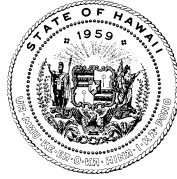


**SB 573**

**SD 1**

NEIL ABERCROMBIE  
GOVERNOR  
STATE OF HAWAII



ALBERT "ALAPAKI" NAHALE-A  
CHAIRMAN  
HAWAIIAN HOMES COMMISSION

ROBERT J. HALL  
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII

**DEPARTMENT OF HAWAIIAN HOME LANDS**

P.O. BOX 1879  
HONOLULU, HAWAII 96805

TESTIMONY OF **ALAPAKI NAHALE-A**, CHAIRMAN  
HAWAIIAN HOMES COMMISSION  
BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS

**SB 573 SD 1, RELATING TO THE STATE BUDGET**

March 3, 2011

Chair Ige, Vice-Chair Kidani and Members of the Committee:

The Department of Hawaiian Home Lands (DHHL) strongly supports this bill, which appropriates funds that will enable our department to acquire necessary tools to effectively assess, determine, and track programmatic needs for 35,000 Hawaiian Home Lands beneficiaries.

The \$1.5 million to be appropriated each year in the biennium will be used for fee for services and equipment to create a dynamic system that allows us to build and manage a beneficiary database. This improved database is a critical tool in better understanding current "capacities" of beneficiaries and how best to address their needs. Without this tool, it will be difficult and costly for us to determine what kind of home ownership or land stewardship opportunities or programs best match the 25,000 native Hawaiians currently on our waitlists. Ultimately, this tool could empower us to determine what sum is necessary for the department to develop homestead lots and loans, sustain rehabilitation projects, and support our administration and operating budget. Thank you for the opportunity to testify.



# NATIVE HAWAIIAN LEGAL CORPORATION

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## COMMITTEE ON WAYS AND MEANS

Senator David Ige, Chair  
Senator Michelle Kidani, Vice Chair

March 3, 2011  
10:30 AM  
Capitol Room 211

### Testimony of Alan T. Murakami

I **SUPPORT** passage of SB 573, SD 1.

This is an idea long overdue. The state has a constitutional mandate to provide the Department of Hawaiian Home Lands “sufficient sums” to run all of its statutory programs and to operate. This mandate means that you should be providing as much general funding as is needed to allow an effectively operated department to achieve its mission. A major part of that mission is to award improved homesteads to applicants under the Hawaiian Homes Commission Act, which this state incorporated in its Constitution in 1959 as a condition of entry into the United States. Since then, the state has benefited enormously from statehood, while it has simultaneously reneged on its promise; in short, Hawai`i has not lived up to this condition of becoming a state of the union. It has broken a compact with the United States that it cannot ignore.

Like many alive at the time of statehood, I recall the rejoicing of many who believed that entry into the United States would bring untold benefits of full citizenship, as well as economic prosperity to all, after a long and difficult battle of acceptance into the nation that promises to live up to its creed. The short memory our state political leaders has been a disaster for native Hawaiians whose entitlements under the HHCA was quickly forgotten as the rest of the state continued to take without giving back. In the interim, with no political attention on delivering on the promises made to return Hawaiians to a

land base set aside exclusively for their benefit, native Hawaiians died waiting for homesteads that never came.

In 1978, constitutional convention delegates recognized that the State was forcing the DHHL to lease its own lands out to generate revenues with which it could operate and rarely appropriating any capital improvement projects to support homesteading. The recognized that the DHHL needed be relieved of this burden, especially with the poor commercial quality of the lands with which they had to work – often times isolated in location, and not near infrastructure to support development of homes, ranches and agriculture. Accordingly, in order to free the DHHL of this burden, it required that the Legislature provide it “sufficient sums” to support all of its programs and operations, as needed. Their collective intent was to take away ANY legislative discretion to reduce this funding, so the state could reverse its perverse record of a waiting list of already over 5,200 applicants in 1978.

Despite its passage and ratification in 1978, since then, the state ignored this constitutional mandate. In the 30 years since passage of the amendment, the DHHL waiting list more than quadrupled (to over 24,000) and the number of persons waiting 30 years or longer for a homestead tripled to over 1700 applicants. Many died in the interim. To add insult to injury, the state went from only partially funding the DHHL’s operations beginning in 1988, peaking at \$3.9 million in general funding in 1992, and deleting ANY general funding for the DHHL by 2009. To make matters worse, Governor Lingle and Micah Kane initiated the defunding of the DHHL for the first time in 20 years before they left, turning exclusively to the funding source for the DHHL that the 1978 constitutional convention delegates sought to terminate – revenues from the general leasing of trust lands. During the Lingle/Kane administration, as overhead costs exploded, the DHHL doubled its reliance on general lease revenues for administrative expenses, going from \$6 million to \$12 million in its 8 years in office.

To cover its tracks, the Lingle/Kane administration relied heavily on the breach of trust settlement payments negotiated and approved by the 1995 Legislature, totaling \$30 million per year, which by statute terminates by 2014. Although Act 14 (1995 Session Laws) authorizing those payments specifically prohibited the treatment of those funds as compliance with funding mandate of Haw. Const. Art. XII, sec. 1 (see sec. 6 of Act 14), Gov. Lingle and Director Kane used it primarily as the basis for capital improvements that allowed them to artificially boost homestead production during their years in office.

Moreover, they were able to use these funds to make it appear that they were truly meeting mission requirements. In fact, the waiting list for homesteads grew each year between 2002 and the present, demonstrating that administrators could not keep up with demand even with artificially high funding levels attributable to that remedial act. In the meantime, trustees for the HHCA simply ignored their duties to seek “sufficient sums” to pay for needed DHHL programs and operational costs. In effect, the revenues generated by the use of trust lands paid for salaries and other administrative expenses that mushroomed during the Kane administration, which in turn refused to ask for the “sufficient sums” which the constitution required the state to provide the DHHL. The

padding DHHL budget during those years financed many administrators who were unqualified and added no value to the programs of the DHHL. Given that hundreds of millions of dollars were expended during this period, *I urge you to demand a fiscal and management audit of this spending, to give you an accurate and objective picture of the performance of these administrators during this period of excess.*

It is time to move on. SB 573, SD 1 will set the background work for determining what is the true trust obligation the state accepted voluntarily over 50 years ago. I daresay the state has not lived up to the constitutional mandate to fund the DHHL adequately in any past fiscal year. The resulting problems are legion.

Please pass this bill as a necessary first step to resolving the immense problems left behind in the Lingle legacy haunting this program.

*Alan T. Murakami*