

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
SUZANNE D. CASE
Chairperson

Before the House Committee on
FINANCE

Wednesday, March 1, 2017
11:00 A.M.
State Capitol, Conference Room 308

In consideration of
HOUSE BILL 575, HOUSE DRAFT 1
RELATING TO PUBLIC LANDS

House Bill 575, House Draft 1 proposes to allow the Board of Land and Natural Resources (Board) to extend commercial, hotel, resort and industrial leases up to fifteen years when the lessee makes qualifying substantial improvements to the leased land. **The Department of Land and Natural Resources (Department) offers the following comments on this measure.**

Under Chapter 171, Hawaii Revised Statutes (HRS), the Board is authorized to issue leases up to a maximum term of 65 years. Section 171-32, HRS, provides that it is the policy of the State to issue leases by public auction. As the preamble to this measure indicates, at the end of their lease terms, lessees have little incentive to invest in improvements to their leasehold properties because the leases cannot be extended further. Rather, new leases of the lands must be issued pursuant to the public auction process. As a result, the properties frequently fall into disrepair.

The Legislative Reference Bureau (LRB) issued Report No. 2, Commercial Leasing of Public Lands: State Policies Regarding Leases Near End of Term. The LRB identified states with maximum lease terms and reviewed how these other states' leasing practices dealt with end of the term leases. The LRB concluded its report in stating:

While some states have policies that generally address the maintenance and improvement of leased public lands, these policies appear to arise when a lease agreement is initially drafted and entered into, or within the context of negotiations for a lease renewal, rather than during the last few years of an existing lease. In comparison, commercial leases of public lands in Hawaii include a general covenant that requires lessees to maintain the property. The

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
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

Bureau offers no conclusions regarding which, if any, of the policies employed by the other states represents practices that should be incorporated into the commercial leasing of public lands in Hawaii.

In the past, the Department has generally opposed legislative bills that proposed to allow existing lessees to acquire new lease terms on leases that are scheduled to expire soon, following instead general public policy to promote fairness in competition in access to public property. One reason for the Department's position was the statutory policy mentioned above favoring issuance of leases by public auction. Another reason was to preserve the State's legal right to the remaining value of the improvements after the lease term: when leases expire, the lessees' improvements on the land revert to State ownership pursuant to the express terms of the lease, unless the State directs the lessee to remove the improvements. Assuming the improvements have some remaining useful life, the State is then in a position to auction leases of improved properties at potentially greater rents than the State would receive for a ground lease alone, which amounts can in turn be applied to public purposes.

The Department recognizes that a prior legislative act providing for extensions of resort leases did have a beneficial effect on one State lease on Banyan Drive. The lessee of Hilo Hawaiian Hotel property took advantage of Act 219 Session Laws of Hawaii (2011) to extend its lease from 2031 to 2068, making substantial improvements to the property pursuant to a development agreement negotiated between the State and the lessee.

The Department thus acknowledges different public policy benefits from different approaches. Based on this, the Department now takes a neutral stance on legislative proposals to extend existing leases. House Draft 1 of the bill includes new language at page 3, lines 14-15, that appears to limit the effect of this measure to the State's leases in the Banyan Drive and Kanoehua Industrial Area of Hilo. If the Legislature is going to authorize lease extensions beyond 65 years, the Department believes it would be preferable to have such a measure apply statewide.

The Department does note two ambiguities in the measure. First, subsection b(3) at page 4, lines 9-13, of the bill directs the Board to determine:

The minimum revised annual rent based on the fair market value of the lands to be developed, as determined by an appraiser for the board, and the percentage of rent where gross receipts exceed a specified amount for a ten year period.

This language is similar to the language in Act 219 on hotel and resort leases mentioned above, but adds the phrase "for a ten year period" at the end of the provision. In a percentage rent lease, the lessee pays a base rent and a percentage of its gross receipts when gross receipts exceed a certain breakpoint and are typically used for commercial leases with a significant retail component. Except for resort/hotel and some mariculture leases, the Department's leases have typically not had percentage rent provisions built in. If House Bill 575, House Draft 1 is intended to incorporate percentage rent clauses into the Departments' commercial, resort and hotel leases, such rent should be payable annually. Percentage rent leases may not be suitable for

industrial uses due to the lack of a retail component. The Department therefore recommends subsection (b)(3) of the measure be revised to read as follows:

For commercial, hotel or resort leases, the minimum revised annual rent based on the fair market value of the lands to be developed, as determined by an appraiser for the board, and the percentage of rent where gross receipts exceed a specified amount.

Second, regarding the value of improvements required by a lessee to qualify for a lease extension, at page 5, lines 13-20, the bill defines “substantial improvements” to mean “any renovation, rehabilitation, reconstruction, or construction of the demised premises, including minimum requirements for off-site improvements, the cost of which equals or exceeds fifty per cent of the market value of the demised premises” As used in the definition, “demised premises” could mean land and improvements. In contrast, Act 219 specified that the lessee’s investment had to equal or exceed fifty per cent of the market value of the existing improvements on the property (excluding land value).

