

*The Judiciary, State of Hawaii*

**Testimony to the Senate Committee on Ways and Means**

The Honorable David Y. Ige, Chair  
The Honorable Michelle N. Kidani, Vice Chair

Thursday, March 27, 2014, 10:35 a.m.  
State Capitol, Conference Room 211

By  
W. Tom Mick  
Policy and Planning Department Head

**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** House Bill No. 1638, H.D. 2, S.D. 1, Relating to the Judiciary.

**Purpose:** To provide supplemental operating and capital improvement appropriations for FY 2015.

**Judiciary's Position:**

The Judiciary strongly urges your support of House Bill No. 1638, H.D. 2, S.D. 1, which reflects the Judiciary's resource requirements for FY 2015.

The Judiciary recognizes that the economy and overall economic outlook for Hawai'i have improved relative to the last two fiscal biennia. However, as you know and we understand, in keeping with the biennium budget concept, supplemental budget resources will be requested largely to address unforeseen developments, inadvertent oversights, and other special circumstances which might cause hardship on those we serve. In addition, we are quite mindful of the many competing demands for the limited resources available. Accordingly, the Judiciary has tried to be very prudent in its supplemental budget request and focus on only its most pressing needs relative to the clients and public it serves, as well as to its own operations and staff. To that end, the Judiciary is requesting 18 new permanent positions and additional funding of \$4.8 million for FY 2015.



House Bill No. 1638, H.D. 2, S.D. 1, Relating to the Judiciary  
Senate Committee on Judiciary and Labor  
Thursday, March 27, 2014  
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The Judiciary is very grateful to the Senate Committee on Judiciary and Labor for fully restoring ten permanent positions and \$2.5 million to our general fund supplemental requests related to leasing space in Kapolei, to Project HOPE, to computer replacement, and to court interpreter, court mediator, nurse manager, and cashiering positions in First Circuit; a legal documents clerk position in Second Circuit; an IT Specialist position in Third Circuit; Capital Improvement Program (CIP) Specialist, Judicial Education Specialist, IT Specialist, and Office of Public Guardian positions in Administration; and a multi-point videoconferencing unit to serve the Judiciary statewide. We are also very pleased that JDL continued the eight permanent positions and general fund monies totaling about \$2.3 million provided by the House Committees on Finance and Judiciary for our supplemental budget requests related to salary adjustments for the justices, judges, and Administrative Director and Deputy Administrative Director of the Courts; purchase of service contracts, Project HOPE, mental health programs, JAVS recording equipment, Westlaw subscriptions, and cashier positions in the First Circuit; guardian ad-litem/legal counsel costs in the Second Circuit; special duty officers and bailiffs in the Third Circuit; interview recording equipment for the Children's Justice Center; and training funds for the Judiciary.

We are also extremely pleased that JDL restored the 18 permanent position counts and related funding totaling \$700K that were eliminated by the House Committee on Finance in House Bill 1638 H.D. 2. From what we understand, these 18 position counts were related to those vacant positions (eight permanent, three budgeted temporary, and seven unbudgeted temporary) with the lowest priority shown on our January 31, 2014 prioritized vacancy listing provided the Senate Ways and Means and House Finance Committees on February 7, 2014. However, 13 of these 18 positions have already been filled (position numbers 500220, 15369, 57221, 14465, 14463, 14573, 23007, 500287, 500547, 500518, 500519, 500646, and 500647); and four of the remaining five are temporary positions with no position counts (position numbers 500014, 500657, 500462, and 500157), of which two are unbudgeted temporary positions with no funds budgeted for them. The one remaining unfilled permanent position (position number 27894) was just vacated in early January 2014. Further, the \$700K eliminated was based on last salary paid (\$694K) rather than budgeted amounts (\$397K), and the positions and funding were removed from JUD 601 (Administration) rather than JUD 310 (First Circuit) where all the positions were actually located.

House Bill 1638 H.D. 2, S.D. 1, did not contain the additional \$1 million for accrued vacation payout and \$700K for other current expenses provided by the House Finance Committee. While the Judiciary is sorry at the loss of this additional \$1.7 million, we certainly understand the need for fiscal restraint by JDL in light of the latest Council of Revenue projections for economic growth in FYs 2014 and 2015. Further, the loss of the \$700K is offset by JDL's restoration of \$700K related to the 18 positions discussed in the previous paragraph.



House Bill No. 1638, H.D. 2, S.D. 1, Relating to the Judiciary  
Senate Committee on Judiciary and Labor  
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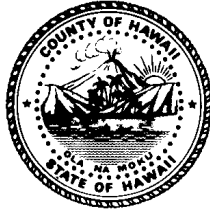
House Bill 1638, H.D. 2, S.D. 1, also provided positions and funding for a staff attorney for Third Circuit and for a Special Assistant to the Administrative Director of the Courts; grant-in-aid funding to the Department of the Prosecuting Attorney of the City and County of Honolulu for Veteran's Court prosecutions, Drug Court prosecutions, and Project HOPE; and funding for a statewide temporary restraining order assistance program to support the Family Court system of the First Circuit. Although the Judiciary did not request these positions and funding in its supplemental budget request, we are grateful for their addition as long as these items do not come at the expense of other items included in our budget request.

Relative to the CIP supplemental budget request, the Judiciary is very appreciative of the \$8.2 million provided by JDL and the House Committees on Finance and Judiciary for six CIP projects on O'ahu and Maui, and to JDL for the additional \$50 million in construction funding for our new Judiciary Complex in Kona. With this additional \$50 million, the \$31 million provided by the House Committee on Finance, and the \$9 million generously provided by the Legislature last year, the Judiciary will now have the \$90 million in construction funding needed to go out for bid and award the construction contract for the Kona Judiciary Complex. This is especially important since land issues have been resolved with the selection of the Queen Liliuokalani Trust site property for this complex, thereby allowing the Judiciary to continue moving forward with the design process now that the land issues have been settled.

The proposed supplemental budget request is the Judiciary's best estimate of the resources necessary to maintain the integrity of the courts and to fulfill our statutory, constitutional, and public service mandates. The Judiciary respectfully requests your support of House Bill 1638, H.D. 2, S.D. 1, which is the Judiciary's supplemental budget request.

