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Sent: Tuesday, February 21, 2017 2:37 PM
To: JUDtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB617 on Feb 23, 2017 14:00PM*

HB617

Submitted on: 2/21/2017

Testimony for JUD on Feb 23, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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February 22, 2017

The Honorable Representative Scott Y. Nishimoto, Chair
The Honorable Representative Joy A. San Buenaventura, Vice Chair
Members of the House Committee On Judiciary
Conference Room 325, State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Re: Hearing Date: Wednesday, February 23, 2017 at 2:00p.m.
Testimony IN SUPPORT of House Bill 617 Relating To Land
Recordation

Dear Representative Nishimoto, Representative San Buenaventura, and
Members of the House Committee On Judiciary :

Aloha Chair Nishimoto and Members of the Committee. My name is
Willard Haraguchi. I am a lifelong resident of downtown Honolulu. I
have worked in the title insurance industry for more than 40 years. I
have had the opportunity to review and testify on bills in the past. This
bill may seem small compared to some of the significant challenges
faced by the legislature, and I applaud your efforts to address the most
difficult issues confronted by our state. Please support this bill as it will
help ensure the orderly, timely, and cost-effective delivery of title
documents in certain situations, as well as provide cost savings for the
consumer. Mahalo nui for your consideration. Please support HB 617.

Thank you for the Opportunity
Yours truly,

Willard Haraguchi
60 N. Beretania St 204
Honolulu, Hawaii 96817

Representative Scott Nishimoto, Chair
Representative Joy San Buenaventura, Vice Chair
House Committee on Judiciary

Thursday, February 23, 2017, 2:00 PM

Opposition to House Bill No. 617 H.D. 1 – Relating to Land Recordation

By: Jeffrey Sato, P.L.S., P.E., EMBA (Phone 368-1514)

I am writing in opposition to House Bill 617 H.D. 1. My opposition is based on technical and procedural inadequacies in the bill.

I am licensed in the State of Hawaii as both a land surveyor and civil engineer and have worked at two local civil engineering and land surveying firms over the past 28 years. Additionally, I am also a Land Court Surveyor and member of the Hawaii Land Surveyors Association. The primary focus of my career has been working with land developers subdividing residential, commercial and industrial land on Oahu.

In addition to my previous testimony submitted to the House Committee on Water and Land hearing on February 8, 2017, and through further review of other submitted testimony, I am opposed to the referenced bill for the following reasons:

It is evident that there remains a divide between the title companies and land surveyors regarding the applicability of the required information on maps and legal descriptions prepared by land surveyors. This divide is focused on deregistered land covered under HRS 501-261.5, which through relevant testimony the land surveyors identified as being a more appropriate section needing modification.

The bill does not arrange any government oversight, nor correctness check of the information you are requiring of land surveyors. It places additional liability on the private land surveyor and to a degree implies that the land surveyor's document is a final determinant of land ownership. Land Surveyors are taught that our documents help interpret boundaries, but courts make the final determination of land ownership.

The bill is not anticipated to provide timely and cost-effective title delivery to consumers as it appears the title research will be pinned upon the land surveyor. In 2012, I requested information from the Department of Commerce and Consumer Affairs on the number of active licensed land surveyors in the State of Hawaii. Although the number at that time was 212, less than half of that number works in private practice and they are dispersed among two dozen or so companies. Our industry has faced a problematic shortage of professionals for decades and it does not appear our local land surveying association is appreciably growing in numbers. I would not encourage you to further burden the land surveyor with additional responsibilities.

It is for these reasons that I remain opposed to House Bill 617 H.D. 1. I am not convinced it is specific enough to achieve its intentions, and it needs to yet address procedural deficiencies in order to properly serve the public. Thank you again for allowing me the opportunity to comment on this bill.