Thank you for the opportunity to comment on this measure.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2017**

ON THE FOLLOWING MEASURE:

H.B. NO. 575, H.D. 1, RELATING TO PUBLIC LANDS.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Wednesday, March 1, 2017 **TIME:** 11:00 a.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Linda L.W. Chow, Deputy Attorney General

Chair Luke and Members of the Committee:

The Department of the Attorney General opposes the bill as currently drafted because the amendment made in H.D. 1 could subject the bill to challenge as being unconstitutional. We have suggested an amendment at the end of this testimony that we believe would allow the bill to pass constitutional review.

House Bill No. 575, H.D. 1, authorizes the Board of Land and Natural Resources (Board) to extend leases for commercial zoned public lands provided that the lessees make substantial improvements to the demised premises. This bill is substantially similar to Act 219, Session Laws of Hawaii 2011, which was repealed in 2015. The amendment made to the bill by H.D. 1 limits the applicability of the bill to the Banyan Drive and Kanoelehua industrial areas in Hilo, Hawai'i.

We believe that the classification contained in section 2 of the bill that applies only to the Banyan Drive and Kanoelehua industrial areas of Hilo, Hawai'i, could be challenged as unconstitutional as violating article XI, section 5 of the Hawai'i Constitution. Article XI, section 5, of the Hawai'i Constitution provides:

The legislative power over the lands owned by or under the control of the State and its political subdivisions shall be exercised only by general laws, except in respect to transfers to or for the use of the State, or a political subdivision, or any department or agency thereof.

The most recent case on this issue is *Sierra Club v. Dept. of Transportation of State of Hawai'i*, 120 Hawai'i 181, 202 P.3d 1226 (2009), as amended (May 13, 2009) ("*Sierra Club*"). In that decision, the court adopted a two-step analysis to determine if a law was special legislation.

The first step is to determine "whether the classification adopted by the legislature is a real or potential class, or whether it is logically and factually limited to a class of one and thus illusory." *Sierra Club*, 120 Hawai'i at 203-04, 202 P.3d at 1248-49. A class is not illusory if it could include other members in the future. The actual probability of other members joining the class must be considered in determining whether a class is illusory. *Id.*, 120 Hawai'i at 214.

The second step of the analysis requires determination of whether the class was reasonable. *Id.* To be reasonable, the classification must be based on some distinguishing peculiarity and must reasonably relate to the purpose of the statute. *In re Interrogatory Propounded by Governor Roy Romer on House Bill 91S-1005*, 814 P.2d 875, 887 (Colo. 1991).

The classification contained in section 2 of H.D. 1 applies to leases of public lands for commercial, hotel, resort, or industrial use only in the Banyan Drive and Kanoelehua industrial areas of Hilo, Hawai'i. The classification seeks to distinguish commercial leases of public lands in the Banyan Drive and Kanoelehua industrial areas of Hilo, Hawai'i, from all other commercial leases for public land. The class is currently made up of all current lessees in the specified area. The class is not limited to these current members. Through attrition or termination of current leases, the Board could enter into new leases. The new lessees would become members of the class created in H.D. 1. As long as there is no repeal date it is likely that new members would join the class over time. The class is not illusory and H.D. 1 is not special legislation under the first test.

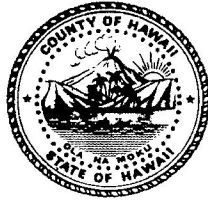
The second test requires that the classification be reasonable, i.e. that it is based on a distinguishing peculiarity and that it achieve the bill's purpose. We do not believe H.D. 1 provides sufficient information to support the determination that the classification is reasonable.

The purpose of the bill is to allow for the extension of expiring leases to incentivize lessees to invest in infrastructure improvements that would promote the State's economy and the most efficient use of commercial zoned state lands. The bill is intended to allow state property sited or zoned for commercial purposes to continue to be economically productive. Section 1 of the bill cites to Banyan Drive and Kanoelehua industrial areas as examples of areas where the uncertainty of future tenure has had a catastrophic effect on Hawaii's tourism industry.

There is no explanation as to why the Banyan Drive and Kanoelehua industrial areas are distinguishable from all other commercial, hotel, resort, and industrial leased areas in the state where the leases are reaching the end of their terms and the State would benefit from lessees investing in infrastructure improvements. There is also no explanation as to how limiting the effect of the bill to the Banyan Drive and Kanoelehua industrial areas achieves the stated purpose of the bill. The bill does not appear to sufficiently support distinguishing the Banyan Drive and Kanoelehua industrial areas from other commercial state lands under lease while still accomplishing the bill's purpose. H.D. 1 could be interpreted as special legislation and challenged as unconstitutional if passed into law.

We suggest removing the amendment made in H.D. 1 that limits the application of this bill to the Banyan Drive and Kanoelehua industrial areas. If the limitation is deleted and the bill is returned to the original version, we believe the classification would meet constitutional review. The lessees in the Banyan Drive and Kanoelehua industrial areas would still be eligible for lease extensions along with all other lessees of state owned commercial, hotel, resort, and industrial land.