We hope that the information provided today will assist your committee in its deliberations relating to this bill. Thank you for your consideration and the opportunity to testify on this measure.

**William P. Kenoi**  
*Mayor*



**Walter K.M. Lau**  
*Managing Director*

**Randall M. Kurohara**  
*Deputy Managing Director*

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March 27, 2014

The Honorable David Y. Ige, Chair  
and Members of the Senate Committee on Ways and Means  
Hawai'i State Capitol  
415 South Beretania Street, 211  
Honolulu, Hawai'i 96813

Re: House Bill 1638, HD 2 SD 1 - RELATING TO THE JUDICIARY

Aloha, Chair Ige and Committee Members:

Mahalo for the opportunity to express our strong support HB1638, HD 2 SD 1, which includes funding for the Kona Judiciary Complex. The appropriation for design and construction is a priority for Chief Justice Mark Recktenwald as well as our citizens. This courthouse is needed to better serve not only our residents in West Hawai'i, but citizens and attorneys throughout our island and State.

West Hawai'i has never had a single, centralized courthouse. Currently the District Courtroom and Circuit Courtroom are in the Old Kona Hospital in the Keakealani Building, while Judge Ronald Ibarra's courtroom is in the former Al's Farm & Garden location on Halekii Street in Kealakekua. Family Court facilities are located in the Lender's Document Service Building in Kailua-Kona.

We all recognize the importance of adequate judicial facilities to provide needed security, appropriate decorum, and most importantly access to justice for all of our citizens. A centralized courthouse in Kona is needed for safety, and to ensure the timely and dignified adjudication of cases.

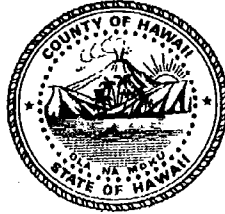
Mahalo for your consideration.

Aloha,

**William P. Kenoi**  
MAYOR

MITCHELL D. ROTH  
PROSECUTING ATTORNEY

DALE A. ROSS  
FIRST DEPUTY  
PROSECUTING ATTORNEY



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## OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF HOUSE BILL 1638 HD2 SD1

A BILL FOR AN ACT RELATING TO THE JUDICIARY

COMMITTEE ON WAYS AND MEANS

Sen. David Y. Ige, Chair

Sen. Michelle N. Kidani, Vice Chair

Thursday, March 27, 2014, 10:35 AM  
State Capitol, Conference Room 211

Honorable Chair Ige, Vice Chair Kidani, and Members of the Committee on Ways and Means, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in support of House Bill No. 1638 HD2 SD1.

The purpose of this measure is to appropriate funds to the Judiciary for Fiscal Year 2014-2015:

Our deputy prosecutors serve at the various Kona Courthouses everyday and have seen first hand the problems in the current facilities. Although the judiciary has made improvements and do their best under the circumstances, we are deeply concerned about safety for staff, parties, jurors and witnesses. Since 2008, the Kona courts hear cases from North Kohala, South Kohala, Kona and Ka'u districts. As caseloads increase, the concerns stated below will become more pressing. We sincerely appreciate Chief Justice Recktenwald for his support for the building of the Kona Judiciary Complex.

Keakealani Building located at the old Kona hospital is the main courthouse, which houses both a circuit and district court as well as clerks offices and judiciary administration staff. It has numerous steps, which our deputies must use to enter the building, often laden with files and other equipment. Parking is scarce and efforts to obtain a dedicated stall for prosecutor and public defender were unsuccessful because of existing DAGS rules. We had one deputy fall and fracture her rib while walking with her trial box to her car, which had to be parked in the grass because there was no other parking space. She was in the midst of a felony jury trial and had to continue to work in pain.

Prisoners coming from or going to the cellblock must climb steep concrete steps in the back of the building, which is wet if it rains. We have had at least one prisoner fall with shackles, and another escape from this location. The cellblock itself is woefully inadequate. Its small space must sometimes house newly arrested defendants as well as inmates transported from the community correctional facility. There is no place for attorneys to talk to their clients or for guards to wait. ACOs set up an outdoor table under the judge's overpass to watch the cellblock door.

There are three separate locations for Kona courthouses. In all locations, quarters are very close; resulting in jurors, parties, witnesses and families forced to intermingle in the hallways, limited waiting spaces and restrooms. During criminal proceedings, it is common for family and friends of a victim and the defendant to want to come to the courthouse and observe the proceedings. Emotions can run high and people may be distressed and desperate.

Our deputies have observed jurors to appear intimidated because everyday when they arrive and leave, and at every break, these jurors must walk by supporters and family of the defendant on trial. Trials have had to halt because jurors may have inadvertently heard something improper. Deputies have been threatened by family members upset that a defendant is found guilty. The close quarters don't provide the space needed to prevent, diffuse or react to intimidation or violence. This is not safe, and a serious incident is just a matter of time.

Preliminary hearings and trials in the Family Court at the Lender's Documents Building are held in a room where victims must testify within six feet of the defendant, separated only by counsel table. This Family Court also hears juvenile matters, domestic violence restraining orders, divorces, and child welfare cases. These types of cases can be highly charged. The deputy sheriffs do their best to be present and prevent incidents but they cannot be everywhere and incidents nevertheless have occurred.

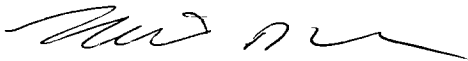
The fact that the courtrooms are located in three separate buildings has led to confusion with people going to the wrong location to conduct their business. Defendants who go to the wrong courthouse may be issued a bench warrant; attorneys and parties risk being sanctioned. A witness who appears in the wrong courthouse may result in a case being dismissed. The Kona community has only limited public transportation. A person with transportation issues cannot readily appear at the correct courtroom if he or she misunderstood their summons or subpoena.

The adult probation department is currently on the second floor of the Lenders Document Building, which does not have an elevator. Disabled defendants have to meet their probation officers in an alternate location. This is not acceptable.

The Kona community deserves a complex where all judiciary business is conducted in one location in a safe environment, and where lessons learned from other complexes built throughout the state may be applied. We urge this Legislature to enact H.B. 1638 HD2 SD1 and support the Kona Judiciary Complex.

