

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

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**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the House Committee on
FINANCE**

**Friday, April 01, 2011
3:00 PM
State Capitol, Conference Room 308**

**In consideration of
SENATE BILL 1530, SENATE DRAFT 1, HOUSE DRAFT 1
RELATING TO PUBLIC LANDS**

Senate Bill 1530, Senate Draft 1, House Draft 1 would allow leases of public lands used for hotel or resort purposes to be extended for up to an additional 55 years beyond the existing term.

The Department of Land and Natural Resources (Department) was able to testify in support of Senate Draft 1 of this bill on March 21, 2011 before the House Committees on Water, Land and Ocean Resources and Tourism because of amendments that had been made to the draft initially introduced in the Senate. Specifically, those amendments narrowed the scope of the bill to allow for the extension of hotel and resort leases on Banyan Drive in Hilo under certain limited conditions. One of the conditions was that the lease premises be used for hotel or resort purposes for the term of any extension allowed. Senate Draft 1 of the bill included a definition of "hotel or resort" in SECTION 2, subsection (h), that read as follows:

(h) As used in this section, "hotel or resort" means a development that provides transient accommodations as defined in section 237D-1 and related services such as a front desk, housekeeping, food and beverage, room service, and other services customarily associated with transient accommodations; provided that no development shall qualify as a hotel or resort under this section unless at least seventy-five per cent of the living or sleeping quarters in the development are used solely for transient accommodations for the term of any lease extension.

This limiting language is significant from the Department's perspective because there are currently both hotel/resort and residential properties on state lands along Banyan Drive. The residential or mixed residential-hotel properties include Country Club Hawaii (Country Club), the Bayview Banyan building, and Reed's Bay Resort Hotel. The lessee of the Country Club

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BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
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DEPUTY DIRECTOR - WATER

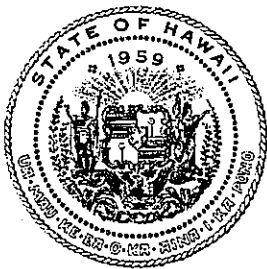
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
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KAIKOOLOAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

premises converted it to a leasehold condominium property regime in 1988. Country Club has a front desk and is operated partly as a hotel and partly as residential condominium. Reed's Bay Resort is operated in a similar fashion, although it is not a condominium project. Bayview Banyan is a residential apartment building.

If the intent of the House Draft 1 is to revitalize the Banyan Drive area as a tourist destination, that objective is not served by eliminating subsection (h) from the draft and allowing the master leases of residential condominiums or apartments to be extended under the proposed legislation. If the intent of the bill is to allow continued residential use of state lands on Banyan Drive, then the legislation should clearly so provide because the Board of Land and Natural Resources (Board) otherwise has no statutory authority to issue leases for residential purposes by direct negotiation. Rather, residential leases must be issued by public auction or drawing.

In exchange for the direct negotiation of 55-year lease extensions for eligible leases, the lessees should be prepared to make improvements to the properties that are consistent with hotel or resort use. If the Legislature approves Senate Bill 1530, Senate Draft 1, House Draft 1 in its current form, then the Board will make its own determination as to what kinds of proposed development under the law qualify for "hotel or resort use" as that phrase is used in subsection a of the bill.

For these reasons, the Department opposes Senate Bill 1530, Senate Draft 1, House Draft 1.



NEIL ABERCROMBIE
Governor

MIKE MCCARTNEY
President and
Chief Executive Officer

Hawai'i Tourism Authority

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Testimony of
Mike McCartney
President and Chief Executive Officer
Hawai'i Tourism Authority

on
S.B. 1530, S.D.1, H.D. 1
Relating to Public Lands

House Committee on Finance
Friday, April 1, 2011
3:00 p.m.
Conference Room 308

The Hawai'i Tourism Authority (HTA) strongly supports S.B. 1530, S.D. 1, H.D.1, which provides for the extension of leases of public lands for hotel and resort use if substantial improvements are made to the premises.

The HTA is tasked with marketing and promoting Hawai'i as a visitor destination, with the goal of increasing visitor spending. One of the keys to branding Hawai'i's visitor industry and increasing visitor spending is the improvement of the tourism product, which includes the physical infrastructure. For this reason, S.B. 1530 is particularly important for the upgrading of visitor industry facilities in the Banyan Drive area on the Island of Hawai'i. Banyan Drive is the only significant resort area in East Hawai'i and is on land entirely owned by the State. With many of the leases expiring in 2015, there has been little incentive for the lessees to reinvest in their premises.

It should also be noted that during the HTA's annual meeting with stakeholders of the visitor industry in East Hawai'i, the subject of up-grading the visitor facilities on Banyan Drive is always raised. These facilities are vital to events such as the Merrie Monarch Festival, the Hawaii Island Festival-30 Days of Aloha, Hawaii Volcanoes National Park's Cultural Festival, and the Hilo Chinese New Year's Festival. In addition, East Hawaii is being considered as the site for an educational tourism experience, however, the lack of facilities from a quantitative and qualitative standpoint, may prevent the full development of this niche market.