*From the office of -
Council Member
District 3*



Office: (808) 961-8396
Fax: (808) 961-8912
Email: sue.leeloy@hawaiiicounty.gov

SUSAN L.K. LEE LOY

25 Aupuni Street, Hilo, Hawai'i 96720

The Honorable Sylvia Luke, Chair
And members of the Committee on Finance

February 27, 2017

Dear Representative Luke and Committee members,

Thank you for the opportunity to provide testimony in strong support of **HB 1469 HD1**, **HB 575 HD1**, and **HB 1310 HD1**.

Last week Wednesday, the Hawai'i County Council voted to approve Resolution No. 76, which took a position in general support of a package of bills, including those mentioned above, which would revitalize Hilo, the economic hub of East Hawai'i. Although it was sent to you, in the event that you have not seen it I would like to emphasize that the resolution called these bills "of the highest importance to the people of East Hawai'i, and to the economic growth of our Island."

This session, your committee is examining a number of bills that would have a direct impact on the district that I represent. My colleagues on the County Council do not take a position on which bill is superior. We defer to your considered judgment and experience to advance bills that complement each other to guide the vision of our beloved town for the next few decades.

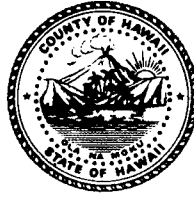
Generally speaking, these three bills before you today have been introduced to improve the State's management over commercial, industrial, and resort lands, with the ultimate goal of supporting reinvestment in private businesses and unleashing economic growth for some areas that are in real need of revitalization.

In that spirit, I respectfully ask for your approval of the above-mentioned bills.

Aloha piha,

A handwritten signature in black ink, appearing to read "Sue Lee Loy".

Sue Lee Loy
Council Member, District 3



RESOLUTION NO. 76 17

A RESOLUTION URGING THE HAWAI‘I STATE LEGISLATURE TO PASS LEGISLATION TO REVITALIZE THE CITY OF HILO AND EAST HAWAI‘I.

WHEREAS, there are eight bills currently being discussed in the Hawai‘i State Legislature that will provide much needed stimulus and revitalization to Hilo and East Hawai‘i; and

WHEREAS, Senate Bill 274 and its companion House Bill 575 authorizes the Board of Land and Natural Resources to extend commercial, hotel, resort, and industrial leases when the lessees make qualifying substantial improvement to the leased land; and

WHEREAS, Senate Bill 1184 and its companion House Bill 1310 establishes the Waiākea Peninsula Redevelopment District, Planning Committee, and Revolving Fund; and

WHEREAS, Senate Bill 1185 and its companion House Bill 1469 establishes procedures for designating public land redevelopment districts, planning committees, district redevelopment plans, and designated redevelopment district revolving funds, establishes powers and duties of planning committees, modifies public land lease restrictions and appropriates funds; and

WHEREAS, Senate Bill 1292 and its companion House Bill 1479 establishes the Hilo Community Economic District located in East Hawai‘i and places it under the jurisdiction of the Hawai‘i Community Development Authority, establishes the Hilo Community Economic Revolving Fund and sets its funding requirements; and

WHEREAS, under current laws and procedures, there has been little incentive for the lessees of State-owned properties to make major investments in improvements to the infrastructure and facilities on these public lands, resulting in the deterioration and stagnation of business; and

WHEREAS, State-owned properties in East Hawai‘i, and in Hilo in particular, present an opportunity for the revitalization and redevelopment of the area’s economy; and

WHEREAS, the Hawai‘i County Council strongly supports all bills introduced in the current session of the Legislature and supports any legislation that will bring much needed revitalization and stimulus to the Banyan Drive and Kanoelehua Industrial Area; and

WHEREAS, the Hawai‘i County Council is in support of allowing Hawai‘i County to provide input and be involved in discussions regarding planning for the future of State-owned properties in Hilo and East Hawai‘i to facilitate the revitalization and stimulation of our economy; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF HAWAI'I that the Hawai'i State Legislature is urged to pass legislation to revitalize the City of Hilo and East Hawai'i.

BE IT FURTHER RESOLVED that these bills are of the highest importance to the people of East Hawai'i, and to the economic growth of our Island.


BE IT FINALLY RESOLVED that the County Clerk shall transmit a copy of this resolution to the Honorable Governor David Y. Ige; all Hawai'i State Senators and Representatives; Suzanne D. Case, Chairperson, Department of Land and Natural Resources; Luis P. Salaveria, Director of the Department of Business, Economic Development and Tourism; Jobie M. K. Masagatani, Director of Department of Hawaiian Home Lands; Ford Fuchigami, Director, Department of Transportation; Jesse K. Souki, Executive Director, Hawai'i Community Development Authority; the Honorable Mayor Harry Kim; Michael Yee, Director, Hawai'i County Planning Department; Brian De Lima, Chair, Banyan Drive Hawai'i Redevelopment Agency; Albert Alapaki Nahale-a, Director, Kamehameha Schools-Hawai'i Island; Jacqui Hoover, Executive Director, Hawai'i Island Economic Development Board; David De Luz Jr., President, Kanoelehua Industrial Area Association; Mike Kaleikini, President, Hawai'i Island Chamber of Commerce; and Russell M. Arikawa, President, Japanese Chamber of Commerce and Industry of Hawai'i.