Representative Scott Y. Nishimoto, Chair
Representative Joy A. San Buenaventura, Vice Chair

Clayton Kaneshiro, LPLS

Wednesday, February 22, 2017

Opposition to House Bill No. 617 – Relating to Land Recordation

I am writing in opposition to House Bill 617 as proposed. If a Lot has been registered in the “Land Court” system, then subsequently deregistered, it will be recorded in the “Regular” system. The modification being proposed for deregistered land should not take the place of original land titles. Once the land is deregistered it is no longer part of the “Land Court” recordation system. Land Court does not create a new land title and the original title is still existing.

Future consolidations and subdivisions of deregistered lots may contain more than one Land Court Application or Consolidation and several original land titles. H.B. 617, as proposed, would require surveyors to include information which should be done at the time of deregistration not perpetuate it during future changes to the lot. This would greatly complicate and confuse matters in mapping and descriptions.

Although the intent of H.B. seems to be to simplify property descriptions, I feel it may inadvertently be a means to justify “quiet title” interest to the land. As a surveyor, I am concerned with the original land titles to the subject property, the interest to the land is determined by the court.

Thank you for this opportunity to testify against this bill.

Clayton Kaneshiro, LPLS
(808) 591-8116

Representative Scott Nishimoto, Chair
Hawaii State Capitol, [Room 421](#)
[415 South Beretania St.](#)
[Honolulu, HI 96813](#)

Representative Joy San Buenaventura, Vice Chair

Committee on Judiciary

From: Kendall Hee, LPLS

Date: Tuesday, February 22, 2017

Subject: Opposition for HB 617 Relating to Land Recordation

Honorable Representative Scott Nishimoto, Chair,

Thank you for allowing my testimony against HB 617,

HB 617 attempts to supplement the Land Court Deregistration legislation by requiring Land Surveyors at time of subsequent subdivision to bring forth original land titles, owner information and other title information. This information should be done at the time of deregistration and part of the deregistration process. The cost of this information should be bore by the owner of the property being deregistered as that entity is probably making a financial decision to deregister the land and therefore should factor in the cost to bring forth this information, instead of passing the buck to the poor subsequent owners.

HRS 502 is the WRONG chapter for this bill to be placed. Currently, the bill would require redundant information to be duplicated each and every time the property goes to subdivision versus once when the land is deregistered.

I feel this bill is attached to the incorrect portion of law and will add undue, duplicative burden to anyone with deregistered land.

Thank you for this opportunity to testify. Should you have any questions, I can be reached at 808-591-8116 x216 and will make myself available for questions.

Kendall Hee



LATE

Title Guaranty of Hawaii, Inc.

235 QUEEN STREET, HONOLULU, HI 96813 • P.O. Box 3084, HONOLULU, HI 96806
LEGAL DEPARTMENT TEL: (808) 533-5842 • FAX: (808) 521-0287

February 22, 2017

The Honorable Representative Scott Y. Nishimoto, Chair
The Honorable Representative Joy A. San Buenaventura, Vice Chair
Members of the House Committee On Judiciary
Conference Room 325, State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Re: Hearing Date: Thursday, February 23, 2017 at 2:00 p.m.
Testimony IN SUPPORT of House Bill 617 Relating To
Land Recordation

Dear Representative Nishimoto, Representative San Buenaventura, and
Members of the House Committee On Judiciary:

Thank you for this opportunity to submit testimony IN SUPPORT of House Bill 617 Relating to Land Recordation. The public purpose served by this Bill is to simplify the property descriptions used to describe land that has been deregistered from Hawaii's land court system, and lessen the need for costly research to find and report the original source title of the land.

Traditionally – and in the case of file plans, by statute – descriptions of unregistered “regular” system property contain the name of the ahupuaa or ili, district, and island on which the land is located, and data concerning the original title of the land. Most descriptions therefore make reference to the original Land Commission Award number, Royal Patent number, Grant number, or other original land title information applicable to the land.

In 1903, the Torrens Act was passed allowing owners to apply to the land court to register their ownership of title (see HRS Chapter 501). The initial map prepared for the registration of the land is required to contain the original source title information. However, by land court rule, subsequent subdivision maps “shall conform to the requirements for a map filed with an original application, eliminating however all reference to conveyances from the government from which original title was derived . . .” Land Court Rule 104(1), emphasis added. The usual such description for registered land, therefore, follows the format of: “Lot X, shown on Map Y, of Application (or Consolidation) No. Z.”

