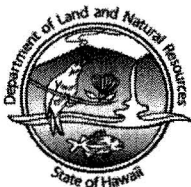


OPPOSE

LINDA LINGLE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony Of
LAURA H. THIELEN
Chairperson**

**Before The House Committee On
WATER, LAND AND OCEAN RESOURCES**

**Friday, February 5, 2010
9:00 AM
Conference Room 325**

**In consideration of
HOUSE BILL 1973
RELATING TO DESECRATION**

House Bill 1973 amends the state of mind for the offense of desecration of a burial site from intentional to negligent. The Department of Land and Natural Resources (Department) is opposed to this measure because the negligent desecration of a burial can be construed very broadly to encompass the disturbance of a burial under any circumstance.

Unfortunately, the discovery of burials during construction or other excavation is not uncommon. This happens during public projects, such as laying sewer, utility and water lines, and during private projects, such as building a private house. While the preamble suggests that this bill has been submitted for the protection of known burials, in effect, House Bill 1973 does not distinguish between disturbing known burial sites, and inadvertently discovered burial sites. While Chapter 6E, Hawaii Revised Statutes, currently provides ways to mitigate the disturbance and ensure proper treatment of burials, this bill could conceivably make all burial disturbances illegal. This could cause a quandary for any development, including developments on Hawaiian Home Lands, Kamehameha Schools properties, large luxury development and public projects.

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

DEPARTMENT OF PARKS AND RECREATION
CITY AND COUNTY OF HONOLULU

1000 ULUOHIA STREET, SUITE 309 - KAPOLEI, HAWAII 96707
TELEPHONE: (808) 768-3003 • FAX: (808) 768-3053 • CITY WEB SITE: www.honolulu.gov

OPPOSE

MUFI HANNEMANN
MAYOR



LESTER K. C. CHANG
DIRECTOR

RICHARD HARU
DEPUTY DIRECTOR

February 3, 2010

The Honorable Ken Ito, Chair
Committee on Water, Land and
Ocean Resources
House of Representatives
State Capital
Honolulu, Hawaii 96813

Dear Chair Ito and Members:

Subject: HOUSE BILL NO. 1973 RELATING TO DESECRATION

The Department of Parks and Recreation is not in favor of House Bill No. 1973 as written. Our concern is that changing the state of mind required for the commission of the offense from intentional to negligent could be interpreted that the City and County of Honolulu could be negligent and subject to possible criminal prosecution when they undertake construction of projects on sites where they knew or should have known that there was the possibility of desecrating a place of burial because of previously uncovered Iwi on or near the properties being improved.

We understand that this proposed Legislation is in part a response to City Council Resolution 09-194 that urged the State Legislature to amend Section 711-1107, Hawaii Revised Statutes, to require that a person convicted of grave desecration be found negligent rather than intending to desecrate.

The Department of Parks and Recreation did not testify against this Resolution when it was being considered as it was specifically related to recent desecration of the Puuiki Cemetery in Waiialua Town and did not suggest the potential criminal consequences of the City encountering Iwi when constructing capital improvements in our parks.

Thank you for the opportunity to comment.

Sincerely,

LESTER K. C. CHANG
Director

LKCC:mk

SUPPORT

Thomas T Shirai Jr
P O Box 601
Waialua, HI 96791
Email: Kawaihapai@hawaii.rr.com

February 3, 2010

Hearing Notice
Friday, February 5, 2010
9:00AM
State Capitol / Conference Room 325

HOUSE COMMITTEE ON WATER, LAND & OCEAN RESOURCES (WLO)
Chair: Representative Ken Ito / Vice Chair: Representative Sharon Har

RE: Testimony of Support for HB 1973 (Relating to Desecration)