Dated at Kona , Hawai'i, this 22nd day of February , 2017 .

INTRODUCED BY:



 COUNCIL MEMBER, COUNTY OF HAWAI'I



 COUNCIL MEMBER, COUNTY OF HAWAI'I

COUNTY COUNCIL
 County of Hawai'i
 Hilo, Hawai'i

I hereby certify that the foregoing RESOLUTION was by the vote indicated to the right hereof adopted by the COUNCIL of the County of Hawai'i on February 22, 2017 .

ATTEST:



COUNTY CLERK



CHAIRPERSON & PRESIDING OFFICER

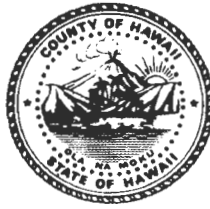
ROLL CALL VOTE

	AYES	NOES	ABS	EX
CHUNG	X			
DAVID			X	
EOFF	X			
KANUHA	X			
LEE LOY	X			
O'HARA	X			
POINDEXTER	X			
RICHARDS	X			
RUGGLES		X		
	7	1	1	0

Reference: C-105/Waived GREDC

RESOLUTION NO. 76 17

Harry Kim
Mayor



Brian DeLima, Chair
Mary Begier, Vice Chair
Elmer Gorospe
Barry Taniguchi
Sig Zane

County of Hawai'i

BANYAN DRIVE HAWAII REDEVELOPMENT AGENCY

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

February 23, 2017

Dear Committee Chairs:

Subject: HB 575, SB 274, HB 1310, SB 1184, HB 1469, SB 1185, HB 1479, & SB 1292

The Banyan Drive Hawai'i Redevelopment Agency (BDHRA) offers their general support of all legislation aimed at economic revitalization of State-owned properties within the Banyan Drive redevelopment area, including legislation that attempts to resolve issues surrounding State leases that are approaching conclusion.

The BDHRA was established in 2016 to encourage the redevelopment of neglected properties within and along the Waiākea peninsula in East Hawai'i. The County of Hawai'i, in agreement with the Chair of the Board of Land and Natural Resources, identified the implementation of Hawai'i Revised Statutes, Chapter 53, relating to Urban Renewal Law, as the appropriate vehicle to encourage this redevelopment. Beginning in May of 2016, the BDHRA held monthly meetings to solicit input into a conceptual land use master plan for redevelopment of the peninsula in a manner that was in line with the community's values. In October of 2016, the BDHRA adopted a conceptual land use master plan with which to move forward on the required studies and vetting as required by State law. The concept that was adopted includes considerations for commercial, visitor, community, cultural, and open space development.

The BDHRA is appreciative of the much needed attention these properties are receiving at the Legislature this session, and supports efforts to improve the conditions of these properties in a manner that is consistent with the values, resources, and cultures of our county. The BDHRA welcomes further discussion on ways to keep the values and character of our county at the forefront of any bill(s) that move forward.

Sincerely,



Brian DeLima, Chair
Banyan Drive Hawai'i Redevelopment Agency

LM:klt



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Ninth Legislature, State of Hawaii
House of Representatives
Committee on Finance

Testimony by
Hawaii Government Employees Association

March 1, 2017

H.B. 575, H.D. 1 – RELATING TO PUBLIC LANDS

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of H.B. 575, H.D. 1 which authorizes the Board of Land and Natural Resources to authorize the extension of commercial, hotel, resort, and industrial leases for the lessees' substantial improvement to the leased premises.

Since the State is the largest landowner in East Hawaii, it by default has a significantly influential role in the development and economic success of the East Hawaii community. As the law stands, there is no incentive for current lessees to invest in infrastructural improvements, since the future of their leases remain unknown. This measure, in conjunction with several other measures aimed at revitalizing East Hawaii, is a positive step in the right direction to reinvest in the deteriorating urban core, increase workforce development opportunities for residents, and ensure a strong East Hawaii economy.

Thank you for the opportunity to testify in strong support of passing H.B. 575, H.D. 1.

Respectfully submitted,

Randy Perreira
Executive Director

Testimony before the House Committee on Finance

**By Leila Beals
Supervising Land Agent, Hawai'i Electric Light**

**Wednesday, March 1, 2017
11:00 am, Conference Room 308**

House Bill No. 575, HD1 –Relating to Public Lands

Chair Luke, Vice Chair Cullen, and Members of the Committee:



My name is Leila Beals and I am testifying on behalf of the Hawaii Electric Light Company in support of HB 575, HD1.


