



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
BUREAU OF CONVEYANCES

P. O. BOX 2867

HONOLULU HAWAII 96803

Testimony of
NICKI ANN THOMPSON
Registrar

Before the Senate Committee on
COMMERCE AND CONSUMER PROTECTION

Tuesday, January 24, 2012
10:00 A.M.
State Capitol, Conference Room 229

In consideration of
NOTICE OF INFORMATIONAL BRIEFING

The purpose of this information briefing is to receive the report of the Bureau of Conveyance working group pursuant to Act 120 (2009), status of implementation and any recommendations. The purpose of Act 120 is to ease the backlog in the Bureau of Conveyances and land court recording and registration by 1) transferring fee simple time share interest from the land court system (torrens) to the regular system; 2) allowing an owner of a fee interest in land registered in the land court system to transfer the interest to the regular system; 3) allowing electronic recording of instruments in the land court and regular system; 4) establishing a pilot program to implement electronic recording of fee simple time share interests; and 5) allowed the assessment of a \$5 fee for each recording in the Bureau of Conveyances.

The Bureau of Conveyances implemented the transfer of the fee simple time share interests from land court to the regular system and the voluntary deregistration of land registered in the land court system to be transferred to the regular system beginning July 1, 2011. 12,472 time share interests have transferred to the regular system between July 1, 2011 and January 20, 2012. Twelve (12) parcels of land have been voluntarily deregistered in the same time period.

Prior to the implementation of the deregistration of time shares and land, a working group was established to address the implementation of the deregistration, to provide a mechanism to avoid a loss in revenue and to communicate both with the employees and the customers of the Bureau of Conveyances. The working group consisted of the Registrar of the Bureau of Conveyances, the Registrar of the Land Court, the Branch Chief of the Land Court, the Acting Branch Chief of the Regular System, the President of the Hawaii Land Title Association, a private practice attorney specializing in time share development and conveyancing, and the Assistant Registrar of the Land Court assigned to the deregistration process. The working group met frequently during the period January 2011 through September 2011.

The working group developed a procedure for the deregistration of time shares which provided an efficient process for the customers and the staff of the Bureau. It was determined through this group, that the act of deregistration would include recording the transfer certificate of title ("TCT") for the time share in the regular system of the Bureau of Conveyances. The act of recording the TCT memorializes the deregistration from land court. Additionally, the customer is charged the standard recording fee of \$30.00 in the regular system. The fee has offered the Bureau of Conveyances a means to recover any lost revenue relating to the deregistrations.

The working group developed a procedure for the voluntary deregistration of land from land court. This procedure includes a written request to the Bureau of Conveyances to deregister the land and requirements that must be met to accomplish this deregistration. Included with this testimony is the memorandum of suggested procedures which is available on the website of the Bureau of Conveyances.

Effective, July 1, 2009, the Bureau of Conveyances assessed a \$5 fee for each instrument recorded in the Bureau of Conveyances. Through June 30, 2011, revenues from this fund are \$1,885,430. Expenses and encumbrances through June 30, 2011 are \$568,902.32. The balance as of June 30, 2011 is \$1,316,527.68. The anticipated expenditure for fiscal year 2012 is \$600,000. These funds were expended for replacement desktop computers, replacement computer servers, replacement recording and archiving system for the document recorded in the Bureau of Conveyances and Office of the Assistant Registrar of the Land Court, training for the employees relating to the replacement equipment and system, updating of the document access for the public and ongoing maintenance of the new systems.

The Bureau of Conveyances will be proposing appropriate fees for recording through amendments to the Hawaii administrative rules authorizing fees for both the Bureau of Conveyances and the Office of the Assistant Registrar of the Land Court.

Act 120 authorized the electronic recording of documents in the Bureau of Conveyances and the Office of the Assistant Registrar of the Land Court. A pilot electronic recording program was implemented in September 2010. The pilot allowed the employees of the Bureau of Conveyances to become familiar with the electronic recording process. The pilot has been suspended during the implementation of the replacement recording and archiving system. During the pilot, the Bureau received 300 documents per day through the electronic system.

Electronic recording will be implemented through the replacement system in second quarter 2012. The new system will allow expanded electronic recording to be utilized by more trusted customers of the Bureau of Conveyances and the Office of the Assistant Registrar.

The Bureau of Conveyances appreciates the opportunity to testify in this information briefing.



STATE OF HAWAII
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June 2011

SUBJECT: Procedures for Timeshare Deregistration from Land Court and Voluntary Deregistration of Land from Land Court

Act 120, 2009 Session Laws of Hawaii allows owners of land registered in Land Court to request deregistration from Land Court and mandates that all timeshare interests registered in Land Court be deregistered from Land Court. These will take effect on July 1, 2011.