The Office of the Prosecuting Attorney of the County of Hawai'i supports the passage of House Bill No. 1638 HD2 SD1. Thank you for the opportunity to testify on this matter.

Respectfully,



Mitchell D. Roth  
Prosecuting Attorney  
County of Hawai'i

**From:** [Wendy.M.DeWeese@hawaii.gov](mailto:Wendy.M.DeWeese@hawaii.gov)  
**To:** [WAM Testimony](#)  
**Subject:** Kona Courthouse  
**Date:** Wednesday, March 26, 2014 1:27:27 PM

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Aloha,

I have reviewed the testimony submitted by Robert D.S. Kim, Esq. and wholeheartedly concur. I have witnessed delays in court proceedings due to issues around getting inmates from point A to point B.

Individuals' ability to get to court on time is hampered by totally inadequate parking and lack of convenient access for disabled persons. Conducting jury trials with witnesses, defendants and jurors all waiting in the same area is a logistical nightmare. And it is unacceptable that the public and those summoned to perform their civic duty as jurors must stand around for hours in a partially paved, partially covered court yard or in a parking lot outside Judge Ibarra's court. At the Lenders Document Building, where the juvenile court proceedings are conducted, the waiting area is likewise inadequate. It is so noisy that one can hear people talking in the waiting area when court is in session. There is inadequate room and seating for all the minors, parents, service providers, school personnel, attorneys and probation officers who are required to be present for proceedings. On one occasion we had cancel court because the toilet on the third floor plugged up, overflowed and waste water leaked through the floor into the Family Court courtroom! The building not suitable for a courthouse or probation offices. Please provide the much needed funding for a new court house. Our current facilities here in West Hawaii are a disgrace to our community and the justice system.

Wendy DeWeese  
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**TESTIMONY**

Senate Committee on Ways and Means  
Hearing: Thursday, March 27, 2014 @ 10:35 a.m.

TO: Chair David Y. Ige, Vice Chair Michelle N. Kidani and  
Members of the Senate Committee on Ways and Means

FROM: Calvin E. Young  
President, Hawaii State Bar Association

RE: HB1638, HD2, SD1 Relating to the Judiciary

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Chair Ige, Vice Chair Kidani and Committee Members, as the President of the Hawaii State Bar Association, I am submitting comments in **STRONG SUPPORT** of Section 3 of HB1638, HD2, SD1 specifically item 1 on page 3 "Kona Judiciary Complex, Hawaii". The total funding request for this critically important project is \$90 million. The current appropriation level in Senate Draft 1 is the total funding request of \$90 million, which we hope will remain intact through conference and adjournment sine die.

While this court complex is to be physically situated in Kona, this facility will serve the needs of all of the residents of the Big Island. And in the larger scheme, since State court facilities on all islands should be viewed as one cohesive network, this facility would increase the availability of access to justice for all of Hawaii's people.

The residential and visitor population of West Hawaii has grown and will continue to grow. Kona has been patient as the Legislature has generously approved funding requests in recent years for Kauai, Hilo, and most recently Kapolei.

The current Kona court campus consists of a number of small detached buildings which were not originally designed as court facilities. In fact, the office and chamber of Administrative Judge Ronald Ibarra is located in walking distance of the hospital wing where he was born. The Self Help Center established for self-represented litigants serviced by HSBA volunteer attorneys is a desk located in a former morgue facility. Opposing parties, oftentimes involved in emotional Family Court proceedings, are confined to one small facility. Security and safety are major concerns since criminal defendants, court staff, lawyers, witnesses and jurors are likewise confined to a small area.

The facility envisioned for the Kona site selected will meet current judicial needs and future projected judicial needs of West Hawaii, Hawaii County and the State as a whole.

The Board of the Hawaii State Bar Association stands united in its unwavering **SUPPORT** of the Judiciary's top priority funding request of \$90 million for the proposed Kona Judiciary Complex. Thank you for the opportunity to submit these observations and comments.

TESTIMONY IN SUPPORT OF HB 1638, HD2,SD1 RELATING TO THE JUDICIARY  
CIP -FOR KONA COURTHOUSE COMPLEX  
SENATE WAYS AND MEANS COMMITTEE HEARING, MARCH 27, 2014, 10:35 AM, RM 211

To: SENATOR DAVID IGE, CHAIR, AND COMMITTEE MEMBERS

From: Charlene Iboshi, Hawaii State Bar Association, Senior Counsel Division Director for Hawaii County; Member of the West Hawaii Bar Association and Hawaii County Bar Association

I have practiced law in the State for over thirty years. Over the years, I have seen each circuit build new courthouse complexes. Now, the Kona Judiciary Complex is the last one to be built. The Judiciary selected the Kona Judiciary Complex Capital Funding as their #1 priority. The Hawaii State Bar Association, the two voluntary bar associations (West Hawaii County Bar Association and the Hawaii County Bar Association) in the Third Circuit strongly support the judiciary's request. The proposed Kona Judiciary Courthouse Complex serves, not only the Third Circuit, but all the citizens of the state. Unlike services in county government, the judiciary serves interests statewide.

The Kona Courthouse system was cobbled together as the population and commercial demands of the island exploded. I practiced in Kona when there was only one courthouse, and all jury trials were in Hilo. Now, West Hawaii's filings and litigation are nearly 40% of the filings in the Third Circuit. Hawaii County is unique in that it is the largest county in the entire state, encompassing the same land mass as all the other counties combined. Logistics and infrastructure development are always more expensive because of its sheer size. Moreover, Hawaii County has many areas that are the fastest growing in the State. Hawaii County's Third Circuit Kona Courthouse system has many issues because the facilities were not designed for the demands and safety concerns of our court system. The West Hawaii Bar Association Support testimony details the specific problems that would be corrected by with a new Kona Judiciary Complex.

The courthouse complex is needed for the safety of those who are required to use the Courthouse or Judiciary Services. It provides a more cost-effective use of state resources for our long-term support of our Third Branch of Government.