HB 575, HD 1 would authorize the Board of Land and Natural Resources to authorize the extension of commercial, hotel, resort, and industrial leases, when the lessee makes qualifying substantial improvements to the leased land. The Hawaii Electric Light Company supports the bill for the following reason:

- Hawaii Electric Light Company currently has a State Lease No. S-3925 that expires on August 26, 2030. The area we are leasing is part of our Kanoelehua Baseyard which is our main area of operation. The leased area supports our generation, distribution, warehouse, maintenance, engineering and system operations. If enacted into law, this legislation will provide a means for Hawaii Electric Light Company to extend our lease, thus allowing us to continue our operations to serve the Island of Hawaii.

Thank you for the opportunity to testify on this matter.



 | 808-733-7060
 | 808-737-4977

 | 1259 A'ala Street, Suite 300
Honolulu, HI 96817

March 1, 2017

The Honorable Sylvia Luke, Chair

House Committee on Finance
State Capitol, Room 308
Honolulu, Hawaii 96813

RE: H.B. 575, H.D.1, Relating to Public Lands

HEARING: Wednesday, March 1, 2017, at 11:00 a.m.

Aloha Chair Luke, Vice Chair Cullen, and Members of the Committee.

I am Myoung Oh, Director of Government Affairs, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 9,200 members. HAR **supports** H.B. 575, H.D.1 which authorizes the board of land and natural resources to extend commercial, hotel, resort, and industrial leases in the Banyan Drive and Kanoelehua industrial area of Hilo, Hawaii, when the lessee makes qualifying substantial improvements to the leased land.

The State currently leases state land to many entities for commercial, industrial, hotel, and resort purposes. Unfortunately, lessees have virtually no economic incentive to invest in the property over the last 10 to 15 years of the lease term knowing full well that their lease is about to term out.

HAR supports this measure which is to serve the public use and public purpose of state lands used for commercial purposes to authorize the extension of commercial, hotel, resort, and industrial leases for the lessee's substantial improvement to the leased premises. We believe the proposed bill provides a fair and equitable solution to the problem by having the existing lessee invest in "substantial improvements" to the lease hold property in order to qualify for a lease extension.

Mahalo for the opportunity to testify on this measure.





HB575 HD1

House Committee, FIN
Chair Sylvia Luke
Vice Chair Ty J.K. Cullen

Aloha Chair Luke,

I am Garth Yamanaka, Committee chair for Government affairs for the Kanoelehua Industrial Area Association (KIAA). Established in 1968, KIAA is an active business association that is comprised of both small and large businesses and organizations within specific Hilo and Keaau boundaries. One of our goals is to advance the commercial and community interests of our member firms. Presently, we represent approximately 350 business members employing approximately 4,500 workers.

KIAA supports the purpose of this measure which is to serve the public use and public purpose of state lands used for commercial purposes by authorizing the board of land and natural resources to authorize the extension of commercial, hotel, resort, and industrial leases for the lessee's substantial improvement to the leased premises. The current framework for leasing of public lands in the East Hawaii area has created an environment that is sub-par to market expectations. The passing of HB 575 HD 1 will help to push policy in the right direction as it will help to rejuvenate properties on state lands that have become dilapidated, obsolete, or deteriorated in this area.

We request that the amendment (3) limiting the extension of a lease for substantial improvements to fifteen years be revised back to fifty-five years as in the original version, as fifteen years creates a non-financeable condition for lessee's.

We urge you to pass HB 575 HD 1 and Mahalo for this opportunity to provide testimony.

Mahalo,

Garth Yamanaka
Committee Chair for Government Affairs
KIAA

Presentation To
House Committee on Finance
March 1, 2017 at 11:00AM
State Capitol Conference Room 308

Testimony in Support of House Bill 575, HD1

TO: The Honorable Sylvia Luke, Chair
The Honorable Ty J. K. Cullen, Vice Chair
Members of the Committee

My name is Edward Pei and I am the Executive Director of the Hawaii Bankers Association (HBA). HBA is the trade association representing eleven FDIC insured depository institutions with branch offices in the State of Hawaii.

The Hawaii Bankers Association supports the intent of House Bill 575, HD1, authorizing the Board of Land and Natural Resources (BLNR) to extend commercial ground leases on state owned land so that tenants can continue to maintain and make improvements to its premises. Currently, there is a statutory term limit of 65 years for such ground leases. Unfortunately, towards the latter half of such leases, as the expiration looms closer, commercial enterprises will be reluctant to invest in the maintenance or improvement of their properties, if their lease is scheduled to expire. Furthermore, banks will not provide financing for such initiatives beyond the scheduled expiration of the lease, which severely limits the tenant's ability and propensity to invest in their operations. The economic vitality of the Hilo area will suffer if ground leases are not renewed for the tenants leasing state owned land in this area.

There are some flaws in the current version of this measure, such as limiting the lease extension to a maximum of 15 years. We hope your committee will consider the issues and concerns that are raised by those that are directly affected and amend this bill so that it supports the tenants of State lands in Hilo and the economic development in this region.

Thank you for the opportunity to submit this testimony and please let us know if we can provide further information.



