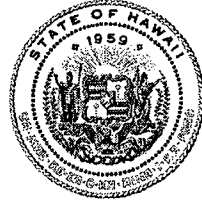


SB 1530

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

**Before the Senate Committee on
WAYS AND MEANS**

**Friday, February 25, 2011
9:00 AM
State Capitol, Conference Room 211**

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

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

The Department of Land and Natural Resources (Department) definitely favors and is in support of Senate Draft 1 over the original version of the bill, including the substantive provisions added to SECTION 2 of the bill. Although the Department believes in the policy of taking back leases of public lands at the end of a 55 or 65-year lease term and reissuing a public solicitation to allow others the opportunity to bid on a State lease, the Department recognizes the special and limited circumstances articulated in SECTION 1 of Senate Draft 1. The Department also understands the bill is not intended to allow further extensions at the end of any extensions granted under the bill.

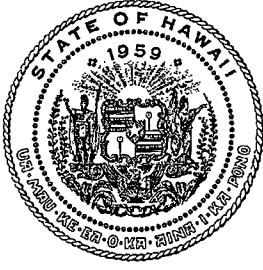
For these reasons, the Department supports Senate Bill 1530, Senate Draft 1

WILLIAM J. AILA, JR.
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
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



NEIL ABERCROMBIE
Governor

MIKE MCCARTNEY
President and
Chief Executive Officer

Hawai'i Tourism Authority

Hawai'i Convention Center, 1801 Kalākaua Avenue, Honolulu, Hawai'i 96815
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Testimony of
Mike McCartney
President and Chief Executive Officer
Hawai'i Tourism Authority
on
S.B. 1530, S.D.1
Relating to Public Lands

Senate Committee on Ways and Means
Friday, February 25, 2011
9:00 a.m.
Conference Room 211

The Hawai'i Tourism Authority (HTA) strongly supports S.B. 1530, S.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. There will be 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, 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.

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.



SB 1530, SD 1
RELATING TO PUBLIC LANDS
Senate Committee on Ways and Means

February 25, 2011

9:00 a.m.

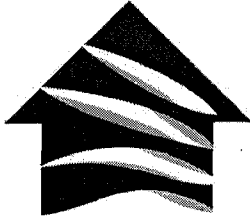
Room 211

The Office of Hawaiian Affairs offers the following comments on SB 1530, SD1, 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).

Long-term leases that exceed the length of a generation are short-sighted and improvident. Encumbering public land with 55 year leases ties the hands of communities and future generations of land and resource managers and unduly restricts 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.



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Testimony of
Kevin Aoki
Principal Broker
Property Professionals Hawaii LLC
On S.B. 1530
Relating to Public Lands

Senate Ways & Means Committee
February 25, 2011
9:00 a.m.
Rm# 211

I have been involved in various properties on Hilo's Banyan Drive over the past 28 years. This area is vital to the tourism industry and local economy of East Hawaii. Banyan Drive is the only resort area in all of East Hawaii and there are numerous individuals who are employed at properties in this area. Most of the properties on Banyan Drive were built in the 1960's and many of them have leases expiring in 2015. Many of these properties are in need of significant capital improvements but with only a few years remaining on the leases, there is no incentive for lessees to invest in their properties. Hotel rooms are vital to Hilo, but with the deteriorating condition of these hotels, many guests choose to stay elsewhere on the island. This summer, there will be direct flights coming into Hilo from the mainland. Our hotel industry needs to be able to support the additional demand created by upgrading our existing inventory of rooms. We need to assure an adequate inventory to be able to support such activities as the Merrie Monarch Festival, Haili Volleyball tournament and various local sporting events.

S.B. 1530 would also create a much needed economic boost to East Hawaii, creating additional jobs in construction and related industries. Increased spending by the private sector would boost not only State revenues, but also County revenues as well through property taxes as a result of increased property values.

Please vote in favor of passing this legislation and help all of us in East Hawaii. Mahalo!

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 22, 2011 4:26 PM
To: WAM Testimony
Cc: jreed@ccim.net
Subject: Testimony for SB1530 on 2/25/2011 9:00:00 AM

Testimony for WAM 2/25/2011 9:00:00 AM SB1530

Conference room: 211
Testifier position: comments only
Testifier will be present: No
Submitted by: John Reed
Organization: Individual
Address:
Phone:
E-mail: jreed@ccim.net
Submitted on: 2/22/2011

Comments:

The bill should be clarified to include a provision, that when appropriate, allowing the lease extension to be transferred to an association of units previously condominiumized by a master lessee. There are situations where a master lessee has sold the units to sublessees who have assumed all the duties of ownership, and maintained the maintenance and operation through an association of the sublessee owners. They continue to operate the property as a condo-hotel, thereby meeting the criteria of the bill for the type of property, but are removed from the ability to negotiate with the State as they are not direct lessees. The bill as written does not address those situations where a master lessee does not have the intention, and/or the where-with-all, or the interest to complete the needed improvements to extend the lease, and there is an ownership group willing and able to do those improvements, but do not have legal standing with the State. A provision should be added allowing a group of sublessee owners to assume a master lease position, where the master lessee is agreeable to an assignment or where the master lessee does not intend to renew the master lease. In addition, in those situations where a master lessee has profited years ago by selling condo subleases, and intends to improve the property to extend the master lease, a provision should be added prohibiting a master lessee from making a profit on passing through the cost of improvements to the sublessees. Otherwise a master lessee could force the sublessee to lose their units or pay a market value price for a sublease renewal, with no credit for the years of maintenance and effort they have spent preserving the asset. As a clarification, the measure should state the improvement value to be 50% of the assessed valuation prior to, not after, the improvements required to be made to qualify for the extension.

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 23, 2011 8:31 AM
To: WAM Testimony
Cc: indiaschor@yahoo.com
Subject: Testimony for SB1530 on 2/25/2011 9:00:00 AM

Testimony for WAM 2/25/2011 9:00:00 AM SB1530

Conference room: 211
Testifier position: comments only
Testifier will be present: No
Submitted by: India Schor
Organization: Individual
Address:
Phone:
E-mail: indiaschor@yahoo.com
Submitted on: 2/23/2011

Comments:

The bill should be clarified to include a provision, that when appropriate, allowing the lease extension to be transferred to an association of units previously condominiumized by a master lessee. There are situations where a master lessee has sold the units to sublessees who have assumed all the duties of ownership, and maintained the maintenance and operation through an association of the sublessee owners. They continue to operate the property as a condo-hotel, thereby meeting the criteria of the bill for the type of property, but are removed from the ability to negotiate with the State as they are not direct lessees. The bill as written does not address those situations where a master lessee does not have the intention, and/or the where-with-all, or the interest to complete the needed improvements to extend the lease, and there is an ownership group willing and able to do those improvements, but do not have legal standing with the State. A provision should be added allowing a group of sublessee owners to assume a master lease position, where the master lessee is agreeable to an assignment or where the master lessee does not intend to renew the master lease. In addition, in those situations where a master lessee has profited years ago by selling condo subleases, and intends to improve the property to extend the master lease, a provision should be added prohibiting a master lessee from making a profit on passing through the cost of improvements to the sublessees. Otherwise a master lessee could force the sublessee to lose their units or pay a market value price for a sublease renewal, with no credit for the years of maintenance and effort they have spent preserving the asset.

As a clarification, the measure should state the improvement value to be 50% of the assessed valuation prior to, not after, the improvements required to be made to qualify for the extension.

Please make it possible for the AOA or individual owners, not just the current leasee to acquire the new lease or an extension of the lease in the event the leasee wishes to not participate.

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 23, 2011 4:14 PM
To: WAM Testimony
Cc: rbd63@yahoo.com
Subject: Testimony for SB1530 on 2/25/2011 9:00:00 AM

Testimony for WAM 2/25/2011 9:00:00 AM SB1530

Conference room: 211

Testifier position: comments only

Testifier will be present: No

Submitted by: R. Bryson Dover

Organization: Country Club Hawaiian, AOA, Board of Directors member

Address:

Phone:

E-mail: rbd63@yahoo.com

Submitted on: 2/23/2011

Comments:

I am pleased the Hawaii State Legislature is giving consideration to the conundrum of the DLNR leases which are about to expire. It has been a significant hardship for condo owners in Country Club Hawaiian Condo/Hotel to deal with the uncertainty of ownership past the expiration of the current lease. It has stifled any motivation to invest in the long term maintenance of this property.

However, we can not endorse the extension of the current master lease, as it is now written. The current form of the bill only considers the previous lease holder for such an extension.

The current master lease holder made a significant profit from sell off the individual units, then handing responsibility for improvements and on going expenses to the association of apartment owners (AOAO) of Country Club Hawaiian Condo-Hotel.

Current unit owners are anxious to improve their units and the general condition of the development and would be able to put together an appropriate proposal if you amend this bill to allow us such an opportunity. These improvements and revitalizations would be funded by a proportional assessment from the association of owners. With the promise of a long term lease, individual owners (even those without significant funds on hand) would have the equity to qualify for conventional loans, thus having ample resources,

The current owners would like to contribute to the improvement of the available transient accommodations in East Hawaii with more individual pride than any corporate entity.

For decades the DLNR has dealt exclusively with the AOA and it's board and should therefore be authorized to negotiate directly with us in any extension or a new lease. DLNR has received lease payments directly from us, negotiated with us directly for review and negotiations concerning periodic rate increases, and correspondence on all matters. Therefore, DLNR has already acknowledged us as the party most responsible for this property.

This bill needs to be changed prior to being passed to allow the association of current condo owners to carry an extended lease. Otherwise, it should not be passed.