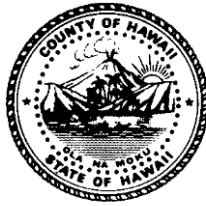
I am writing support testimony, because the need for the new Kona Courthouse Complex is unquestionable and justified fully in other testimonies. From my perspective as the Senior Counsel Division Director, I realize that the community's respect to uphold the "Rule of Law" and the role of the judiciary as the institution that dispenses justice require a "sense of place" that commands respect. The Judiciary has a clear plan to build this "Hale" that commands respect, and this needed Kona Judiciary Complex benefits all the citizens in the state, including all the practitioners throughout the state, the litigants, witnesses, services providers and statewide community which rely on the courts to pursue justice.

Please fully fund the Judiciary's request for the Kona Judiciary Complex. Thank you for the opportunity to provide support testimony.

Charlene Y. Iboshi  
Hawaii State Bar Association, Senior Counsel Division Director, Hawaii County

Member of the West Hawaii Bar Association and Hawaii County Bar Association

William P. Kenoi  
Mayor



Lincoln S.T. Ashida  
Corporation Counsel

Katherine A. Garson  
Assistant Corporation  
Counsel

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March 26, 2014

**TESTIMONY IN SUPPORT OF H.B. 1638, H.D. 2, S.D. 1 – RELATING TO THE  
JUDICIARY**

TO: HONORABLE DAVID IGE, CHAIR  
HONORABLE MICHELLE N. KIDANI, VICE CHAIR  
and Members of the Senate Committee on Ways and Means

FROM: LINCOLN S. T. ASHIDA  
Corporation Counsel  
County of Hawai'i

Thank you for accepting this testimony in **STRONG SUPPORT** of H.B. 1638, H.D. 2, S.D. 1, specifically the provision related to the funding of the Kona Judiciary Complex. We support the Senate Judiciary and Labor Committee's amendment of the bill to full fund the project by the \$81 million necessary to make the Kona Judiciary Complex a reality.

In the Public Administration course I teach at the University of Hawai'i at Hilo, we discuss the importance of good government being the product of all three branches of our government thriving. Like all judges, Third Circuit Court Administrative Judge Ronald Ibarra demands appropriate decorum in his Court, and often speaks of the importance of a decent courtroom as the gateway for access to justice for our citizens.

We have the present opportunity via H.B. 1638, H.D. 2, S.D. 1 to finally bring to Kona a court complex that is needed and our State can be proud of. The present facilities, although well intended, are simply inadequate. The rights of parties are compromised since they cannot meet privately with their attorney. Security is a concern for parties, witnesses, lawyers, judges, court staff, and the public. There is inadequate parking for the public. Having all of the courts spread out throughout Kona is not efficient—attorneys often have to rush (drive) from court to court in order to make their hearings and represent their clients.

The Big Island community is unified in their need for this new Kona Judiciary Complex. Please help us make this happen by furthering Chief Justice Mark Recktenwald's vision of bringing this needed facility to our Kona district. This facility will not only benefit Kona citizens and lawyers, but all of our citizens statewide who seek access to justice in West Hawai'i.

*Hawai'i County is an Equal Opportunity Employer and Provider*



March 25, 2014

TESTIMONY TO SENATE COMMITTEE ON WAYS AND MEANS  
HEARING: THURSDAY, MARCH 27, 2014 AT 10:35 A.M.

TO: Honorable Chairman David Y. Ige, Vice Chair Michelle N. Kidani  
and Members of the Senate Committee on Ways and Means

FROM: Robert D. S. Kim  
President, West Hawaii Bar Association ("WHBA")

RE: H.B. 1638, HD 2, SD 1 – RELATING TO THE JUDICIARY  
SPECIFICALLY THE KONA JUDICIARY COMPLEX FUNDING

The WHBA is supporting the continued funding for the Kona Judiciary Complex included in H. B. 1638, HD 2, SD 1. The Judiciary had originally sought \$81 million for the construction of the facility. The House Finance Committee this year had funded at total of \$31 million. The Senate Judiciary and Labor Committee amended the bill to fully fund the project, authorizing \$81 million. The Kona Judiciary Complex has been the number one (1) CIP priority for the Judiciary.

In further support of the project I am attaching a Petition with 230 signatures, which includes attorneys from both East and West Hawaii. The Kona Judiciary Center will serve all of the attorneys and citizens on the Island of Hawaii. As an update, to previous testimony submitted, a recent letter to the editor was published by a juror in a very recent sexual assault trial in Kona. I have included her comments for your review as they are relevant to this debate.

We are humbly and respectfully requesting your continued support of the project. We thank the leadership on this committee, and the members for inspecting the current judiciary facilities in West Hawaii on previous occasions. I know your members are familiar with our plight. I have included in my testimony current information which supports the construction of the Kona Judiciary Center, and a signed petition from attorneys and our community.

6A

# OPINION

MONDAY, MARCH 24, 2014 | WEST HAWAII TODAY

## LETTERS | YOUR VOICE

wht@aloha.net

### More parking needed at courthouse

A short while ago, you printed an article about the lack of funds for a courthouse in West Hawaii.

I had the pleasure of being on a jury recently and I was actually present when one of the jurors had a run-in with one of the lawyers.

The space in front of the courthouse is very limited. In fact, most of the visitors have to park up above and walk down a steep road to get to court.

I tried arriving early just to get a space and was successful once. After that, I ended up parking up top where a security guard directs parking to maximize parking space for everyone. We need a parking area that has a slot for the judge, the four lawyers and room for the 12 jurors as well as the alternate. Only the visitors and spectators should have to park in a free public parking area.

I have witnessed the lawyers walking down to court in rubber slippers and changing into

proper footwear once on level ground, I have also witnessed an irate juror who was told that a stall was reserved for someone. He was so upset that he entered the deliberation and workroom cursing and talking loudly about the incident. This should not have taken place as the said juror would have been the select juror to read out our verdict. As a result, that juror was dismissed and we were each questioned about whether this incident would cause us to sway our vote. Of course I'm sure we all

said the same thing, that the incident had nothing whatsoever to do with the case at hand. We were able to come to a unanimous verdict and everyone went on their way.

I have found that jury duty is quite interesting and fun. I met so many nice people that were generous with their treats and information on health.