Timeshare Deregistration

Effective July 1, 2011, no documents affecting timeshare property will be accepted for recordation in the Land Court system. All timeshare documents will be recorded in the Regular system of the Bureau of Conveyances ("Bureau") from July 1, 2011 forward. Rather than performing a mass transfer of all timeshare certificates, the Bureau will be deregistering the timeshares certificates upon presentation of a recording affecting the timeshare certificate. In order to accomplish this deregistration the process will be as follows:

1. A document affecting a timeshare certificate will be presented to the Bureau for recordation;
 - a. The submitter is required to complete a cover sheet including ICN, certificate number and owners' name(s). A sample of this cover sheet is included with this memo.
2. The Bureau will review the certificate and prepare it for recordation in the Regular System;
 - a. The cover sheet will be attached to the certificate and recorded in the Regular System.
 - b. If the certificate is not yet certified by an Assistant Registrar of the Land Court, there will be cautionary language placed on the certificate noting:
"Encumbrances mentioned in Chapter 501-82, Hawaii Revised Statutes ("HRS") include the right of the registrar or assistant registrar to correct any clerical error made by personnel of the registrar's or assistant registrar's office in accordance with Section 501-196, Hawaii Revised Statutes, which correction shall be evidenced exclusively by the recordation in the Bureau of Conveyances pursuant to Chapter 502, Hawaii Revised Statutes, of a certified copy of this certificate of title incorporating such correction."
3. The recording fee for the Regular System document will be paid by the submitter. All recording and additional page fees shall apply.

4. All subsequent transactions for this timeshare property will be recorded in the Regular System.
 - a. Pursuant to HRS 501-267 – Reference to prior recorded documents. Any instrument conveying or otherwise dealing with deregistered land and which requires a reference to a prior recorded instrument may satisfy the requirements of section 502-33 by reference to the land court document number (in the case of a document recorded pursuant to chapter 501) or to the book and page or bureau of conveyances document number (in the case of a document recorded pursuant to chapter 502) of the instrument to which reference is made.

Voluntary Deregistration of Land Court Land

Effective July 1, 2011, owners of a fee interest in land registered in Land Court will be allowed to request deregistration of their land. This is a voluntary action by the owners. The process is as follows:

1. The fee owners of the land must submit a written request for deregistration to the Bureau of Conveyances. This request must include:
 - a. Date
 - b. Owner(s) name, including Life Estate interest.
 - i. Any changes must be petitioned at Land Court Judiciary prior to deregistration.
 - c. Property description of land:
 - i. TCT #
 - ii. Lot #, Map #, App/Cons # or Apt & CM #
 - d. Value of Land
 - e. Proof of Title Insurance
 - f. Signed by all Owners
 - g. Notary Acknowledgement

A sample request for deregistration is included with this memorandum.

2. The Bureau is requiring five (5) business days to review the request. The review will include verifying that the requirements of the request have been met and that the certificate of title has been certified by an Assistant Registrar of the Land Court. After review the Bureau will advise the submitter of an estimated date the land will be transferred to the Regular System. At this time, the notation “PENDING DEREGISTRATION” will be noted on the certificate.
 - a. If determined that all requirements of the request are satisfied and the certificate has been certified, the certificate will be recorded in the Regular System of the Bureau. Following the recording of the certificate, the written request for deregistration will be recorded in the Regular System of the Bureau. The document number of the certificate recordation will be noted on the cancelled certificate in the Land Court system.

3. The recording fee for the Regular System documents will be paid by the submitter. All recording and additional page fees shall apply.
4. Any subsequent documents relating to this land shall be recorded in Regular System.
 - a. Pursuant to HRS 501-267 – Reference to prior recorded documents. Any instrument conveying or otherwise dealing with deregistered land and which requires a reference to a prior recorded instrument may satisfy the requirements of section 502-33 by reference to the land court document number (in the case of a document recorded pursuant to chapter 501) or to the book and page or bureau of conveyances document number (in the case of a document recorded pursuant to chapter 502) of the instrument to which reference is made.

Summary

In order to accommodate timely recording of your documents, please provide the Bureau with the following information for any upcoming transactions:

- a. Current Certificate number
- b. Document number that created the certificate
- c. Date of recording for prior document and
- d. Date of upcoming recording.

We would appreciate your cooperation in sharing this information with your staff and/or membership. If you have further questions regarding this procedure, please contact us.

Thank you.