Aloha Chair Ito, Vice Chair Har & Committee Members,

I strongly support HB 1973 and before proceeding I'd like to share some information about pertinent to the origin of this bill. *Puuiki Cemetery* is very special to me because it's where my beginning of *Community and Cultural* involvement started back in 1998 when I brought the matter of cemetery vandalism occurring while my Wife and I visited my *Kupuna* buried there. This resulted in community awareness and participation which *Dole Foods Hawaii* coordinating a major cleanup with help from the *U S Army* during *Make A Difference Day*. Later, students of *Waialua High & Intermediate School Class of 2003* cleaned *Puuiki Cemetery* for their community service project and received honorary citizen certificates from former *City Councilmember Rene Mansho*. The *Korean Chamber of Commerce* later participated by organizing a cemetery cleanup with an emphasis on the *Korean* section of *Puuiki Cemetery*. From then, community members such as *Dwight Ishiguro, Mike Muira* and others have contributed greatly to the care of this historic plantation era cemetery which can be seen today. *The Friends of Waialua Town* is the lead organization to the caring of *Puuiki Cemetery*. The bottom line is that we've all contributed to *Malama Puuiki Cemetery* despite ongoing vandalism and desecration.

A significant part *Hawaii Revised Statues (HRS 117-1107)* originated from *Puuiki Cemetery* with former *Representative Alex Santiago* introducing HB 2809 during the *1998 Legislative Session* and later revived by *Representative Michael Magaoay* during the *2002 Legislative Session* as HB 2387 that became *ACT 198*.

Amending *HRS 117-1107* as contained in HB 1973 would add clarification to the current language regarding *"Negligent" versus "Intending."* Informational attachments are included with this testimony. Additionally, HB 1973 would apply to cemeteries statewide with *Puuiki Cemetery* serving as the example. As a past member who served on the *Oahu Island Burial Council (OIBC)*, HB 1973 parallels the *Kuleana* of protecting *Iwi Kupuna* and *Ancestral Remains* of all origin.

Thank you for the opportunity to provide testimony strongly supporting HB 1973. *Malama Iwi Kupuna.*

Thomas T Shirai Jr
Mokule'ia, Waialua

Vandals Desecrate Old Puuiki Cemetery Graves

Dozens of graves and tombstones are being desecrated by vandals at the old Puuiki Cemetery in Waialua. A large steel gate locked 24 hours a day fronting the road leading into the cemetery has not helped keep trouble away. One angry local descendant with of family buried there for decades brought up his concern to the North Shore Neighborhood Board. Thomas Shirai Jr., said he is sick to his stomach after he goes to pay pay his respects to family members buried there since 1935, seeing graves plumaged and headstones broken and pieces stolen. Shirai said items of value are stolen for drug money. He said he has called police but nothing is being done. When asked by board member Jake Ng what could be done, Shirai, Jr. replied, "I don't know! I'm willing to participate in some kind of committee."



Thomas Shirai, Jr. expresses his anger regarding acts of criminal vandalism at Puuiki Cemetery (c1998 Barry Markowitz photo)

Honor thy ancestors



Thomas Shirai Jr. walks through tombstones at Waialua's Pu'uiki Cemetery. Shirai has led efforts to clean up the cemetery, which had been neglected and vandalized.

Waialua residents restoring old cemetery

By Tino Ramirez
ADVERTISER NORTH SHORE NEWS

WAIALUA — While visiting Pu'uiki Cemetery 14 months ago to place flowers at his great-great-grand-uncle's grave, Thomas Shirai Jr. was led by a young boy to a recently vandalized corner of the graveyard.

Shirai saw tipped-over headstones, one of them badly cracked by the fall. Broken glass littered the ground. Shirai said he was hurt and angered.

"I didn't like what I saw," Shirai said. "The cemetery wasn't being cared for. People forgot.

"These are our ancestors,

the people who made this community what it is today. But I feel good now, I'm happy."

To publicize the desecration and remind people of Pu'uiki's significance, Shirai spoke to the neighborhood board and other groups. Within weeks, a major cleanup was organized, and more families began to visit the cemetery.

The vandalism also stopped.

Another cleanup was held last month on National Make a Difference Day. With help from landowner Dole Food Co. and Army soldiers, Shirai, his relatives and other

volunteers cleared even more underbrush from the five-acre site, bringing dozens of plots back into the light.

Active until about 20 years ago, Pu'uiki served the entire Waialua community. Members of every ethnic group that came to Hawaii to work on the sugar plantation, as well as Hawaiians, are buried there. It has views of the Koolau Mountains, Mount Kaala and the ocean nearby. It is a quiet and peaceful place.