This incident verified the fact that we in West Hawaii really need a courthouse with ample parking.  
**Colleen Miyose-Wallis**  
Kailua-Kona

There is a critical need to consolidate the courts and support services in West Hawaii. This project is currently the number one priority on the Judiciary's CIP list. Currently, the District and Circuit Court of the Third Circuit Court, Kona Division, located in Kealakekua, Hawaii is located along side the State Department of Health facilities in a multi-purpose building known as the Keakealani Building that was built in 1939, and is dilapidated, and overcrowded.

There is also a Circuit Court for the Big Island Drug Court (BIDC) located blocks away that is leased. The Family Court is miles away and is also leased. The Keakealani Building was originally the old Kona Hospital and was built by the Public Works Administration almost 70 years ago under President Franklin Roosevelt.

There are four (4) courts located in West Hawaii, at three (3) different locations. None of these "court facilities" were originally designed for court use. A Memorandum Of Understanding has been signed between the Judiciary and the land owners Queen Liliokalani Trust.

The State is currently paying high costs for maintaining the current court facilities. The current lease agreements are as follows:

- Lenders Document Building 12/1/12 – 11/30/13 (renewed annually)
- 81-940 Haleki'i St (Kona Div 3, Drug Crt Client) 9/1/12 – 8/1/17
- Driver Education (Kealakekua Business Plaza) 3/1/09- 4/15/14
- Kona Circuit Court storage (renewed annually)

**Lender's Document Building** (77-6399 Nalani St., Kailua-Kona, HI)

We lease the 2nd and 3rd floor. The 2nd floor is for Family Court & operations staff that support Family Court (i.e. legal docs) and Juvenile Client Services. The 3rd floor is for Adult Probation Services.

The total monthly lease amount is \$17,969.41, janitorial services included (215,632.92 per year).

**Circuit Court Division 3/Drug Court** (81-940 Haleki'i St., Kealakekua, HI)

This space is for Circuit Court Division 3 (Judge Ibarra's court) and Drug Court Probation.

The total monthly lease amount is \$9,658.27 (\$115,899.24 per year).

In addition to the lease amount, Judiciary pays for contract janitorial services at this location in the amount of \$1,249.92 per month (\$14,999.04 per year)

**Driver Education** (Kealakekua Business Plaza)

This space is for Driver Ed staff and classes (for DUI classes, Driver Improvement classes, etc) .

The total monthly lease amount is \$5,862 (\$70,344 per year).

**Circuit Court Storage**

This space is for off-site storage of files because we do not have enough space at the Keakealani Bldg.

The total monthly lease amount is \$2,243.22 (\$26,918.64 per year).

**Kona Courier Services**

\$361.46 per month

(Once consolidated to a new bldg, this will end. We will still have to pay for intra-island courier between Hilo and Kona, but that is not included in this amount shown.....)

Total monthly – \$37,244.28, total annually –\$ 448,131.36

**KEAKELANI BUILDING (Old Kona Hospital) Located in Kealahou, about ten (1) miles from the main hub of Kailua-Kona**



**Current Building Utilization**

- Serving the western portion of the Island of Hawai'i in the Third Circuit, the Kona Circuit Court Division 4 and District Court occupy the Old Kona Hospital.
- Originally built in 1939, this facility was renovated in 1984 for Judiciary operations.
- This facility is 13,461 SF of court and administrative offices, and shares space with the Department of Health.
- The facility is owned by the State and maintained by DAGS.
- The facility houses one Circuit Court and one District Court and their respective support offices, including Judiciary Administrative offices.



## Functional Space Adequacy

- This facility is cramped and overcrowded.



- The only "Jury Assembly area" to use is the outside courtyard, which is shared by the public, defendants, attorneys, and parties to cases.
- The Sheriff's Office has 10 positions that were originally assigned to Kona, with 1 secretary. Recently, 2 of those 10 positions were reassigned by the Sheriff's Division to South Kohala. 2 of the 10 positions are vacant. This information, however, should be verified with DPS/Sheriffs Division. There are currently 6 positions assigned to Kona (1 Sergeant, 3 deputies and 2 emergency hires).
- Access by detainees from the holding cells to the courtroom requires transportation of detainees up and down a flight of stairs.



- The facility was designed as a hospital so circulation throughout the building is awkward.
- This facility is not ADA compliant.
- There are no expansion opportunities on this site.

## Public Accommodations and Accessibility

- The public accommodations in and around the building are extremely inadequate.
- There is insufficient parking, including an insufficient number of handicap stalls. Often the public must park in areas not designated for Judiciary parking such as at the hospital, or parking in non-designated parking areas on the side of the road.



- Additionally, there is no designated waiting area for the public. There is a courtyard in between the Circuit Court and District Courts, where the public gathers prior to going into the courtrooms.
- A new jury room was constructed in 2011, which included a paved and covered lanai area. This has helped to provide some public accommodations.
- Sheriffs must walk prisoners through the public courtyard area to get to and from the courtrooms, which compromises security.
- There is no building directory, and no public information booth.
- There is accessibility to individuals with disabilities; however, it is inadequate. The Keakealani Building is old and has about 35 steps from the bottom parking lot to the main building entrance. The only wheelchair access is from the two (2) stalls on the

Department of Health side of the building and the two (2) stalls in the back next to a dialysis center, which are all usually full.

- The air conditioning is old (from the 1980s) and in disrepair, resulting in frequent (almost weekly) outages and service calls. Due to the age of the AC unit, DAGS has had difficulty with repairs. Due to the costs for a new system, DAGS has been unable to replace the system. This AC issue has resulted extremely warm conditions in often extremely crowded courtrooms.

### **Building Security**

- Security features in place include a centralized public entrance with security screening, restriction of public access to offices, limited building alarms/emergency annunciation, and surveillance cameras.
- Non-segregated circulation for prisoners is a security concern because the custodies are moved throughout the building in the same halls as the public and employees.



- The courtyard area is open and only a chain-link fence surrounds it for security purposes. It can be easily scaled during the night by perpetrators who can hide weapons until the next court day.
- Only the District Court offices have building security alarms and emergency annunciation; the rest of the building does not.
- There are (2) two holding cells, each with a suggested capacity of four (4) people. However, the sheriffs have said this is inadequate, and that they have had to put more than four (4) people in a cell at a time, at times upwards of 20 individuals, which poses a number of safety and security concerns.