Edward Y. W. Pei
(808) 524-5161

February 28, 2017

COMMITTEE ON FINANCE

Rep. Sylvia Luke, Chair

Rep. Ty J.K. Cullen, Vice Chair

Testimony in Support of HB575 HD1

Aloha Chair Luke,

Hawaii Planing Mill, Ltd. dba HPM Building Supply will be celebrating its 96th anniversary on August 8, 2017. We have over 320 employees and operate 8 facilities across Hawaii Island, Oahu and Kauai. Today we are a 100% employee-owned company and proud that all our success is returned to the communities we serve. Our roots are in Hilo, where HPM was founded in 1921. Since 1961, we have been a lessee of the State of Hawaii and were a recipient of one of the original “tidal wave” leases. The original 55-year lease term came up in 2016 and we have since been granted a 10-year lease extension which expires in 2026.

We urge your support of HB575 HD1 which will allow resort, commercial and industrial State of Hawaii leases to be extended beyond the current statutory limit of 65 years. A lease extension beyond the statutory 65 years will allow HPM and other companies in a similar predicament to make substantial improvements to our leaseholds which will enhance our abilities to better serve our communities and improve the appeal of our leaseholds in general. For many of us, the significant improvements that we envision will require bank financing and bank financing will require lease terms of at least 25 years.

Thank you for your support of this bill.

Mahalo,



Robert M. Fujimoto, Chairman of the Board Emeritus



Michael K. Fujimoto, Chairman and Chief Executive Officer



Jason R. Fujimoto, President & Chief Operating Officer

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2017 11:39 AM
To: FINTestimony
Cc: rhkwine@gmail.com
Subject: Submitted testimony for HB575 on Mar 1, 2017 11:00AM

HB575

Submitted on: 2/28/2017

Testimony for FIN on Mar 1, 2017 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Ryan Kadota	Kadota Liquor	Support	No

Comments: I am in support as a businessperson in Hilo, serving all of Hawaii Island. I would like to note that on page 5, line 3: "shall be for a period not to exceed fifteen years creates a non financeable condition," I would recommend it revert back to the original language of: "shall be for a period no longer than fifty-five years." Mahalo

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2017 10:10 AM
To: FINTestimony
Cc: steve.ueda@suisan.com
Subject: Submitted testimony for HB575 on Mar 1, 2017 11:00AM

HB575

Submitted on: 2/28/2017

Testimony for FIN on Mar 1, 2017 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Steve Ueda	Individual	Support	No

Comments: I support this bill. Investment in our commercial and industrial areas is desperately needed. This bill will enable long-term leases to be established and will give businesses the confidence and stability they need to invest in East Hawaii.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2017 10:33 AM
To: FINTestimony
Cc: jwmccully54@gmail.com
Subject: Submitted testimony for HB575 on Mar 1, 2017 11:00AM

HB575

Submitted on: 2/28/2017

Testimony for FIN on Mar 1, 2017 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
James McCully	Individual	Support	No

Comments: Aloha Chair Luke and Vice Chair Cullen, I write in strong support of HB575. I am currently travels no and unable to submit an extended Testimony, here's my comments on the current version HB575 HD1 1. In its current HD1 form it is clearly a "Special Law". An HD2 version should remove the language that restricts the bills applicability to any particular area (Hilo) and that differs from the original draft. 2 The bill requires more specificity in regards to improving the Financeability of leases in public lands. The HD1 version restricts extensions to 15 years. This is inadequate to meet amortization schedules for substantial improvements. 3. Following is proposed language that does improve the bills intent; SECTION 2. Chapter 171, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows: "§171- Commercial, hotel, resort, or industrial leases; extension of term.... (d) Any extension of a lease pursuant to this section shall be based upon the substantial improvements to be made, the extension of term shall be of sufficient length so as to qualify for financing the substantial improvements proposed in the development agreement, but not less than 10 years beyond the amortization period contained in the consent to mortgage approved by the board, and shall be for a new period no longer than sixty-five years. (e) Similar to the issuance of a new lease, any extension of a lease granted pursuant to this section shall be effectuated, documented, and executed using the most current lease form and leasing practices and policies of the board, such terms to include; a known rent period not less than the amortization period of the loan, assignment, character of use and subletting terms and conditions so as to conform with lender requirements and (g) As used in this section "substantial improvements" means any renovation, rehabilitation, reconstruction, or construction of the demised premises, including minimum requirements for off-site and on-site improvements, the cost of which equals or exceeds fifty per cent of the assessed value of the improvements as determined by the real property tax department where the improvements are located , that the lessee or lessee and developer shall install, construct, and complete by the date of completion of the total development." (h) When the applicant for a lease extension can establish by means acceptable to the board that substantial improvements had been previously constructed or improved within 5 years of the date of application for extension of term, then the board shall credit the qualified