In the past year, more families have started to regularly visit Pu'uiki. Fresh flowers brighten some plots, offerings of meals and fruit have been left at others, and some head-

stones look freshly scrubbed.

"That really touches me, the families come out a lot," said Shirai. He pointed out yellow and red flowers left on newly cleared graves, and said, "Now it's clean, and they can come visit."

A historian of the Waialua district, Shirai also has given census records and a cemetery registry to the Waialua Public Library. Families curious about their roots in the community or about relatives laid to rest at Pu'uiki can consult them, he said.

There's more work to be done at Pu'uiki, he said. The cemetery has about 714 graves, and sections nearest

the ocean and Kaika Bay are still overgrown. Holding an annual or twice-yearly cleanup is being discussed, he said.

Shirai said he'd like to see more people involved in caring for the cemetery. He is carrying on a tradition taught to him by his grandfather, David Keao Jr., and visits several family graves every week.

"You take care of your ancestors, then they're going to take care of you, then everything is good," said Shirai. "I remember my grandpa, before he went in the ocean, before he go dive (for fish) and even after, he would come here."

North Shore cemetery survives time and erosion only to endure vandalism

By JAYSON HOGAN

FOR SEVERAL years Thomas Shirai Jr. has been going to Pu'uhiki Cemetery in Waiāluā to clear weeds and debris off the graves of family members. However, in recent months Pu'uhiki cemetery and the graves sites of his family members have come under attack.

The attack has not come from weather erosion or age, but from vandals. On Sat., Jan. 25, Shirai was tending the graves of his great uncle when he heard the sound of male voices.

Shirai followed one of the boys to the edge of the cemetery and found several tombstones had been pushed over and cracked. One tombstone in the shape of a cross had been pulled out of the ground and struck several times with a blunt object.

"That one really got to me," said

Shirai. "Maybe because that grave was right next to that of my great grand uncle."

Over the past couple of months Shirai has noticed other vandalized

Shore in an effort to remind the community that the cemetery is still there and needs their kōkua. Shirai has testified to the North Shore Neighborhood Board and has enlisted the help of sev-

er caught desecrating a burial site faces a misdemeanor charge and, if convicted, a minimum sentence of one year in jail and a \$2000 fine.

Pu'uhiki cemetery was established on a sugar cane plantation. Nanette Punnett, director of the Cemetery Research Project, said the cemetery has valuable information helpful in establishing genealogies, and it reflects the historical ethnic makeup of the community.

Plantation cemeteries such as Pu'uhiki were never purchased or run by an association like other cemeteries. The people who lived and worked on the plantations cared for them.

"If people have relatives here, they should check the graveyard out," said Shirai. "I just don't want anything worse to happen, and I hope people open their eyes."

Those interested in taking part in a cemetery clean-up can contact Shirai at 808-623-6929



Several gravestones at Pu'uhiki Cemetery in Waiāluā have been vandalized in recent months. Tombstones have been pushed over and in some cases struck with hammers.

gravesites, and has taken pictures of teenage boys actually vandalizing the graves. Armed with this information, he contacted the police and filed a report. However no arrests have been made.

Since the vandalism occurred, Shirai has started a crusade on the North

Shore in an effort to remind the community that the cemetery is still there and needs their kōkua. Shirai has testified to the North Shore Neighborhood Board and has enlisted the help of sev-

er caught desecrating a burial site faces a misdemeanor charge and, if convicted, a minimum sentence of one year in jail and a \$2000 fine.

From: Diane OSullivan [dandlos2@yahoo.com]
Sent: Wednesday, February 03, 2010 5:58 PM
To: Rep. Ken Ito
Cc: Rep. Michael Magaoay
Subject: Request for Your Support of H.B. No. 1973

Date: February 3, 2010

To: Hawai'i State Legislature
House of Representatives
Water, Land, & Ocean Resources Committee

Subject: Request for Your Support of H.B. No. 1973,
Relating to Desecration

Dear Chair Ito and Committee Members,

We were raised with a value of respecting our elders while they lived among us and honoring the final resting places of our elders and other family ancestors.

Our children and grandchildren were likewise raised with this value and we have included them on visits to cemeteries to decorate the graves.

