

LINDA LINGLE
GOVERNOR OF HAWAII



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

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**Testimony of
LAURA H. THIELEN
Chairperson**

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

**Monday, March 30, 2009
9:00 AM**

State Capitol, Conference Room 325

**In consideration of
HOUSE CONCURRENT RESOLUTION 258/HOUSE RESOLUTION 229
REQUESTING THAT THE BOARD OF LAND AND NATURAL RESOURCES MAKE A
DETERMINATION ON THE APPLICATION OF ACT 166, SESSION LAWS OF HAWAII
2000, ON A REQUEST BEFORE IT TO CONSENT TO THE ASSIGNMENT OF A
HOMESTEAD LEASE**

House Concurrent Resolution 258/House Resolution 229 requests the Board of Land and Natural Resources (Board) make a determination as to the type of tenancy regarding the successorship of a 999-year homestead lease prior to Act 166, Session Laws of Hawaii 2000. The Department of Land and Natural Resources (Department) does not feel these resolutions are necessary.

It is apparent that these resolutions are a result of certain issues arising out of an ongoing dispute regarding Homestead Lease No. 45. The Applicant Lessee requested that the Board consent to an assignment of the entire Lessee's interest in the lease. In April 2008, the Board considered the request for a consent to assignment of a partial one-third interest in Homestead Lease No. 45. The submittal and staff recommendation was based on an opinion by the Department of the Attorney General (AG), which concluded that the Applicant Lessee is entitled to a one-third interest of the subject lease only.

Based partially on the testimony of Native Hawaiian Legal Corporation's (NHLC) representative imploring the Board to allow its alternative dispute resolution process to assist in the resolution of the conflicting issues, the Board denied the Department's recommendation for the purpose of deferring action on the matter, in hopes that the NHLC and the Office of Hawaiian Affairs can develop a program to resolve the issues.

In addition to the substantive issue of survivorship, other procedural issues remain unresolved. The Department is in continuing discussions with AG on the resolution of these complex issues, including waiving the time required to make an oral or written request for a contested case hearing. When the AG advice is available, the Department will be asking the Board to act on the request submitted by the Applicant Lessee. As such, the Department asks that these resolutions be held.

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