improvements as a portion of the value of the substantial improvements, however for purposes of an extension of lease the lessee will then be required to make no less than twenty-five percent new substantial improvements as specified in the development plan. (1) The board shall consider the value of recorded building permits, licensed contractor invoices, or other records acceptable to the board when determining the value of qualifying improvements. The above proposed amendments are in large part based on HUD rules on financing of Ground Leases. To explain the above proposed language controlling prior "substantial improvements" made by the lessee: Example A; \$100,000 in prior qualified improvements RPT current assessed value improvements = \$500,000 50% substantial improvements required = \$250,000 Credit of \$100,000 previous improvements = \$150,000 $\$150,000 > \$125,000$ (25% min. requirement (h) above = \$125,000) Board then requires \$150,000 in new substantial improvements. Example B \$200,000 in prior qualified improvements RPT current assessed value improvements = \$500,000 50% substantial improvements required = \$250,000 Credit of \$200,000 previous improvements = \$50,000 difference $\$50,000 < \$125,000$ (25% min = \$125,000) Board requires additional \$125,000 substantial improvements to qualify Mahalo for your consideration and support Jim McCully

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2017 11:19 AM
To: FINTestimony
Cc: bbalsisjr@yahoo.com
Subject: Submitted testimony for HB575 on Mar 1, 2017 11:00AM

HB575

Submitted on: 2/28/2017

Testimony for FIN on Mar 1, 2017 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Bernard A Balsis Jr Jr	Individual	Support	No

Comments: I would simply like to send in my support for HB575. This measure will help provide opportunities to small and medium sized businesses in Hilo, Hawaii, or those wanting to start or come to Hilo Hawaii, to make necessary improvements to leasehold land, and have the ability to appropriately expense and fund those improvements over a reasonable period. With leases expiring, and the inability to have longer term extensions, businesses are not make the improvements they should. Thus the conditions of many buildings are declining. This hurts business. Passing this bill will provide opportunities to the business community to reverse this trend.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

LATE

STRONG SUPPORT

HB575 HD1

House Committee on Finance

Aloha Chair Luke and Vice Chair Cullen,

I write in strong support of HB575. I am currently traveling and am unable to submit an extended Testimony, here are my comments on the current version HB575 HD1

1. In its current HD1 form it is clearly a "Special Law". An HD2 version should remove the language that restricts the bills applicability to any particular area (Hilo) and that differs from the original draft.
2. The bill requires more specificity in regards to improving the Finance ability of leases in public lands. The HD1 version restricts extensions to 15 years. This is inadequate to meet amortization schedules for substantial improvements.
3. Following is proposed language that does improve the bills intent; SECTION 2. *Chapter 171, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:*

*"§171- Commercial, hotel, resort, or industrial leases; extension of term....
(d) Any extension of a lease pursuant to this section shall be based upon the substantial improvements to be made, the extension of term shall be of sufficient length so as to qualify for financing the substantial improvements proposed in the development agreement, but not less than 10 years beyond the amortization period contained in the consent to mortgage approved by the board, and shall be for a new period no longer than sixty-five years.*

(e) Similar to the issuance of a new lease, any extension of a lease granted pursuant to this section shall be effectuated, documented, and executed using the most current lease form and leasing practices and policies of the board, such terms to include; a known rent period not less than the amortization period of the loan, assignment, character of use and subletting terms and conditions so as to conform with lender requirements and

(g) As used in this section "substantial improvements" means any renovation, rehabilitation, reconstruction, or construction of the demised premises, including minimum requirements for off-site and on-site improvements, the cost of which equals or exceeds fifty per cent of the assessed value of the improvements as determined by the real property tax department where the improvements are located, that the lessee or lessee and developer shall install, construct, and complete by the date of completion of the total development."

A new section to be added;

(h) When the applicant for a lease extension can establish by means acceptable to the board that substantial improvements had been previously constructed or improved within 5 years of the date of application for extension of term, then the board shall credit the qualified improvements as a portion of the value of the substantial improvements, however for purposes of an extension of lease the lessee will then be required to make no less than twenty-five percent new substantial improvements as specified in the development plan.

(1) The board shall consider the value of recorded building permits, licensed contractor invoices, or other records acceptable to the board when determining the value of qualifying improvements.

NOTES;

The proposed amendments are in large part based on HUD rules on financing of Ground Leases. Publication #4465.1 Chapter 3

To explain the above proposed language controlling prior "substantial improvements" made by the lessee:

Example A; \$100,000 in prior qualified improvements RPT current assessed value improvements = \$500,000 50% substantial improvements required = \$250,000 Credit of \$100,000 previous improvements = \$150,000 \$150,000 > \$125,000 (25% min. requirement (h) above = \$125,000) Board then requires \$150,000 in new substantial improvements.