## **Circuit Court Division 3/Drug Court – Haleki'i Street - located about 2 miles from the Keakealani Bldg in Kealakekua**



### **Current Building Utilization**

- This is a privately owned facility that we lease for \$9,658.27 per month
- Houses Circuit Court Division 3 courtroom, judicial and clerical staff as well as Drug Court Probation staff. We have approximately 11 staff at this building with no room for expansion.
- Circuit Court Division 3 handles felony cases, civil cases involving amounts between \$10,000 and \$25,000 and jury trials. HOPE probation and Drug Court cases are also handled in this court.
- Drug Court Probation supervises and oversees Drug Court probationers
- 10 parking stalls for the public and staff

### **Public Accommodations and Accessibility/Security**

- There is only security screening for the court side of the building. The probation office has a separate entrance with no security screening.
- The space is inadequate for Circuit Court functions. There is no jury assembly area, so jury sign in is done outside. The jury room is shared as a lunchroom for the court staff



## Driver Education – Kealakekua Business Plaza



### Current Building Utilization

- This is a privately owned facility leased by the Judiciary for **\$5,862 per month** for 2180 sq ft.
- The classroom housed in this facility is used for DUI/OVUII courses, a Zero Tolerance and Prohibitions Involving Minors Course, a Defensive Driving Course, a Child Passenger Restraint Course and a Driver Improvement class (for excessive speeders, reckless drivers, etc)
- There are 2 staff at this location

**Lender's Building** — located on the corner of Nalani Street and Mamalahoa Hwy in Kailua-Kona (approx. 7 miles up a 2 lane highway from the Keakealani Bldg)



### **Current Building Utilization**

- This is a privately owned facility where we lease the 2<sup>nd</sup> and 3<sup>rd</sup> floors for \$17,969.41 per month. There are other government agencies as well as private businesses on the 1<sup>st</sup> floor.
- Houses Family Court and Juvenile Client Services Branch on the 2<sup>nd</sup> floor and Adult Probation Intake and Supervision Units on the 3<sup>rd</sup> floor. We have approximately 25 staff at this building.
- We have occupied the space for about 24 years and recently had to expand into additional office for the Probation Division on the 3<sup>rd</sup> floor due to overcrowding and safety issues.
- The building was originally constructed as residential in 1982.
- The Family Court hears legal matters involving children. These include delinquency, dependency, adoption, detention, divorce, etc. Family Court also hears civil commitment, guardianships of adults, and adult abuse cases. The Family Court in each circuit handles both juvenile and adult matters which come under its jurisdiction.
- The Juvenile Client Services Branch (Juvenile Intake Crisis Unit and Juvenile Supervision Unit) monitors and supervises juveniles who have been adjudicated by the court for law violations and status offenses.
- The Adult Client Services Branch provides pre-sentence investigation reports to the courts and supervises adult offenders, including HOPE cases.
- Officers in Juvenile Client Services and Adult Probation each have individual offices but there is no room for expansion.

### **Space Observations**

- The interview room and conference room are used for storage and both are filled to capacity.
- There are no holding cells and, sometimes, detainees are held in the general public waiting area.
- Public accommodations are inadequate. On busy days, the court waiting area becomes overcrowded.
- The third floor is not accessible to the physically disabled.

### **Functional Space Adequacy**

- The interview room and conference room are used for storage areas and both are filled to capacity.
- There are no holding cells at the Kona Family Court and therefore, the interview room is generally used for custodies. If this room is in use, the custodies are held in the general waiting area.

### **Public Accommodations and Accessibility**

- The limited public accommodations are inadequate. On heavy calendar days, the waiting area for Family Court is insufficient due to lack of space. Custodies are moved and held in the same public area, adding to the already crowded environment.
- The public waiting area for both the Juvenile and Adult Client Services Branch are in the hallway.
- The third floor is not accessible to the physically disabled.



As a practicing attorney, I know firsthand that there exists a severe parking shortage whereby designated parking stalls are provided for the general public and staff to share. This building has eight-six (86) parking stalls, and at least sixty-one (61) are utilized by staff members and state vehicles, leaving a mere twenty-five (25) stalls for public use. The public has to park illegally every day. Jurors are unable to find parking during jury selection. Prosecutors are unable to find parking to get into court.

The BIDC has less than 10 public parking stalls. When jury trials are held, forty or more jurors are summoned at a given time. This creates a severe parking

shortage, that adversely affects prospective jurors, witnesses, attorneys, and persons summoned to court for proceedings, thereby creating tremendous frustration and anxiety.

The Keakealani Building Court facilities include two (2) holding cells for all in-custody criminal defendants, which are small rooms with bars. These holding cells are substandard, covered with graffiti, and filled with offensive odors.

These approximately ten-foot by ten-foot cells have housed, on occasion, over twenty inmates in one (1) cell, which is cruel, inhumane, and a deprivation of the constitutional rights of the inmates. Currently, inmates are shackled on their legs and hands when transported by corrections officers to the courtrooms. In order to reach the courtrooms, the inmates are forced to walk up a steep staircase, of approximately twenty or more steps with shackles. At least one (1) inmate has tripped and fallen from the top of the stairs to the bottom causing severe injuries.

At both the Keakealani Building and BIDC, there are no adequate facilities for attorneys to meet with criminal defendants. Counsel are forced to discuss confidential issues with their clients either in the cells with the other inmates, or in the presence of corrections officers. There is a very small room at the Keakealani Building that has been designated for attorneys and clients, however, it is substandard. It has no air-conditioning, and is subject to the availability of court sheriffs whose presence is required for private conversations.

The Family Court is currently located approximately eight miles away from the Circuit and District Courts, in a small and inadequate space and is understaffed and unable to adequately handle the tremendous caseload of family court matters. Due to the physical limitations of the Family Court building, there is only one (1) Family Court Judge for the West Hawaii area. The nearest family court facility is located in Waimea, Hawaii which is 49.48 miles away.

The extreme caseload and severe scheduling problems are adversely affecting divorce litigants, who must wait on average 65 to 90 days for a hearing on motions. There is also a lack of security for juvenile defendants and families. Security is stretched to its limits because the sheriffs must provide protection for various locations. In all other judiciary facilities the various courts are housed in a single location, and there is generally a single entrance. In such settings the sheriffs can provide security for the facilities with the manpower provided.

