborative efforts of resident leaseholders and DLNR, I believe we can develop and implement a plan that provides structure to lease obligations, address current and future concerns and highlights all of what Kahana has to share. There are examples of interpretive programs that are flourishing in the park, collaborative efforts between DLNR and lease holders which continue to grow.

I am NOT against the evictions of any persons currently residing in Kahana valley, who have failed meet the criteria specifically related to Interpretive Programs set forth by DLNR. I believe that DLNR must have the authority to grant, deny and manage leases.

This legislation is a start, a start to laying the foundation for the future of Kahana valley and will allow Kahana to reach its full potential as a living park. I urge the committee to pass HB 1552.

Mahalo for your time,

Ron Johnson

Representative Ken Ito, Chair
Representative Sharon E. Har, Vice Chair
Committee on Water, Land & Ocean Resources

February 08, 2009

Aloha,

I/WE SUPPORT H. B. NO. 1552, RELATING TO PUBLIC LANDS

What I/WE think: A master plan must be developed and implemented, utilizing mana'o from kupuna to keiki, in addition to other entities who have an interest in the *AOK, to reflect growth and changes to date. For *AOK sustainability, the continuation of cultural programs, expansion of the lo'i, restoration (not just maintenance) to the Huilua Fishpond), and planting of fruits/vegetables native to the area, arts/crafts, would provide continued resources for the *AOK, as well as to provide "cultural hours" for *AOK residents/lessees, thus enabling na 'ohana to meet requirements.

This area has been "designated" *the AOK. Therefore, I/WE encourage DLNR to review, and implement an "ahupua'a" design, where residents are "scattered" and not limited to "residential" areas as they exist today. If this is indeed" a "living, cultural park", the public cannot see the "LIVING" if those facing evictions are forced to relocate to the two areas designated "residential." The *AOK has 5,000+ acres. Visit the *AOK during the week, on weekends. See how "underutilized" designated "public" areas are, and yet DLNR wants to remove the six (06) families for more "PUBLIC" area. AUWE! HOW CAN? NO CAN!

At minimum, six generations of my 'ohana have resided on this land I call "home." My 'ohana participates in ALL scheduled cultural activities, and have much ALOHA for the AINA. I believe my 'ohana to be an "asset" to the *AOK community, as well as the many *AOK residents who live, who love this aina, too. KEEP HAWAIIAN HANDS IN HAWAIIAN LANDS.

Mahalo nui loa,

*AOK: Ahupua'a o Kahana

DA JOHNSONS

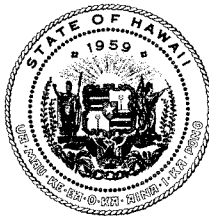
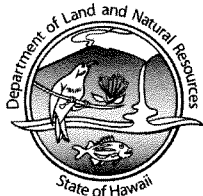


ERIK. SHERRI LYNN KA'IMINA'AUAO A ME KAMALANI



Kamalani Johnson
Kaimi Johnson

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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HONOLULU, HAWAII 96809

**Testimony of
LAURA H. THIELEN
Chairperson**

**Before the House Committee on
WATER, LAND, AND OCEAN RESOURCES**

**Monday, February 9, 2009
9:00 AM
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 1552
RELATING TO PUBLIC LANDS**

House Bill Number 1552 authorizes the Department of Land and Natural Resources (Department) to enter into residential leases for Kahana Valley (Valley) and creates a Kahana planning council.

As the Legislature considers a variety of ideas for Kahana, the Department asks that the solution be guided by the original purpose for which the Valley was purchased: as a public park. The Valley was acquired for the benefit and enjoyment of all, and it is important that, as a public park, Kahana should provide a welcoming environment for all who visit. The Valley was purchased to protect it from development, and any solution should limit future development.