Example B \$200,000 in prior qualified improvements RPT current assessed value improvements = \$500,000 50% substantial improvements required = \$250,000 Credit of \$200,000 previous improvements = \$50,000 difference \$50,000 < \$125,000 (25% min = \$125,000) Board requires additional \$125,000 substantial improvements to qualify

Mahalo for your consideration and support

Jim McCully

A reference to the HUD publication cited above;

<https://portal.hud.gov/hudportal/documents/huddoc?id=44651c3HSGH.pdf>

Re: House bill 575 HD1 Relating to Public Lands

LATE

Representative Sylvia Luke
Chair of the House Finance Committee
Hawaii State Capital Room 308
415 S. Beretania Street
Honolulu, Hawaii 96813

Chair Luke, Vice Chair Cullen and members of this committee,

My name is Craig Takamine. I was born and raised in Hilo and operate a small business here along with my wife Audrey. I would like to testify in **strong support of HB575 HD1** which authorizes the BLNR to extend commercial, hotel, resort and industrial leases when a lessee makes qualifying substantial improvements to the leased land. Respectfully, I would like to propose (2) amendments to this bill. The first would be changing the lease extension from **15 to 55 years** which would allow for financing of the improvements to the property. Second would be **removing the language specific to Hilo** which I believe is unconstitutional.

Here in Hilo, the State owns and manages approximately 90% of the resort and industrial lands. The Kanoiehua Industrial Area, which is adjacent to the airport is the home to many small businesses. Many of those leases have less than 10 years left and are set to expire in the near future. Therefore, lessees have not kept up with maintenance and repairs to their facilities allowing these areas to deteriorate and become blighted. Lease extensions for terms of 55 years would allow lessees to access capitol to improve their facilities which would provide construction jobs, promote tourism and support businesses in the surrounding areas.

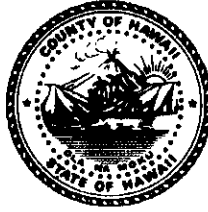
Thank you for the opportunity to testify on this measure. We urge the committee to strongly support this resolution which would greatly benefit the visitors and residents of Hawaii Island.

Sincerely,



Craig Takamine

Harry Kim
Mayor



Wil Okabe
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai'i
Office of the Mayor

25 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553
KONA: 74-5044 Ane Keohokalole Hwy., Bldg. C • Kailua-Kona, Hawai'i 96740
(808) 323-4444 • Fax (808) 323-4440

LATE

February 28, 2017

Representative Sylvia Luke
Finance Committee
Hawai'i State Capitol
Honolulu, HI 96813

Dear Chair Luke and Members:

RE: **HB 575, HD1**
Relating to Public Lands

Thank you for this opportunity to testify in favor of the intent and purpose of HB 575, HD1.

The County of Hawai'i is in support of lease extensions under appropriate circumstances. Our understanding is that this bill is a continuation of a bill enacted in 2011, Act 219, which allowed resort and hotel leases to be extended beyond the limit that normally restricts public land leases used for economic purposes. We believe that Act 219 was successful in meeting legitimate economic development needs, and therefore support its application to other leases used for economic purposes.

We defer to the Committee as to the appropriate restrictions that should be placed on such extensions.

Respectfully submitted,

Harry Kim
Mayor



HAWAII LABORERS-EMPLOYERS COOPERATION AND EDUCATION TRUST
650 Iwilei Road, Suite 285 · Honolulu, HI 96817 · Phone: 808-845-3238 · Fax: 808-845-8300

LATE

**TESTIMONY OF HAWAII LECET
CLYDE T. HAYASHI – DIRECTOR**

HOUSE COMMITTEE ON FINANCE
Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair

NOTICE OF HEARING

DATE: Wednesday, March 1, 2017
TIME: 1100 a.m.
PLACE: State Capitol, Room 308

TESTIMONY ON HOUSE BILL NO. 575 HD1, RELATING TO PUBLIC LANDS

ALOHA COMMITTEE CHAIR SYLVIA LUKE, COMMITTEE VICE CHAIR TY J.K. CULLEN, AND COMMITTEE MEMBERS:

My name is Clyde T. Hayashi, and I am the Director of Hawaii LECET. Hawaii LECET is a labor-management partnership between the Hawaii Laborers Union, Local 368, and its unionized contractors.

Mahalo for the opportunity to testify in **STRONG SUPPORT** of House Bill No. 575 HD1, especially on behalf of over 300 members and their families and our many contractors who call the Big Island home. This bill will authorize the BLNR to extend commercial hotel, resort and industrial leases when a lessee makes qualifying substantial improvements to the leased land.

The passing of H.B. 575 will benefit the Hilo community by allowing many business owners of leasehold properties in Hilo to apply for lease extensions with the Board of Land and Natural Resources. Lessees would in turn have the opportunity to access capitol to invest in their facilities. Investments in these properties, many of which are located in the Kanoelehua Industrial Area and the Waiakea Peninsula, and have properties that have been neglected and fallen into disrepair, would result in a rejuvenation of these business districts.

Prior to the repeal of Act 219, the Hilo Hawaiian Hotel was able to undergo significant renovations, resulting in jobs for residents and added value to the property. It is our belief that HB 575 HD1 would have a similar, beneficial impact for the Kanoelehua Industrial Area, Waiakea Peninsula and overall Hilo community.

For these reasons, Hawaii LECET **STRONGLY SUPPORTS HB 575 HD1.**