With the development of the Kona Judiciary Complex the following objectives can be met.



- **Centralize Judiciary operations in West Hawaii to one location, rather than being spread out in four separate locations as we are now**
- **Provide courtrooms utilizing modern courtroom design to incorporate space adequacy, including appropriate security measures**
- **Provide technologically advanced court audiovisual systems to allow improved videoconferencing capabilities and court recording systems**
- **Provide security for the Judiciary staff, the public and custodies awaiting court appearances by incorporating appropriate design criteria to provide high, medium and low security areas in the facility**
- **Incorporate state of the art security systems to monitor court operations including movement of and security of custodies**
- **Provide temporary holding areas for custodies who are going to and from court**
- **Have a facility that is actually planned and constructed for court use**
- **Provide for future growth**
- **Populations and caseloads are projected to increase**
- **Caseloads in Kona are expected to increase substantially**

The current problems facing the West Hawaii court system in the Third Circuit are already at critical levels, and require immediate redress. On behalf of the attorneys, judges and the public, your support is in dire need. Please support the Kona Judiciary Complex by enacting H. B. 1638, HD 2, and the funding of the Kona Judiciary Complex. Thank you.

Robert D. S. Kim  
President  
West Hawaii Bar Association

Enclosure (Petition)



75-5737 Kuakini Hwy. Suite 208  
Kailua-Kona, HI 96740  
Phone: 329-1758 Fax: 329-8564  
www.Kona-Kohala.com info@kona-kohala.com

Testimony to the Senate Committee on Ways and Means  
Thursday, March 27, 2014  
10:35 a.m.  
Conference Room 211, State Capitol

Re: HB 1638 HD2 SD1

Aloha Chair Ige, Vice Chair Kidani and Members of this Committee:

My name is Vivian Landrum, and I am the President/CEO of the Kona-Kohala Chamber of Commerce (KKCC). KKCC represents over 525 business members and is the leading business advocacy organization on the west side of Hawai'i Island. KKCC also actively works to enhance the environment, unique lifestyle and quality of life in West Hawai'i for both residents and visitors alike.

The Kona-Kohala Chamber of Commerce strongly supports the appropriation of the \$90 million in CIP funds for design and construction of the Kona Judiciary Complex.

A new Judiciary Complex in Kona is vitally needed and long overdue. The current facilities are spread out between Kona and Kealahou and housed in buildings originally built for other purposes. These makeshift court facilities are barely able to serve their purpose and contain safety as well as parking issues. A centralized, modern, efficient and safe facility is needed to provide our citizens with access to the justice system for all our West Hawai'i citizens. The time is now to move this project forward.

With the site selection and land issues currently put to rest, and progress with design and planning moving forward, these CIP funds are needed to keep the project on target and on budget. We urge this Committee to approve the \$90 million as noted.

Mahalo for the opportunity to submit testimony.

Sincerely,

A handwritten signature in cursive script that reads 'Vivian Landrum'.

Vivian Landrum  
President/CEO

## TESTIMONY

Senate Committee on Ways and Means  
House Bill 1638, HD2, SD1 Relating to the Judiciary  
Hearing: March 27, 2014 @ 10:35 a.m.

TO: Chair David Y. Ige and Members of the Senate Committee on Ways and Means

FROM: Carol Kitaoka  
Kona Attorney

RE: HB 1638, HD2, SD1 Relating to the Judiciary (Budget)  
\*KONA JUDICIARY COMPLEX

Chair Ige and Members of the Senate Committee on Ways and Means, I am an attorney residing in Kona who is employed by the Hawaii County Prosecutor's Office. I am also the Hawaii State Bar Association Board Member from West Hawaii. I am offering these comments in my personal capacity IN STRONG SUPPORT of the request for construction funds for a new Kona court complex which is listed on page 3 of this Bill.

The Kona community is in DIRE need of a court complex. Currently one Circuit Court courtroom and the Kona District Court are located in the old Kona Hospital Building along with the Department of Health in Kealakekua. A second Circuit Court courtroom is approximately one mile away. The Kona Family Court is several miles away in Kailua-Kona.

As Deputy Prosecutors we practice in all courtrooms. The Circuit Court Deputies must drive between the Circuit Courts and parking is limited, in fact, scarce is a more accurate description. We park in dirt lots or on the grass. The public is faced with the same problems of finding the right Court and finding parking. In addition, access to the Courts at the old Kona Hospital is very difficult for the disabled. The courtrooms and the parking area are on different levels and there is NO elevator.

The most pressing concern from my perspective is the safety of the public, the Judiciary employees, and the attorneys who must appear in the courtrooms. The in-custody defendants must go through the open hallways to get to the courtrooms, victims and defendants and their families and supporters are waiting in the SAME area. During jury trials, the victims and the defendants' families and supporters must wait in the same area. This may be an intimidating experience for victims who are already under stress. In addition, jurors must wait in the SAME area as defendants' families and supporters if they leave the confines of the courtroom. Jurors have reported instances of intimidation.

In closing, the State of Hawaii and the Kona community need the long awaited and promised Kona Judiciary Complex. I am humbly requesting your favorable consideration for the full funding requested by Chief Justice Mark Recktenwald for the next phase of this CIP project. Thank you for your consideration.

Testimony in support of HB1638 SD1

Honorable Chair Ige, Vice Chair Kidani, and Members of the Committee on Ways and Means,

As an individual from the community of Kailua Kona, I humbly requests your support to have a decent courthouse where justice is served, where the participants from all walks of life can feel the process is fair because there is room for all to be treated with dignity and respect, and the Kona community can be proud of.

When I graduated from law school in 1982, I eagerly returned to Kona to start my career as a lawyer. There was only one circuit court back then, which met at a ballroom of the Keauhou Beach Hotel. The District Court met in the State building behind the Captain Cook Fire Station. From back then, I recall there was talk about a new courthouse building for Kona. For decades since that time, the community has waited for the promised courthouse. That time has come. Our Chief Justice Mark E. Recktenwald has put the Kona courthouse at the top of his priority, as have all of our representatives in this legislative body. Kona has waited for a very long time. It is time.