Those desecrating graves should be punished. H.B. No. 1973 addresses this issue and we sincerely seek your support for this bill.

Respectfully submitted,

Diane & Lloyd O'Sullivan
68-040 La`au Paina Place
Waialua, HI 96791

SUPPORT

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

Chair Ito:

Thank you for this opportunity to submit testimony regarding House Bill 1973, which addresses desecration of gravesites and cemeteries.

I am totally in support of this measure because I have personally witnessed the mindless desecration of gravesites at the Pu'uiki Cemetery. I have just recently been volunteering to help with the up keep of the cemetery along with some long time volunteers. I have seen the kinds of desecration that have been done to the cemetery.

Motor bike riders think nothing of riding over gravesites, jumping their cycles over the headstones and sometimes knocking over the markers. People walk their dogs, unleashed and let them run through the cemetery to do their business. People use the cemetery as a golf range, evidenced by the numerous golf balls found scattered throughout the site. Pentagrams are painted on the lawn and gravesites. "Hail Satan" has been painted on trees and grave markers. Grave markers have been purposely knocked over by ATV's, evidenced by the tire tracks leading directly into the markers. These actions are a few of the acts of desecration we have had to deal with.

HPD has been responding to our calls for assistance but cannot do anything because of the current language covering desecration of cemeteries. HB 1973 will allow for better enforcement and prosecution of those who chose to desecrate cemeteries and gravesites.

The volunteers who have been caring for the cemetery have long been frustrated with these acts that do not seem to have any purpose or meaning other than to disrespect the final resting-place of our community members. The cemetery comforts people from all walks of life. There are Catholics, Buddhist, Taoist, Protestants, Hawaiians, Japanese, Chinese, Koreans all at this resting site. Through the efforts of a few, the cemetery is starting to come back to a place where families can now visit their loved ones.

I strongly urge the passage of HB 1973. This measure will go a long way to helping to minimize acts of desecration at our cemeteries and gravesites.

Mahalo Nui Loa
Dwight A Ishiguro
67-240 Ku Place
Waialua, Hawaii

SUPPORT

Written testimony in support of HB 1973

Over the last 9+ years I and others with like minds and interests have been making a concerted effort to restore dignity and respect for the burial place of those who have gone before us at Pu'uiki Cemetery in Waialua. We have persevered in spite of vandalism, theft, gravesite desecration, alcohol consumption, willful destruction of gravestones, unleashed dogs, fecal matter from unleashed dogs with attendant owners, evidence of golfing activities, evidence of use of air rifles to target glass containers used to keep flowers fresh with resulting broken glass strewn over many of the grave sites, illegal dumping of derelict vehicles and ATVs running over and through the cemetery, over gravesites. Some of it has abated since the illegal cockfights run by the Gilmans were terminated by police/FBI action. But, the possibility/probability of recurrence is still present because of the malicious mind set of the perpetrators to persist in their efforts.

HB 1973 with its new language will go a long way to deter further violations of this nature, especially at cemeteries like Pu'uiki which are off the beaten path, hidden from the main roads of travel and relatively unknown.

Jere F. Choo
(808) 754-8662
Email kupunakolohe@hawaii.rr.com.

TO: WLO
Chan Ito
Vice Chair Her
Committee Member

SUPPORT

Dear Vice Speaker Magaoay,

Death is a profound spiritual experience that is fundamental to life. Burial grounds of all cultures are sacred sites. However, in Western society, most people fear death, and many have lost touch with the spiritual aspect of death and dying. As a consequence, burial grounds have been vandalized both by the malicious and the negligent. In fact cemeteries, due to the nature of their isolation from community oversight, have become magnets for those who are not necessarily malicious, but enjoy drinking and joy-riding, which often leads to inadvertent vandalism. The effect of this vandalism is the same whether it be malicious or accidental, a loss of grace and dignity to the burial ground.

HB1973 has the potential to restore respect to these sacred areas. It is sad that this respect must come from without, rather than from our culture. But the desecration at burial sites in Hawaii, including Puuiki Cemetery in my community, proves that a stronger law is needed.

Please support HB1973.

Sincerely,

Diana Bonsignore
67-380 Haona St.
Waialua, HI 96791