ATTACHMENTS: Sample Cover Sheet
 Sample Voluntary Request to Deregister Land

LAND COURT

REGULAR SYSTEM

(AREA ABOVE RESERVED FOR RECORDING INFORMATION)

After Recordation, Return by Mail or Pick-up Phone#: _____

FILL IN NAME AND ADDRESS BELOW:

Deregistration of Certificate of Title: _____

Owner(s): _____

Interval Control Number: _____

RETURN BY MAIL (X) PICK-UP () TO:

This document contains
__ pages

TMK Nos. (1) ___ - ___ - ___ - ___ CPR. Nos. ____

VOLUNTARY REQUEST FOR DEREGISTRATION

[Pursuant to Section 501-261(d)]

To: Assistant Registrar of the Land Court
State of Hawaii

Date: _____

1. This Voluntary Request for Deregistration ("Deregistration Request") is made by the following persons (individually and collectively the "Owner"):

[State full name, no initials. Show marital status.]

2. Pursuant to Section 501-261, Hawai'i Revised Statutes, Owner requests that the property described in Exhibit A attached hereto and hereby made a part hereof (the "Property") be deregistered.

3. Attached as Exhibit B to this Deregistration Request is true and correct copy of a policy of title insurance issued to Owner in an amount at least equal to the value of the Property. Attached as Exhibit C is documentation of the value of the Property (e.g., an appraisal, tax assessment, etc.).

4. By signing below, Owner waives all Claims against the State of Hawai'i relating to the title to the land arising after the Date of Deregistration. This paragraph 4 does not affect any affect rights and duties that matured or proceedings that were begun on or before the Date of Deregistration. For purposes of this paragraph 4:

A. The term "Date of Deregistration" shall mean and refer to the date when the Assistant Registrar records in the in the Bureau of Conveyances of the State of Hawaii, pursuant to Chapter 502, Hawai'i Revised Statutes:

- (1) A copy of the Certificate of Title for the Property; and
- (2) The executed original of this Deregistration Request.

B. The term "Claims" shall mean and refer to all claims (i) arising subsequent to the Date of Deregistration, and (ii) that Owner could have made against the State of Hawaii pursuant to Chapter 501, Hawai'i Revised Statutes, with respect to the Property had it not been deregistered pursuant to Section 501-261, Hawai'i Revised Statutes.

5. Owner requests that the Assistant Registrar:

A. Record the Certificate of Title for the Property in the Bureau of Conveyances of the State of Hawaii, as provided Section 501-261(a)(1), Hawaii Revised Statutes;

B. Record this Deregistration Request (i) in the Office of the Assistant Registrar of the State of Hawaii pursuant to Chapter 501, Hawai'i Revised Statutes, and (ii) in the Bureau of Conveyances of the State of Hawaii pursuant to Chapter 502, Hawai'i Revised Statutes; and

C. Cancel the Certificate of Title for the Property as provided in Section 501-261(a)(3), Hawaii Revised Statutes.

Owner:

_____	_____	_____
[Print Name in Full]	[Signature]	[Date Executed]

_____	_____	_____
[Print Name in Full]	[Signature]	[Date Executed]

_____	_____	_____
[Print Name in Full]	[Signature]	[Date Executed]

_____	_____	_____
[Print Name in Full]	[Signature]	[Date Executed]

[Notary Acknowledgement]

EXHIBIT A

[Description of the property or the interest in property being deregistered]

EXHIBIT B

[Copy of Title Policy on the property or the interest in property being deregistered]

EXHIBIT C

[Evidence of value of the property or the interest in property being deregistered]

SAMPLE



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Testimony of
CAROL H. CHING
Land Court Branch Chief

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COMMERCE AND CONSUMER PROTECTION

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Testimony has been submitted by the Registrar of the Bureau of Conveyances. This testimony is to focus on the ease to the backlog in the Bureau of Conveyances and Office of the Assistant Registrar of the Land Court.

The priority task of the Bureau of Conveyances is to record all documents received on a daily basis. This includes documents submitted by mail, over the counter or received in bulk from the title companies. For the past four years, all documents are recorded in a timely manner. The second priority task is to create indexes for all documents recorded in the Bureau of Conveyances. The indexes are currently 75 days in arrears. The goal is to be within 10 days of recording.

January 24, 2012

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The backlog in the land court review section of the Bureau of Conveyances is approximately 300,000 documents including time share documents. The number of documents affecting time share property is estimated to be 50,000. With the deregistration of time shares, this back log is anticipated to decrease. The volume of recordings in Land Court has been declining since 2008. The average number of documents recorded per year from 2003 through 2007 was 169,000 per year. The average number of documents recorded per year since 2008 is 110,000.

Additionally, the Bureau of Conveyances has been given the authority to fill five abstractor positions which will assist with the typing of the certificates, review of the certificates and creating indexes for all documents recorded. These positions are anticipated to be filled by during the first quarter 2012.

The Bureau of Conveyances appreciates the opportunity to testify in this information briefing.