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

PUBLIC TESTIMONY: HB 1552

My name is John Fox. I am a descendent of a Kahana kuleana awardee, descendent of kupuna who owned four shares in the hui ownership of Kahana, descendent of iwi at the fishpond, church, and ma'uka. I was hanai by my kupuna who lost her titled land to make Kahana a state park. As a kanaka maoli who has and will always consider Kahana home, I gave 4500 interpretive hours as ho'okupu to my departed kupuna. As a taxpayer, I expect efficient and effective use of my tax dollars spent in Kahana.

I have a couple of issues with HB 1552. First is with background information on pg 2, ln 12. All six families have not had revocable permits since Dec 31, 2006. DLNR could not offer six families leases when none were available until Oct 2003. Even then, only three are available.

Second, recommendations in section 4, 5, and 6 are overly optimistic. Legislative Reference Bureau (LRB), "Kahana: What was, What is, What can be", dated 2001 was prepared in response to Senate Concurrent Resolution No. 61 counted 49 studies of Kahana. During that same period, there were 7 community organizations. Throughout the study, the researcher mentions the need for community building, definition of acceptable "Hawaiian interpretive programs" and the mistrust of state parks management. The LBR listed 21 findings and 3 conclusions.

The most important conclusion said, "master plan for Kahana, co-authored by the Kahana lessees, is urgently needed before a change in management should be made. Funding for the master plan for Kahana should be among the DLNR's top priorities". In finding #19, the researcher recommended smaller steps, if creating a master plan was not feasible or affordable. LBR listed a 3 phase plan of "community building with lessees and the existing management and the development of some shared goals for Kahana; specific plan to address interpretive service and lease issues; and development of a full set of goals for Kahana to use in directing interpretive service hours in seeking assistance from other governmental agencies.

I recommend the following:

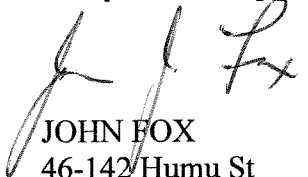
SECTION 4

1. Resident Planning Council will be community based whose priority will be to strengthen community development.
 - a) Plan, develop, and manage interpretive programs.
 - b) List natural resources and areas needed for interpretive programs and convey information to parks representative.
 - c) Develop rules to manage suitable living conditions in the housing area.
 - d) Once their rules are approved by a majority of lessees, turn management responsibility to approved community organization.

- e) Focus on goals for Kahana, gathering the vision of each leasee and providing it to a Kahana Planning Council within 9 months after signing of this act.
2. DLNR Planning Council will focus on the natural resources of the valley.
 - a) Identify all maintenance responsible by park personnel.
Obtain written commitment from DOCARE for scheduled inspections.
 - c) Provide Resident Planning Council support with other state agencies.
 - d) Have a prepared list of DLNR goals for Kahana within 9 months after signing this act.
 3. Kahana Planning Council will develop the goals for Kahana which will be the outline for a master plan. The goals will be balanced against expertise available, financial resources, natural resources, and human resources.
 - a) The council will meet 9 months after the signing of the act and complete the task within 3 months.
 - b) The voting members of the council shall be:
 - 1) Two members from DLNR Planning Council.
 - 2) Two members of the Resident Planning Council.
 - 3) Representative of the general public.
 - 4) Non-voting member appointed by the area senator.
 - 5) Non-voting member appointed by the area representative.
 - c) Twelve months after signing of the act, the Kahana Planning Council will submit the coordinated goals for Kahana to the Chairman, DLNR.
 4. Chairman, DLNR will provide the coordinated goals to a DLNR funded entity to develop a master plan for Kahana. DLNR Chair must accept the master plan NLT July, 2011.

SECTION 6: as written can be a perpetual loop. DLNR has little responsibility in development, residents might not have expertise, and DLNR can continually reject. The rewritten version has more DLNR planning input while being audited and the final development is in DLNR's hands where the authority is maintained.

SECTION 7: Need a way of measuring "contributing their time to benefit the Kahana valley state living park....."



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