The West Hawai`i Bar Association and the office where I have worked for 29 years, the Office of the Prosecuting Attorney, has submitted much more detailed testimony about the unsafe conditions and abhorrent conditions in the existing facilities. Indignities to participants continue today: a lawyer unable to find parking has to park in the grassy hill, he damages his brand new car in the process; defendants in a crowded cellblock have to meet with their lawyers sitting on steps; a witness is yelled at by a defendant. These are recent incidents from within a week.

A basic principle of procedural justice is that each participant must feel that they are being treated fairly, that they are given a voice and heard, and that each retain their basic dignity. It is difficult to meet that standard when the place they must all go to denies them simple rights like access, space to conduct their business in privacy, and protection from having to meet their perpetrators in a small hallway. Please do not require the Kona community to wait any longer.

Thank you for your consideration. I ask for your support to build a Kona Courthouse that the State of Hawai`i can be proud of.

Aloha,



Dale A. Ross, Esq.

**From:** [Darl Gleed](#)  
**To:** [WAM Testimony](#)  
**Subject:** HB 1638, HD2, SD1 - Design & Constr. of Kona Judiciary Complex  
**Date:** Tuesday, March 25, 2014 9:56:50 PM

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Dear Chairman Ige and Members of the Committee on Ways and Means:

I am providing my testimony in support of the section of HB 1638, HD2, SD1, calling for the design and construction of a judiciary complex in Kona. I have been a practicing attorney in West Hawaii and the Big Island for over 24 years. In that time, the population in West Hawaii has increased dramatically. Since my time in practice here, the location and physical set-up of the current courthouse in Kealahou has been a problem. I have had occasions where I could not find parking and had to park at the Kona Community Hospital and walk down to the courthouse. I have had disabled clients who were unable to find suitable parking to unload their wheelchairs and attend hearings. Attempts have been made over the years to make the premises more accessible, and more usable by all. However, one need only show up at the courthouse on a day a jury trial is in session to understand the chaotic state of affairs.

On such days, the simple task of filing documents with the clerk's office may entail maneuvering through an adjourning jury pool, waiting until a handcuffed defendant is escorted down a rather steep stairway, waiting for the judge to pass through to the back entrance, or having the uncomfortable experience of close contact with an opposing party given the small entry area to the courtroom. Any appearance that the courthouse is adequately secure to protect its judges, employees, and others is illusory. One visit in the courtyard area or the holding areas will make this apparent. We need a functional and secure court building, and we have not had that for some time. I encourage passage of the bill to include the funding for the Judiciary Complex in Kona.

Thank you.

Darl C. Gleed  
Darl C. Gleed & Associates, LLC

Darl C. Gleed, Attorney  
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# Frank L. Miller Attorney

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A Limited Liability Law Company  
Post Office Box 415, Kealahou, Hawaii 96750

March 25, 2014

**TESTIMONY TO SENATE COMMITTEE ON WAYS AND MEANS  
HEARING: THURSDAY, MARCH 27, 2014 AT 10:35 A.M.**

TO: Honorable Chairman David Y. Ige, Vice Chair  
Michelle N. Kidani and Members of the Senate  
Committee on Ways and Means

FROM: Frank L Miller, Attorney LLC (Lic No. 2280)

RE: H.B. 1638, HD 2, SD 1 - RELATING TO THE JUDICIARY  
SPECIFICALLY THE KONA JUDICIARY COMPLEX FUNDING

As a practicing criminal defense attorney on Hawaii Island, with a majority of cases in the Kona District, I support the West Hawaii Bar Association's position regarding the continued funding for the Kona Judiciary Complex included in H. B. 1638, HD 2, SD 1.

WHBA President Robert Kim has written excellent testimony and provided pertinent photographs supporting our position that the need for a new Judiciary complex is great and legislative support long overdue.

**One point I wanted to emphasize** is that a consolidated Judiciary would put probation services right next to the courts, as they are in the new Hilo court-house. Right now, probation offices are 7 miles from the courts (except Family Court which shares the building with probation), and the Hawaii Intake Service Center (ISC) in Kealahou is nearly a half mile from the court house. Probation officers, with incredibly busy schedules, are too far from the courts and can miss revocation hearings; conversely, persons just released, or just sentenced, are referred to probation and/or to the ISC. Some never show up. If they remain in custody, they won't talk to a probation officer until much later, probably by phone from the Hilo jail 110 miles away.

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Testimony of Frank L Miller  
Attorney, LLLC  
In Support of Kona Judiciary Complex  
Page Two

Finally, the handling of criminal defendants with psychiatric issues often requires the presence of a probation officer. Where an HRS Ch. 704 order for examinations has just been issued, it is paramount for the probation office to conduct their typical 1-hour interview with the defendant as soon as possible in order to assess ability to attend examinations and to acquire signed informed consents to release past medical records so that the pending examinations are more thorough. Too often the mentally ill defendant, off his meds, out in the community, is never going to see that probation officer. Even if still in custody, the defendant's best opportunity to talk with probation is right there at the court house when the 704 motion has been made.

Thank you for the opportunity to provide written testimony.

  
Frank L Miller 3/25/14

cc: Glenda Sugi, Supervising Probation Officer  
Jann Saiki-Morimoto, Supervising Probation Officer  
Robert D. S. Kim, Esq.



**From:** [Susan Kim](#)  
**To:** [WAM Testimony](#)  
**Subject:** House Bill 1638, March 27, 2014 @ 10:35 a.m.  
**Date:** Wednesday, March 26, 2014 2:46:13 PM

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Dear Chairman Ige and Members of the Senate Ways and Means Committee:

As a member of the West Hawaii Bar Association, I strongly urge the Committee to pass HB 1638 and release the maximum amount of requested funds in order to secure the building of the new Kona Judiciary Complex. This Complex will be widely used, will serve the public and promote safety, efficiency and consolidate the courthouses in one central location. Attorneys and consumers from all over the island, including Hilo and Waimea, will make use of the facility. Kona continues to expand and grow and this facility could not be built at a better time. It cannot be put on hold any longer. Your consideration is greatly appreciated.