

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 House Committee on
HEALTH**

**Monday, April 02, 2012
10:30 AM
State Capitol, Conference Room 329**

**In consideration of
HOUSE CONCURRENT RESOLUTION 168
REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO
EXPAND ITS INTERPRETATION OF THE USE PROVISION
IN HANA HEALTH'S LAND LEASE**

House Concurrent Resolution 168 requests the Department of Land and Natural Resources (Department) to expand its interpretation of the use provision in Hana Health's¹ land lease to include income generating activities and ancillary programs as permissible uses. The Department offers the following comments and observations:

The use of government lands by Hana Health is subject to the terms and conditions of General Lease S-5548. Condition No. 12 entitled Character of Use stipulates that:

"the Lessee shall use or allow the premises leased to be used solely for health care services to the Hana Community as set forth in Lessee's articles of incorporation and for other social services commonly provided by the government."

The Department notes that this lease was issued directly without a public auction to a qualified nonprofit under Section 171-43.1, Hawaii Revised Statutes (HRS).² The current rent is \$1 per year.³ The Department notes that Hana Health must maintain its 501(c)(3) status in order to

¹ Hana Health was formerly known as Hana Community Health Center, Inc., a Hawaii nonprofit.

² §171-43.1 Lease to eleemosynary organizations. The board may lease, at a nominal consideration, by direct negotiation and without recourse to public auction, public lands to an eleemosynary organization which has been certified to be tax exempt under sections 501(c)(1) or 501(c)(3) of the Internal Revenue Code of 1986, as amended. The lands shall be used by such eleemosynary organizations for the purposes for which their charter was issued and for which they were certified by the Internal Revenue Service.

³ \$1 per year is actually below the current Board of Land and Natural Resources' minimum rent policy of \$40 per month that is often offered to other qualified nonprofits.

WILLIAM J. AILA, JR.
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

retain its current nonprofit lease at nominal or below market rent. In addition, any changes to the existing use under the lease may require the lessee to first comply with Chapter 343, HRS, and obtain any other necessary governmental approvals and/or entitlements.⁴

⁴ The Board of Land and Natural Resources may also require a reevaluation of the rental amount should income generation or profit be a major or significant portion of the lessee's operation.