By Act 120, 2009 Hawaii Session Laws, the State of Hawaii allowed owners of registered land to "deregister" their land, taking the land out of Chapter 501 going forward and providing for recordation of instruments affecting the land thereafter to be recorded in the regular system under Chapter 502. Since that time, persons in the business of creating legal descriptions of land, including surveyors and title companies, have not reached a consensus as to what is required for the description of deregistered property.


One view is that the requirements of HRS Section 502-17 control and require the re-insertion of "such data concerning the original title of the land as may be known." Finding the information regarding the original land title for the lot often requires research because per the land court rule such information was eliminated from the map. Accordingly, another view is that once the title to the land was registered with the land court, information regarding the original source title was superseded and the necessary information concerning the description of the land (location, size, boundaries, etc.) is captured by the Lot number, Map number, and Application (or Consolidation) number.

The effect of the proposal contained in House Bill 617 is to amend HRS Section 502-17 to change the requirements of the property descriptions for deregistered land. Currently, the need to conduct research and analysis to find the original source title of the land after it has undergone many subdivisions can be time consuming and expensive. It is hoped that the landowner can save this time and expense by being given the option to use the last land court description for the deregistered land.

We appreciate the Committee's consideration of this Bill, and respectfully ask that the Bill be approved.

Thank you again.

Very truly yours,



Lorrin Hirano
Sr. Vice President & General Counsel

LATE

Committee on Judiciary
Representative Scott Y. Nishimoto, Chair
Hawaii State Capitol, Conference Room 325
415 South Beretania St.
Honolulu, HI 96813

Andy R. Harada, Professional Licensed Land Surveyor
808 492-4814

Thursday, February 23, 2017

Opposition of H.B. 617,HD1 Relating to Land Recordation

I am a Licensed Professional Land Surveyor with forty six years of experience in land surveying. Licensed to practice in the State of Hawaii since 1987. I am also certified to practice in the Land Court. I worked for the City and County of Honolulu for thirty years, my last position was Survey Branch Chief, Department of Design and Construction, Division of Land Survey and Acquisition. I am currently working for a local Engineering and Surveying company. Affiliations: National Society of Professional Surveyors and Hawaii Association of Lands Surveyors.

I strongly oppose the changes to HRS 502-17. Specifically the addition of *“and”* and *“, or in the case of land deregistered pursuant to chapter 201, part II, the last Lot number, map number, application or consolidation number, and document numbers of the canceled certificate of title and order of deregistration recorded in the bureau of conveyances pursuant to section 501-261;”* in H.B. 617.

All of the items in the addition are included in the document when the deregistered lot is filed with the bureau conveyances, per HRS 501-17. A metes and bounds description and map, with the original land titles, should have been required when filing for deregistration HRS 501-261.

Currently, unregistered land maps and descriptions are filed under 502-17, unregistered land being the lands not within the land court system, registered land. In Hawaiian Land Titles by Robert D. King, he wrote *“Land Court title does not annul or cancel out the original titles derived by a Land Commission Award, a Royal or Land Patent (Grant) or a Kamehameha Deed.”* Thus only the underlying *original land title(s)*, that was covered by the deregistered land court lot, must be used for both mapping, and metes and bounds descriptions of the land(s) involved.

It may seem like a simply addition but there are many concerns, such as, obtaining the information requested, cost to show original land titles and deregistered lots on a map, and what liabilities surveyors may incur. The requested additional information in this bill is more for keeping a record of title, meaning that a land court lot have clear title up to the date of deregistration. This is more of a title issue related to the deregistered lot. As a Licensed Professional Land Surveyor, I map and describe unregistered lots with original land titles, and registered lots (Land Court Lots) but not who has title to the land.

Please contact me if you have any questions.

Thank you for giving an opportunity to express my views on HB 617, HD1his bill.