

Testimony of
Molokai Properties Limited (MPL)
By
Peter Nicholas, Executive Director

Regarding:

HCR 95 and HR74

Before the House

Water, Land and Ocean Resources Committee

March 13, 2009

Chairman Ito, Vice-Chair Har and Members of the Committee;

Thank you for the opportunity to testify on HCR 95 and HR 74. As the text of the two Resolutions is essentially identical, this testimony refers to both measures.

Much of the Resolutions' content mirrors the content of two Bills that were introduced this session into the House and to the Senate, SB1201 and HB 1295. Those Bills sought to direct the Governor to acquire Molokai Ranch from GuocoLeisure Limited, MPL's parent company.

Both the Bills and these resolutions contain many inaccuracies in their claims against MPL. Molokai Properties Limited is opposed to HCR 95 and HR 74 as being unnecessary and unwarranted.

To date my company has not commented in any forum on the calls from factions of the Molokai community for compulsory acquisition of our property. These calls began with an attempt to have the Maui County condemn the land, then with the Compulsory Acquisition Bills and now with the Resolutions before you today.

The fact that certain elements of the community desire control of the land does not justify action on the part of the State to take possession of the property and the institution of a preliminary assessment of the value of the Ranch.

There are no pressing reasons for the passage of this Resolution and many reasons to reject it. The constitutional and public policy considerations against passage of the Resolution clearly outweigh the interests of a few vocal members of the Molokai community who have been seeking to obtain control of the property for many, many years.

The time has now come to comment on or to rebuff the allegations made.

- *In April 2008 MPL shut down all of its business operations on Molokai.*

This statement is correct. MPL was cash negative from operations by more than \$3.5 million per annum and could no longer sustain the losses. A process began in 2003 to produce, in conjunction with the community, a Master Plan for the property's future. This Plan was not supported at regulatory hearings by the community. With this Plan's rejection, the company had, at that time, no hope for an economic future.

- *The County of Maui has been forced to commence litigation against MPL to enforce contracts to operate and maintain water and wastewater systems.*

The County has not been "forced" to file suit against MPL to force continued operation of the water companies, but in fact chose to in the face of public requests and political pressure to take over the systems itself. In sum, the Water companies have never ceased operation and have in fact filed rate cases with the Public Utilities Commission (PUC) to obtain a compensatory rate of return so they can continue operation. Assuming the PUC grants a just and reasonable rate to the water companies, there is no threat of cessation of operation.

Please note also that MPL has adhered to all orders and requests made by the PUC and the Department of Health (DOH). The DOH order was in fact unnecessary and is being appealed. It has expired and is no longer in effect.

- *MPL has substantially contributed to the loss of rainforests and to an increase in erosion.*

These allegations are unfounded. MPL has maintained the land in agriculture. Even under its Master Plan, more than 22,000 acres was to remain in agriculture forever under protective easements. MPL hopes the State will designate appropriate parts of its land as "Important Agricultural Lands" as it is committed to agricultural practices that stabilize the soil and maintain plant growth.

With regard to the rainforests MPL has never expanded its activities into rain forest areas. In fact in the past it has donated and leased sensitive lands to the State and the Nature Conservancy to ensure that the watersheds are preserved and the rainforests flourish.

- *MPL is now denying access to most of its landholdings to Molokai residents who relied on those lands for gathering, hunting and fishing.*

MPL has never allowed uncontrolled access to its property and the laws do not require that. MPL is well aware of its obligations. Today, MPL has contracted hunters and the land is open to all those who have permits and wish to hunt safely.

Many people throughout the State do not recognize legitimate laws requiring gun permits as they believe it is their undisputable right to hunt when and where they choose.

MPL also requires its contract hunters to donate meat every month to community members in need and to the Kupuna from the Maunaloa community.

MPL has never, in the past or in the present, nor will it in the future, deny access to any of the cultural sites on its property for legitimate cultural use. In compliance with State law, MPL has preserved key sites for future generations and has allowed them to be maintained by legitimate practitioners.

The Molokai Land Trust, a registered charitable organization that has its roots in cultural and environmental preservation, willingly assists and advises MPL on all cultural access to the property.

- *To protect and to preserve Hawaii's historic and cultural heritage, a number of private entities have recently expressed interest in the acquiring parts or all of MPL's land-holdings.....and to negotiate this, it is necessary to obtain a value now.....the Department of Land and Natural Resources is requested to conduct an independent appraisal of MPL's lands.*

MPL has been approached by a number of companies who have sought to acquire its property. To date no private entity has indicated that its principal reason for purchasing the property was to "preserve Hawaii's historic and cultural heritage."

To date, no company has been able to prove to MPL or to GuocoLeisure that it has the necessary financial strength to purchase the property at an acceptable price. This includes UPC that was named in the Bills before the House and the Senate as a potential buyer of the property for a Wind farm.

There would appear to be no reason whatsoever as to why the State should assist a potential private buyer of the property by "gifting" any potential purchaser with an appraisal report. Any private individual can obtain an appraisal of the property by hiring a qualified valuer to complete the work. It does not require DLNR to do it.

It is questionable policy for the State to insert itself into negotiations between private parties and to in fact undertake and spend taxpayer funds on an appraisal to potential benefit private parties.

MPL and its shareholders continually review the future of its property on Molokai. The current difficult economic conditions make it difficult to see a path forward at this time.

Should these Resolutions pass, MPL would be unlikely to commit any resources to the property.

Thank you for the opportunity to present this testimony.

A handwritten signature in black ink, appearing to read 'P.A. Nicholas', written in a cursive style.

P.A.Nicholas
Executive Director
Molokai Properties Limited.