Beginning this summer there will be direct flights from the mainland to Hilo, starting with daily service from Los Angeles and a weekly service from San Francisco, which is planned to expand to a daily service. Further, East Hawaii is also being considered as the site for an educational tourism experience. In order to maintain this airlift, we must be able to drive demand. The visitor facilities in East Hawaii are an important part of creating this demand. The lack of facilities from a quantitative and qualitative standpoint, however, may prevent the full development of these marketing opportunities

As such, the HTA supports S.B. 1530, S.D. 1, H.D. 1, which would provide for a lease extension to enable the private sector the incentive to improve Hawai'i's hotel facilities which in turn, ensures that Hawai'i remains competitive as a destination while providing enhancements to the visitor experience.

We feel, however, that the bill be further amended to change "demised premises" to "existing improvements." The bill requires that the lessee or developer make substantial improvements to justify the extension of the lease. "Demised premises" is that property which is leased to a tenant, the land, the value of which is not as high as the existing improvements. Changing the requirement to substantial improvements to the existing improvements will require the lessee or developer to make a greater investment to improve the hotel and resort facilities.

Furthermore, when improvements are made to these facilities, the real property assessments and the average daily room rate should rise, resulting in a rise in real property taxes and transient accommodations taxes.

We urge you favorable consideration of this measure.



SB1530 SD1 HD1
RELATING TO PUBLIC LANDS
House Committee on Finance

April 1, 2011

3:00 p.m.

Room 308

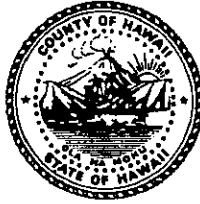
The Office of Hawaiian Affairs (OHA) offers the following comments on SB1530, SD1 HD1, which authorizes the Board of Land and Natural Resources (BLNR) to extend hotel and resort leases up to 55 years upon approval of a development agreement.

The bulk of the public land managed by BLNR, including the land used for hotel and resort purposes, is comprised of former government and crown lands that were ceded by the Republic of Hawai'i to the United States in 1898, "without the consent of or compensation to the Native Hawaiian people of Hawaii or their sovereign government[.]" P.L. 103-150 (1993). Much of the land is also subject to the public land trust created by the Admission Act section 5(f).

Fifty-five year leases exceed the length of a generation, effectively tying the hands of communities and future generations of land and resource managers and unduly restricting their ability to make sound decisions. Moreover, long-term leases often lead to a sense of entitlement on the part of the lessee that can and has resulted in alienation of leased land in Hawai'i.

Mahalo for the opportunity to testify on this measure.

William P. Kenoi
Mayor



William T. Takaba
Managing Director

Walter K.M. Lau
Deputy Managing Director

County of Hawai'i Office of the Mayor

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March 17, 2011

Honorable Marcus Oshiro, Chair
And Members of the House Committee on Finance
Hawai'i State Capitol, Room 308
415 South Beretania Street
Honolulu, Hawai'i 96813

Aloha Chair Oshiro and Committee Members:

Thank you for this opportunity to offer my support for Senate Bill 1530, Senate Draft 1 House Draft 1, which would authorize the state Department of Land and Natural Resources to extend leases of public lands for hotel and resort use upon approval of a development agreement to make substantial improvements to the property.

Hilo's primary hotel and resort district is on state land in the Banyan Drive area. We need innovative thinking and new strategies to encourage new investment that will improve and upgrade the facilities available to visitors to this area.

We look forward to the arrival of direct flights to Hilo, but we recognize that we must have continued investment in the facilities that serve visitors in order to make Hilo a more attractive and inviting destination. This bill offers a creative new approach to encourage that investment, and we respectfully urge the committee to support this measure.

Thank you for your consideration.

Aloha,

A handwritten signature in black ink, appearing to read "W. P. Kenoi", with a long horizontal line extending to the right.

William P. Kenoi
MAYOR

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2011 12:10 PM
To: FINTestimony
Cc: jwmccully54@gmail.com
Subject: Testimony for SB1530 on 4/1/2011 3:00:00 PM

Testimony for FIN 4/1/2011 3:00:00 PM SB1530

Conference room: 308
Testifier position: support
Testifier will be present: Yes
Submitted by: James McCully
Organization: Individual
Address:
Phone:
E-mail: jwmccully54@gmail.com
Submitted on: 3/31/2011

Comments:

I support SB1530. As a 37 year resident of Hilo, who remembers the building of the Hilo Hawaiian Hotel in the 70's, I have watched with dismay as our hotel district, Banyan Drive, has languished due to the issues of land tenure. With the 55-65 year statutory limits to DLNR lease coming into force for the first time since statehood, all business's on state leasehold land are anxiously awaiting Legislative guidance on how this transition will occur. Clearly there is a lack of correlation in state statutory limits which needs addressing. Fortunately DLNR fully supports correlation of statutory limits. Another critical area in need of correction, which this bill address's, is a lack of consideration in existing state statute and policy for the risks and investments that lessee's have made. All business's, whether on Industrial, Commercial, or Resort zoned properties, require the following the ability to finance needed improvements and repairs. In Hawaii, business, and small business in particular, are uniquely dependent on state land use policy and law. With so much commercially zoned land under leasehold tenure, more than 50% statewide, and the State of Hawaii as the single largest lessor, the state has a unique position and responsibility. Thank you for your consideration and support of SB1530